

Via email: [paydaysuper@treasury.gov.au](mailto:paydaysuper@treasury.gov.au)

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The Treasury  
Langton Crescent  
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2 November 2023

Dear Sir/Madam

**SECURING AUSTRALIANS SUPERANNUATION BUDGET 2023-24 (PAYDAY SUPER):  
CONSULTATION PAPER - OCTOBER 2023**

BDO refers to the invitation by the Treasury of the Australian Government to provide comments on the issues raised in the consultation paper on *Securing Australians' Superannuation Budget 2023-24* (Payday Super) issued in October 2023. BDO is pleased to provide feedback and comments in relation to the consultation paper, sourced from BDO's depth of services that covers all stakeholders' positions.

In summary, BDO's comments and suggestions in relation to implementing a redesigned compliance framework for payday superannuation, relate to the following key objectives:

| No. | Objective  | Details   | Consultation Question No.                 |
|-----|--|---|---|
| 1.  | <b>Ensure employers are not held responsible for circumstances they cannot control</b> | <b>A. Employers should not be responsible for employee super fund details:</b><br>Employers should not be responsible or penalised for circumstances they cannot control, such as where employees have not provided their superannuation fund details or provided incorrect details. The intention behind the introduction of the Stapled Fund rules was to address these issues, however the risk rests with the employer and the obligation imposes another step in the employee onboarding process which could impede compliance with payday superannuation. | Question 36<br>Question 37<br>Question 38 |

| No. | Objective   | Details   | Consultation Question No.   |
|-----|---|---|---|
|     | <p data-bbox="316 591 488 840">Ensure employers are not held responsible for circumstances they cannot control</p> <p data-bbox="316 864 451 896">(Continued)</p> | <p data-bbox="572 448 1251 660">Therefore, BDO supports the proposed establishment of a new digital ATO service that employers and employees can use to facilitate choice of fund and confirm the right superannuation fund details. Under that service, the employer would use the super fund details the ATO provides, making the current legislated super fund choice rules obsolete.</p> <p data-bbox="523 723 1123 754"><b>B. Employer compliance basis of ‘made’ not ‘paid’:</b></p> <p data-bbox="572 759 1251 1124">BDO considers that the ‘employer payment’ model would be the preferred model, rather than the due date model. The ‘due date’ model has the potential of causing the employer to fail its obligations because of circumstances beyond its control. A potential issue arising from payday superannuation is that employers may choose to delay making OTE payments to employees if they cannot also pay the superannuation at the same time and thus be exposed to a significant penalty. This would ultimately be a disadvantage to employees but could be managed by a more flexible approach to penalties.</p> <p data-bbox="523 1184 1176 1216"><b>C. Introduce Payday super framework on a staged basis:</b></p> <p data-bbox="572 1220 1251 1585">The introduction of the payday superannuation framework should be on a staged approach; for example, similar to the introduction of Single Touch Payroll where larger employers first applied the new system, and it was then gradually introduced to remaining employers over several years. An extensions system should also be introduced for both software providers and employers, who can demonstrate they are making progress but require more time to implement the new system. The existing SGC regime would apply to employers who have not entered into the payday superannuation system.</p> <p data-bbox="523 1646 1171 1713"><b>D. Payday super framework should be based on current operational technology:</b></p> <p data-bbox="572 1718 1251 1937">BDO considers that the consultation paper puts forward various approaches that are relying on technology that has not currently been developed and implemented. The new payday superannuation framework should be based on the technology that is currently in place, without reliance on proposed new systems that have not yet been installed and operational.</p> | <p data-bbox="1286 730 1404 761">Question 3</p> <p data-bbox="1286 1211 1404 1243">Question 1</p> <p data-bbox="1286 1675 1404 1890">Question 8<br/>Question 11<br/>Question 12<br/>Question 36<br/>Question 37<br/>Question 48</p> |

| No. | Objective   | Details  | Consultation Question No.   |
|-----|---|--|---|
|     |   | <p>Where it is envisioned that advancements will occur in technology in the immediate future with sufficient certainty, then the start date of the Payday superannuation system should be delayed to encompass this software once it is in place and operating successfully.</p>   |   |
| 2.  | <p><b>Introduce a standard one-month timeframe:</b></p> <ul style="list-style-type: none"> <li>- for reconciliations and corrections</li> </ul> | <p>Reasonable longer timeframes are preferred, such as a minimum of one month, over the shorter timeframes proposed in the consultation paper. Longer timeframes allow sufficient grace periods for accuracy and compliance across superannuation guarantee obligations; and we generally propose a one-month period; including for Australian Taxation Office ('ATO') reconciliations.</p> <p>The current system allows for 28 days after quarter end to comply, and this period of approximately one month for compliance should be retained.</p> <p>BDO considers that a deemed superannuation guarantee assessment should occur on the last day of the month, following the month that the pay run falls in. This will allow a grace period for employers to perform further reconciliations and make any corrections, before being levied with a superannuation guarantee charge.</p> | <p>Question 5<br/>Question 13<br/>Question 32<br/>Question 44</p>   |
| 3.  | <p><b>Operate the Payday super regime via the payroll function</b></p>  | <p><b>A. Report payday super via STP:</b></p> <p>Reporting of payday superannuation contributions should be made via a centralised system that preferably operates via the payroll function, and ultimately through Single Touch Payroll ('STP'). Systems will need to be established, to ensure that unknown / incorrect super fund details do not delay the processing of the payroll.</p> <p>BDO considers that STP should operate on a 2-way basis; i.e. such that data flows not only via STP from employer to the ATO, but also data flows from the ATO to the employer.</p>   | <p>Question 1<br/>Question 2<br/>Question 3<br/>Question 4<br/>Question 6<br/>Question 8<br/>Question 9<br/>Question 33<br/>Question 36<br/>Questions 39-42</p> |

