

# Chapter 7

## Accessibility and timeliness of SG data

### Accessibility and timeliness of SG data

7.1 The current design of the SG system is essentially based on the employment relationship between an employee and their employer, and subsequently between their employer and the employee's superannuation fund. The ATO is then informed annually in October of the event of SG payment by the employee's superannuation fund via a Member Contribution Statement.<sup>1</sup>

7.2 The ATO pointed out the problems this causes for its SG compliance work:

This design creates significant time lags which impact on the ATO's ability to monitor and detect non-payment early due to the quality and nature of annual reporting of contributions by superannuation funds.<sup>2</sup>

7.3 The SGA Act does not require employers to report payments made to an employee's superannuation fund to the ATO. Although the ATO receives annual PAYG (pay as you go) payment summaries from employers, these do not include SG payment data and only report gross payments, which do not allow for OTE to be identified.<sup>3</sup>

7.4 The Member Contribution Statement (MCS) the ATO receives each October from APRA regulated superannuation funds focuses on member (i.e. employee) reporting, not employer reporting. It reports the total super contributions received by the fund for their member, and does not consistently identify the employer who contributed the SG.<sup>4</sup>

7.5 The time lag and data constraints of this current arrangement means it can be difficult for the ATO to identify employers who are not keeping up with their SG obligations:

The ATO does not currently have visibility or a timely way to monitor the reporting or payment of SG by an employer. Super funds report member contributions to the ATO on an annual basis and as a result ATO has no visibility of payment information for up to 15 months after the start of a year. This means non-compliant employers can be difficult for the ATO to identify in a timely manner.<sup>5</sup>

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1 Australian Taxation Office, *Submission 6*, pp. 8–9.

2 Australian Taxation Office, *Submission 6*, pp. 8–9.

3 Australian Taxation Office, *Submission 6*, p. 9.

4 Australian Taxation Office, *Submission 6*, p. 9.

5 Australian Taxation Office, *Submission 6*, p. 8.

7.6 The ATO provided an overview of the challenges it faces in regard to data. These were summarised as follows:

- There are currently limitations in the data (e.g. Member Contribution Statements) provided by third parties (i.e. superannuation funds) to the ATO.
- Employers who make superannuation contributions to employees cannot be consistently identified. This limitation reduces the ATO's ability to identify employers who have not complied with SG legislation.
- The tax file numbers of employees' reported in Member Contribution Statements from superannuation funds are in some instances not correct. This data limitation means that the ATO is unable to identify the right employees during risk assessments of employers.<sup>6</sup>

7.7 The inability of the ATO to obtain more timely data from superannuation funds has been highlighted in previous reviews on the ATO's administration of the SG system. For example, both the 2010 IGT report and the 2015 ANAO report raised the matter in their respective recommendations.<sup>7</sup>

7.8 The IGT summarised the situation in the following manner:

The effectiveness of the ATO's ability to detect unpaid SG is very much dependent on the timelines and reliability of the data that it is able to obtain or is otherwise available to it.<sup>8</sup>

## **Committee view**

7.9 The committee is of the view that the annual MCS lodged with the ATO by APRA regulated superannuation funds should contain more detailed information than is currently required. The committee considers it necessary that an MCS delineate each category of superannuation payment received (for example SG, additional contributions as required through an industrial agreement, and any voluntary contributions from an employee), and in the case of multiple employers, clearly set out which contribution is from which employer.

7.10 The committee considers that this level of detail is essential to allow the ATO to gain a more comprehensive picture of SG payment and better carry out its compliance activities in the SG space.

## **Recommendation 25**

**7.11 The committee recommends that the government revise the information that APRA regulated superannuation funds must include in Member**

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6 Australian Taxation Office, *Submission 6*, p. 35.

7 Australian Taxation Office, *Submission 6*, p. 8.

8 Inspector-General of Taxation, *Submission 21*, p. 9.

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**Contribution Statements to include a breakdown of each category of superannuation payment an employee has received, as well as the employer it was received from.**

### **Information sharing between government agencies**

7.12 Although the ATO is the core agency tasked with dealing with non-payment of SG, other government agencies also hold information about the operations and viability of stakeholders in the SG system. These agencies include ASIC, APRA and the FWO.

