Payday Super Draft Legislation: Submission by Super Consumers Australia

Improving the Employee Onboarding Process for Australians

Apr 11, 2025

Super Consumers Australia is the people's advocate in the superannuation sector. Super Consumers Australia advances and protects the interests of people on low and middle incomes in Australia's superannuation system. It was founded in 2013 and received funding for the first time in 2018.
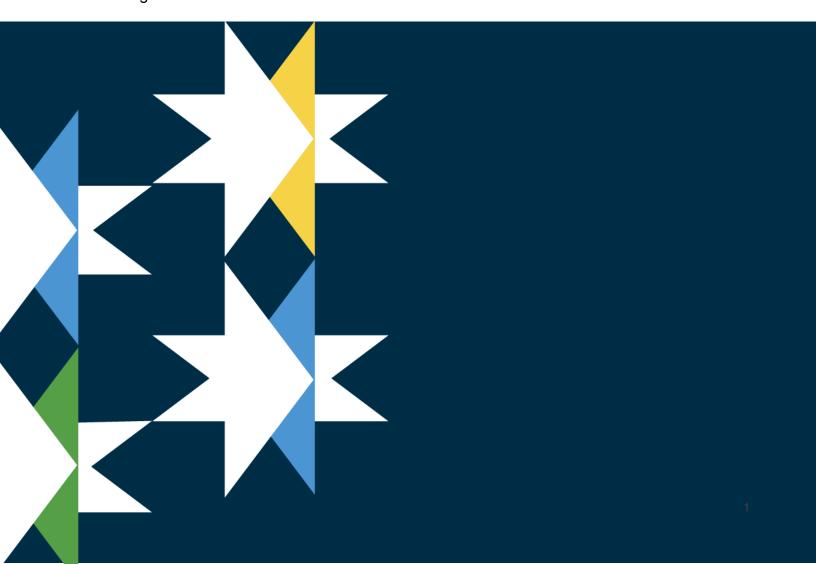
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Introduction

The draft legislation to make payday super a reality is a step forward for Australians saving for their retirement. However, allowing advertising during employee onboarding is a step backwards. Advertising super funds during employee onboarding is harmful as it increases the risk of unintended duplicate super accounts, costing Australians millions.[1]

Super Consumers Australia strongly supports the Government's initiative to implement payday super, aligning employers' payment of Superannuation Guarantee contributions with salary and wages.

However, we are deeply concerned that the *Exposure Draft Bill - Onboarding Reforms* does not include a mandatory requirement for the stapling check to occur during the onboarding process and the *Exposure Draft Bill - Advertising Ban* only includes a limited ban on superannuation advertisements rather than a full ban. Under the draft legislation, Australian employees will continue to remain vulnerable to manipulation, thereby undermining the stapling regime and increasing the risk of unintended duplicate accounts. Super Consumers Australia continues to call for mandatory stapling at the beginning of the onboarding process and an end to exploitative super fund advertising via employee onboarding software. Without these compulsions, stapling will continue to only deliver limited benefits.

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[1] The Treasury. (2024). *Impact Analysis: Ban on advertising of superannuation funds during employee onboarding*. https://oia.pmc.gov.au/sites/default/files/posts/2024/09/Impact%20Analysis_2.pdf

Summary of Recommendations

Recommendation 1: Make it mandatory for employers to inform their employees of their stapled super fund, if any, at the start of the onboarding process before they are presented with other superannuation options.

Recommendation 2: The Standard Superannuation Choice Form (SSCF) should be updated to reflect the process change requiring employers to inform their employees of their stapled super fund at the beginning of the onboarding process.

Recommendation 3: The ATO's data specification for implementing the Standard Superannuation Choice Form (SSCF) on onboarding service providers be immediately corrected to reflect legislation, so that employees are not coerced or pressured into completing the form.

Recommendation 4: A total ban on super funds advertising during onboarding, including through employee onboarding software.

> *Conditional Recommendation 4.1*: If the Federal Government proceeds with its proposed decision to allow super advertisements during the onboarding process, the YourSuper Comparison Tool and a warning about duplicate super accounts should be prominently featured to reduce consumer harm.

Recommendation 5: The design of the onboarding process be subject to thorough consultation and consumer testing to ensure the process is streamlined, easy to navigate and consumer-friendly.

Recommendation 6: The ATO should collect and publish data to measure the impact of the reforms after implementation, including assessing the effectiveness in reducing duplicate accounts.

Recommendation 7: Treasury should conduct a post-implementation review of the reforms in 2028.

Improving stapling for Australians

Superannuation account stapling was a critical reform intended to prevent the costly cycle of duplicate accounts for Australians. Yet, the issue of unintended duplicate super accounts still persists with an estimated 4 million Australians holding two or more accounts as at 30 June 2024.[2]

It is clear that the current implementation of stapling is failing to achieve the original policy intent. To address this, it is important to consider that:
- There are many Australians that remain unaware of their fund provider and whether they have any duplicate super accounts and;
- The current process is confusing and complicated for many Australians to navigate.