| No. | Objective  | Details  | Consultation Question No.  |
|-----|--|--|--|
|     | <p>Operate the Payday super regime via payroll function<br/>(Continued)</p>  | <p>For example, the STP system to have the capability to access the ATO held stapled super fund information on the employee's super fund. This can be facilitated via the proposed new digital ATO service that employers and employees can use; and by reference to the employee's Tax File Number.</p> <p>BDO further considers that ideally, the employer should be able to pay the superannuation contributions direct to the employee's superannuation fund (or via a clearing house which then uses data from the payroll system reports); similar to how employers currently pay wages direct to the employee's bank account.</p> <p><b>B. Removal of superannuation guarantee charge statements:</b><br/>Superannuation guarantee charge statements should no longer be required, and a streamlined alternative system apply where late payments/ underpayments arise for inadvertent errors and honest mistakes. This would include payments direct to the superannuation funds by the employers, through the employer's systems/processes (or via clearing houses), in relation to the superannuation shortfall plus an interest component. Grace periods for corrections should be allowed.</p> | <p>Question 13<br/>Question 14<br/>Question 15<br/>Question 33<br/>Question 34<br/>Question 35</p> |
| 4.  | <p><b>Make changes to the superannuation guarantee charge components</b></p> | <p>BDO considers that the following changes to the superannuation guarantee charge components should be made:</p> <p><b>A. The interest component should remain and at a 10% p.a. rate:</b><br/>The interest component should remain since it provides compensation to the employee for loss of investment earnings during the period the contribution was not paid into their superannuation fund.<br/>Further BDO considers that it should remain at a 10% p.a. rate to allow certainty regarding its application. Alternatively, it should be aligned to the general interest charge.</p>   | <p>Question 19<br/>Question 20<br/>Question 21<br/>Question 22<br/>Question 23</p>                 |

| No. | Objective  | Details   | Consultation Question No.                          |
|-----|--|---|--|
|     | <p><b>Make changes to the superannuation guarantee charge components</b><br/>(Continued)</p> | <p><b>B. The administration component should not remain:</b><br/>The administration component should be removed, as this is designed to compensate the ATO for compliance activity. BDO considers that this is not fair and equitable noting that the ATO does not have similar administration charges across any of the other taxes it administers. To streamline the process, we recommend that employers should make late contributions directly to the employee’s superannuation account.</p> <p><b>C. Introduce a de-minimus rule for the superannuation shortfall:</b><br/>BDO considers that where the superannuation shortfall would be less than \$20 (being the current administration component), then no shortfall component should arise. In this case, since no shortfall would arise, there would also be no applicable superannuation guarantee charge arising. This would act as a de-minimus rule.</p> <p><b>D. Align the superannuation shortfall component with OTE:</b><br/>The shortfall component should be calculated on the Ordinary Time Earnings (‘OTE’) basis, rather than Salary or Wages basis. This will then align the superannuation shortfall to the same basis that superannuation contributions are calculated on being an OTE basis.</p> |  |
| 5.  | <p><b>Re-design punitive aspects of the superannuation guarantee charge</b></p>              | <p><b>A. Part 7 penalties and General Interest Charge re-design:</b><br/>BDO also considers that the current system of Part 7 penalties and general interest charges provides more than sufficient penalties for non-compliance for superannuation guarantee system. A penalty regime should remain as a form of deterrent for non-compliance. However, in some instances the current Part 7 penalties can be considered harsh, especially where honest inadvertent errors have arisen from otherwise compliant taxpayers. These penalties should not be the same for those employers actively striving for compliance versus those employers that are not.</p>   | <p>Question 18<br/>Question 19<br/>Question 26</p> |

| No. | Objective | Details  | Consultation Question No.                     |
|-----|-----------|--|---|
|     |           | <p>Instead, BDO considers that a new re-designed system of penalty units/ percentage basis be implemented, taking into account factors such as reasonable care compared to fraud / evasion/ intentional disregard of the law (similar to administrative penalties relating to tax obligations under Division 284 of Schedule 1 to the <i>Tax Administration Act 1953</i>).</p>   |   |
|     |           | <p><b>B. Treat superannuation guarantee charge as tax deductible:</b><br/>           The superannuation guarantee charge should be tax deductible where the superannuation contributions are made prior to assessment by the ATO. BDO considers that any superannuation guarantee charge payments should be tax deductible, because it will be onerous to track non-deductible amounts due to large frequency of payments under the payday superannuation framework. Further, there are already sufficient penalties in the system including Part 7 penalties (which should remain non-deductible); and General Interest Charge to deter non-compliance.</p> | <p>Question 16<br/>           Question 24</p> |
|     |           | <p><b>C. Allow ATO discretion to remit the superannuation guarantee charge:</b><br/>           BDO considers it fair and reasonable that a system of ATO discretion for remission of the superannuation guarantee charge be incorporated into the new Payday Superannuation framework (and Part 7 penalties and general interest charge). However, BDO considers that the shortfall of superannuation should still be made and not remitted under a system of ATO discretion; as this remains the employee’s entitlement.</p>  | <p>Question 29</p>                            |
|     |           | <p><b>D. Corrections to superannuation contributions back 5 years:</b><br/>           Where an employer is making corrections to prior year superannuation contributions, this should be limited to a 5-year period, unless fraud or evasion applies. Under the current superannuation guarantee law the ATO can require corrections to go back to the start of the regime in 1992. By capping this period at 5 years, it would be aligned to the record-keeping requirements (similar to other tax obligations).</p>  | <p>Question 31</p>                            |



BDO's detailed comments and suggestions in response to the Consultation Questions are outlined in the attached Appendix 1.

Should you have any questions or wish to discuss any of the comments made in our submission, please do not hesitate to contact Judy White on 07 3237 5976 or [judy.white@bdo.com.au](mailto:judy.white@bdo.com.au).

Yours sincerely

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BDO National Tax Technical Leader

**BDO Submission to the Treasury of the Australian Government  
 Consultation paper on *Securing Australians’ Superannuation Budget 2023-24*  
 (Payday Super) issued in October 2023**

BDO has considered the consultation paper on *Securing Australians’ Superannuation Budget 2023-24* (Payday Super) which seeks input from industry and stakeholders on the policy and legislative design of the framework for payday superannuation. As announced in the 2023-24 Budget, it is proposed that employers will be required to pay their employees’ superannuation guarantee entitlements on the same day that they pay salary or wages.

