Industry Super Australia

Treasury Laws Amendment (Tax Integrity and Other Measures No.1) Bill 2019

Submission

15 August 2019

About Industry Super Australia

Industry Super Australia is a research and advocacy body for Industry SuperFunds. ISA manages collective projects on behalf of a number of industry super funds with the objective of maximising the retirement savings of over five million industry super members. Please direct questions and comments to:

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Executive Summary

Unpaid super robs employees of valuable entitlements and increases the burden on government to fund the Age Pension. Industry Super Australia (ISA) research shows that the problem has increased by 25 per cent in 3 years since 2013-2014 with 2.85 million Australians being short changed $5.9 billion in super entitlements in 2016-2017[1].

Since 2016 ISA has been arguing for changes to the law to reduce the serious problem of unpaid super in Australia.

- In December 2016, ISA released a report co-authored with Cbus, *Overdue – Time for Action on Unpaid Super* (Overdue). *Overdue* estimated that 2.4 million Australians were being underpaid Superannuation Guarantee (SG) contributions of at least $3.6 billion in 2013-2014.

- In March 2017, ISA lodged further analysis with the Senate Economics References Committee inquiry into non-payment of SG estimating, for 2013-14, 2.76 million people were underpaid amounting to $5.6 billion.

- In September 2017, ISA made a submission on the proposed changes to salary sacrifice rules in the *Treasury Legislation Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Bill 2017*. In our submission, we supported the amendments subject to government undertaking other measures to address the problem of unpaid super.

- In October 2018, ISA released a report *Unpaid super: Getting worse while nothing is done* in which it reported that ATO data has found unpaid super is getting worse, not better.

- In May 2019, ISA released a report *Super Scandal – Unpaid Super Guarantee in 2016-17* (*Super Scandal*) in which it reported on our analysis of unpaid super based on ATO data. ISA's analysis showed that in 2016-2017, 2.85 million Australians were underpaid $5.94 billion in super entitlements.

The *Treasury Laws Amendment (2019 Tax Integrity and Other Measures No.1) Bill 2019* (the Bill) amends the *Superannuation Guarantee (Administration) Act 1992* to close the loophole that currently allows employers to use employees' voluntary salary sacrifice contributions to satisfy their SG obligations. The Bill also prevents an employee's SG base being reduced by an employee's salary sacrificed amounts.

However, of the billions in employer superannuation underpayments, ISA analysis indicates that only 16.6 per cent is attributable to those who salary sacrifice.[2] In other words, the Bill's effort to close the salary sacrifice loophole only addresses 17 per cent of the problem.

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[1] Super Scandal – Unpaid Super Guarantee in 2016-17, May 2019, Table 1

[2] See Section 2.

While closing the salary sacrifice loophole is a positive step in ensuring employees receive superannuation, unfortunately the reforms fall a long way short of addressing the major causes of unpaid super.

ISA recommends that the Committee support Schedule 7 of the Bill subject to ensuring all enhanced employer payroll and Superstream systems can run by 1 July 2020, at the latest, so that the ATO can administer the new requirements.

However, the proposed measures are not a substitute for the government making further legislative changes and taking stronger compliance action to address the significant issue of unpaid super as outlined in this submission.

1. Closing the salary sacrifice loophole

ISA supports Schedule 7 of the Bill as it will close the salary sacrifice loophole subject to employers being required to have payroll systems ready by 1 July 2020 so that the ATO can administer the new requirements. Analysis published by ISA in Super Scandal [3] showed that as a result of the loophole, in 2016-17 more than 370,000 workers missed out on more than $1.5 billion in SG contributions.

In August 2017, ISA suggested that the government could better approach salary sacrifice and the associated problems of non-payment of SG in two ways: by preventing the SG base being reduced by an employee's sacrificed amounts, and by excluding sacrificed contributions from any "contribution" made by an employer on behalf of an employee. These two measures would address recommendations 8 and 9 of the Cross-Agency Working Group report on SG non-payment to close the salary sacrifice loophole.