In fact, a 2022 study found that 9% of Australians don't know the name of their fund provider[3] and an estimate of 7% of Australians remain unaware they have more than one super account.[4] For Australians who are aware of their duplicate accounts, more than one in four report that "it's too complicated" as the main reason why they have not taken any action to consolidate their accounts.[5]

Under the new draft legislation, employers will now be able to show employees their existing 'stapled' fund earlier during onboarding. While this is a positive development, without a mandatory requirement, there is no guarantee employers and onboarding service providers will implement it.

One thing that is clear from the current stapling implementation is that employers will shift the administrative burden onto their employees unless they are required to do otherwise. Rather than stapling successfully keeping Australians with their current super fund, it has perversely resulted in employers encouraging new employees to choose a new fund, eliminating the stapling check and reducing the employer's administrative burdens.[6] This has further exacerbated the very problem the reform intended to target – the reduction of duplicate accounts.

To help streamline the onboarding process for new employees and reduce confusion when selecting a superannuation fund, Australians need to be equipped with essential information about their fund provider. As such, employers must be required to present employees with their stapled fund at the beginning of onboarding. Without compulsion, it is highly unlikely that employers will voluntarily take the administrative step of checking for a stapled fund.

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[2] Australian Taxation Office. (2024). *Trend towards single accounts*. https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/super-statistics/super-accounts-data/super-data-lost-unclaimed-multiple-accounts-and-consolidations/trend-towards-single-accounts

[3] Finder. (2022). *Missing a super sale: 86% do not top up their super fund regularly*. https://www.finder.com.au/news/aussies-do-not-top-up-their-super-fund-regularly

[4] 22% of the super population currently have multiple super accounts according to the ATO (see footnote 2). Meanwhile, in our nationally representative Pulse Wave 1 survey results, only 15% self-reported that they have multiple super accounts. The discrepancy of 22% and 15% implies that an estimate of 7% are unaware they have multiple super accounts.

[5] Based on the nationally representative Pulse Wave 1 survey results (N = 1,526) in May 2024.

[6] The Conexus Institute. (2022). *Your Future, Your Super Review Consultation paper.* https://treasury.gov.au/sites/default/files/2023-02/c2022-313936-conexus_institute.pdf

To implement stapling effectively, the first step in the onboarding process should be to inform employees of their stapled fund. Concurrently, employers should provide employees a clear, easy English explanation of what a stapled fund is and why it is linked to them. This initial step helps any employees that are unaware of their existing fund, so that they can make an informed decision in the next step of the process. Employees should then be asked whether they wish to remain with their stapled fund or nominate an alternative fund, whether it be one of their own choosing or the employer's default fund.

By structuring the onboarding process in this manner, employees are empowered with essential information upfront, making it easier for them to navigate their options thereby reducing the risk of duplicate super accounts. This approach aligns with the original policy intent of stapling reforms, while promoting a smoother and more transparent onboarding process for employees.

If there are current technological barriers to implementing mandatory stapling checks at the start of the onboarding process for every person starting a new job today, a transition period can be built into the implementation of the legislation. This allows time for technology solutions to be developed, rather than watering down the legislation and failing to achieve the policy intent of eliminating unnecessary duplicate accounts.

Recommendation 1: Make it mandatory for employers to inform their employees of their stapled super fund, if any, at the start of the onboarding process before they are presented with other superannuation options.

Updating the Superannuation Standard Choice Form to reflect stapling reforms

One key part of the onboarding process is the Superannuation Standard Choice Form (SSCF).[7] Moving the stapling check to the beginning of the onboarding process will require the design and role of the SSCF to be updated to reflect these changes.

One consideration is the incorporation of the stapled fund into the SSCF, so that employees are clearly presented with the option to remain with their stapled fund. This approach would help streamline the onboarding process for Australian employees.

Recommendation 2: The Standard Superannuation Choice Form (SSCF) should be updated to reflect the process change requiring employers to inform their employees of their stapled super fund at the beginning of the onboarding process.

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[7] Australian Taxation Office. (2023). *Superannuation standard choice form.*
https://www.ato.gov.au/forms-and-instructions/superannuation-standard-choice-form

Current digital SSCF instructions undermine stapling

Currently, the ATO's instructions for software developers to incorporate the SSCF onto digital onboarding platforms does not clearly state that completing the SSCF is optional for employees.[8] In fact, between the original data specifications (v1.0; 2021) and the revised data specifications (v2.0; 2023), the ATO removed the message informing employees that if they do not complete the form, the employer will need to request stapled fund details from the ATO. As it stands, the current digital design of the SSCF for onboarding service providers is misaligned with the original intent of the stapling reforms and legislation, and any employee being onboarded via these platforms will never go through the stapling process.

The Appendix provides a screenshot of a digital SSCF during employee onboarding. Our understanding is that it complies with the ATO's software developer instructions, but results in several problems:
- New employees are incorrectly told that this form is *required* to be filled out.
- No mention that the employer could search for a stapled fund.
- No option for employees to bypass the form and proceed with the onboarding process, so employers using this software would never need to do a stapled fund check for an employee.