We provide the following comments on each of the questions raised in the consultation paper:

| No. | BDO Key objective reference # | Consultation Question   | Summarised Response  | Detailed Response  |
|-----|-------------------------------|---|--|--|
|     |                               | <u>Payday Super - Defining ‘payday’</u>   |  |  |
| 1.  | 1 A<br>1 C<br>3 A             | What implementation issues could arise if ‘payday’ is defined as being each time a payment is made to an employee with an OTE component ? | <p>Implementation issues include system set-up, and updates to policies procedures and staff training.</p> <p>This will result in significant additional compliance costs and administrative burden to stakeholders.</p> <p>There is insufficient time remaining to implement a new payday</p> | <p>1. <b>System set-up:</b><br/>           Potential more capability required in the system to allow for payments currently outside of the payroll system (such as contractor payments paid via vendors/creditors systems). Also required for frequency of pay-runs (compared to quarterly basis of superannuation guarantee compliance currently) plus pay-runs outside normal cycles (eg terminations, backpayments). Payday super to be reported via payroll and ultimately via STP<br/>           (See response to Question 2).</p> <p>2. <b>Procedures and Policies updates plus Staff training:</b><br/>           Updates and staff training required for all related policies, procedures and systems. Employers may also consider changing payroll frequency to reduce administration required of payroll and</p> |

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|-----|-------------------------------|-----------------------|---|--|
|     |                               |                       | <p>superannuation framework by 1 July 2026 due to the many steps involved in the process.</p> <p>BDO considers that the payday super framework should be introduced on a staged basis</p> | <p>superannuation guarantee obligations (eg weekly to fortnightly; or to monthly).</p> <p>3. <b>New employees:</b><br/>Consideration and new systems required for new employees regarding linking in STP, and stapled funds data.</p> <p>4. <b>Costs - available funds to address implementation:</b><br/>Having sufficient funds available to spend on software installation/ upgrades, training of staff, updates to the policies and procedures etc. Further, paying super on the same day as payroll may put pressure on the employer's cash flows and projections.</p> <p>5. <b>Timeframe - insufficient time:</b><br/>Given the significant changes required, we consider there to be insufficient time left to implement across all stakeholders by 1 July 2026. The steps required include final design presented to Federal Budget in May 2024. Then legislation will need to be drafted, introduced to Parliament, debated, consulted, amended, passed and become law. Once law, all stakeholders will need to review, implement and test new systems policies procedures etc. Employers will need to plan implementation, communicate to employees, liaise with software providers/ clearing houses/ employee superannuation funds etc.</p> |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response   | Detailed Response  |
|-----|-------------------------------|--|---|--|
|     |                               |  |   | <p>6. <b>Introduce Payday super framework on a staged basis:</b><br/>           The introduction of the payday superannuation framework should be on a staged approach; for example, similar to the introduction of Single Touch Payroll where larger employers first applied the new system, and it was then gradually introduced to remaining employers over several years, with changes introduced across two separate Phases. An extensions system should also be introduced for both software providers and employers, who can demonstrate they are making progress but require more time to implement the new system. The existing SGC regime would apply to employers who have not entered into the payday superannuation system.</p> <p>7. <b>Awards/ EBAs/ Employment contracts:</b><br/>           Consideration required of impacts on Awards, Enterprise bargaining agreements and Employment contracts.</p> |
| 2.  | 3 A                           | What implementation issues could arise when more regular SG payments are mandated? | <p>Payday super to be reported via payroll and ultimately via STP.</p> <p>Increased investment and administration costs will arise.</p> <p>Significant work will be required to</p> | <p>1. <b>Report payday super via STP:</b><br/>           Reporting of payday superannuation contributions should be made via a centralised system that preferably operates via the payroll function, and ultimately through Single Touch Payroll ('STP'). Systems will need to be established, to ensure that unknown / incorrect super fund details do not delay the processing of the payroll.</p> <p>BDO considers that STP should operate on a 2-way basis;</p>  |

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|-----|-------------------------------|-----------------------|---|--|
|     |                               |                       | <p>address the capability of employers to make the payment to the superannuation fund / clearing house on the day of the pay-run.</p> | <p>i.e. such that data flows not only via STP from employer to the ATO, but also data flows from the ATO to the employer. For example, the STP system to have the capability to access the ATO held stapled super fund information on the employee's super fund. This can be facilitated via the proposed new digital ATO service that employers and employees can use; and by reference to the employee's Tax File Number.</p> <p><b>2. Addressing the capability of employers to make the payment to the superannuation fund / clearing house on the day of the pay-run:</b></p> <p>Currently, it is not possible for employers to make the payment of the superannuation contributions on payday to the clearing house/ employee's superannuation fund in the timeframe of the day of pay-run.</p> <p>Following on from the point above, reporting of payday superannuation contributions should be made via a centralised system that preferably operates via the payroll function, and ultimately through Single Touch Payroll ('STP').</p> <p>However, the risk is that the payroll processing will be delayed due to system issues with the processing of superannuation guarantee payments, which will delay payments of wages to employees.</p> |

| No. | BDO Key objective reference # | Consultation Question | Summarised Response | Detailed Response   |
|-----|-------------------------------|-----------------------|---------------------|---|
|     |                               |                       |                     | <p>Further, clearing houses systems may also need to be more responsive.</p> <p>We note the following key points regarding current processing of superannuation contributions that need to be considered:</p> <ul style="list-style-type: none"> <li>a. <i>Maximum Contribution Base Reconciliations:</i><br/>Reconciliations are required each quarter to check if the maximum contribution base has been reached for the pay-runs in that period. Significant time is required to reconcile this outside the payroll system.<br/>(eg BDO pays fortnightly, and some quarters have 6 pay-runs, and some have 7 pay-runs).</li> <li>b. <i>Large numbers of superannuation funds can apply:</i><br/>There can be large numbers of superannuation funds that employers are dealing with either directly or via a clearing house (eg BDO has approx. 2,100 employees that in total use approx. 175 superannuation funds).</li> <li>c. <i>Reconciliations of payroll details to super fund member account details:</i><br/>Reconciliations are required between the superannuation</li> </ul> |

| No. | BDO Key objective reference # | Consultation Question | Summarised Response | Detailed Response  |
|-----|-------------------------------|-----------------------|---------------------|--|
|     |                               |                       |                     | <p>contribution data per the payroll reports and the employee’s member information, prior to the payment being accepted by the superannuation funds/ clearing house (therefore there is risk that the payment will not be ‘made’ in time by the employer on payday as the payment will not clear the employer’s bank account in time).</p> <p>That is, a process is required to match the super contributions to the member either directly for that employee’s super fund or via a clearing house portal/ process.</p> <p>Errors often arise including due to incorrect fund details for new employees, changes of fund by existing employees, changes of employee’s details such as address, differences in employee’s details between the payroll system and the super fund account etc. Significant time is required to reconcile this outside the payroll system.</p> <p>d. <i>Reconciliations of payment data to general ledger accounts:</i><br/>Reconciliations also required to match payment data back to the general ledger accounts in the employer’s accounting system.</p> |