The current Bill addresses both recommendations.

First, consistent with ISA's suggestion in August 2017, the Bill prevents the SG base being reduced by an employee's sacrificed amounts. The Bill defines sacrificed contributions as sacrificed ordinary time earnings (OTE) contribution and sacrificed salary and wages contribution in sections 15A(1) and (2). This is significant because it means that an employee's sacrificed contributions are now legally distinct from the definition of "contribution" in section 23, which covers contributions made by an employer on behalf of an employee to their superannuation fund or retirement savings account.

The Bill also amends the definition of quarterly OTE base and quarterly salary and wages base to clarify that sacrificed contributions are included in the quarterly base. Previously, sacrificed salary and wages or sacrificed OTE contributions were not included in an employee's quarterly salary and wage or OTE base. This meant that sacrificed contributions could be counted as reducing an employer's superannuation guarantee shortfall because they were not included in an employee's quarterly base.

Further, the Bill specifically excludes sacrificed contributions from the definition of "contribution" in section 23. At present, an employer can reduce its superannuation guarantee (SG) charge by contributing for the benefit of an employee to a complying superannuation fund. "Contribution" is defined as "the number of dollars in the amount of the contribution". The Bill rectifies this issue by omitting "contributes" and substituting "makes a contribution (other than a sacrificed contribution)". Therefore, even though an employer makes a salary sacrifice

[3] Super Scandal – Unpaid Super Guarantee in 2016-17, May 2019

contribution on behalf of an employee, the salary sacrifice contribution amount cannot be counted as part of an employer's contribution to reduce the employer's SG charge.

2. Causes of Superannuation Guarantee non-payment in Australia

The government has progressed some important measures that help to address the unpaid super problem.

The *Treasury Laws Amendment (2018 Measures No. 4) Act 2019* gives the ATO power to issue directions to employers who fail to comply with SG obligations, including orders to pay unpaid super and penalties for non-compliance. It also extends Single Touch Payroll reporting so that all employers regardless of size must report payroll and superannuation information to the ATO. This will improve the visibility of compliance with SG obligations.

The Bill addresses the problem where employers use employee's voluntary salary sacrifice contributions to satisfy their SG obligations. It will also prevent an employee's SG base being reduced by an employee's salary sacrificed amounts

Yet this problem only contributes to a small percentage of unpaid super in Australia.

For 2016-17, ISA estimates that of the 2.85 million people with total employer contributions less than 8.75 per cent[4] of OTE, only 171,700 people who were salary-sacrificing were underpaid. An additional 199,750 people with salary sacrifice contributions were underpaid SG, but were not underpaid in terms of total employer contributions including their salary sacrifice contributions. Just over 13 per cent of employer superannuation underpayment is for people who salary sacrifice.

Of the $5.90 billion in employer superannuation underpayments, only $0.98 billion is for people who salary sacrifice (16.6 per cent).

It is clear the causes of SG non-payment go far beyond salary sacrifice. Additional causes include:

2.1 Contributions are not currently visible to employees and are not paid with pay cycles

Employer SG contributions currently need only be paid quarterly and are not visible in real time. Employees must wait three months or longer to confirm that their super is being correctly paid, or indeed paid at all. The delay encourages employers to use withheld employee SG payments to bolster cash flow, and then to underpay the quarterly SG payment when it is due.

[4] Although the SG was 9.5 per cent of ordinary time earnings in 2016-2017 ISA's analysis adopts a conservative approach and uses an underpayment cut-off of 9.75 per cent.

2.2 Insufficient monitoring and lack of enforcement of SG non-payment

The Australian Taxation Office (ATO) has significant compliance and enforcement responsibilities in respect of the superannuation system. In particular, it is responsible for monitoring non-compliance with SG obligations and addressing any non-compliance.

