

Securing Australians' Superannuation

MYOB submission

November 2023

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3 November 2023

Dear Treasury,

We are pleased to participate in this important conversation to help design a superannuation system which improves retirement outcomes for Australians.

We commend the Government's efforts to explore simplification of workflows within the superannuation sector, and to identify opportunities to improve outcomes for consumers, businesses, superannuation funds and Government across the industry.

MYOB is deeply involved in supporting SMEs to meet their superannuation obligations through digitised workflows. In the past 12 months, MYOB has processed superannuation payments for approximately 80,000 SMEs and approximately 1.2 million employees.

In addition, MYOB is uniquely positioned to provide insight to the impacts of changes to proposed payment contributions for SMEs and their employees, seeing more than \$50 billion worth of invoices processed across our SME platforms over the same period¹.

Through MYOB's employee benefits platform Flare, we support Australian employers and employees by digitising a direct connection to the Government and ATO superannuation processes. This onboarding connection provides a valuable moment of engagement and active choice making that cannot be achieved through a paper form.

Our knowledge and expertise in this richly nuanced environment lead us to provide the following key takeouts for your consideration in this submission:

- 1 SME employee payday routines are at risk:** 58.5% of small businesses utilising MYOB to conduct payroll distribute salaries on a weekly basis. Moving from 4 super payment cycles to 52 would create an unprecedented administrative impost for SMEs, which could result in changed payroll behaviour.
- 2 SME solvency is at risk:** MYOB modelling shows 22.6% of SMEs risk insolvency, as enhanced superannuation frequency jostles with invoice payment terms and cashflow realities.
- 3 Onboarding is the moment to make an informed fund choice:** A new employee spends 17.9 minutes on the Flare platform, researching the objective information Flare provides on a range of superannuation offerings.
- 4 Consider impacts on existing onboarding behaviours when introducing a new Government portal:** Flare onboards one in three new employees in Australia today. Workflows are well established in the Australian employment ecosystem and implementation of the proposed ATO portal will need to be conducted in the context of the existing onboarding ecosystem.

The delivery of a robust superannuation system should enable SMEs and their employees the ability to make engaged, active and informed decisions about their choice of fund. We believe this should be considered as part of critical workflows – specifically, at the point of onboarding – to uplift engagement at all ends of the superannuation lifecycle, result in a more prosperous future for Australian employees and increase the likelihood of compliance.

MYOB is a committed partner to Government and we are focussed on strengthening safeguards and standards at all corners of the superannuation ecosystem, to protect the interests of consumers and their retirement savings and create improved outcomes for all Australians.

If you require more information or would like to arrange a meeting, please contact Collette Betts, MYOB Corporate Affairs at collette.betts@myob.com.

Yours sincerely,

Paul Robson

Chief Executive Officer
MYOB

¹ Additional information relating to all owned data referenced in this document is available on request.

Summary of recommendations

Payday super

- 1 Introduce legislation so an employer's Super Guarantee (SG) obligations are met at point of payment to mitigate the risk of unfair penalties.
- 2 Increase opportunities for self-correction to minimise the frequency of penalties and compliance activity.
- 3 Expedite corrective action to minimise debts and their impact on employees, by:
 - a. Introducing notifications and a supporting framework;
 - b. Creating a standardised error and correction framework; and
 - c. Enabling the ATO to prepare SG charge statements.
- 4 Consider a monthly due date model as an alternative to energise the flow of superannuation funds while working to reduce cash flow pressure and minimise cost and penalty impacts.
- 5 Create a referral and exemption framework to support flexibility and mitigate the risks associated with more frequent SG.

Onboarding platforms in superannuation

- 1 Do not proceed with the proposal to ban advertising of super funds in onboarding platforms.
- 2 Invite all onboarding platforms to adopt the Code of Conduct included in this submission.
- 3 Provide a digital API that offers information about employees' existing funds.
- 4 Create a tool to consolidate existing superannuation accounts.
- 5 Confirm employers can support employees' superannuation selection process as it does not constitute the provision of financial advice.
- 6 Strengthen ASIC enforcement capacity for existing regulation relating to unlicensed financial product advice and anti-hawking to ensure no forcing of choice by employers or platforms at onboarding.
- 7 Offer stapling to employees as one option, provided an effective, 'self-serve' API is in place.
- 8 Revise the SuperMatch 2 terms of service to facilitate rollovers, through an onboarding platform, when an employee joins a new fund.
- 9 Consider extending the Design and Distribution Obligations regime to regulate onboarding platforms as distributors.
- 10 Prohibit funds that have been closed to new members as a result of failing the APRA performance test from advertising.



“

We recently moved from quarterly to monthly super payments. We care about super, and making sure our people can have more money when they retire.

“Changing from quarterly to monthly had a manageable impact on our business, in terms of cash flow and administration. Every extra admin task is an important decision for us, given it requires paying someone additional money to do it, but the switch to monthly had a nominal impact.

“Giving small businesses as much control as possible is going to lead to the best outcomes. I can understand why the Government wants to mandate payday super. I strongly believe in the power of super, but I also think that giving small businesses more hurdles to jump through, making it harder for them to operate, does a disservice. It might make them less inclined to give a pay rise to their staff, or less inclined to hire that next person. On top of thinking about whether they can afford to pay them, they would also have to consider whether they can afford to pay their super more frequently.

“I believe that less red tape for small business, more autonomy, and a greater ability for them to choose the right option for their business will get the best outcome.”

Sarah Green, Partner, Character + Distinction – Small Business Owner

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Introduction to MYOB & Flare HR

MYOB is a leading business management platform in Australia and New Zealand.

Having started life as accounting software 32 years ago, MYOB has made significant progress in becoming a leading cloud-based business management platform, enabling small and medium sized enterprises (SMEs) to manage people, finance, tax, supply chains, projects, employees and customers. With a core purpose of helping more businesses with zero to 1,000 employees in Australia and New Zealand start, survive and succeed, MYOB offers a curated, integrated and flexible platform that enables a business to make better decisions, unlock its full potential and confidently grow.

