

7 November 2025

Attn: Scott Sargent
Superannuation and Employer Obligations
Australian Taxation Office

By email: PAGSPR@ato.gov.au

Dear Mr Sargent,

Draft Practical Compliance Guideline PCG 2025/D5 Payday Super – first year ATO compliance approach

The Australian Bookkeepers Association, Chartered Accountants Australia and New Zealand, CPA Australia, the Institute of Certified Bookkeepers, the Institute of Public Accountants, the SMSF Association and The Tax Institute (together, **the Joint Bodies**) write to you as the peak professional accounting, bookkeeping, tax, financial advice and superannuation bodies in Australia. We welcome the opportunity to make a submission to the Australian Taxation Office (**ATO**) regarding its consultation on PCG 2025/D5 (**PCG 2025/D5**, the **PCG**, or the **draft PCG**, as applicable).

PCG 2025/D5 outlines the ATO's proposed compliance approach for the first year of the Payday Super reforms, which require employers to pay superannuation guarantee (**SG**) contributions at the same time as salary and wages from 1 July 2026. Under PCG 2025/D5, the ATO will assess employer compliance risk based on whether contributions are made on time and in full, categorising employers into low-, medium-, or high-risk zones. Employers who make genuine efforts to comply and promptly correct errors will generally be considered low-risk and not subject to compliance action up to 30 June 2027, while those with unresolved SG shortfalls may face investigation by the ATO.

The Joint Bodies appreciate the opportunity to comment on PCG 2025/D5 and support the ATO's risk-based compliance approach for the first year of Payday Super. Given the scale of change and reliance on third-party systems, we strongly recommend extending the transitional compliance period and providing clearer guidance on key concepts such as 'reasonably practicable' and Voluntary Disclosure Statements (**VDSs**). We also propose the introduction of ATO-led nudge messaging to assist employers in understanding SG payment timing and system performance during the transition year.

Our detailed response and recommendations are contained in **Appendix A**. Additional comments on VDSs and nudge messaging are contained in **Appendix B**.

If you would like to discuss any of the issues we raise in our submission, please contact Richard Webb, Superannuation Lead at CPA Australia, on 0425 726 889 or at richard.webb@cpaaustralia.com.au.

Yours faithfully,



Peter Thorp
Director
Australian Bookkeepers Association



Helena Gibson
Financial Advice Leader
Chartered Accountants Australia and New Zealand



Richard Webb
Superannuation Lead
CPA Australia



Matthew Addison
Executive Director
The Institute of Certified Bookkeepers



Tony Greco
Senior Tax Advisor
Institute of Public Accountants



Keddie Waller
Policy Manager
SMSF Association



Julie Abdalla
Head of Tax & Legal
The Tax Institute

Appendix A

Introduction

Our submission highlights the need for a more generous and clearly defined transitional compliance period, given the scale of operational, legislative, and technological changes required across the ecosystem. Our recommendations aim to ensure fairness, clarity, and practical support for employers navigating the new Payday Super regime.

Table of recommendations

We set out below a table summarising our recommendations that we consider will provide greater support and assurance to employers during the transitional phase. Following the table are detailed comments in relation to each recommendation. In relation to recommendations 10 to 12, we refer you to our comments contained in Appendix B.

Recommendations

1	Extend transitional compliance period • Apply the PCG compliance approach for 24 months (1 July 2026 – 30 June 2028) or commit to reviewing after 12 months.
2	Align the 'late period' and assessment timing with low- and medium-risk employer expectations • Define the 'late period' as ending on the 28th day after the quarter • Ensure no assessments for low- and medium-risk employers commence until the 29th day for the month following the end of the quarter containing the relevant QE day.
3	Clarify SG penalty exposure for low-risk employers • Explain circumstances under which low-risk employers may still face SG penalties, including post-June 2027 actions.
4	Clarify paragraph 11 and VDS implications • Provide examples of when the ATO 'obtains information' and clarify how VDS lodgement affects risk categorisation.
5	Define 'reasonably practicable' • Provide clearer guidance on and examples of what constitutes 'reasonably practicable' in correcting SG errors.