7.13 The committee received evidence confirming there is already a level of information sharing between government agencies. For example, under a memorandum of understanding between the ATO and the FWO, the ATO receives twice yearly reports from the FWO containing details of employers who appear to have not paid SG contributions.<sup>9</sup>

7.14 When asked by the committee whether there would be some benefit in more regular reporting between the two agencies, the ATO clarified that the twice yearly exchange was a 'self-imposed restriction' and it was possible for information sharing to happen on an ad hoc basis.<sup>10</sup> Ms Debbie Rawlings, the ATO's Assistant Commissioner of Superannuation, explained that:

We do exchange on some larger or noteworthy cases; they happen outside that cycle. It is possibly to exchange more regularly. At the moment it is six-monthly.<sup>11</sup>

7.15 The committee questioned the ATO and APRA over the kind of information sharing relationship between the two agencies. Mr Sacha Vidler, the Senior Manager of the Specialist Superannuation, Industry Tech Services, Policy and Advice Division at APRA, summarised the relationship as such:

APRA collects a lot of data from funds. It is collected fundamentally at a fund level. In terms of estimating SG requirements for individuals or by employer, which is what we need to look at [for] this compliance question, it is not that useful. The ATO and APRA have a memorandum of understanding for sharing information relevant to our work, but that is on a

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9 Australian Taxation Office, *Submission 6*, p. 10, see also Department of Employment, *Submission 24*, p. 7.

10 Mr James O'Halloran, Deputy Commissioner, Superannuation, Australian Taxation Office, *Proof Committee Hansard*, 3 March 2017, p. 26.

11 Ms Debbie Rawlings, Assistant Commissioner, Superannuation, Australian Taxation Office, *Proof Committee Hansard*, 3 March 2017, p. 26.

case-by-case basis. Incidence of sharing is evaluated at quite a high level before approval.<sup>12</sup>

7.16 Mr James O'Halloran of the ATO noted:

We have a close relationship in a whole range of ways. I would proffer that, probably from the ATO's point of view, a lot of the framework and information that APRA gets is probably not active enough for case-type work. Certainly, our main complementary work is particularly with the regulatory obligations...<sup>13</sup>

7.17 Mr Vidler further detailed:

...I would just add that, to the extent that there is a data gap that influences SG non-compliance, it is not generated by a failure to share. The data is not collected...<sup>14</sup>

7.18 When asked whether there was any other data that APRA could provide to the ATO that may assist in SG compliance activities, Mr Vidler further clarified:

We provided the data that we had on contributions, SG and otherwise, as part of our consideration as a working group. But they are aggregate. They are certainly not split at the employer level, which is what you need to evaluate this problem. So it gives you a sense of the scale of industry but it does not go to this question of compliance.<sup>15</sup>

7.19 ISA summarised the current state of information sharing between government agencies and emphasised the disconnect present in the arrangements:

The ATO can access information at the level of the individual and relevant employer for each contribution, for all such employees and employers, but as they have noted in testimony and submissions, they are currently unable to readily identify an employee's OTE base. Superannuation funds cannot identify the OTE base for a payment, APRA only receives aggregated reports, and ASIC and the FWO are more likely to act on complaints rather than responding to a universal information system.<sup>16</sup>

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12 Mr Sacha Vidler, Senior Manager, Specialist Superannuation, Industry Tech Services, Policy and Advice Division, Australian Prudential Regulation Authority, *Proof Committee Hansard*, 3 March 2017, p. 24.

13 Mr James O'Halloran, Deputy Commissioner, Superannuation, Australian Taxation Office, *Proof Committee Hansard*, 3 March 2017, p. 25.

14 Mr Sacha Vidler, Senior Manager, Specialist Superannuation, Industry Tech Services, Policy and Advice Division, Australian Prudential Regulation Authority, *Proof Committee Hansard*, 3 March 2017, p. 25.

15 Mr Sacha Vidler, Senior Manager, Specialist Superannuation, Industry Tech Services, Policy and Advice Division, Australian Prudential Regulation Authority, *Proof Committee Hansard*, 3 March 2017, p. 25.