MYOB has built strong connections with SMEs across Australia, developing a deep understanding of the priorities, needs and opportunities of the sector. Priority number one for SMEs is cash flow. In the first quarter of 2023, MYOB processed more than \$50 billion worth of invoices across its SME platforms. Additionally, in the past 12 months MYOB processed superannuation payments for approximately 80,000 SMEs and approximately 1.2 million employees.

Acquired by MYOB in 2022, Flare HR (Flare) is an employee platform facilitating the digital onboarding of one in three Australian new employees. As well as saving employers over one million hours in administrative work per year² by digitising the input of payroll data into MYOB and other workplace platforms, the Flare solution is the most effective mechanism in market to help employees retain their current fund and eliminate unintended duplicate accounts.

Jointly, we have aligned our submissions on Securing Australians' Superannuation, focusing on two key areas: ensuring the Superannuation Guarantee (SG) can operate in a way that benefits SMEs and their employees, and encouraging greater participation and engagement with superannuation through the responsible use of digital onboarding.

² Flare market penetration Q3 2023 and employer feedback.

Aligning the Superannuation Guarantee with pay cycles

A prosperous SME sector is vital to a productive and secure economy. Accounting for more than 99% of Australia's enterprises, and employing over 7.4 million Australians, SMEs play a central role in Australian communities.³ In a time of economic uncertainty, rapid technological advancement and unprecedented skills and employment challenges, it is imperative that regulations impacting SMEs consider drivers of growth and existing operating realities.

While the policies proposed in Treasury's consultation paper will go some way to help support enhanced payment of superannuation for Australian employees, we believe they may also create unintended but significant risks.

Based on feedback and consultations with businesses and superannuation policy experts, as well as MYOB's experience and data, we believe that the proposed increase in the frequency of SG payments to align contributions to payday will:



Increase cash flow pressures on employing businesses.



Create the potential for employers to reduce their pay frequency.



Introduce additional administrative burden and cost.



Increase the likelihood of businesses incurring penalties at no fault of their own.

To somewhat mitigate these risks, while also meeting the Government's objectives of reducing SG underpayments, **MYOB is asking Government to consider the impacts and unintended consequences to small business of Payday Super.**

³ The Hon. Julie Collins MP, 'New Year and more support for small business owners', 1 January 2023.

Employment pressures will likely result from these changes

At present, and in times of economic uncertainty, all elements of cash flow in and out – including leave loading, remuneration, and superannuation contributions – form many businesses' overviews of cash flow and business health. Additionally, many SMEs operate from a singular (and often personal) bank account; separating and segmenting cash flow relies on a complexity not currently adopted by many smaller businesses and employers. While employee superannuation contributions are not used by many businesses, they do form a key role in balancing the books; providing key indicators for banks or investors and helping position the businesses at tax time.

According to MYOB SME Product data, during August 2023, 9.8% of businesses were in a cash position on the day of their pay run where an additional SG payment could push the business into a negative bank balance. A further 10.7% of businesses already had a negative bank balance on at least one pay run day during the month. **This suggests that approximately 22.6% of businesses would be at risk of insolvency⁴.**

MYOB payroll data shows 58.5% of small businesses have employees on a weekly pay cycle. To ease cash flow pressures created by payday SG contributions, some SMEs may choose to **change their current pay cycles, shifting from weekly to fortnightly or monthly**. Less frequent salary and wages payments could be detrimental to some workers, particularly more vulnerable, lower paid, casual and/or contract workers. The benefits of earlier SG payments are unlikely to outweigh the impact of less frequent salary and wages payments for many workers and would certainly be outweighed by business closures and job losses.

We expect cost increases will also flow to SMEs

Superannuation clearing houses are often used by Digital Service Providers (DSPs) to manage SG payments. Clearing houses typically apply a standard fee per transfer, per employee, not based on a percentage of the amount being transferred.

It should be noted that if payment is changed to use real-time payments such as the New Payments Platform (NPP) whilst substantially increasing the frequency of SG payments, this could materially increase business' transactional costs. At \$0.25 to \$1.50 per transaction, a business's costs could increase anywhere from \$375 for a smaller business to \$29,250 for larger and medium-sized businesses, per quarter.

⁴ Additional information supporting all owned data referenced in this document is available on request.

Payday Super models: associated risks

Through consultation with SME sector and superannuation policy experts, we have worked to understand the associated risks for small business with the Payday Super models outlined in Treasury's consultation paper. MYOB has considered these recommendations alongside the operational requirements and environments of SMEs, with an understanding they will deliver the same positive outcomes for all employees as Treasury's proposed models, including:

- Increasing employees' retirement savings by increasing the frequency of SG payments for most SME employees, and maximising the benefits of compound interest;
- Improvements to employees' engagement with their superannuation and retirement planning as the set 'due date' and increased frequency of SG payments provides employees with more certainty around their payment, as well as more immediate and greater visibility of their SG payments; and
- Improvements in the speed with which employees detect and report late or unpaid super, again arising from a set 'due date' and an increase in the frequency of SG payments. Earlier detection and reporting will help to ensure that errors are corrected and catch-up payments made before employees are significantly disadvantaged and businesses accrue large SG debts.

This could look like:



Payday

Employers maintain their preferred pay cycle.



SG compliance

Employers should not be penalised for 'catch up' payments made prior to the next 'due date'.



SG payment

Occurs monthly.

Employers' obligations are met when the SG payment is made on the 'due date'.

However, if a 'catch up' payment is not made before the next due date a SG charge may be applied. Nominal interest is calculated from the 'due date' + 3 days.

This would help ensure SME employers are not penalised for errors outside their control, or for administrative oversights and will assist the government to detect and recover unpaid SG.

While the above outlines a workable, real world scenario where SMEs have the opportunity to maintain business health, undertake weekly payroll and also enable their employees to build their superannuation funds at a faster rate, we acknowledge the ideal state for Government is true Payday payment of superannuation funds. If a monthly system is not viable within this construct, MYOB urges Government to consider at minimum a transitional phase where monthly is introduced as an initial tranche of change for SMEs.

We also urge Government to consider the entire superannuation supply chain as part of this transition process, to ensure cost implications can be mitigated wherever possible.

Frequency impacts on errors

The substantial increase in payment frequency by aligning SG payments with pay cycles will, in turn, increase the propensity for errors and delays to occur.