6	Add alternative low-risk criterion Allow employers to qualify as low-risk if they can demonstrate valid payment and accurate data on QE day.
7	Expand examples of rejected contributions Include cases of incorrect fund rejections and confirm these do not elevate employer risk categorisation.
8	Codify relief for successor fund transfers and other similar events Expand and formalise relief for employers affected by fund mergers and transfers.
9	Improve technical clarity in PCG paragraphs Revise specific paragraphs (e.g. 6, 7, 10, 16, 19, 20, 22, 28, Example 6) for clarity, consistency, and fairness.
10	Implement nudge messaging for the period covered by PCG 2025/D5 Use STP/MATS data to inform employers about SG timing and system performance during the transition year.
11	Enable VDS lodgement via payroll systems Allow VDS submission through payroll systems and consider deeming STP data as satisfying VDS requirements.
12	Align PCG with 'tell-us-once' principle Avoid requiring employers to resubmit data already held by the ATO.

Detailed comments

Duration of proposed compliance approach

The Payday Super legislative package only received Royal Assent on Thursday 6 November. As such, employers, intermediaries and funds will only have legislative certainty for a little over seven months before the implementation date of 1 July 2026. Payday Super does not merely represent a change in payment frequency. It introduces new legislative concepts, a new penalty regime and method of reporting shortfalls, and additional Single Touch Payroll (**STP**) reporting requirements. Depending on their situation, employers may be required to update or change software, source a new clearing house, amend cash flow budgets and policies, amend human resources and payroll policies, review employee and contractor agreements, increase staffing, and inform and upskill relevant staff and management. Accounting and tax advisers will need to educate clients and assist them with many aspects of the transition. Employers will also need to rely on their chosen software provider, clearing house and other intermediaries updating their systems and processes on time, and we note that it is the employer who is penalised for delays by third parties, outside the employer's control.

We note that there are approximately 250,000¹ employers presently using the Small Business Superannuation Clearing House (**SBSCH**). All these employers will need to source a new clearing house prior to July 2026.

Given the breadth of changes required by so many impacted stakeholders, we strongly recommend that the proposed compliance approach should apply for the first 24 months, that is, from 1 July 2026 to 30 June 2028. If this is not feasible, we would like to understand the reasoning behind the decision, and request that the ATO commit to considering an extension beyond 30 June 2027 based on employer experiences during the first 12 months.

Risk-based compliance framework

The PCG introduces a three-tier risk model (low-, medium-, and high-) for assessing employer compliance in the first year (1 July 2026 – 30 June 2027). Employers who make genuine efforts to comply and correct errors promptly will be considered low-risk and not subject to compliance action.

Employers are considered to be low-risk if they meet the criteria in Table 2 (paragraph 20) of PCG 2025/D5:

- *the employer attempted to ensure that all of their individual base SG shortfalls in relation to their employees were nil for the QE day, by making on-time contributions equal to or exceeding the individual SG amount*
- *some or all of the eligible contributions were not received by the relevant fund (and allocable for the benefit of the employee) on time*

¹ Xero (2025). How Australian small businesses can prepare for a new era of superannuation. *Xero Blog*. Available at: <https://tinyurl.com/bdef6yvk> [Accessed 30 Oct. 2025].

- *these eligible contributions are received by the relevant funds and allocable for the benefit of the employees as soon as reasonably practicable, resulting in the employer having individual final SG shortfalls of nil for all employees for the QE day at that time.*

Employers not meeting these criteria will fall in the medium-risk category, unless final SG shortfalls for all employees are greater than zero at the end of 28 days after the end of the quarter where the qualifying earnings (QE) were paid. If there is a final SG shortfall for one or more employees at the end of that day, the employer will move into the high-risk category. High-risk employers will be prioritised for compliance action by the ATO.

Paragraph 21 of PCG 2025/D5 comments on reclassification of low-risk employers into a medium- or high-risk category throughout the year. This is likely to happen if an assessment is made of an employer after the end of the month following the quarter where a final SG shortfall is assessed as being greater than zero. However, the Bill specifies in subsection 6(1) an indeterminate period as the 'late period', which is the period in between the 'usual period' up to the day before the day an assessment is undertaken for the relevant QE day. Affected employers may, through no fault of their own, find themselves reclassified due to a swift assessment undertaken during the period after the 'usual period' up until the end of the 28th day after the quarter containing the QE day.