Historically, this function has not been sufficiently prioritised. As the Australian National Audit Office noted in its 2015 audit of the ATO, "the SG Scheme operates largely without the intervention of the ATO".[5] The ATO continues to monitor employer compliance with SG by testing whether overall employer contributions exceed the statutory percentage of salary and wages paid, rather than collecting OTE data.[6] The problem with this methodology is that it does not take into account employers who pay SG above legislated levels, while others make less than statutory or no contributions. Therefore, it does not provide a complete picture of SG compliance. The full implementation of Single Touch Payroll and revision of Superstream will be required for real time monitoring of the OTE base and super payment.

While the ATO's compliance and enforcement activities have centered on promoting voluntary compliance,[7] there is scope for it to draw on a wider pool of non-compliance information such as from external stakeholders rather than simply from its data matching model.[8] It is uncontroversial that some industries demonstrate less voluntary compliance with SG than others. As such it is of concern that the ATO has not previously sought non-compliance information from sources other than data matching. It makes sense that representatives of industries, such as unions and employer associations, would be able to offer the ATO relevant and detailed insight into the extent of SG non-payment in their industry.

Despite collecting significant data, most compliance activities initiated by the ATO were the result of either employee complaints or employers self-reporting. Failure by the ATO to proactively identify misconduct means such misconduct goes un-detected.

2.3 Insolvent employers

Employer insolvency is a leading cause of non-payment of SG. Full implementation of Single Touch Payroll and associated changes to Superstream are required for real-time visibility of SG payment. The use of phoenix companies to escape payment to creditors while remaining in business is one prominent way in which SG obligations have not been met. Superannuation is more likely to be underpaid than wages in these circumstances, but unlike wages and annual leave, it is not covered by the Commonwealth's Fair Entitlements Guarantee scheme but should be. The extent to which the government's phoenix legislation is effective in redressing unpaid super should be monitored.

2.4 Gaps in super coverage

The $450 per month contribution threshold creates a gap in super coverage and encourages underpayment. This gap affects workers who most need the SG such as low income and casual

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[5] Australian National Audit Office, *Promoting compliance with Superannuation Guarantee obligations*, Performance Audit No 39 (2015) (ANAO Report), 14, 62.

[6] ANAO Report, 17.

[7] ANAO Report, section 3.

[8] ANAO Report, 104.

workers – a group in which women are over represented. It also affects workers in multiple jobs, which the ABS estimates as being 15.6 per cent of all employees in 2016-17. A multiple job holder with 3 jobs could have well over $450 per month in wages but receive no employer superannuation contributions.

3. Extent of Superannuation Guarantee non-payment in Australia

3.1 ISA and ATO estimates

In March 2017, ISA created the most comprehensive analysis of the underpayment of employer superannuation contributions published.[9] ISA's analysis paints a damning picture of unpaid super in Australia.

ISA's analysis was considered at the Senate Economics References Committee hearing into the non-payment of SG in 2017. At those hearings, the ATO criticised ISA's findings suggesting that the findings overestimated the extent of unpaid SG in Australia. The ATO was unable to provide its own alternative estimate and confirmed that it would be releasing its own estimate of the extent of the SG gap in Australia later in the year.

In late August 2017, the ATO released its estimate for 2013-14. ISA has since reviewed the ATO's estimate and has found that the estimate in fact confirms ISA's March 2017 estimate. Furthermore, the ATO estimate for 2015-16 released in 2018 is consistent with ISA's estimates for 2015-16. The ATO has not released any distributional estimates of unpaid superannuation.

3.2 ISA's analysis

The ISA analysis is based on data from the ATO's 2 per cent sample file for the 2016-17 financial year. This file is a 2 per cent sample of individual income tax returns from that year. A sample size of 277,202 individuals out of a population of 13,860,100 made up of approximately 2 per cent of the original records and of each sample subgroup (such as gender, age range, region and lodgment method) ensures an appropriately representative, but manageable sample size.