16 Industry Super Australia, *Submission 7.1*, p. 10.

7.20 Professor Helen Anderson noted that there did not appear to be a strong exchange of information between ASIC and the ATO in regard to insolvent businesses:

It is interesting that in the third party reports to the ATO there is a huge amount from the Fair Work Ombudsman and nothing from ASIC. At the end of every insolvency, the external administrator sends a report about a given company to ASIC estimating how much was not paid in wages and super and all sorts of bits of information. ASIC does not appear to pass any of that on to the ATO, and I find that quite startling. There are roughly 8,000 liquidations per year, and that information they have gathered could be passed on. That may be a structural issue within the ASIC Act, perhaps. There are privacy concerns there about disclosing that information, because it does not lead to a specific prosecution, perhaps. But it seems to me that is a valuable amount of information that ASIC gathers as part of its own operations, that could be useful here.<sup>17</sup>

7.21 Professor Anderson made reference to a table included in the ATO submission setting out the sources of third party SG referrals:

**Table 7.1—Source of third party SG referrals<sup>18</sup>**

Year	Fair Work Ombudsman	Super Funds	Community referrals	Internal ATO referrals	Other	Total
2015-16	2405	73	651	70	57	3256
2014-15	2103	33	431	50	50	2667

7.22 Professor Anderson observed that given roughly 40 per cent of insolvencies involve unpaid superannuation and there are approximately 8000 liquidations per year, it could be reasonably expected that there would be potentially thousands of referrals from ASIC to the ATO. Assuming these referrals would be categorised under 'other', the ATO table appears to indicate that this information exchange is not occurring.<sup>19</sup>

7.23 On a related matter, Professor Anderson also drew the committee's attention to the fact that while approximately 8000 companies enter liquidation each year, and their employees are able to access FEG, five times as many companies each year are abandoned and then eventually deregistered by ASIC for failure to pay annual fees and submit returns. Employees of abandoned companies receive no entitlements from the company and are not eligible for assistance from FEG. Professor Anderson

17 Professor Helen Anderson, private capacity, *Proof Committee Hansard*, 14 March 2017, p. 53.

18 Australian Taxation Office, *Submission 6*, p. 10.

19 Professor Helen Anderson, private capacity, *Proof Committee Hansard*, 14 March 2017, p. 53.

emphasised that it is impossible to account for the amounts of lost superannuation of employees of abandoned companies.<sup>20</sup>

### **Committee view**

7.24 The committee is of the opinion that better coordination between government agencies is a necessary condition to improve the detection of SG non-payment. The current capabilities around the collection, sharing and storage of digital information should act as an incentive for government agencies to re-evaluate their current data coordination arrangements and consider what improvements could be made.

7.25 The committee is particularly concerned that valuable information held by ASIC on insolvency cases is not being properly referred to the ATO. In addition, the matter of unpaid SG left by abandoned companies is an issue that the committee feels ought to be better tracked.

### **Recommendation 26**

**7.26 The committee recommends that the ATO and ASIC review their data sharing arrangements to ensure that information on insolvency cases is being referred in a timely manner from ASIC to the ATO.**

### **Recommendation 27**

**7.27 The committee recommends that the ATO and ASIC work together to collect data on abandoned companies to produce a comprehensive picture on the levels of unpaid SG contributions left by such companies.**

7.28 The committee is also of the opinion that it may be beneficial for the ATO and FWO to formally agree to exchange information more frequently than the six monthly cycle set out in their current memorandum of understanding.

### **Recommendation 28**

**7.29 The committee recommends that the ATO and FWO review their memorandum of understanding to consider whether more frequent information exchanges would improve their SG compliance activities.**

7.30 The committee notes that during the 44<sup>th</sup> Parliament it inquired into insolvency in the Australian construction industry. The 2015 report made two recommendations related to the sharing of data around SG non-payment:

#### Recommendation 5

3.72 The committee recommends that the ATO and ASIC increase their formal cooperation with superannuation funds to coordinate measures around early detection of non-payment of superannuation guarantee.