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|-----|-------------------------------|--|---|---|
|     |                               |  |   | <p><b>3. Increased investment and administration costs:</b><br/>           Following on from point 1 above, there would be an increased investment required in the time taken by stakeholder’s employees to run/process the payroll and analyse it for superannuation guarantee impacts. This will put a strain on current employee resourcing and may require additional staff to be employed or contracted.</p> <p>Increased administration costs for superannuation funds for processing is likely to result in increased administration fees to the superannuation fund members.</p> <p>Significant volumes of data will result from sheer volume of transactions due to increased frequency of superannuation guarantee contributions. This data will need to be managed and stored.</p> |
|     |                               | <p><b><u>Updating the SG charge:</u></b><br/>           - <i>Employer payment model</i><br/>           - <i>Due date model</i></p>                   |   |   |
| 3.  | 1 B<br>3 A                    | Are there any advantages or disadvantages with the requirements of payday super being fulfilled if employers make the payment of SG contributions on | BDO considers that the employer payment model would be the preferred model. | <p><b>1. Employer compliance basis of ‘made’ not ‘paid’:</b><br/>           BDO considers that the ‘employer payment’ model would be the preferred model, rather than the due date model. The ‘due date’ model has the potential of causing the employer to fail its obligations because of circumstances</p>   |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response   | Detailed Response   |
|-----|-------------------------------|--|---|---|
|     |                               | ‘payday’ (i.e. the employer payment model)?  | <p>This model allows for more certainty regarding due date of super payments and is a more streamlined approach.</p> <p>Employer compliance would need to be based on a ‘made’ not ‘paid’ model under the new Payday super framework.</p> | <p>beyond its control. A potential issue arising from payday superannuation is that employers may choose to delay making OTE payments to employees if they cannot also pay the superannuation at the same time and thus be exposed to a significant penalty. This would ultimately be a disadvantage to employees but could be managed by a more flexible approach to penalties.</p> <p><b>2. Report payday super via STP:</b><br/>See response to question 2.</p> <p><b>3. Advantages of employer payment model:</b><br/>There would be more certainty regarding when superannuation guarantee payments are due. Overall once the system is set up it will be a more streamlined simple approach, than a due date model.</p> <p><b>4. Disadvantages of employer payment model:</b><br/>It must be based on ‘made’ not ‘paid’ concept, otherwise it would not be possible to implement.</p> |
| 4.  | 3 A                           | Are there any advantages or disadvantages with the requirements of payday super being fulfilled if the employee’s superannuation fund has received employer contributions a certain number of days after | <p>BDO considers that the employer payment model would be the preferred model.</p> <p>However, we note that the</p>   | <p><b>1. Advantages of due date model:</b><br/>Generally this would provide for more grace period and time to meet compliance requirements and therefore less risk of non-compliance.</p> <p>Further, this model allows a reasonable time period for processing and administrative delays in transferring the funds (depending on exactly what due</p>  |

| No. | BDO Key objective reference # | Consultation Question   | Summarised Response  | Detailed Response  |
|-----|-------------------------------|---|--|--|
|     |                               | payday (i.e. the due date model)?   | due date model would provide a more reasonable time period for processing and administrative delays, and BDO considers a 13-day period would be preferred. | <p>date basis will be applied). If this model is implemented, BDO considers that a 13-day period would be preferred.</p> <p><b>2. Disadvantages of due date model:</b><br/>There is less certainty regarding the due date. That is, in determining which due date applies. Noting that an employer would consistently have to work it out in relation to every pay run/ payment of ordinary time earnings.</p> <p><b>3. Report payday super via STP:</b><br/>See response to question 2.</p>   |
| 5.  | 2                             | Should there be a standardised due date for SG contributions depending on different pay cycles, independent of the frequency to when salary and wages are paid? | BDO considers that a standard one-month timeframe be introduced, irrespective of the pay cycle.  | <p><b>1. Introduce a standard one-month timeframe- for reconciliations and corrections:</b><br/>Reasonable longer timeframes are preferred, such as a minimum of one month, over the shorter timeframes proposed in the consultation paper. Longer timeframes allow sufficient grace periods for accuracy and compliance across superannuation guarantee obligations; and we generally propose a one-month period; including for Australian Taxation Office ('ATO') reconciliations.</p> <p>The current system allows for 28 days after quarter end to comply, and this period of approximately one month for compliance should be retained.</p> |

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|-----|-------------------------------|--|---|---|
|     |                               |  |   | <p>BDO considers that a deemed superannuation guarantee assessment should occur on the last day of the month, following the month that the pay run falls in.</p> <p>This will allow a grace period for employers to perform further reconciliations and make any corrections, before being levied with a superannuation guarantee charge.</p> |
| 6.  | 3 A                           | Would requiring a new reporting mechanism for employers under an employer payment model to the ATO on payday increase compliance burden?     | See response to question 2.   | <p><b>1. Report payday super via STP:</b><br/>See response to question 2.</p>   |
| 7.  |                               | How would intermediaries continue to be incentivised to expedite the processing of employer contributions under an employment payment model? | <p>Appropriate automation and improvements in systems that allow for faster and simplified processing.</p> <p>Audit of processing times could be required under Regulation.</p> | Per summarised response.  |

| No. | BDO Key objective reference # | Consultation Question   | Summarised Response   | Detailed Response   |
|-----|-------------------------------|---|---|---|
| 8.  | 1 D<br>3 A                    | Given reduced payment processing times facilitated by modern payment platforms, is a due date of 3 days after payday for superannuation contributions under a due date model feasible? What would prevent this timeframe? | This does not appear to be feasible currently.  | <p>1. <b>Payday super framework should be based on current operational technology:</b><br/>BDO considers that the consultation paper puts forward various approaches that are relying on technology that has not currently been developed and implemented. The new payday superannuation framework should be based on the technology that is currently in place, without reliance on proposed new systems that have not yet been installed and operational. Where it is envisioned that advancements will occur in technology in the immediate future with sufficient certainty, then the start date of the Payday superannuation system should be delayed to encompass this software once it is in place and operating successfully.</p> <p>2. <b>Report payday super via STP:</b><br/>See response to question 2.</p> |
| 9.  | 3 A                           | What impact would shorter payment timeframes have on clearing houses and other financial intermediaries that facilitate the payment of superannuation contributions to funds?   | Potential non-compliance, increased costs and fees; and investment required in technologies and improved systems. | <p>1. <b>Broad impacts:</b><br/>Broad impacts would include increased costs and fees and potential non-compliance.</p> <p>2. <b>Report payday super via STP:</b><br/>See response to question 2.</p>  |