From the sample file, ISA estimated the total number of SG-eligible workers in Australia at 9,112,300. This estimate excludes self-employed wage and salary earners, wage earners under 18 years, and those likely to be below the $450 threshold.

[9] Industry Super Australia supplementary submission to the Senate Economics Committee inquiry into superannuation guarantee non-payment, March 2017.

3.3 ISA's findings

2.85 million people received employer contributions, including salary sacrifice, of less than 8.75 per cent of their estimated OTE in the 2016-17 financial year. In 2016-17, the legislated SG rate was 9.5 per cent. The ISA estimate uses a lower threshold to be conservative.

This represents 31 per cent of SG eligible employees in Australia.

For each individual in the sample file, ISA calculated the percentage of SG paid by working out the ratio of employer contributions to OTE. Table 1 below shows that the cumulative number and percentage of individuals in the sample file being paid SG of up to 8.75 per cent of their OTE was 31 per cent, or 2,850,000 of the SG-eligible population.

Table 1 - Ratio of Employer Contributions to Ordinary Time Earnings

SG Population, including those without employer contributions 2013-14	Estimated Number SG Eligible	Cumulative Numbers	Cumulative Percentage
Employer Contributions to OTE Ratio			
Nil	604,400	604,400	7%
Above 0% Up to 5%	495,450	1,099,850	12%
5% up to 7%	531,650	1,631,500	18%
7% up to 8.75%	1,218,400	2,849,900	31%
8.75% up to 10%	2,850,950	5,700,850	63%
10% up to 11%	1,349,100	7,049,950	77%
11% up to 15%	1,159,300	8,209,250	90%
15% and above	903,050	9,112,300	100%
All	9,112,300		

Source: ISA estimates from ATO 2 per cent sample file of matched personal tax and superannuation records for 2016-17

Even taking a more conservative ratio of employer SG contributions to OTE of 7 per cent, on this analysis still 1,631,500 (or 18 per cent) people are being underpaid.

In a perfect world with employers fully complying with their SG obligations the cumulative age of individuals being paid up to 8.75 per cent of their OTE would be zero, or close to zero, because everyone would be fully paid their SG entitlements. Put another way, few individuals would present with a ratio of employer contributions to OTE of less than the legislated SG percentage in a given year.

The aggregate amount of SG underpaid was $5.9 billion, equating to $2,070 per person.

Table 2 below shows how, for employees receiving between 7 and 8.75 per cent of their average weekly OTE alone, the aggregate gap in actual super received and super entitlement is $500 million. For all employees receiving 8.75 per cent or less SG, the amount of underpayment was $5.9 billion.

Taking a conservative SG payment amount (actual SG paid as a percentage of OTE) of up to 8.5 per cent allowed ISA to largely exclude the possibility of false positives (where the result suggests an individual is being underpaid SG but in fact they are not). The current methodology is based on an SG rate that was 9.5per cent in 2016-17 and the previous year.

Table 2 - Employer Contributions Gap by Ratio of Employer Contribution to OTE

Employer Contributions to OTE Ratio	Apparent Gap in Employer payments from 8.5% (AWOTE adjustment) including zero ($m)
Nil	$2,910
Above 0% Up to 5%	$1,690
5% up to 7%	$800
7% up to 8.75%	$500
8.75% up to 10%	$0
10% up to 11%	$0
11% up to 15%	$0
15% and above	$0
All	$5,900

Source: ISA estimates from ATO 2 per cent sample file of matched personal tax and superannuation records for 2016-17

$5.9 billion spread across the 2.850 million people who ISA estimates receive employer SG payments of 8.75 per cent or less of their OTE results in an average of $2,070 underpaid SG per person in the 2016-17 financial year.

3.4 Differences in approach between ISA and ATO estimates

The ATO estimate of the SG Gap is an aggregate estimate based on total cash flows in the system. In this regard, it is a top-down approach that lacks the nuances afforded by distributional factors such as industry, gender or location of the individual taxpayer. On the other hand, ISA's estimate is a distributional estimate based on unit records for individual people drawn from the 2 per cent sample file. ISA's analysis therefore reflects actual individual wages and salary and SG payments. It provides a more detailed picture than looking at the total payments across the board of wages and salary and of SG.