#### Recommendation 6

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20 Professor Helen Anderson, *Submission 5*, p. 2.

3.73 The committee recommends that privacy provisions which may inhibit information flows between the ATO and APRA regulated superannuation funds be reviewed and that the ATO seek advice from the Office of the Australian Information Commissioner as to the extent to which protection of public revenue exemptions in the Australian Privacy Principles might facilitate improved information sharing.<sup>21</sup>

7.31 The committee stands by these 2015 recommendations and encourages the government to consider them, noting that as yet there has not been a formal government response to the report.

### **Recommendation 29**

**7.32 The committee recommends that the ATO and ASIC increase their formal cooperation with superannuation funds to coordinate measures around early detection of non-payment of superannuation guarantee.**

### **Recommendation 30**

**7.33 The committee recommends that privacy provisions which may inhibit information flows between the ATO and APRA regulated superannuation funds be reviewed and that the ATO seek advice from the Office of the Australian Information Commissioner as to the extent to which protection of public revenue exemptions in the Australian Privacy Principles might facilitate improved information sharing.**

## **Potential remedies to address SG non-payment**

### ***Single Touch Payroll***

7.34 The committee received evidence indicating that the Single Touch Payroll (STP) initiative would contribute to positive outcomes in terms of addressing SG non-payment. However, the committee also heard concerns that STP would only be a partial solution owing to the proposed coverage of the roll-out.

7.35 The STP initiative was announced by the then Minister for Small Business, the Hon Bruce Billson MP, and the then Assistant Treasurer, the Hon Josh Frydenberg MP on 28 December 2014. STP requires the use of compatible business management software to report tax and superannuation information in the required format for digital transmission to the ATO.<sup>22</sup>

7.36 STP aims to simplify taxation and superannuation interactions for employers by aligning the reporting of PAYG withholding and SG payments with a

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21 Senate Economics References Committee, *Insolvency in the Australian construction industry*, December 2015, p. 48.

22 Australian Taxation Office, *Regulation Impact Statement: Single Touch Payroll*, October 2015, <http://ris.pmc.gov.au/2016/02/10/single-touch-payroll>, p. 1 (accessed 27 March 2017).

business's normal process of paying their employees. STP will become operational from 1 July 2017 and become mandatory for all employers with more than 20 employees from 1 July 2018.<sup>23</sup> Employers with 19 employees or less will also be able to use STP from 1 July 2017, but it will not be compulsory.<sup>24</sup>

7.37 The Regulatory Impact Statement outlined the expected benefits flowing from STP in regard to SG obligations:

Single Touch Payroll will assist the ATO to take earlier action to protect honest businesses that do the right things and to support those who may begin to struggle with meeting their obligations. In particular, those business who do not fully comply with their PAYG withholding and superannuation obligations enjoy a significant competitive advantage over those that do fully comply, and Single Touch Payroll will allow us to identify and support those who are struggling to comply much earlier.<sup>25</sup>

7.38 The ATO informed the committee that its visibility of SG data would be greatly improved with the introduction of the STP initiative:

Under the current design, Single Touch Payroll will provide opportunities to identify the non-payment of SG by providing real time visibility of SG liabilities and payments and will enable the ATO to continuously monitor SG shortfalls at the employer and employee level.<sup>26</sup>

7.39 The ATO further stated that this improved data visibility would allow it to predict and monitor SG payment patterns for changes or any 'missed' payments, meaning it would be able to implement more proactive and preventative measures. The preventative measures given as examples in the submission included:

- where the ATO can see that an employer pays SG near the due date, SMS reminders could be sent;
- where a predicted payment is missed, the ATO could contact the employer before the SG due date; and
- where an employer has an SG shortfall and has yet to lodge an SG statement, the ATO can instigate action and in some cases issue a default assessment.<sup>27</sup>

7.40 Although acknowledging that the STP initiative would improve the availability of real time data, ISA raised concerns that the currently proposed STP

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23 Australian Taxation Office, *Submission 6*, pp. 8, 41.