It is not unusual for onboarding of new employees, including confirmation of new employees' superannuation fund details, to be completed after the employees' first, and even a number of subsequent paydays, especially in the case of weekly and fortnightly pay cycles and/or in the absence of digital onboarding.

Employers will be at greater risk of a penalty if they proceed with a pay run in the absence of an employee's superannuation details under the three payday super models currently being considered.

The risk of more penalties may again act as a disincentive to maintain existing pay cycles. Employers may choose to mitigate the risk by reducing their pay frequency which would be detrimental for some workers, particularly vulnerable, lower paid, casual and/or contract workers.

Considerations when designing penalties for SMEs

The two payday super 'due date' models proposed in the consultation paper extend the employer's SG obligations from their bank transfer to their employees' receipt of funds in their superannuation fund.

Employers have no control over SG payments after a transfer is made from their bank account, directly or via their digital service provider, and are unaware when a payment has been received successfully into an employee's superannuation fund.

The models proposed by Treasury's consultation paper risks employers being subject to penalties for errors that are outside of their control. In designing penalty approaches, we encourage Treasury not to pass penalties on to SME employers if an error occurs as the SG payment is transferred from their bank account on the journey that it undertakes before landing in the employee's superannuation fund.

We have, however, been heartened by subsequent modelling canvassed by Treasury which proposes an alternative arrangement whereby compliance confirmation is instead triggered by the date the payment is made. This provides MYOB with great comfort that its concern over scenarios beyond the employer's control will be addressed if this model were to be taken forward,

Much as in the design of the Single Touch Payroll "one click" compliance confirmation process, MYOB looks forward to working with both Treasury and the ATO to co-design this confirmation framework.

Recommendations to mitigate payday super risks and improve administration

1 Ensure an employer's SG obligations are met when they make SG payments

MYOB would commend legislation confirming an employer is considered compliant with their SG obligations as soon as funds have left the employer's bank account. This would mitigate the risk of employers being unduly penalised for errors or delays that occur outside their control. Furthermore, it would provide an improvement on the current legislation for SMEs, helping to counter the impact of moving to more frequent SG payments. MYOB and other digital service providers capture superannuation payment information at the start of its journey and is well placed to assist with designing this due date compliance model.

2 Increase opportunities for self-correction

More frequent SG payments, especially when SG payments are aligned with payday, will result in more missed, late or erroneous payments and more penalties, compounding stress and cash flow pressures. More opportunities for employers to self-correct will help to mitigate these risks.

Where SG payments are missed, late or erroneous, SG charges should not be applied if 'catch up' payments are made prior to the next 'due date'. If a catch up payment is not made before the next due date, nominal interest could be calculated from the due date.

Where SG payments are missed or late as a result of proven financial distress, employers should be supported with a payment plan in a similar approach to the way the ATO manages tax debts. This would enable the employer to meet their SG obligations without their employees being materially disadvantaged, and without compounding the risks associated with cash flow pressures, such as insolvency.

3 Expedite corrective action to minimise debts and their impact on employees, by:

a. Introducing notifications and a supporting framework

Currently, employers are unaware when a SG payment is successfully received by an employee's superannuation fund or if it fails. Confirmation notifications when funds are successfully received by clearing houses and superannuation providers, via digital service providers, could expedite corrections, speeding up SG payments for employees. Additionally, they could reduce the likelihood of debts for businesses, and decrease the need for corrective action from the ATO.

Improved notifications are crucial if employers continue to be responsible for SG payments until they are received in an employee's superannuation fund, rather than when they are made, as per Treasury's two payday super 'due date' models.

b. Creating a standardised error and correction framework

A standardised error and correction framework would benefit both employers and the ATO. The same framework should be adopted by clearing houses and superannuation funds, creating end-to-end transparency. Speeding up corrections so SG obligations can be met by employers means employees receive their SG payments earlier.

c. Enabling the ATO to prepare SG charge statements

MYOB is well-placed to support compliance with the Securing Australians' Superannuation policy. Our Single Touch Payroll product already captures an employer's SG liability, as well as employee's tax file numbers. Subject to clear guidelines from the ATO, an employer's SG liability and employee tax file numbers could be incorporated with relative ease in future reporting.

With this additional information, SG charge statements could be removed. Corrective action is delayed when employers are required to prepare SG charge statements, risking further debts accrual and further disadvantage to employees.

4

Create a referral and exemption framework to support flexibility and mitigate the risks associated with more frequent SG

Flexibility and compassion in the administration of the SG charge are vital to maintaining a healthy superannuation system and SME sector. However, flexibility can make systems more complex, cause confusion for employers, and challenge compliance activity. A new framework of referrals and exemptions should be collaboratively developed with employers, digital service providers and the ATO to support the successful implementation and administration of the new policy, maintaining the integrity of the SG charge.

We believe such a framework could mirror the tax system, whereby exemptions are initiated by the business/employer, supported by digital service providers, and managed by the ATO.

Consideration could also be given to extending digital tax incentives, such as the Small Business Technology Investment Boost, to encourage take up of digital onboarding systems to reduce delays in SG payments for new starters.

The role of onboarding platforms in superannuation

Onboarding platforms are a critical enabler of positive financial outcomes for super fund members. They facilitate employee engagement with the superannuation system and employer compliance with their SG obligations.

Flare is a free onboarding platform offered to both employers and employees, that automates some of the essential workflows during onboarding. It is used by more than one million Australian employees each year – over one third of all Australian new employees.

Platforms such as Flare provide a significant step forward in business digitisation. These platforms process data, such as account numbers and TFNs, directly into payroll platforms via secure APIs, rather than manual transcription from an employer.

Just as Single Touch Payroll and SuperStream enabled the rapid, accurate and secure transfer of payroll data from employers to government, onboarding platforms enable a similar manner of data transfer from employees to their new employers.

Employers save an average of 1.4 hours for each employee onboarded via Flare⁵, while also eliminating key points of cybersecurity vulnerability associated with data retention – often in email records or spreadsheets. Importantly, the potential for missed or delayed payments due to transcription errors is diminished.