To properly clarify employer expectations in line with the risk zone criteria in Table 2, we recommend that the final PCG state that for low-risk employers during the 2026-27 year, the late period (as defined in the Bill) be formally specified as the period after the end of the usual period (or extended usual period) until the latter of the end of the 28th day of the month following the end of the quarter containing the relevant QE day, or the day before the Commissioner makes an assessment. Additionally, to ensure that the relief set out in the PCG for low-risk and medium-risk employers can be relied on, it should be specified that the Commissioner will not commence an assessment until the 29th day of the month following the end of the quarter or later.

This would also ensure that in circumstances where the ATO 'obtains information' that an employer has an SG shortfall – such as the circumstances explained in paragraph 11 – the employer would have an appropriate period to respond to the SG shortfall in line with the risk zone criteria in Table 2. Paragraph 11 is discussed further below.

It is important to note that employers classified as low-risk may still face SG penalties, even though the ATO explains in Table 1 (paragraph 19) that '[w]e will not have cause to review the employer's actions' in respect of low-risk employers. This is made clear in the descriptions used in Table 2. While PCG 2025/D5 states that the ATO will not apply compliance resources in the first 12 months to employers that fall into the low-risk zone during the 2026-27 financial year, they may still face SG penalties. This may arise for a number of reasons including the following:

- ATO compliance actions after June 2027 relating to QE days in the period covered by the proposed compliance approach; and
- external parties – e.g. former or current employees – informing the ATO about an employer's SG non-compliance.

We recommend this be explained in the PCG and that examples be provided.

Clarification of paragraph 11

Paragraph 11 states that if the ATO obtains information that an employer has an SG shortfall in respect of a QE day, it is 'required to apply the law to that employer even if they fall within the low-risk zone'.

This could result in confusion over the protection provided by the proposed compliance approach, given that a low-risk zone classification means that no compliance resources would be applied. We request clarification of the circumstances in which the outcome in paragraph 11 may arise — for example, as a result of an employee complaint, or automated data-matching between STP and super fund data, such as that provided through MATS. We also recommend that practical examples be provided.

Relevantly, we note that the role of a VDS in the compliance risk framework is unclear. The PCG should specify how lodging a VDS affects an employer's risk categorisation and whether it mitigates penalties or shifts them to a lower risk zone. VDSs are the subject of additional commentary in Appendix B.

'As soon as reasonably practicable'

Employers who correct errors or underpayments 'as soon as reasonably practicable' (as described at paragraph 17 and a number of other places) will be treated more leniently under the draft PCG. This is reasonably consistent with our recommendation to allow voluntary disclosures and remediation without penalty. However, the PCG does not provide clarity on what constitutes 'reasonably practicable,' and does not guarantee penalty relief. The phrase 'as soon as is reasonably practicable' is vague and open to interpretation.

To provide employers with certainty, we consider there should be more comprehensive guidance on the requirements for employers in the low-risk zone. In particular, remaining in the low-risk zone requires that eligible contributions which are not allocable on time are allocable 'as soon as reasonably practicable'. This forms the third limb of the low-risk zone in Table 2. Employers would appreciate clear, unambiguous guidance as to what would be considered to be 'reasonably practicable' in respect of correcting late contributions.

We note that regardless of what would be considered to be 'reasonably practicable', once the employer has made a valid payment and sent the correct data, the time it takes for other parties to process the contribution would be outside the employer's control or influence. Further, employers often have little visibility over when contributions are received. Therefore, we recommend that an additional, alternative criterion for the low-risk zone be where the employer can demonstrate that they paid a valid contribution (including sending accurate data) on the QE day. For employers who make all reasonable efforts to comply with the Payday Super rules, this would provide certainty that they would be deemed to be in the low-risk zone.

We also recommend the inclusion of more practical scenarios particularly in relation to the low- and medium-risk zones — in particular, where delays are caused by other parties.

Lastly, we recommend the inclusion of further detail in Examples 1 and 2, as well as paragraph 32 in Example 3, to outline an explanation of the steps that the employer took to ensure that the errors were corrected as soon as reasonably practicable.

Rejected contributions

The PCG provides examples where rejected contributions due to errors in contribution data do not automatically result in high-risk classification. This is consistent with the Joint Bodies' concerns about fund rejections and the need for extended windows. A key limitation in the PCG is that it does not extend the seven-day window or provide relief for delays caused by third parties.

