



What are the consequences of lodging your self-managed superannuation fund's annual return after the due date?

The SMSF annual return is an important document submitted to the ATO every year and reports on income tax payable and regulatory and member contributions reporting. As the regulator of SMSFs, the ATO oversees SMSF compliance and takes prompt action when these annual returns are overdue. The most disruptive action the ATO takes is the update of the fund's status on the Super Fund Lookup website from 'complying' to 'regulation details removed'.

[BDO's Superannuation team](#) has compiled the following fact sheet to assist you in understanding the implications of lodging your SMSF annual return late.

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What is the impact of updating an SMSF's ABN record to 'regulation details removed'?

If you lodge your SMSF annual return more than two days late, the ATO will update the fund's status on Super Fund Lookup website from 'complying' to 'regulation details removed'.

If your SMSF has had its regulation details removed, it will significantly impact the fund's day-to-day operations. This includes:

Restrictions on transactions

- ▶ The fund will no longer be permitted to receive rollovers into the fund from other superannuation funds
- ▶ The fund will no longer be permitted to make rollovers or transfers to other superannuation funds
- ▶ The fund will no longer be able to receive contributions, including superannuation guarantee (SG) contributions into the fund.

Financial institution impact

Some financial institutions may place restrictions on your SMSF. For example, certain banks now verify a fund's status before allowing new accounts, such as term deposits, to be established.

How do SMSF trustees have the fund's status reinstated to complying?

To have your SMSF's status reinstated as 'complying,' ensure that all annual returns are lodged and up-to-date. The ATO will update the status accordingly, but please note that this process may take the ATO up to six weeks after the final outstanding return is lodged to reflect the complying status on the [Super Fund Lookup](#) site.



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What are the other consequences of lodging your SMSF annual return after the due date?

The other consequences of lodging your SMSF annual return after the due date include:

Failure to Lodge (FTL) penalty

The FTL penalty is one penalty unit for each period of 28 days (or part thereof) that the annual return is overdue up to a maximum of five penalty units. A penalty unit is currently worth \$313 (on or after 1 July 2023) so the failure to lodge a penalty could be \$1,565 for the fund depending on how late it is.

FTL penalty is also not a deductible expense for the SMSF. General interest charge (GIC) may also be applied to the outstanding tax payments.

Additional ATO penalties

In addition to the FTL penalty, the ATO may also impose several additional penalties, depending on the severity of the situation, including:

- ▶ Administrative penalties on the trustees
- ▶ Education directions for the trustees
- ▶ A notice of non-compliance
- ▶ Civil and criminal penalties.

Penalties imposed on employers

All employers are obligated to pay superannuation contributions to their employees on time by the quarterly due dates. If your employer cannot pay your contributions into your SMSF by the due date, they may have a super guarantee charge and penalties imposed on them.

What should SMSF trustees do to avoid the consequences of lodging their SMSF annual return late?

SMSF trustees who use a tax agent to prepare and lodge their SMSF annual return should make sure the fund's annual return is lodged by the relevant due date to avoid any consequences.

Date	Fund Type
31 October	Established SMSF with overdue annual returns
28 February	Newly established SMSF
15 May	All other SMSFs

For assistance with confirming the relevant due date for your fund, please contact [your BDO adviser](#).