24 Australian Taxation Office, *Single Touch Payroll*, [www.ato.gov.au/general/new-legislation/in-detail/other-topics/single-touch-payroll/](http://www.ato.gov.au/general/new-legislation/in-detail/other-topics/single-touch-payroll/) (accessed 5 April 2017).

25 Australian Taxation Office, *Regulation Impact Statement: Single Touch Payroll*, October 2015, <http://ris.pmc.gov.au/2016/02/10/single-touch-payroll>, p. 2 (accessed 27 March 2017).

26 Australian Taxation Office, *Submission 6*, p. 41.

27 Australian Taxation Office, *Submission 6*, pp. 41–42.



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coverage would not capture the data of 45 per cent of Australian employees who are employed by a small business employer (19 employees or less). ISA was particularly concerned as this category of employees is identified by the ATO as a cohort with a high incidence of unpaid SG.<sup>28</sup>

7.41 The AIST expressed support for the STP initiative, as did Chartered Accountants Australia and New Zealand. Both organisations recommended that the initiative be expanded to cover all business employers, regardless of size, citing that it would improve the ATO's ability to monitor SG non-compliance.<sup>29</sup>

7.42 The TCFUA also recommended that use of STP be compulsory for all employers, particularly given the high level of non-compliance with SG obligations in smaller workplaces.<sup>30</sup> COTA also supported the extension of STP to all employers in due course.<sup>31</sup>

7.43 Similarly, Cbus stated that while it was encouraged by the development of the STP platform, its own experience indicated that the bulk of SG non-compliance occurred in small businesses, which would not be covered by STP under the current rollout. Cbus noted that nevertheless, STP offered a valuable opportunity for government to engage with the community about the rights and obligations surrounding superannuation.<sup>32</sup>

7.44 Unions Tasmania informed the committee that with around 13 806 businesses in Tasmania employing between one and 19 employees (approximately 37 per cent of all Tasmanian businesses), STP as currently mandated would not assist in protecting the approximately 100,000 employees of these small businesses against SG non-payment. Unions Tasmania recommended that the operation of STP be extended to all businesses to ensure employees of small businesses are not left behind.<sup>33</sup>

7.45 The IGT also observed that the current anticipated coverage of STP would have limited success in combatting the non-payment of SG, because it is not mandatory for small or micro businesses, and it is within this category of employer that SG non-payment is highest.<sup>34</sup> As such, the IGT suggested:

Accordingly, it would be beneficial to remove or reduce the barriers to the adoption of STP by small or micro businesses even before they are required to do so. For example, the ATO could consider a no or low cost solution for

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28 Industry Super Australia, *Submission 7.1*, pp. 10–11.

29 Australian Institute of Superannuation Trustees, *Submission 37*, p. 8; Chartered Accountants Australia and New Zealand, *Submission 27*, p. 5.

30 Textile, Clothing and Footwear Union of Australia, *Submission 50*, p. 11.

31 Council on the Ageing, *Submission 52*, p. 7.

32 Cbus, *Submission 48*, p. 6.

33 Unions Tasmania, *Submission 44*, p. 4.

34 Inspector-General of Taxation, *Submission 21*, p. 7.

these categories of employers or, in the case of those in remote areas, an alternative to direct digital access could be explored.<sup>35</sup>

7.46 The ATO submission stated that a pilot program will be undertaken in 2017 to examine the benefits for small businesses from STP and noted that a decision by government on any STP expansion to small business employers is expected after the pilot is completed.<sup>36</sup>

7.47 The IGT also cautioned that while STP data would provide the ATO with greater access to information about the payment of SG, it would not confirm amounts received by superannuation funds. As such, the ATO would still need to await payment information (from the Member Contribution Statement) before it could fully verify compliance. The time gap before such reconciliation could be conducted would increase the risk of non-recovery of unpaid SG.<sup>37</sup>

7.48 In their report on phoenix activities, Professor Helen Anderson and her colleagues at the Melbourne Law School observed that STP was initially proposed as a mechanism for employers to pay their employees and related PAYG (W) remittance and superannuation contributions. However, in response to concerns from the business community, the STP proposal was later amended to only cover the reporting of tax and superannuation obligations.<sup>38</sup> The report noted:

This alteration [to the scope of STP] was in response to concerns from business about the 'cash flow' implications of having to pay the taxes at an earlier time than is presently the case. In other words, while wages are generally paid fortnightly, PAYG (W) and superannuation are usually only remitted monthly or quarterly depending on the size of the business and the terms of the super fund trust deed. The objection raised shows the extent to which businesses rely on employee-related sums – 'their money' until it is legally payable – to finance their businesses, and also shows the hesitation of the government to interfere with this practice.<sup>39</sup>

7.49 Professor Anderson and colleagues observed that STP as a reporting only mechanism undermined its effectiveness (particularly in regard to so-called 'lockdown'

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35 Inspector-General of Taxation, *Submission 21*, p. 7.

36 Australian Taxation Office, *Submission 6*, p. 41.

37 Inspector-General of Taxation, *Submission 21*, p. 7.

38 Professor Helen Anderson, Professor Ian Ramsay, Professor Michelle Welsh and Mr Jasper Hedges, *Phoenix Activity: Recommendations on Detection, Disruption and Enforcement*, February 2017, p. 77.

39 Professor Helen Anderson, Professor Ian Ramsay, Professor Michelle Welsh and Mr Jasper Hedges, *Phoenix Activity: Recommendations on Detection, Disruption and Enforcement*, February 2017, p. 77.

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DPNs) and recommended that STP instead require both the reporting and payment of tax and superannuation obligation.<sup>40</sup>

7.50 Similarly, ARITA recommended that steps be taken to directly link tax and SG obligations for both reporting and payment to the employee's regular payroll cycle. ARITA noted 'reporting alone under Single Touch Payroll will not resolve problems with non-payment of SG and other taxes'.<sup>41</sup>

### **Committee view**

7.51 The committee appreciates that the implementation of the STP initiative has the potential to greatly assist in the identification and rectification of SG non-payment within businesses of more than 20 employees, particularly in its ability to provide the ATO with greater visibility of SG data.

7.52 However, the committee holds concerns that the current coverage of STP misses out small business employers of 20 employees or less, and that this gap in coverage will disadvantage small business employees, who are widely regarded as particularly vulnerable to SG non-payment.

7.53 The committee is aware that a pilot program will be undertaken in 2017 to identify the benefits of STP for small businesses and is interested to see the outcomes of this program.

### **Recommendation 31**

**7.54 The committee recommends that the government strongly consider expanding Single Touch Payroll to all businesses, with equal consideration given to how small businesses could be best supported in adopting the initiative. The committee recommends that Single Touch Payroll apply to all employees and contractors on an employer's payroll. The committee also recommends that the government give consideration to whether STP should require both the reporting and payment of tax and superannuation obligations.**

### **Improved payslip reporting**

7.55 The committee received evidence suggesting that improved payslip reporting would promote compliance with SG obligations. In particular, submitters recommended that employee pay slips include the actual amount of SG paid to an employee's superannuation fund, rather than merely accrued.

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40 Professor Helen Anderson, Professor Ian Ramsay, Professor Michelle Welsh and Mr Jasper Hedges, *Phoenix Activity: Recommendations on Detection, Disruption and Enforcement*, February 2017, p. 78. For more detail on 'lockdown' DPNs see pp. 77–78.

41 Australian Restructuring Insolvency and Turnaround Association, *Submission 32*, p. 2.

7.56 Under the Fair Work Act and the *Fair Work Act Regulations 2009* (Fair Work Regulations), employers are required to issue payslips to employees and keep employment records. The prescribed details for these documents includes information relating to the employment status of the employee, the rate of remuneration, the number of overtime hours worked, and the superannuation contributions that the employer is liable to make (or has made).<sup>42</sup>

7.57 Regulation 3.46 of the Fair Work Regulations states:

If the employer is required to make superannuation contributions for the benefit of the employee, the pay slip must also include:

(a) the amount of each contribution that the employer made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or

(b) the amounts of contributions that the employer is liable to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.<sup>43</sup>

7.58 As a result of this regulation, there is a disconnect between the amount of SG an employee sees listed on their payslip each pay cycle, and the amount actually paid into their superannuation fund during that same time period.

