



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

14 November 2025

Mr Scott Sargent

Superannuation and Employer Obligations

Australian Taxation Office

GPO Box 9990

CANBERRA ACT 2601

via email to: PAGSPR@ato.gov.au

Dear Mr Sargent,

PCG 2025/D5, Payday Super - first year ATO compliance approach

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to comment on the ATO's Draft Practical Compliance Guideline Payday Super – first year ATO compliance approach.

The ASBFEO supports the objective of improving the timeliness and integrity of superannuation payments. However, with the *Treasury Laws Amendment (Payday Superannuation) Act 2025* (the Act) receiving Royal Assent on 6 November 2025, the 1 July 2026 start date imposes a timeline and system readiness requirements that present material risks for small and family businesses. We therefore recommend the Government to consider practical adjustments, including adopting a pay date (payment-based) model, maintaining small business protections, and ensuring adequate system support.

Our recommendations described below will help deliver a fair, workable, and sustainable reform that strengthens compliance without imposing disproportionate administrative or financial burdens on small employers. We are advocating for a balanced approach that supports both employers and employees, while promoting the resilience and growth of small and family businesses.

Australian Small Business Overview

As of June 2024, there were approximately 2.59 million businesses in Australia with less than 20 employees, representing around 97.2% of all actively trading businesses.¹ Within this group 62.5% were non-employing businesses, 26.0% had 1-4 employees, and 8.7% had 5-19 employees.²

¹ Australian Small Business and Family Enterprise Ombudsman (ASBFEO), 'Number of small businesses in Australia', Commonwealth of Australia, August 2024, accessed 3 November 2025.

² ASBFEO, 'Number of small businesses in Australia', Commonwealth of Australia, August 2024, accessed 3 November 2025.



Small businesses employ approximately 5 million Australians representing 42% of the private-sector workforce.³ They contribute around one-third of Australia's GDP, making a total annual contribution of approximately \$590 billion.⁴

While small businesses are often defined as those businesses with an annual turnover of \$10 million or less, about 93% of these businesses have a turnover of less than \$2 million.⁵

Impact of the Payday Super reforms on small and family businesses

The introduction of Payday Super from 1 July 2026 represents a major shift in employer obligations. In our submission to Treasury's exposure draft consultation, we raised concerns about the implementation challenges of the reforms, particularly with the closure of the Small Business Superannuation Clearing House (SBSCH) and the compliance risk placed on small business employers for payment processing steps that are beyond their control.

The closure of the SBSCH removes a free, trusted compliance tool, disadvantaging small businesses relative to larger employers. Real-time payment obligations also overlook small business cash-flow constraints, increasing the risk of non-compliance and financial pressure, and may prompt a shift from weekly to monthly pay cycles—adversely affecting employees' cash flow.

It is anticipated that compliance costs on small business will increase, as many will face new expenses for commercial clearing houses, payroll upgrades, and data integration without a free or low-cost alternative.

We continue to advocate for a Payday Super framework that is simple, proportionate, and supportive of small business compliance. A framework that maintains a free or low-cost clearing service, providing clear safe harbour protections, and adopting a graduated enforcement model will help achieve the policy's objectives without placing undue strain on Australia's small and family businesses.

Compliance burden and system capability

Many small businesses rely on less sophisticated payroll/software infrastructure or manual processes. The requirement for timely super contributions demands robust payroll, clearing house and fund-transfer systems. It requires the employer to make correct employee entitlements with no room for error or miscalculation, even if the error is no fault of the employer.

The transition from quarterly to Payday Super requires substantial system and process changes. Many small businesses will need to upgrade payroll systems, integrate with new clearing platforms, and retrain staff. This transition period is likely to involve temporary disruptions, errors, faster and more frequent rejections of messages, and additional administrative workload, particularly for micro and regional businesses.⁶

³ Council of Small Business Organisations Australia (COSBOA) & Square Australia, *State of Small Business Data Report – August 2024 edition*. COSBOA & Square, August 2024, p 2, accessed on 3 November 2025.