⁵ Flare market penetration Q3 2023 and employer feedback

Supporting policy implementation

Facilitating the completion of super choice forms

Onboarding platforms play a significant role in the administration of superannuation selection supporting the framework of choice, stapling and default set out in the Your Future, Your Super legislation and the Superannuation Guarantee (Administration) Act 1992 ('SGAA')⁶.

Unlike existing services (both government and privately operated), Flare streamlines superannuation and onboarding processes by helping people complete a 'super choice form' more effectively. The platform automates, digitises and pre-fills paperwork components on both the employee and employer sides.

This framework ensures employers supply a superannuation choice form to every eligible new employee, giving the employee the right to choose a fund as they start a new job, and supports businesses in meeting their requirement to provide employees with a choice form within 28 days of onboarding⁷.

Treasury has noted that it is aware of employers 'requiring that new employees actively choose a fund during onboarding'⁸.

While we have not observed any such behaviour on the Flare platform and are not aware of instances of such behaviour elsewhere, **we would strongly support regulatory action against any forcing of choice by employers or platforms**. This would further support ASIC's guidance on the prohibitions against unlicensed financial product advice and anti-hawking⁹.

Flare's onboarding platform offers a clear distinction between actively choosing a fund, and simply inviting an employee to complete a

choice form. This is an important differentiation which directly supports the employer's obligations specified in the SGAA¹⁰.

Flare's platform facilitates the right of an employee to choose by ensuring that all eligible employees receive a choice form, as required by law. The platform is equally supportive of a worker's coexisting and equal right not to make an active choice of super fund, and to follow the 'Single Default Account' mechanism¹¹.

These two rights are reflected in the following design features of the Flare platform:

- all employees using the onboarding platform are presented with a digital super choice form by their employer; and
- all employees can exit this form without completing it if they choose to do so.

Flare platform data indicates the average user exits the software at least once prior to completing their super choice form; and while most return to complete it at a later time, 25 per cent of employees in the onboarding process choose not to submit the form.

Flare's platform has been built to meet the standing legislative principles of the super choice form process, ensuring employees are simply asked to complete a form. At no point throughout Flare's onboarding process are employees required or advised to make a particular choice¹².

⁶ Also supporting Explanatory Memorandum for the Your Super, Your Choice Act: 1.6 Lack of choice of fund for all workers disadvantages some Australians and contributes to employees having multiple superannuation accounts and paying multiple sets of fees and insurance premiums, which can reduce their retirement income. It also leads to member disengagement with their superannuation.'

⁷ Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004, introducing Part 3A of the Superannuation Guarantee (Administration) Act 1992 ('SGAA').

⁸ Consultation Paper, p20.

⁹ ASIC Information Sheet INFO 89.

¹⁰ Part 3A of the SGAA.

¹¹ Treasury Laws Amendment (Your Future, Your Super) Act 2021.

¹² Reflecting ASIC guidance in INFO 89.

Supporting choice, including Default Account selection

Under existing legislative and regulatory requirements, an employee may be asked by their employer to complete a super choice form. Furthermore, the employee must not be required or advised to make any particular choice.

This is reflected in Flare's platform, where all employees:

- are presented with a digital super choice form by their employer; and
- can exit this form without completing it if they choose to do so.

Flare's data illustrates that onboarders are taking time to consider their choice of fund, with the average user exiting the software at least once prior to completing their super choice form¹³. This supports the position that employees are engaged in their choice of superannuation funds and are taking time to make this important decision.

Additionally, Flare's data shows that even with high rates of engagement, around 25% of employees choose not to submit a choice form¹⁴.

Flare supports the position that employees should not be directed or hurried into a decision on their choice of superannuation fund – including the option not to select a superannuation fund.

Supporting compliance via digital enablement

The Productivity Commission noted with concern in the context of its 2018 inquiry that, on average, only one in three Australian workers completed and returned a choice form.

For many employees, completing the paper choice form is a complex and time-consuming process: an employee must supply ten data points with which they are unlikely to be familiar. This takes time – few people have front-of-mind familiarity with their superannuation account details.

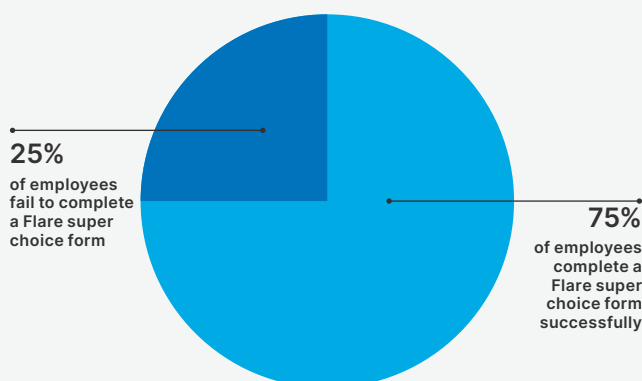
The use of a digital onboarding platforms is designed to overcome this challenge – 100 per cent of employees onboarded through Flare receive a digital choice form. As a result, more than 75 per cent of these employees return their form. This represents 2.5 times the rate of engagement achieved through a paper form¹⁵.

By pre-filling several of these data points, digital onboarding platforms reduce the input of existing fund data to a fund name and account number. As a result, where an employee with an existing fund (who is eligible for 'stapling') chooses to complete the choice form via Flare, 77 per cent of employees nominate their existing fund¹⁶.

Digital onboarding increases the likelihood of engagement by encouraging a reflection on choice of superannuation fund and supports compliance obligations.

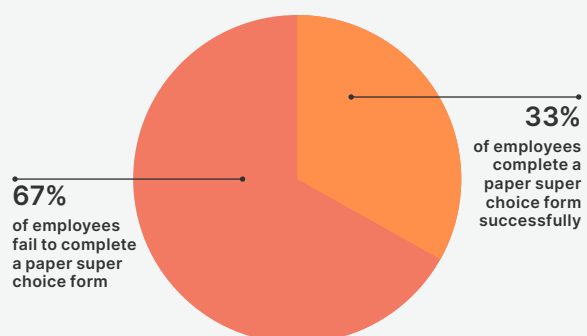
Flare

Flare's free digital platform helps three quarters of employees engage with super when they start a job by completing a choice form.