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|-----|-------------------------------|---|--|--|
| 10. |                               | Would shorter payment timeframes require regulation of these financial intermediaries to ensure payment timeframes are met?   | Regulation required to ensure super funds and clearing houses process the payment into the super fund accounts within the 3 days.                      | Per summarised response.   |
| 11. | 1 D                           | How can the payday super model be designed to ensure it can adapt to changes and innovations in payment and data platforms?   | Where possible model aspects can be included in Regulations, rather than prescribed in legislation, to ensure legislation is adaptive to such changes. | <ol style="list-style-type: none"> <li>1. Per summarised response.</li> <li>2. <b>Payday super framework should be based on current operational technology:</b><br/>See response to question 8.</li> </ol> |
| 12. | 1 D                           | What are the benefits or risks associated with allowing multiple payment methods and how might this affect payments processing for clearing houses and superannuation funds? Would there be benefit or risks in only allowing one payment platform (such as the NPP)? | BDO considers that a review be undertaken to assess this independently by all the stakeholders for further consultation.                               | <ol style="list-style-type: none"> <li>1. Per summarised response.</li> <li>2. <b>Payday super framework should be based on current operational technology:</b><br/>See response to question 8.</li> </ol> |

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|-----|-------------------------------|--|---|---|
|     |                               | <p><b><u>Compliance mechanisms:</u></b><br/>- SG charge assessments</p>  |   |   |
| 13. | 2<br>3 B                      | <p>What is the appropriate timeframe for ATO reconciliations? For example, fortnightly or monthly? Should the timeframe differ depending on the frequency of payday or would a standard timeframe be more appropriate?</p> | <p>Appropriate timeframe is introduction of a one-month timeframe, as a standard timeframe.</p>                 | <ol style="list-style-type: none"> <li>1. Per summarised response.</li> <li>2. <b>Removal of superannuation guarantee charge statements:</b> Superannuation guarantee charge statements should no longer be required, and a streamlined alternative system apply where late payments/ underpayments arise for inadvertent errors and honest mistakes. This would include payments direct to the superannuation funds by the employers, through the employer's systems/processes (or via clearing houses), in relation to the superannuation shortfall plus an interest component. Grace periods for corrections should be allowed.</li> <li>3. <b>Introduce a standard one-month timeframe- for reconciliations and corrections:</b><br/>See response to question 5.</li> </ol> |
| 14. | 3 B                           | <p>Should there be a mechanism whereby employers can pay SG charge they know they have accrued, prior to the reconciliations and assessments being issued? How should this occur?</p>                                      | <p>Yes, voluntary disclosures and payments should be incorporated and encouraged as part of the new system.</p> | <ol style="list-style-type: none"> <li>1. Per summarised response.</li> <li>2. <b>Removal of superannuation guarantee charge statements:</b><br/>See response to question 13.</li> <li>3. <b>Incentivise voluntary disclosures:</b><br/>Employers should be incentivised such as reduced penalties, reduced/ no general interest charges and tax deductibility of amounts in appropriate timeframes</li> </ol>  |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response  | Detailed Response   |
|-----|-------------------------------|--|--|---|
|     |                               |  |  | <p><b>4. Automation as part of payroll:</b><br/>In terms of how this would occur, automation within the payroll and STP system should occur. For example, a separate pay event module in STP could be designed to facilitate the voluntary disclosures.</p>   |
|     |                               | <p><b><u>Compliance mechanisms:</u></b></p> <ul style="list-style-type: none"> <li>- Rectifying underpayments before an SG charge assessment is issued</li> <li>- Tax deductibility and compliance</li> </ul>                                |  |   |
| 15. | 3 B                           | Should the LPO and carry forward of late payments remain a feature of the SG compliance system in a payday super model? Could an alternate system be adopted whereby late payments apply retrospectively to the earliest period outstanding? | Yes.<br>BDO considers that both should continue to be part of a system so that employers have the option to use. | <p>1. Per summarised response.</p> <p><b>2. Removal of superannuation guarantee charge statements:</b><br/>See response to question 13.</p>   |
| 16. | 5 B                           | Should late SG contributions be tax deductible under certain circumstances, for example when an employer amends the SG charge before it is assessed by the ATO?  | Yes.   | <p><b>1. Treat superannuation guarantee charge as tax deductible:</b><br/>The superannuation guarantee charge should be tax deductible where the superannuation contributions are made prior to assessment by the ATO. BDO considers that any superannuation guarantee charge payments should be tax deductible, because it will be onerous to track non-deductible amounts due to large frequency of payments under the payday superannuation framework.</p> |

| No. | BDO Key objective reference # | Consultation Question   | Summarised Response  | Detailed Response  |
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|     |                               |   |  | Further, there are already sufficient penalties in the system including Part 7 penalties (which should remain non-deductible); and General Interest Charge to deter non-compliance.  |
| 17. |                               | What kind of prompts or nudges could be provided to employers to be aware of and meet their SG obligations on time? | Pop up messages filtered through the STP system upon an STP lodgement in relation to future lodgement requirements; and possibly in real-time via STP/ digital ATO services. | Per summarised response.   |
| 18. | 5 A                           | Are there more appropriate incentives outside of the LPO to encourage employers to pay SG in a timely manner?       | Where possible employer's good compliance history should be acknowledged.<br><br>As a broad suggestion, perhaps a credit type system could be                                | <ol style="list-style-type: none"> <li data-bbox="970 1413 1318 1440">1. Per summarised response.</li> <li data-bbox="970 1487 1442 1552">2. <b>Part 7 penalties and General Interest Charge re-design:</b><br/>BDO also considers that the current system of Part 7 penalties and general interest charges provides more than sufficient penalties for non-compliance for the superannuation guarantee system. A penalty regime should remain as a form of deterrent for non-compliance. However, in some instances the current Part 7 penalties can be considered harsh, especially</li> </ol> |