Relief in the case of errors as described in paragraph 17 is also not available for certain events where there are no actual errors made by employers, including instances of false negatives where funds incorrectly reject a contribution despite sufficient data to match contribution with a fund member. It is expected that the quantity of these will increase due to the intended three-business day window that funds will have to either process or reject contributions.

We recommend that an instance where a contribution received is incorrectly rejected by a fund, even though the contribution data is correct and sufficient for the fund to match it with a member, be added to the PCG as an example. We also recommend that the incorrect rejection of contributions by a fund be made a clear example of where the ATO will not assign an employer to a higher risk category.

Treatment of successor fund transfers and other actions

We welcome the treatment of employers affected by successor fund transfers, where they are not penalised if they act promptly (as covered in Example 2 of the PCG).

The Joint Bodies' submission to Treasury² in relation to the exposure draft legislative package outlined our concerns about fund changes and employer reliance on employee-provided data, which can cease to be accurate in the event of successor fund transfers, fund mergers, product rationalisations, changes of administrators, change to SMSF bank account details, suspension of SMSFs from SuperFund Lookup, incorrect fund or tax details provided via choice of fund elections, and other events outside the control of employers.

Again, as with incorrectly rejected contributions, we are concerned that delays in contribution processing due to events such as these will lead to employers being unfairly assigned to a higher risk category.

We are concerned that the relief contained in the draft PCG is still discretionary and not codified, leaving employers exposed to uncertainty. We recommend that the list of events such as these could be expanded in the PCG for completeness and greater certainty. We would be happy to work with the ATO to better understand the method by which events are allocated to relevant known fund events which affect members in these categories.

Transitional assistance for small business entities

We are concerned that small business entities (**SBEs**) will be disproportionately burdened by the scale of necessary changes within a short timeframe.

² Hagarty, D., Negline, T., Webb, R., Anderson, P., Addison, M., Greco, T., Scotchbrook, T. and Abdalla, J. (2025). *Payday super – exposure draft legislation*. [online] treasury.gov.au. Canberra: Commonwealth of Australia. Available at: <https://tinyurl.com/4psfwtu4> [Accessed 31 Oct. 2025].

In particular, the implementation of Payday Super will have a major impact on small businesses who presently rely on the SBSCH to make contributions. Investigation, acquisition, training and implementation of new systems provided by unknown third parties is a resource-intensive process that relies on expertise that small businesses may find hard to acquire in the time available.

Nudges

The transitional compliance arrangement proposed in PCG 2025/D5 provides employers, who are doing their best to comply with the new requirements, time to ensure that they have the right systems in place and that they can function for the long term. While paragraph 7 highlights employer readiness as a concern, the reality is that software providers, clearing houses, super funds, and indeed, the ATO, also require time to build and integrate necessary systems. This transitional relief functions as a *de facto* facilitated compliance period from the legislated start date, acknowledging that the infrastructure for Payday Super is not yet fully developed.

This point is, in our view, critical because few stakeholders other than employers face penalties for failing to deliver their part of the infrastructure on time. If the only relief is to avoid penalising employers for non-compliance with a system that is not yet in place at commencement, then that relief is appropriate.

As discussed earlier in this submission, the PCG does not address the role that VDSs play, raising questions about their role post-1 July 2026. Recent guidance suggests that employers in the low-risk zone who do not lodge a VDS face no immediate penalty (subject to the limitations we outlined earlier in correcting errors, or where the ATO ‘becomes aware’ of a shortfall), but those uncertain of their zone who do lodge may trigger the administrative uplift component of SG charge liabilities if SG contributions were not received within seven days. This creates a dilemma, implying that VDS lodgement is only advisable when an employer risks entering the high-risk zone. We recommend that this be clarified to better ensure understanding by employers.

Although not immediately relevant to PCG 2025/D5, we recommend that explicit nudge messaging be implemented for the period covered by the PCG. We have included discussion in Appendix B as to how that could work.