Paper

The Productivity Commission reported that only one third of employees return a completed paper choice form.



¹³ Flare data captured in the six months prior to October 2023

¹⁴ Flare data captured in the six months prior to October 2023

¹⁵ Flare data captured in the six months prior to October 2023

¹⁶ Flare data captured in the six months prior to October 2023

Building a model that supports choice and stapling

The right of an employee to choose their super fund is an important part of the superannuation safety net.

Where an employee does not exercise their choice of fund, it falls to their employer to enquire about their current stapled fund. Where the employee does not have a stapled fund, an account is created in the employer's default fund.

Within this 'choice–stapling–default' hierarchy, it is important that any barriers to retaining a current fund at both the choice and stapling stages are minimised so that inadvertent duplicate accounts are not created.

Supporting stapling through technology

Anecdotal feedback from employers indicates that many employees have difficulty identifying their current fund.

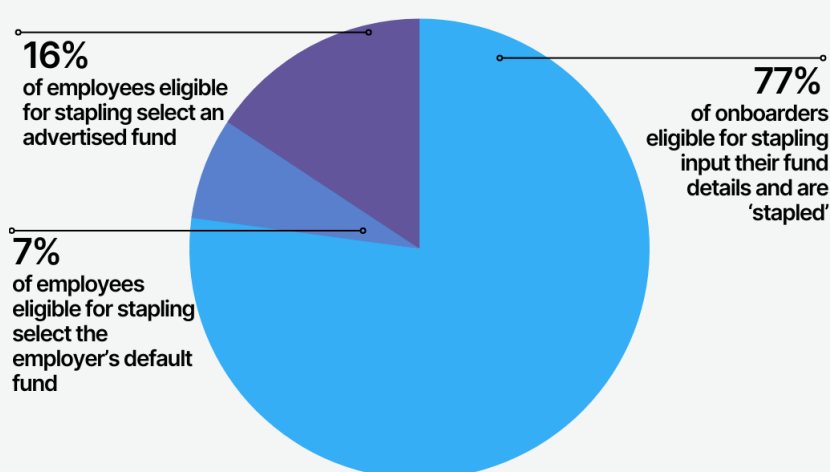
The persistent issue of lost or forgotten super is a leading indicator that a large proportion of Australians do not know what fund they are a member of, or do not know the details of their account¹⁷.

Presently, an employee must undertake an extensive process to create a MyGov account, link it to ATO Online Services and lodge an enquiry to receive their current fund information via a digital service. Alternatively, this information is available from the ATO via phone or post. As a result, this service experiences low usage. An API does not exist to integrate this service into employment platforms.

When an employee has not exercised their choice of fund, the principal barrier to retaining their existing fund is employer non-compliance with stapling obligations.

MYOB survey data in 2021 indicated that only 40% of employers were aware of stapling requirements¹⁸. With low awareness of stapling requirements, digital onboarding platforms provide an opportunity for more employers to facilitate the connection between employees and their stapled funds¹⁹.

Employees who complete the digital choice form and have an existing fund



As such, improving stapling compliance, including making improvements to the stapling service, is a key prerequisite to considering further reform to the choice of fund arrangements, and particularly the proposal to require employers to offer stapling to employees via the super choice form.

¹⁷ Productivity Commission in its 2018 report,

¹⁸ MYOB, 'Your Future, Your Super: Superannuation reform deadline arrives', 4 November 2021.

¹⁹ Digital onboarding platforms helping more members retain their current fund than the ATO stapling service.

MYOB and Flare support requiring employers to offer stapling as an option to employees, provided that an effective, 'self-serve' API is in place. This would allow stapling requests to occur in both an employee- and employer-facing digital environment, also allowing an employee to view their stapled fund details during onboarding.

Requiring employers to process a growing proportion of stapled fund requests in a manual, non-API-enabled environment would significantly increase the administrative burden and risk for both employees and employers.

MYOB data shows that over a 12 month period, 49.7% of SME businesses utilising MYOB software hired a new employee²⁰. The ability to integrate a 'self-serve' stapled fund request into Flare's digital choice platform is crucial to ensuring employers are not required to spend thousands of hours of productive capacity administering stapling requests each year.

It will also ensure that stapled fund data is managed in a secure environment that minimises the risk of privacy and cybersecurity breaches.

Avoiding account duplication: through digital and government platforms

SuperMatch as a tool to avoid duplication

In 2022, the ATO adopted a policy position in relation to SuperMatch 2 that prohibited the use of the service adjacent to employment platforms to ensure SuperMatch data was used solely for rollovers. An unintended consequence of this broader policy position is the creation of a moment that causes disengagement. If a member chooses to switch to a new super fund in an employment platform, the platform is not able to assist the fund in processing rollovers immediately. Instead, a user must exit the platform and roll over later, on the fund's own website or app.

This barrier to rollovers works against the intent of stapling by increasing the likelihood of members retaining multiple accounts, paying duplicate sets of fees and holding redundant insurance policies. It is not, however, a consequence of the method of advertising or member acquisition, but rather of an inconsistency in the SuperMatch 2 service's design. **We would like to work with Treasury and the ATO to find a solution** that would facilitate rollovers when an employee joins a new fund, while maintaining separation of dataflows to ensure SuperMatch data is not used improperly.

Digital Onboarding Platforms support SuperMatch

The 11 per cent of employees who use Flare and choose to switch from an existing fund to an advertised one, are highly engaged in their decision-making²¹, with funds receiving market-leading rates of rollovers from previous accounts.

Where funds have made SuperMatch rollovers available in the sign-up interface, 95 per cent of new members opt-in to conducting a SuperMatch search²². This demonstrates an extraordinary level of engagement that far exceeds market comparisons. Crucially, our data shows that employees who use Flare and other digital onboarding platforms will subsequently do a SuperMatch search. Flare creates a platform that boosts individuals' engagement, including engagement in government services.