⁴ Australian Government Treasury (3 February 2025). *National Small Business Strategy*. Commonwealth of Australia. ISBN 978-1-923278-09-7. Accessed on 3 November 2025.

⁵ Australian Small Business and Family Enterprise Ombudsman (ASBFEO), 'Small Business Matters', Commonwealth of Australia, June 2023, accessed 3 November 2025.

⁶ Gateway Network Governance Body, 'Payday Super – Getting the data right', Gateway Network Governance Body, 2024, p 2, accessed 10 November 2025.



While the Draft PCG is intended to recognise good-faith compliance and outlines a risk zone approach (Table 1 and 2), it provides limited practical assurance. Paragraph 11 notes that if

‘the ATO obtains information, that an employer has a SG shortfall in respect of a QE day, we are required to apply the law to that employer even if they fall within the low-risk zone.’

Employers meeting all low-risk criteria may still face enforcement if the ATO identifies a super guarantee (SG) shortfall arising from data or reporting errors. This uncertainty undermines the framework’s intent and discourages proactive compliance. Employers acting in good faith should be distinguished from those deliberately avoiding their obligations.

The ASBFEO remains concerned that the current reforms could significantly impact the viability of many small businesses, not only due to the increased frequency of superannuation payments, but also the heightened risk of non-compliance from unintended or uncontrollable errors. These risks can be substantially mitigated through best-practice implementation measures, some of which are outlined below, supported by clear, practical guidance and illustrative examples.

Recommendations and Potential Amendment

Clarify and strengthen the “Low-Risk Zone”

Amend Section 11 of the legislation to ensure genuine protection for compliant employers. Employers who meet all Table 2 criteria and have no unresolved SG shortfall for the relevant quarter should be afforded a safe harbour from enforcement actions arising from administrative or timing errors.

We urge the ATO to review and clarify the classification of the medium-risk zone, particularly for employers with nil SG obligations at the end of the reporting period, who do not meet the low-risk criteria outlined in Table 2.

Extend and clarify the reasonable correction period

To ease the transition for small and family businesses, extend the implementation period from 12 to 24 months. The PCG should recognise potential timing issues from payroll upgrades, fund delays, or system outages. The ATO should extend the transitional relief period until 30 June 2028 to support small business employers in making necessary adjustments, particularly where an approved clearing house is not available.

Additionally, the ATO should clarify the meaning of ‘reasonable correction period’ providing clear examples of where this might apply and the time allowed to correct the error. This approach would provide greater certainty and reduce compliance pressure during the transition.

Introduce a graduated enforcement framework

The ATO should implement a tiered enforcement model proportionate to employer size and risk profile. This should include first-time error relief or administrative penalty waivers for small employers who act in good faith and remediate within a defined period (e.g., 14 business days). The framework should align with safe harbour and low-risk criteria, ensuring small businesses are not treated the same as higher-risk employers. To promote fairness and consistency, ATO enforcement should only be triggered by material and systemic non-compliance—not isolated, promptly corrected timing errors.

Practical Implementation Guidance



To maintain a workable compliance framework, we recommend the provision of clear, practical guidance. This should include examples and tools for managing complex scenarios like multiple funds, contractors, and award arrangements. The framework should also clarify exceptional circumstances, including system outages and public holidays, and provide targeted support for small businesses regarding payroll, super allocation, and reconciliation.

Without these measures, the shift to payday super risks imposing disproportionate penalties on small businesses with limited resources, undermining compliance and fairness.

Adopt a Payment-Based Model

We continue to encourage the Government to consider adopting a payment date for employee superannuation contributions, ensuring employer responsibility ends once contributions leave their bank account. This approach reflects fairness and practicality, as small businesses should not bear penalties for delays caused by factors beyond their control, such as clearing house or system issues.

If you require any further information, please do not hesitate to contact the Policy and Advocacy team via email at advocacy@asbfeo.gov.au.

Yours sincerely

The Hon Bruce Billson

Australian Small Business and Family Enterprise Ombudsman