In the ATO's estimate, the contributions for people with generous employer contributions above the SG rate are combined with the contributions of people underpaid SG. The ATO have criticised ISA for not averaging the high and low contributions to be closer to their more problematic estimates. However, taking an average of the high and low contributions in this context means that those workers receiving SG payments above the mandated 9.5 per cent (as it then was) obscure those workers receiving payments below the mandated rate. The strength of the 2 per cent sample is that it allows for an analysis of individual wage and salary payments and SG payments. In this way it therefore avoids the problems described with looking at the

total wage and salary and SG payments across the data set, such as obscuring SG underpayment with those receiving above the mandated rate.
Ultimately, ISA's approach meant that it was able to produce analysis of underpayment by factors such as age and salary or broad occupation.[10]

3.5 Re-examination of the ATO estimate

Phil Gallagher PSM of ISA has examined the ATO estimate for 2015-16 in an effort reconcile it with the ISA estimate. He estimates that the total value of SG contributions paid in 2015-167, which were above a rate of 11 per cent of ordinary time wages,[11] was $2.9 billion. Examining the total value of SG contributions above a rate of 11per cent of OTE reveals that there is a corresponding amount of SG underpayment that is *masked* by averaging out total SG contributions in the dataset. When this mask is removed, the true face of SG underpayment emerges.

What becomes clear is that the ATO estimate has relatively small differences from ISA's. ISA's estimate is shown to be conservative by $189 million – as demonstrated in Table 3.

Table 3 – Reconciliation of the ATO Estimate of the SG Gap with the ISA Estimate for 2015-16

Reconciliation of Published ATO SG GAP for 2016-17 with ISA Estimate		
Estimate	$m	Source
ATO Gross SG Gap	3269	ATO
Value of Employer SG contributions above 11% of Ordinary Time Earnings	2859	ISA Analysis of ATO Sample fil for 2015-16
Total	**6,128**	
ISA Estimate for 2015-16	5,939	ISA Analysis of ATO Sample file
Difference	**-189**	

The ATO's SG Gap estimate includes the black economy. ISA's estimate does not, and could not, exclude defined benefit members because of lack of information contained in the ATO's sample file to identify defined benefit members. The reconciliation implies that the black economy effects in the ATO analysis and the defined benefit effects in the ISA analysis are about the same size. The ISA estimate is the correct scale for a distributional analysis.

[10] ISA supplementary submission to Senate Economics References Committee, March 2017, 5-6. Most recently Super Scandal significantly increases the depth of the analysis.

[11] The significance of 11per cent OTE is that after this point, the risk of false positive results (where a worker is in fact being paid SG but appears in the analysis not to be), tend to cease.

Clearly underpayment of super is a major problem. And salary sacrifice represents only a small part of the larger problem of SG non or under-payment.

4. How to more comprehensively address the unpaid super problem

The government has progressed some important measures that help to address the unpaid super problem.

The *Treasury Laws Amendment (2018 Measures No. 4) Act 2019* gives the ATO power to issue directions to employers who fail to comply with SG obligations, including orders to pay unpaid super and penalties for non-compliance. It also extends Single Touch Payroll reporting so that all employers regardless of size must report payroll and superannuation information to the ATO. This will improve the visibility of compliance with SG obligations.

The Bill, if passed will close the loophole that currently allows employers to use employee's voluntary salary sacrifice contributions to satisfy their SG obligations. It will also prevent an employee's SG base being reduced by an employee's salary sacrificed amounts. However, as noted earlier in this submission, closing the salary sacrifice loophole will only address 17 per cent of the problem.

ISA considers that more can be done by government to address the unpaid super problem. To comprehensively ensure the SG is paid, government should undertake the following.