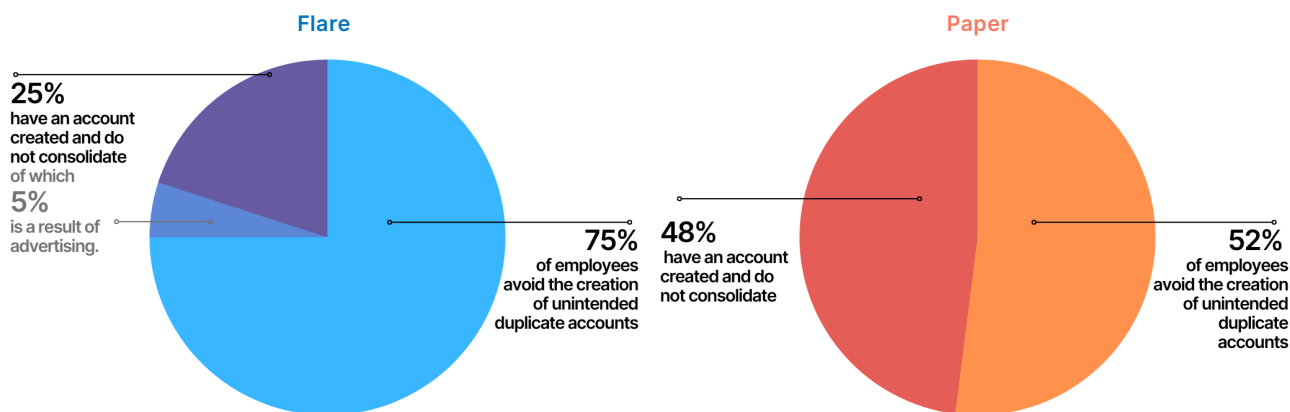
Combining the impact of high rollover rates for new superannuation fund members and high nomination rates for existing funds, Flare's modelling indicates that our platform eliminates inadvertent multiple accounts significantly more effectively than the current paper-based stapling system.

- **An estimated 48 per cent of new employees have an additional account created by their employer when using paper forms.**
- **This decreases to just 25 per cent of employees via Flare.**
- **Notably, only 5 per cent of those accounts on the Flare platform are attributable to advertising – and in each case, a proactive decision was made to open the account. Most duplicate accounts remain attributable to employers' non-compliance with stapling obligations.**

²⁰ MYOB product data November 2023

²¹ Flare data captured in the six months prior to October 2023

²² Flare data Q3 2022

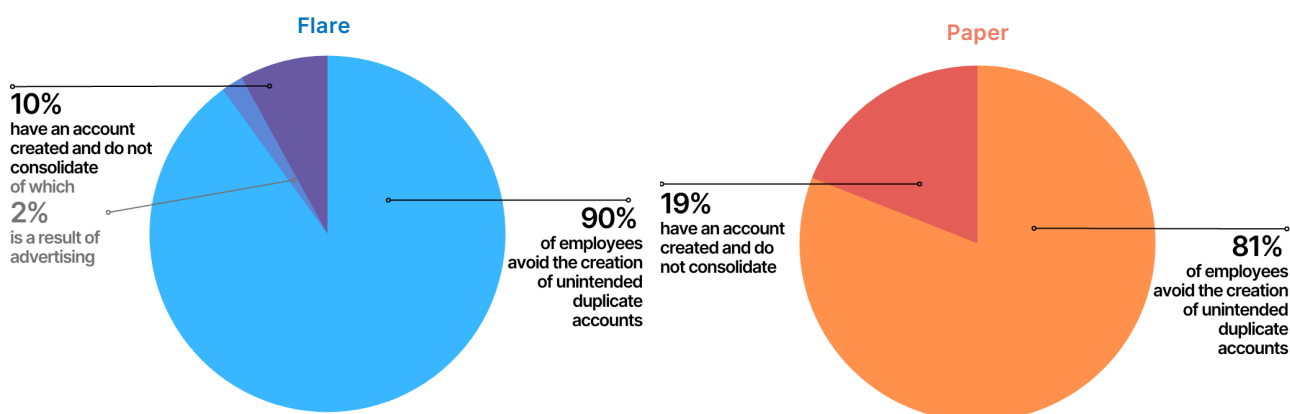


Assumptions:

Avoided duplicates include new accounts with successful SuperMatch searches, first funds and existing accounts.
 Current employer use of the ATO Stapling Service at 20% (assumption).
 25% of onboarders do not have an existing fund (Flare data).
 Current SuperMatch KYC success rate of 50% for new members (Flare data).
 72% of onboarders continue to nominate an existing fund (Flare data).

An ideal outcome of this consultation process is the implementation of changes to ATO systems that yield a high success rate for employer stapling compliance and employee SuperMatch search qualification. In a future scenario where this outcome is achieved, Flare's modelling indicates that its platform will continue to yield superior results in avoiding the creation of unintended duplicate accounts.

- An estimated 19 per cent of new employees have an additional account created by their employer when using paper forms.
- This decreases to just 10 per cent of employees via Flare.
- Only 2 per cent of those accounts on the Flare platform are attributable to advertising – noting that, in each case, a proactive, considered decision was made to open the account.



Assumptions:

Avoided duplicates include new accounts with successful SuperMatch searches, first funds and existing accounts.
 The ATO deploys a Stapling Service that increases employer use to 75% (assumption).
 The ATO deploys an updated SuperMatch services with a KYC success rate of 80% (assumption).
 72% of onboarders continue to nominate an existing fund (Flare data).

Recommendations to improve policy implementation

1 Provide a digital API that offers information on employees' existing funds

Allowing employees to directly access current fund information from the ATO would make it even easier for onboarding platforms to help them retain their existing fund.

2 As part of this API, allow employees to consolidate their existing superannuation accounts

The point at which an employee receives information about their current funds during onboarding is an ideal opportunity to avoid unintentionally retaining duplicate accounts and paying multiple sets of fees.

3 Confirm employers can support employees' superannuation selection process as it does not constitute the provision of financial advice.

Where a tool is available that allows an employee to request their existing fund information, to help encourage employer take-up of this service, we recommend the government clarifies the role of employers so that informing an employee of their existing super fund in this context does not constitute the provision of financial product advice on the part of an employer or a technology platform.