7.59 Dr Tess Hardy outlined the impact of this disconnect:

While an employer is obliged to indicate on payslips the amount of superannuation contributions accrued, it does not mean that this amount is actually paid to the superannuation fund. In order to identify any shortfall, an employee must compare the amounts stated on their payslips with the statements issued by their superannuation fund. Given these statements are often published on an annual basis, an employee may not be in a position to detect any underpayment until almost 12 months after the payment was due.<sup>44</sup>

7.60 Both ISA and Australian Super also observed that the four month delay between an SG amount being accrued and noted on a payslip, and that amount being paid into a fund, makes it difficult for an employee to check whether they have been paid correctly. As such, ISA recommended that the Fair Work Act and its associated regulations be amended to require payslips to state the SG amount paid to an employee's superannuation fund, rather than just the amount due. Australian Super also supported this policy suggestion.<sup>45</sup>

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42 Dr Tess Hardy, *Submission 42*, p. 2.

43 Fair Work Regulations 2009, Regulation 3.46, [www.legislation.gov.au/Details/F2017C00246](http://www.legislation.gov.au/Details/F2017C00246) (accessed 3 April 2017).

44 Dr Tess Hardy, *Submission 42*, p. 3.

45 Industry Super Australia, *Submission 7.1*, p. 14; Australian Super, *Submission 9*, p. 2.

7.61 The AIST stated that it supported improved payslip disclosure that included details of the amounts of SG accrued, as well as the planned and actual payment dates of SG contributions.<sup>46</sup>

7.62 Similarly, the TCFUA proposed that all employers be required to include the following information on each payslip in order to improve the ability of an employee to check their SG has been properly paid:

- the amount of the superannuation contribution required to be made (including any additional amounts above the SG percentage required under an industrial instrument or contract);
- the amount of compulsory superannuation actually paid and the date of the payment;
- the amount of any voluntary superannuation authorised to be deducted from the employee's wages; and
- the amount of voluntary superannuation and the date of the payment.<sup>47</sup>

7.63 However, the Department of Employment informed the committee that due to the design of the current SG system in regard to payment timings, any changes to payslip reporting would be of limited effect:

Requiring payslips to record actual superannuation guarantee contributions may confuse employees. It would result in payslips generally recording a \$0 contribution, except the four times a year when a superannuation guarantee contribution is required to be made. Requiring payslip reporting would only make material difference if superannuation payments were aligned with when payslips were issued. There would be compliance costs as employers would generally need to update payroll software.<sup>48</sup>

## Committee view

7.64 The committee is strongly of the view that improved payslip reporting of SG will increase the capacity of employees to keep track of their SG and raise the alarm early in the case of non-payment. The continued improvements in electronic record management, as well as data transfer options, should be utilised to their full potential in this regard.

## Recommendation 32

**7.65 The committee recommends that the Fair Work Regulations 2009 be amended to require:**

- **the amount of earnings that the SG is calculated on;**

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46 Australian Institute of Superannuation Trustees, *Submission 37*, pp. 12–13.

47 Textile, Footwear and Clothing Union of Australia, *Submission 50*, p. 12.

48 Department of Employment, *Submission 24*, p. 7.

- **any voluntary superannuation contributions due;**
- **compulsory SG due; and**
- **all amounts of superannuation (both voluntary and compulsory) paid into an employee's superannuation fund (rather than just the amounts accrued).**

7.66 The committee understands the concerns raised by the Department of Employment that at any amendments to payslip reporting would only make a material difference if SG payments were aligned with pay cycles, and that there would be compliance costs to update payroll software. However, the committee believes that given the SG is part of an employee's remuneration, it is entirely justified that they are provided with this level of information. Without such information, employees are far less likely to be able to determine whether or not they are being paid the correct SG amounts.

7.67 As such, the committee suggests that Recommendation 32 be taken in conjunction with the Recommendation 5 in chapter 5 suggesting SG payment be aligned with pay cycles.

**Senator Chris Ketter**  
**Chair**