| No. | BDO Key objective reference #   | Consultation Question  | Summarised Response   | Detailed Response   |
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|     |                                 |  | <p>implemented or reflected in the new framework.</p> <p>For example, employers receive a ‘credit’ for each compliant activity so that in the event of one non-compliant activity in future, the Part 7 penalty will not apply if employer has a certain level of credits at that time.</p> | <p>where honest inadvertent errors have arisen from otherwise compliant taxpayers. These penalties should not be the same for those employers actively striving for compliance (particularly where they proactively seek to make good any detected non-compliance), versus those employers that are not.</p> <p>Instead, BDO considers that a new re-designed system of penalty units/ percentage basis be implemented, taking into account factors such as reasonable care compared to fraud / evasion/ intentional disregard of the law (similar to administrative penalties relating to tax obligations under Division 284 of Schedule 1 to the <i>Tax Administration Act 1953</i>).</p> |
|     |                                 | <p><b><u>Compliance mechanisms:</u></b></p> <p>- <i>SG charge calculation (Nominal interest calculation and accrual; The administration fee; Additional behavioural penalty)</i></p> |   |   |
| 19. | 5 A<br>4 A<br>4 B<br>4 C<br>4 D | Would changes to the SG charge be required to ensure the charge remains adequately punitive for non-compliant employers?   | <p>See response at question 18 regarding penalties.</p> <p>See response at question 22 re introducing a</p>   | <ol style="list-style-type: none"> <li><b>Part 7 penalties and General Interest Charge re-design:</b><br/>See response to question 18.</li> <li><b>Make changes to the superannuation guarantee charge components: Align the superannuation shortfall component with OTE</b></li> </ol>   |

| No. | BDO Key objective reference #             | Consultation Question   | Summarised Response  | Detailed Response   |
|-----|---|---|--|---|
|     |   |   | <p>de-minimus rule such that no shortfall arises if &lt;\$20.</p> <p>Further, the shortfall component should be aligned with ordinary time earnings.</p> | <p>The shortfall component should be calculated on the Ordinary Time Earnings ('OTE') basis, rather than Salary or Wages basis. This will then align the superannuation shortfall to the same basis that superannuation contributions are calculated on being an OTE basis.</p>   |
| 20. | 4 A<br>4 B<br>4 C4 A<br>4 B<br>4 C<br>4 D | <p>Does the current nominal interest rate of 10 per cent per annum adequately compensate employees for the foregone interest that would have accrued in the fund had their super been paid on time?</p> | Yes.   | <p><b>1. Make changes to the superannuation guarantee charge components: The interest component should remain and at a 10% p.a. rate.</b></p> <p>The interest component should remain since it provides compensation to the employee for loss of investment earnings during the period the contribution was not paid into their superannuation fund. Further BDO considers that it should remain at a 10% p.a. rate to allow certainty regarding its application, whilst facilitating a simpler basis of calculation. Whilst the current 10% nominal rate is preferred, as an alternative, it could be aligned to the general interest charge, which will reflect an employee's expected lost earnings on the shortfall (noting that GIC rates apply on a quarterly basis, whilst pay periods could extend beyond one quarter).</p> |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response  | Detailed Response  |
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| 21. | 4 A<br>4 B<br>4 C<br>4 D      | Does a nominal interest charge of 10 per cent per annum remain appropriate in a payday super model? Or are there alternative models that could address different degrees or severity of lateness?                | Yes.   | <p><b>1. The interest component should remain and at a 10% p.a. rate:</b><br/>See response to question 20.</p>   |
| 22. | 4 A<br>4 B<br>4 C<br>4 D      | How should the administrative component of the charge apply? Is per employee, per ATO reconciliation period appropriate, considering your responses above to the appropriate timeframes for ATO reconciliations? | <p>The administration component should be removed.</p> <p>Introduce a de-minimus rule where shortfall is less than \$20.</p> | <p><b>1. Make changes to the superannuation guarantee charge components: The administration component should not remain; and Introduce a de-minimus rule for the superannuation shortfall</b></p> <p>The administration component should be removed, as this is designed to compensate the ATO for compliance activity. BDO considers that this is not fair and equitable noting that the ATO does not have similar administration charges across any of the other taxes it administers. To streamline the process, we recommend that employers should make late contributions directly to the employee's superannuation account.</p> <p>BDO considers that where the superannuation shortfall would be less than \$20 (being the current administration component), then no shortfall component should arise. In this case, since no shortfall would arise, there would also be no applicable</p> |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response  | Detailed Response  |
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|     |                               |  |  | superannuation guarantee charge arising. This would act as a de-minimus rule.                      |
| 23. | 4 A<br>4 B<br>4 C<br>4 D      | Should the amount of the administrative component of the charge be changed? If so, what is the appropriate amount, and why?  | The administration component should be removed   | 1. <b>The administration component should not remain:</b><br>See response to question 22.          |
| 24. | 5 B                           | Given that the current SG charge is not tax deductible, are there any circumstances where a non-compliant employer should be able to make a tax deduction for the SG charge paid?  | Yes - refer response to question 16.   | 1. <b>Treat superannuation guarantee charge as tax deductible:</b><br>See response to question 16. |
| 25. |                               | Are there any other changes to the components of the SG charge that should be considered in the move to a payday super model, in the context of the purpose of the charge? For example, should the punitive aspects of the charge be more proportionate to the size of the non-compliance (that is, the size of the debt)? | No.<br><br>Any punitive aspects should be dealt with in the Part 7 penalties regime.<br><br>(except as noted in the above questions 19 to 24). | Per summarised response.   |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response   | Detailed Response  |
|-----|-------------------------------|--|---|--|
| 26. | 5 A                           | What should ‘additional behavioural penalties’ look like in a payday super model?  | None. Additional behavioural penalties should be dealt with in the Part 7 penalties regime. | <b>1. Part 7 penalties and General Interest Charge re-design:</b><br>See response to question 18.  |
|     |                               | <u><b>Compliance mechanisms:</b></u><br>- ATO flexibility in SG charge remission   |   |  |
| 27  |                               | Would granting the ATO flexibility to remit the SG charge in certain circumstances on the part of the employer risk the integrity of the SG charge?                  | No.   | Refer question 29 below.   |
| 28  |                               | If you consider that the ATO should have some discretion to remit the charge, under what discrete circumstances should this be able to occur?                        | Yes.  | Refer question 29 below.<br>Further, in relation to new employees, a system should be considered to address this separately. For example a field in STP that can indicate it is a new employee, and therefore if super not paid on time (eg since super fund details not provided), the ATO will be aware so that no SG charge arises. |
| 29  | 5 C                           | Should any discretion to remit the SG charge apply to the entire amount due or only to certain components? For example, scope could be given to the ATO to remit the | Yes, except the shortfall component.  | <b>1. Allow ATO discretion to remit the superannuation guarantee charge:</b><br>BDO considers it fair and reasonable that a system of ATO discretion for remission of the superannuation guarantee charge be incorporated into the new Payday Superannuation framework (and Part 7 penalties and general interest charge).             |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response   | Detailed Response  |
|-----|-------------------------------|--|---|--|
|     |                               | nominal interest and administrative components of the SG charge but not the SG shortfall.  |   | However, BDO considers that the shortfall of superannuation should still be made and not remitted under a system of ATO discretion; as this remains the employee's entitlement.  |
| 30  |                               | Would it be appropriate for the ATO to have discretion to extend the due date for the SG charge? If so, in what circumstances would this be appropriate? Further, what would be an appropriate time period for any extension? Should there be a limit on this? | Yes.<br>It is fair and reasonable that a system of extensions for the SG charge be incorporated into the new Payday Superannuation framework.<br><br>Extensions systems exist in other areas of tax obligations. Suggest one month period or multiples of months. | Per summarised response.   |
|     |                               | <p><b><u>Compliance mechanisms:</u></b></p> <ul style="list-style-type: none"> <li>- <i>Corrections and errors when paying SG</i></li> <li>- <i>Corrections and errors for superannuation funds</i></li> </ul>   |   |  |
| 31  | 5 D                           | Should employers be allowed to make 'catch-up' contributions due to errors?  | Yes.<br><br>See response to question 14 re voluntary disclosures. Noting that   | <ol style="list-style-type: none"> <li>1. Per summarised response.</li> <li>2. <b>Corrections to superannuation contributions back to 5 years:</b><br/>Where an employer is making corrections to prior year superannuation contributions, this should be limited to a 5-year period, unless fraud or evasion</li> </ol> |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response  | Detailed Response   |
|-----|-------------------------------|--|--|---|
|     |                               |  | <p>corrections should only be required up to a 5-year period.</p> <p>A system of catch-up contributions should be included; however the 10% interest component should still apply.</p> | <p>applies. Under the current superannuation guarantee law the ATO can require corrections to go back to the start of the regime in 1992. By capping this period at 5 years, it would be aligned to the record-keeping requirements (similar to other tax obligations).</p> |
| 32  | 2                             | <p>What would be a reasonable time period to allow employers to make ‘catch up’ contributions that aligns with the intent to pay superannuation alongside wages? Should this time period differ depending on payday frequency?</p> | <p>Refer to question 14 and question 31 above.</p>   | <p><b>1. Introduce a standard one-month timeframe- for reconciliations and corrections:</b><br/>See response to question 5.</p>   |
| 33  | 3 A<br>3 B                    | <p>What are the challenges in correcting SG payments under a payday model? Is this an efficient way for employers to make corrections? Should error messages be</p>  | <p>Refer to question 14 and question 31 above.</p> <p>Error messages should be standardised to reduce complexity and</p>   | <p><b>2. Report payday super via STP:</b><br/>See response to question 2.</p> <p><b>3. Removal of superannuation guarantee charge statements:</b><br/>See response to question 13.</p>  |