4 Offer stapling as an option to employees, provided that an effective, 'self-serve' API is in place.

This will allow stapling requests to occur in both an employee- and employer-facing digital environment, and to allow an employee to view their stapled fund details during onboarding – which is critical to making an informed decision about selecting their existing fund. It will also ensure that stapled fund data is managed in a secure environment to minimise the risk of privacy and cybersecurity breaches, while avoiding creating an onerous administrative burden for employers in requiring them to conduct stapling searches for every employee who selects this option.

Advertising superannuation funds in onboarding platforms

MYOB and Flare strongly oppose the proposal to ban the advertising of super funds in onboarding platforms.

The presence of super fund advertisements in onboarding is consistent with current policy settings in relation to choice of fund, where the content of those advertisements and the manner in which they are shown complies with existing robust regulatory framework governing the marketing of financial products. It does not undermine the principles or operation of stapling.

Furthermore, banning advertising in onboarding would be a significant missed opportunity to align the marketing of funds with members' best financial interests. The current regulatory environment is the most efficient use of existing members' funds, and ensures long-term engagement with retirement savings.

Below is an overview of the role advertisements play in Flare's platform, followed by an analysis of the benefits and costs of such advertisements.

The role of advertisements in the Flare platform

Flare currently works with several major industry super funds and one major retail super fund, all of which are unaffiliated with both MYOB and Flare, to advertise both default and choice products to employees. Clearly labelled advertisements for up to three funds are displayed alongside the super choice form during onboarding.

Flare's platform is free to use, providing engagement and accessibility to as many employers and employees as possible.

Consumer protections and other benefits embedded in Flare

All advertisements are clearly labelled as such, and comply with the same terms as advertisements on other platforms such as websites, TV, radio and outdoors. There is no obligation for a user to engage with advertisements, and users may skip the advertisements at any time from several prominent touchpoints in the user interface.

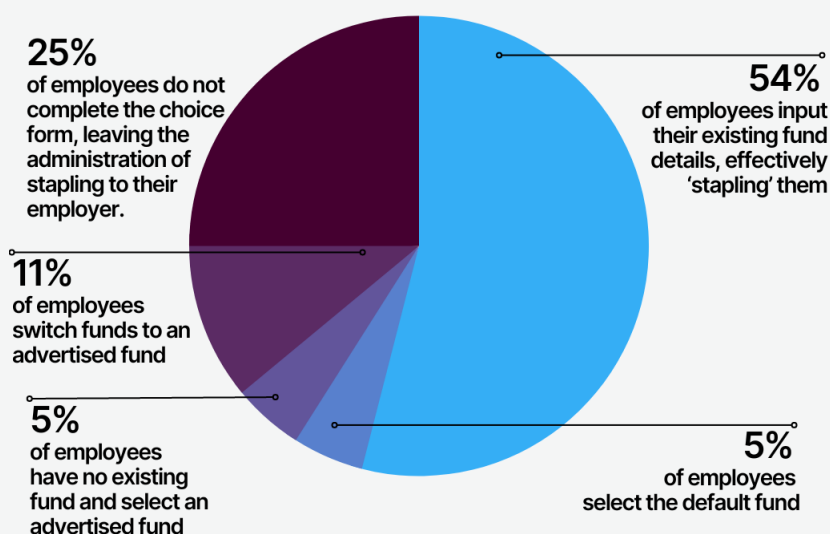
The Flare platform presents reminders at multiple points in the interface, including before any advertisements are displayed. These reminders are succinct and include statements emphasising the importance of fund choice, that advertisements are not endorsed by Flare or their employer, and that employees can take their time to choose a fund and do so later, if they wish.

Flare prominently displays links to MyGov and the APRA websites to help employees evaluate their choice of fund and access information about all super funds available to them. There is also a clear disclosure that Flare will receive an advertising

fee if the user chooses to become a member of an advertised fund.

Flare requires employees to acknowledge that neither Flare or their employer are recommending the advertised funds, and that the information they are about to see is factual and does not take into account their personal circumstances. This design gives employees many opportunities to consider their fund choice carefully, nominate their existing fund easily – or, switch funds if they believe a different product would be better suited to their needs.

As a result, employees are more engaged with the superannuation choices. More than five times the number of employees completing their onboarding using Flare either bring their own fund or join a default fund, compared with the number of job starters switching to a fund advertised on the platform²³, as set out in the figure below.



²³ Flare data captured in the six months prior to October 2023

Furthermore, this heightened engagement is seen amongst new employees when considering their choice of superannuation fund – whether that be a fund they have reached through clearly-labelled advertising or through another mean. On the Flare platform, a new employee spends 17.9 minutes, on average, researching and gaining an understanding of both advertised and new superannuation offerings. That is, 26 per cent longer than the time spent by new employees who review and nominate their existing fund²⁴.

The majority of these new employees also view details of at least one other advertised fund before settling on their chosen fund. These patterns suggest that users are making an active, engaged and informed choice when they interact with an advertisement on the platform.

Costs to existing superannuation members of a ban on advertising

Digital onboarding platforms like Flare charge advertising fees to superannuation funds when a member opens a new account and makes a contribution to an advertised product. It is the only advertising mechanism available to funds that guarantees a return on investment, linking funded members per dollar spent. It is an important advertising access point for ethical funds, and funds that adopt a guaranteed member-focused return on investment model.

Funds that advertise on the Flare platform acquire financial members at a fraction of the cost of conventional marketing channels. While only a small proportion of Flare users choose to open an account in a new fund, this proportion represents a highly engaged audience, as evidenced by market-leading member retention and digital engagement rates, including app downloads.

This model is essential to boosting employee engagement with superannuation. Through platform participation, employees can easily access a wider range of funds and increased superannuation options. Information is provided directly to the employee at no cost.

Additionally, any benefit that superannuation funds receive from advertising is passed directly to members. This is critical in the context of rising marketing expenditure by funds. The most recent APRA Annual Fund-Level Statistics indicate a high level of marketing spend across the industry, with an average cost to acquire a funded member of \$950, and several funds individually recording expenditure in the tens of millions of dollars²⁵.