4.1 Mandate payment of super with payment of salary

The most effective solution is for the law to be amended to require employers to deposit SG contributions into employee accounts at the same time as they pay their salary. This is a simple change that will allow payments to be more closely tracked by both the employee and the ATO.

ISA polling has revealed most workers (around 70 per cent) believe that when super entitlements are recorded on their payslip this means they have actually been paid[12]. In fact, employers are currently permitted to pay contributions once a quarter. In addition to making it difficult to monitor SG compliance, this can limit the compounding impact of returns and interest on the growth of account balances

There is evidence to suggest that the current requirement to pay SG quarterly is sometimes used by employers to bolster cash flow. Likewise, many accountants agree that inability to meet SG obligations is one of the first signs that a business is having cash flow problems or heading towards insolvency.[13] Using the quarterly payment requirement to bolster cash flow creates the real possibility of under or non-payment of SG when the time comes for payment. Some industry Funds, including Cbus, have proactively implemented a policy of encouraging employers to make more regular (monthly rather than quarterly) contribution payments so that

[12] https://www.industrysuper.com/assets/FileDownloadCTA/709fd56481/ISA-Media-Release-Super-hiatus-costs

[13] Industry Super Australia supplementary submission to the Senate Economics References Committee inquiry into superannuation guarantee non-payment, March 2017, 21; submissions 3, 8 and 25 to Senate Economics References Committee inquiry into superannuation guarantee non-payment.

investment earnings can begin as soon as possible, and SG non-compliance can be identified and addressed sooner.

ISA accepts that whilst the quarterly regime may have been appropriate when manual payroll systems were more common, this is no longer the case, as almost every payroll software system used by small and large employers today enables (or could be easily enabled) to pay superannuation at every payroll cycle.

4.2 Better monitoring and stronger enforcement

4.2.2 Improve effectiveness and accountability of the ATO

The ATO is responsible for monitoring and enforcing SG compliance by employers. However, most compliance activities it initiates were the result of either employee complaints or employers self-reporting[14]. Failure by the ATO to proactively identify misconduct means much misconduct goes undetected. It also creates a moral hazard because employers may be prepared to take the risk of not complying with SG obligations knowing they will not be caught. Greater government oversight of the ATO's approach to monitoring compliance is needed.

The ATO Annual Report 2017-18 reveals some progress has been made to recover unpaid super through compliance activities however unfortunately, the amounts raised are insignificant compared to the $5.94 billion of super entitlements that are not paid. In the 2019/20 Federal Budget, the ATO was given additional funding to recover unpaid super. It is critical that the ATO can demonstrate that the additional funding is being effectively used for enforcement.

Less than 5 per cent of the debts raised are collected. The table below reproduces numbers from page 70 of the ATO Annual Report.

[14] Australian Taxation Office – Inquiry into the impact of the non-payment of the Superannuation Guarantee (paragraph 46).

ATO super guarantee Compliance Activity, 2015-16 to 2017-18

ATO Compliance Criterion	2015-16	2016-17	2017-18
Number of Employees who have had superannuation guarantee entitlements raised as a result of:			
* ATO compliance activities	94,963	69,705	237,945
* voluntary disclosures	111,518	77,344	77,785
Value of Superannuation Guarantee charge			
* Raised (including penalties and interest)	$670.40	$603.50	$1,107.20
* collected $m	$341.30	$282.90	$440.90
Value of Superannuation Guarantee entitlements distributed to members $m	373.3	281.1	401.6
Value of superannuation guarantee debt on hand $billions	1.36	1.5	1.9

Source: Page 70, ATO Annual Report for 2017-18

Further, instead of assessing SG compliance by testing total SG paid against total salary and wages paid, the ATO must develop a more sophisticated matched file. This would better target auditing and compliance monitoring by combining Member Account Attribute Service (MAAS) and the Member Account Attributes Service (MATS), division 293 and personal tax data. Using this data, the ATO could report to parliament on the ratio of employer contributions to OTE. The ATO would therefore have individual OTE data, which would be more accurate for SG non-payment purposes than the current approach.