| No. | BDO Key objective reference # | Consultation Question   | Summarised Response   | Detailed Response   |
|-----|-------------------------------|---|---|---|
|     |                               | standardised across funds?  | improve consistency across the system.  |   |
| 34  | 3 B                           | Is the 20 business day time period for superannuation funds to resolve errors appropriate in a payday super model?  | <p>Yes.</p> <p>This aligns generally with a one-month timeframe for consistency across the framework.</p> <p>However further consultation with superannuation funds should be made, for input and resolution.</p> | <p>1. Per summarised response.</p> <p>2. <b>Removal of superannuation guarantee charge statements:</b><br/>See response to question 13.</p> |
| 35  | 3 B                           | Under a 'due date' model, would it be appropriate for a period of grace to apply after the due date for SG contributions? If so, should the grace period apply automatically? Or should it be applied at the ATO's discretion in certain limited circumstances? | <p>Yes.</p> <p>Automatic application would be preferred.</p> <p>See question 30 regarding a discussion on extensions.</p>   | <p>1. <b>Removal of superannuation guarantee charge statements:</b><br/>See response to question 13.</p>                                    |

| No.   | BDO Key objective reference # | Consultation Question  | Summarised Response  | Detailed Response  |
|---|-------------------------------|--|--|--|
| <p><b><u>Compliance mechanisms:</u></b><br/>- <i>Choice of fund, stapling and employee onboarding</i></p> |                               |  |  |  |
| 36  | 1 A<br>1 D<br>3 A             | <p>Would a digital ATO service simplify the choice of fund process and assist employees and employers to confirm the right super details? What functionality would be required? Would this address issues with data integrity under a payday super model? Should such a service be mandated?</p> | <p>Yes.<br/>Refer issues raised in detailed response.</p> <p>Separate consultation may be required with stakeholders such as software providers and super funds to consult and confirm functionality and data integrity.</p> <p>Yes, it should be mandated for consistency throughout for all employers.</p> | <p><b>1. Report payday super via STP:</b><br/>See response to question 2.</p> <p><b>2. Employers should not be responsible for employee super fund details:</b><br/>Employers should not be responsible or penalised for circumstances they cannot control, such as where employees have not provided their superannuation fund details or provided incorrect details. The intention behind the introduction of the Stapled Fund rules was to address these issues, however the risk rests with the employer and the obligation imposes another step in the employee onboarding process which could impede compliance with payday superannuation.</p> <p>Therefore, BDO supports the proposed establishment of a new digital ATO service that employers and employees can use to facilitate choice of fund and confirm the right superannuation fund details. Under that service, the employer would use the super fund details the ATO provides, making the current legislated super fund choice rules obsolete.</p> <p><b>3. Payday super framework should be based on current operational technology:</b><br/>See response to question 8.</p> |