Treasury's proposal to ban this advertising channel will leave funds continuing to incur significant marketing spend outside onboarding platforms, delivering less efficient member outcomes. It would not serve members' best financial interests for funds to continue to advertise in more expensive settings – including television advertising campaigns, outdoor media, sport sponsorships or donations to organisations – while being prohibited from advertising at significantly lower cost in contexts where consumers are most engaged with the super system.

Productivity decreases for employers and employees

As such, a ban on the advertising of funds in onboarding will cause Flare no longer to be able to offer its onboarding platform to businesses. We estimate the value of the productive capacity that Flare has returned to the economy through this platform at over \$70 million per year, on the basis that it saves payroll and HR staff an average of 1.4 hours per new employee in administrative burden²⁶, not accounting for the administration of superannuation stapling.

²⁴ Flare data captured in the six months prior to October 2023

²⁵ APRA fund level statistics 2022

²⁶ Flare market penetration Q3 2023 and employer feedback

Greater numbers of duplicate accounts

Additionally, our modelling shows a further cost to members of approximately **\$17 million** per year in duplicate account fees as a result of the proliferation of inadvertent duplicate accounts that would occur if the Flare onboarding platform were no longer to be available to employers²⁷.

Increases in fund expenditure on advertising and marketing

Based on average acquisition costs via the Flare channel, in aggregate, such a ban will cost funds **over \$120 million per year in additional marketing costs** to acquire an equivalent number of funded members through conventional channels²⁸. This is a cost that will be borne perpetually by existing members of funds. We are happy to share these acquisition costs with Treasury on a confidential basis if desired.

Strengthening advertising regulation

The consumer protections sought through the proposed ban on advertising in onboarding are already afforded by several features of a robust financial services regulatory regime.

- 1 Misleading and Deceptive Conduct provisions, enforced by ASIC in respect of financial products, ensure that advertisements do not contain false claims that could yield consumer harm.
- 2 Section 68A of the Superannuation Industry (Supervision) Act 1993 protects against the exertion of undue influence on both employees and employers relating to their choice of super fund.
- 3 The Your Future, Your Super legislation allows APRA to prevent funds from acquiring new members where they have exhibited sustained poor performance.
- 4 Design and Distribution Obligations ensure that funds promote choice products in a manner suitable for their intended target market, such that consumers are not incentivised to take up products inappropriate for their circumstances; while MySuper products are subject to separate strict regulation to ensure their suitability to members in the most universal of contexts.
 - **MYOB and Flare invite Treasury to consider extending the Design and Distribution Obligations regime** to regulate onboarding platforms as a distributor of super products.
- 5 Financial advice provisions protect consumer interests by preventing platforms – or employers – from providing unlicensed financial product advice. This ensures that, to the extent that any advertisements in onboarding platforms may contain advice, it is provided by a regulated entity and merely passed on.
- 6 APRA's Prudential Standard SPS 515 requires funds to justify their use of member funds in conducting advertising activities.

*To the extent that it may be appropriate to ban advertising of particular super products in onboarding, **MYOB and Flare suggest that there may be an opportunity to strengthen the Your Future, Your Super member notification requirements** by preventing funds that are ordered to close to new members as a result of failing the performance test from advertising in any channel.*

To this end, we recommend the adoption Code of Conduct that reflects adherence to existing laws and regulation while promoting best industry practice. This is the standard that Flare voluntarily adheres to, and we note a gap in the market that a codified framework for operations would address. We have included this Code of Conduct on the following page for your reference.

²⁷ Flare data captured in the six months prior to October 2023

²⁸ Flare data captured in the six months prior to October 2023 vs APRA fund level statistics 2022

Super Choice Code of Conduct

As currently adopted by Flare

Flare observes industry best practice in delivering its advertising-enabled superannuation choice platform, going beyond regulatory requirements to increase consumer protections.

We invite all providers to adopt the following as an industry code.

- 1 Products that fail the APRA performance test must not be advertised on onboarding platforms.
- 2 Clear and unambiguous disclosures must be featured alongside advertisements, including the following:
 - a. Employees must be given information about how to search for their existing fund - currently through MyGov, and through any future ATO facility where available;
 - b. Advertisements must be clearly labelled as such;
 - c. Advertisements must be accompanied by a clear statement that the onboarding platform will receive a fee if an employee nominates an advertised fund; and
 - d. Employees must be informed through a clear visual interface in advance that they will see advertisements, which they will have the ability to skip or ignore.
- 3 No financial product advice may be given to employees by onboarding platforms.
- 4 Employers must not be offered any inducements by an onboarding platform or a superannuation trustee to encourage employees to nominate any advertised fund, whether or not the fund is a default product.
- 5 Cybersecurity must be maintained to the industry standard for financial services providers, including maintaining ISO 27001 certification and compliance with APRA CPS 234.
- 6 Onboarding platforms must maintain a robust conflicts of interest policy to ensure any real or perceived conflicts arising from the advertising of funds on the platform are managed appropriately.

Conclusion

As stated in the introduction to this submission, MYOB is committed to working with the Australian Government to achieve the goals of the Securing Australians' Superannuation package, while minimising the administrative burden and other costs for SMEs.

We have recommended an alternative model to achieve these goals that we believe also mitigates many of the risks associated with the three payday super models outlined in the Treasury consultation paper. While MYOB's alternative model does not align SG payments with the pay cycle of all employees, it is expected to deliver the same positive outcomes for all employees – primarily, an increase in employees' retirement savings and greater engagement with superannuation.

A significant increase in the frequency of SG payments presents significant risks for SMEs, including cash flow pressures that could result in unintended consequences such as delayed or slower pay cycles. We believe that a model based on a monthly due date significantly decreases these risks.

We also note the engagement in superannuation that has flowed from access to digital onboarding platforms. To provide no cost services to Australians, these platforms, including Flare, often use clearly labelled advertising that adheres to existing legal and regulatory requirements.

MYOB and Flare are passionate about ensuring our superannuation system operates efficiently and effectively in members' best financial interests. Digital service providers, including MYOB and Flare, can play a unique role in the successful implementation and administration of the new policy.

MYOB and Flare are committed to working with the Australian Government to strengthen our superannuation system and SME sector. We welcome the opportunity to contribute to the development of the new frameworks and processes that will be required to support new reporting, monitoring and compliance activities.