Technical comments

The following are a series of technical comments we provide in the interests of enhancing the draft PCG:

- Paragraph 6: Although the paragraph seeks to make the connection between the current regime and the new one, the use of ‘qualifying earnings’ in place of ‘relevant earnings’ would make the point and assist users in understanding the transition to the new requirements.
- Paragraph 7: It is almost impossible that an employer would seek to process superannuation contributions without the assistance of third parties such as payroll solutions and clearing houses. Some of these third parties can be, at law, agents of superannuation funds, rather than employers. This paragraph would benefit from being re-written to acknowledge that various system design components function without any ability by an employer to control.

- Paragraph 10: The statement ‘up until the day the Commissioner makes an assessment of the SG charge’ may contradict the notion that late payments can still be made to super funds. We consider that clarification is needed. Even after an SG charge assessment, employers typically pay the SG amount to funds, while penalties and notional earnings (**NE**) are paid to the ATO. This process should be explicitly acknowledged.
- Paragraph 16: The guidance lacks clarity on when the ATO makes its compliance risk decision. Employers need transparency around the timing of this decision to understand their risk profile and take corrective action.
- Paragraph 19: The compliance approach in respect of follow-up and behavioural nudges should be systemised and automated, ensuring all employers are followed up. Early nudge messaging is essential to change behaviour. A lack of communication may signal to some employers that no improvement is needed.
- Paragraph 20: Clarity is required regarding what constitutes ‘on-time’ in respect of contributions. Is it Day 0 (payday) or Day 7? The phrase ‘as soon as reasonably practicable’ again needs clearer definition to avoid inconsistent application.
- Paragraph 22: This paragraph appears to be making a point that is obvious, but it is possible that it is intending to make another point. If the premise is that the employer in this paragraph is a medium-risk or high-risk employer, and the statement is about moving from these categories, then we would suggest that this be stated, and the word ‘into’ be replaced with ‘from’.
- Medium- and high-risk zones and SG shortfall awareness: Employers may be unaware of SG shortfalls if they do not know a payment was late or NE were incurred. It is not possible for employers to know their SG shortfall balance without ATO notification, in the absence of the provision of data (such as that provided by an API in conjunction with a payroll system) informing an employer. The risk categorisation should be based on the employer’s response after being informed by the ATO, not on retrospective assumptions.
- Paragraph 28: The example should reflect the 20-day grace period introduced in the amended legislation. This ensures consistency between legislative provisions and compliance guidance.
- Example 6 (paragraphs 38-39): Example 6 of PCG 2025/D5 illustrates a high-risk scenario where an employer, despite paying employees monthly and remitting super quarterly, misclassifies certain payments and incorrectly excludes them from QE, resulting in insufficient superannuation contributions. The example does not clarify whether the misclassification was intentional or due to a lack of understanding of any new QE rules, which may differ from ordinary time earnings (**OTE**). Regardless of intent, the employer is placed in the high-risk zone due to final SG shortfalls remaining 28 days after the quarter’s end. This raises concerns about fairness, particularly if the misclassification stems from genuine confusion over the new QE rules, suggesting that clearer guidance and education are necessary to avoid inequitable compliance outcomes.

Appendix B

Additional comments

Voluntary Disclosure Statements

All employers will likely find the new Payday Super system difficult and complex to comply with for some time.

Via STP, the ATO will receive data from employers relevant to their SG compliance, in particular³:

- the amount of salary, wages and other remuneration paid to an employee;
- the date the above was paid to an employee; and
- the amount of QE and superannuation liability for the employee.

It is our understanding that initially employers that must lodge a VDS would be required to manually lodge such statements on the ATO's Online Services for Business web portal. In our view, such a process is highly impractical for all employers, but especially for those with more than 20 employees (including the ATO itself).

It is imperative that employers are able to lodge a VDS via their Payroll Software provider – in the same way they are able to lodge STP data. Until this capability is available, the PCG should deem STP data to represent an employer also lodging a VDS. This may mean that the PCG's end date extends beyond June 2027.

This is particularly important for employers who are required to make SG contributions to an employee's Self Managed Superannuation Fund (**SMSF**) given that SMSFs are not required, and have no ability, to lodge contribution data with the ATO until the SMSF ATO annual return is lodged.

We note that visibility of confirmation of receipt of contributions by superannuation funds is opaque. Although, as mentioned above, confirmation of receipt by SMSFs is subject to those funds' annual return cycle, we wish to point out that confirmation of receipt by APRA-regulated funds is almost able to be provided in real time to employers. These represent the vast majority of contributions, and the visibility of success or otherwise would greatly assist employers to meet their superannuation obligations correctly, and reduce unnecessary submission of VDSs as a regulatory precaution.