| No. | BDO Key objective reference # | Consultation Question   | Summarised Response   | Detailed Response   |
|-----|-------------------------------|---|---|---|
| 37  | 1 A<br>1 D                    | What are the costs and benefits of requiring employers to offer stapling to employees? Are there other changes that could be made to the choice of fund process? Could a digital ATO service reduce the administrative burden associated with stapling? | Refer issues raised in detailed response.<br><br>Agree with a digital ATO service being introduced.                               | <ol style="list-style-type: none"> <li>1. <b>Employers should not be responsible for employee super fund details:</b><br/>See response to question 1.</li> <li>2. <b>Payday super framework should be based on current operational technology:</b><br/>See response to question 8.</li> </ol> |
| 38  | 1 A                           | What are the costs and benefits of a ban on advertising super products during onboarding?   | A ban should occur where considered inappropriate. The onboarding should be part of the ATO digital service noted at question 36. | <ol style="list-style-type: none"> <li>1. <b>Refer summarised response.</b></li> <li>2. <b>Employers should not be responsible for employee super fund details:</b><br/>See response to question 1.</li> </ol>  |
|     |                               | <p><b><u>Other payday super issues:</u></b></p> <p>- <i>SG reporting framework</i></p>  |   |   |
| 39  | 3 A                           | How could a smooth transition be managed to aligning STP, SuperStream, MAAS and MATS reporting, either through changing the reporting requirements to year-to-date values or transaction-based reports?   | This could be managed via transaction based reports by mandatory updates to STP (part of the payday Super system).                | <ol style="list-style-type: none"> <li>1. <b>Refer summarised response.</b></li> <li>2. <b>Report payday super via STP:</b><br/>See response to question 2.</li> </ol>  |

| No. | BDO Key objective reference # | Consultation Question   | Summarised Response   | Detailed Response   |
|-----|-------------------------------|---|---|---|
| 40  | 3 A                           | How could a smooth transition be managed if additional fields in reporting are made mandatory?  | This could be automated as part of STP via the payroll software to provide compulsory updating of fields (that comes from the Payday super system). | <ol style="list-style-type: none"> <li>1. Refer summarised response.</li> <li>2. Report payday super via STP: See response to question 2.</li> </ol>  |
| 41  | 3 A                           | Should a new unique identifier be included as a mandatory field in STP, SuperStream, and MATS which links employers, employees, and transactions?   | Yes. The employee's tax file number.  | <ol style="list-style-type: none"> <li>1. Use employee's tax file number. A unique identifier should be ideally a number already in existence and available to both employer and super funds/ clearing houses, where integrity/ security can be managed and maintained. We would suggest that this is the employee's tax file number.</li> <li>2. Report payday super via STP: See response to question 2.</li> </ol> |
| 42  | 3 A                           | Are there any issues or consequences with including an employer's SG liability and OTE as a mandatory, rather than optional field in STP reporting? | No. This information should ideally be part of the Payday Super system (via STP).   | <ol style="list-style-type: none"> <li>1. Refer summarised response.</li> <li>2. Report payday super via STP: See response to question 2.</li> </ol>  |
|     |                               | <p><b><u>Other payday super issues:</u></b></p> <p>- SG contributions for the 2026-27 financial year</p>  |   |   |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response   | Detailed Response   |
|-----|-------------------------------|--|---|---|
| 43  |                               | What is the best mechanism to avoid disadvantaging employees who would reach the concessional contributions cap in 2026-27 due to the accounting of SG contributions in the year the policy commences?   | BDO suggests that a once only increase to the concessional contributions cap is made for that year, and consequential increases to the maximum contribution base. | Refer summarised response, noting that potentially the change could be based on a year with 5 quarters instead of 4 quarters for just that year.              |
|     |                               | <p><b><u>Other payday super issues:</u></b></p> <p>- <i>Maximum contribution base calculations</i></p>   |   |   |
| 44  | 2                             | On what period should the maximum superannuation contribution base be calculated in a payday super model? Would there be issues if it remained a quarterly calculation? Are there any other mechanisms that could help prevent employers paying over the concessional contributions cap for employees? | Monthly would be the preferred option.  | <p>1. Refer summarised response.</p> <p>2. Introduce a standard one-month timeframe- for reconciliations and corrections:<br/>See response to question 5.</p> |
|     |                               | <p><b><u>Other payday super issues:</u></b></p> <p>- <i>Defined benefit members</i></p>  |   |   |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response  | Detailed Response  |
|-----|-------------------------------|--|--|--|
| 45  |                               | Are there any other changes that will be required for defined benefit members?                             | For consultation with stakeholders   | This area is complex and not as common; therefore we suggest that separate consultation is made with this sector and stakeholders for further input and analysis.                              |
|     |                               | <u>Other payday super issues:</u><br>- <i>Self-managed superannuation funds</i>                            |  |  |
| 46  |                               | Should there be any changes to the reporting frameworks for SMSFs and/or Defined Benefit funds to the ATO? | For consultation with stakeholders   | The SMSFs are smaller super funds normally with a small number of members, and we suggest that separate consultation is made with this sector and stakeholders for further input and analysis. |
| 47  |                               | Are there any other changes that will be required for self-managed superannuation fund members?            | For consultation with stakeholders   | See response to question 46 above.   |
|     |                               | <u>Other payday super issues:</u><br>- <i>Other issues</i>   |  |  |
| 48  | 1 D                           | Are there any other impacts on stakeholders or considerations Government should consider in policy design? | Ensuring that the technology will be in place to support the proposed policy design. | <b>1. Payday super framework should be based on current operational technology:</b><br>See response to question 8.   |

| No. | BDO Key objective reference # | Consultation Question  | Summarised Response  | Detailed Response    |
|-----|-------------------------------|--|----------------------|----------------------|
| 49  |                               | What further changes would be required under the current rules to allow employers to meet payday super requirements? | See above responses. | See above responses. |