The effectiveness of the ATO's enforcement actions around unpaid SG could also be improved by aligning its SG compliance activities with its other compliance activities. Not only would this better streamline the ATO's compliance activities, it would enable the ATO to conduct better and more effective proactive audits of SG compliance. This would assist the ATO to respond more quickly in situations where time is of the essence, such as in cases of insolvent employers.

4.2.3 Facilitate other agencies and actors to assist in recovery

Other relevant agencies such as the Fair Work Ombudsman and third parties such as unions or superannuation funds should be given greater scope to work with the ATO to recover unpaid super. This could be achieved through permitting the ATO to delegate an agent (such as a fund or service provider to them) to recover unpaid SG on application.

Industry super funds engage a credit control and debt recovery provider (Industry Fund Service (IFS) Unpaid Super) to recover unpaid SG contributions for members of industry super funds. IFS Unpaid Super has recovered more than 1.2 billion in SG entitlements over the past two decades.

Research shows that SG non-compliance is more common in some industries than others, with low income earners and workers in the construction, hospitality and cleaning industries most likely to miss out on superannuation. Some industry funds apply considerable resources to preventing and collecting unpaid SG. For example, Cbus, as the leading Industry Super Fund for the building, construction and allied industries, dedicates significant resources to a robust multi-stage arrears management process for chasing unpaid superannuation. In the 2019 financial year Cbus collected over $99.6 million in unpaid super for their members.

4.3 Better utilisation of penalties

Although current laws allow for the imposition of financial penalties for company directors of up to 200 per cent of the amount of unpaid super, these are rarely applied. The *Treasury Laws Amendment (2018 Measures No.4) Act 2019* includes criminal sanctions for employers who refuse to pay SG contributions. The ATO must use these penalties and sanctions if they are to have a deterrent effect on employers who seek to avoid their obligations. The use of these penalties and sanctions by the ATO should also be subject to greater monitoring and oversight by government.

4.4 Extend the Fair Entitlements Guarantee (FEG) to cover SG contributions

The FEG is a legislative safety net for the recovery of unpaid entitlements such as wages and annual leave, if an employer becomes insolvent. The FEG does not cover superannuation contributions. The predecessor to the Fair Entitlements Guarantee, the General Employee Entitlements and Redundancy Scheme, also did not cover unpaid super however it did fund 3 months of superannuation contributions. The FEG should be extended to cover superannuation contributions. This is consistent with the treatment of other employee entitlements.

4.5 Remove the $450 per month wages threshold for SG payment

The original purpose of the threshold was to accord with the annual tax-free threshold in 1992-93 of $5,400, in order to encourage part time or casual employees to make contributions to their super.

These concerns are now addressed by the LISTO, the $18,200 personal tax threshold, and modern accounting systems. The $450 threshold is now a compliance cost for business and may also lead to non-payment of superannuation, whether intentionally or inadvertently.

Removing the threshold would reduce the compliance burden on business, because there would be no necessity to calculate the threshold for each employee based on their monthly earnings; there would be one rule for all employees.

It would also allow more SG to flow to those workers who most need it such as low income, multiple job and casual workers and, in particular women, many of whom may already be struggling financially and may be more likely to rely on the Age Pension in the future. Figures released by the Australian Bureau of Statistics on 1 August 2019 found that 1 in 4 employed people under 30 work in multiple jobs.

As the Senate Economics References Committee noted in 2017, the increasing casualisation of the Australian workforce will only further contribute to the adverse impacts of the threshold on affected workers.[15]

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[15] Senate Economics References Committee report, Superbad – Wage theft and non-compliance of the Superannuation Guarantee, May 2017, 33, [5.25].

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Consider a fund's PDS and your objectives, financial situation and needs, which are not accounted for in this information before making an investment decision.

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