Further commentary on VDSs

The Joint Bodies share concerns regarding consistency between the lodgement of VDS and broader Government policy. We note that the Government is presently at work on expanding the 'tell-us-once' principle⁴. Submission of information already provided is, in our view, not consistent with this principle.

³ As noted at Australian Taxation Office (ATO) (2025). *Payday superannuation*. [online] Australian Taxation Office. Available at: <https://tinyurl.com/2m9r5t3y> [Accessed 31 Oct. 2025].

⁴ Most recently at Chalmers, J. and Gallagher, K. (2025). *Regulatory reform to reduce red tape and ease burden on businesses*. [online] Ministers - Treasury Portfolio. Available at: <https://tinyurl.com/2u967fva> [Accessed 30 Oct. 2025].

While the mechanics regarding the lodgement of a VDS, and the form in which the VDS will take, is not a subject of the draft PCG, we make the following comments to assist in informing the ATO's broader Payday Super compliance strategy, including during the transitional period.

We are concerned that a VDS may create an unnecessary additional compliance burden on employers who are trying to comply and made an unintended error. While the VDS is voluntary under the law in that there is no penalty specifically for not lodging one, in practice employers will be penalised by the imposition of a higher administrative penalty component of the SG charge than would otherwise apply if the employer were to lodge a VDS. It would be expected that employers would feel compelled to lodge a VDS to reduce the administrative penalty component.

We note that easing the regulatory burden for businesses was a key focus of the Government's Economic Reform Roundtable. Relevantly, this includes the abovementioned 'tell-us-once' principle on how individuals and businesses engage with the government, including across and within its agencies, to 'remove frustrating duplicative processes'.⁵

The Payday Super legislation provides that an employer with an SG shortfall may lodge a VDS before the Commissioner issues an assessment in respect of the QE day. The lodgement of a VDS may reduce the employer's administrative uplift amount for the relevant QE day (subject to the regulations).

A VDS must be in the 'approved form'. The legislation does not propose to prescribe specific information which must be included in the VDS. Rather, it only states that the VDS may include either or both of the payment day and receipt day of the contribution.

The definition of 'approved form' in s 388-50 in Schedule 1 to the *Taxation Administration Act 1953* relevantly provides that a document is in the approved form if (*inter alia*) it is in the form approved in writing by the Commissioner, it contains information as the Commissioner requires, whether in the form or otherwise, and it is given in the manner that the Commissioner requires.

This means that the Commissioner has broad discretion over the information required in a VDS and how that information is provided — including that the information may be provided outside of the form.

We strongly recommend that the ATO consider how employers could fulfil their VDS lodgement obligations for the purposes of reducing the administrative penalty component without being required to resubmit information that the ATO already has on hand, in line with the Government's 'tell-us-once' principle.

As one example, STP provides the QE day data. A check box or question could be included in STP reporting for employers to opt in or opt out of the ATO treating relevant STP data as satisfying VDS information requirements.

⁵ Chalmers, J. and Gallagher, K. (2025). *Regulatory reform to reduce red tape and ease burden on businesses*. [online] Ministers - Treasury Portfolio. Available at: <https://tinyurl.com/2u967fva> [Accessed 30 Oct. 2025].

Recommendation: Nudge messaging

Given its unique access to SG contribution data, the ATO is well-positioned to inform employers about the timing of their payments. A proposed system of nudge messaging during the transition period specified in PCG 2025/D5 could use insights from the STP/MATS matching process to guide employer behaviour and readiness for Payday Super.

These messages would help employers assess whether their payment methods, clearing houses, and super funds meet the seven-day requirement, prompting necessary changes before 30 June 2027. They would also serve as reminders of the new Payday Super rules, especially for those still operating under pre-June 2026 practices, and alert employers whose contributions are received late about potential high-risk zone exposure.

Additionally, the ATO would gain valuable data on employer behaviour, processing times, and rejection rates, helping refine the matching program before automated SGC assessments begin. This proactive approach would support a smoother transition to Payday Super, avoiding a chaotic adjustment period, and ensuring systems and employers are aligned by 1 July 2027.