The current digital process in onboarding software:
- Actively forces employees to complete the form, contrary to the intent of stapling, which was that employers would pay super into the current super fund if the employee did not complete the form.
- Increases the risk of duplicate super accounts rather than decreasing it.

The ATO's data specifications for a digital SSCF need to be changed immediately to correct the errors that have been implemented by onboarding service providers. These revisions should reflect the original intention of legislation, including a clear and explicit message that the form is optional and provide employees with the option to bypass it.

> **Recommendation 3:** The ATO's data specification for implementing the Standard Superannuation Choice Form (SSCF) on onboarding service providers be immediately corrected to reflect legislation, so that employees are not coerced or pressured into completing the form.

No role for advertisements during onboarding

In 2023, ASIC raised concerns that advertisements during the onboarding process can weaken consumer protections and super stapling.[9] This is because advertisements can overcomplicate the

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[8] Australian Taxation Office. (2023). *Standard choice form*. https://softwaredevelopers.ato.gov.au/standard-choice-form-0
[9] Financial Newswire. (2023). *ASIC admits it has super worries about employee on-boarding*. https://financialnewswire.com.au/superannuation/asic-admits-worries-about-employee-on-boarding/

process and often confuse employees, causing them to unintentionally open new duplicate accounts. This not only undermines the intended benefits of account stapling, but also contributes to the growing issue of duplicate super accounts.

Unintended duplicate superannuation accounts can lead to significant financial losses for Australian employees. The Productivity Commission Report (2018) estimated that the average person loses up to $50,000 by retirement due to duplicate accounts, as they unknowingly incur multiple sets of fees and insurance premiums.[10] Collectively, this issue robs employees of approximately $2.6 billion every year in unnecessary costs.[11] These unnecessary costs ultimately reduce retirement incomes, leaving many employees' financially worse off than they should be when they retire.

Banning advertisements during onboarding yields greater net benefit

Banning advertisements would help address the longstanding issue of duplicate super accounts. The Treasury calculated that a full ban on advertisements would save Australian employees approximately $16 million per year, compared to only $3.3 million under the proposed limited ban.[12] This represents an increase of at least $12.7 million in annual benefits for employees under a total ban, highlighting a significant opportunity to improve Australians' financial security in retirement. Even after accounting for the costs to affected stakeholders, a full ban on advertisements would still deliver a net benefit of $4 million more per year than the limited ban.[13]

Overall, the draft legislation adopts a model that neither maximises the net benefits nor offers adequate protections for consumers. With Australians facing increasing pressure to save for their retirement, a ban on advertisements during onboarding is a vital step in addressing the systemic issues within the superannuation system.

Only self-interested submissions supported super funds advertising in onboarding

Our analysis of submissions to the first round of consultation on Payday Super found that opposition to the ban on advertisements during onboarding has mainly come from stakeholders with vested commercial interests (see Table 1).[14]

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[10] Productivity Commission. (2018). *Superannuation: Assessing Efficiency and Competitiveness* (Inquiry Report No. 91). https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report/superannuation-assessment.pdf

[11] Ibid

[12] The Treasury. (2024). *Impact Analysis: Ban on advertising of superannuation funds during employee onboarding*. https://oia.pmc.gov.au/sites/default/files/posts/2024/09/Impact%20Analysis_2.pdf

[13] Ibid

[14] The Treasury. (2023). *Securing Australians' superannuation consultation*. https://treasury.gov.au/consultation/c2023-436950

Table 1
Stakeholders (*n* = 7) that opposed the ban on advertisements during onboarding.

Onboarding Service Providers	Payroll and Digital Services	Super Funds*	Industry Bodies
Employment Hero MYOB (Flare HR) SuperAPI (SuperChoiceForm)	Wrkr	Mercer Aware Super	DSPANZ

* Mercer advertises on Flare HR and Aware Super advertises on Employment Hero, Flare HR and SuperChoiceForm (30 June 2024)
Source: APRA Superannuation Expenditure Data

Submissions from a range of stakeholders support a ban on super funds advertising in onboarding

The majority, primarily independent voices, have supported a ban on advertisements, only allowing employers to provide information about the default fund, during the onboarding process (see Table 2).[15] Super Consumers Australia is highly concerned by the decision to prioritise commercial interests over the financial well-being of everyday Australians.

Table 2
Stakeholders (*n* = 14) that supported the ban on advertisements during onboarding.

	Onboarding Service Providers	Payroll and Digital Services	Super Funds*	Consumer Advocates	Other
Support for Total Ban (*n* = 9)	Tanda	Ozedi Payroll Edge e-Payday	Hostplus	SCA	BDO Vialto Partner IFPA
Support for Default & Stapled Fund Info (*n* = 5)			AustralianSuper UniSuper Rest		Super Choice SMC

* None of the super funds on this list advertise on Employment Hero, Flare HR and SuperChoiceForm (30 June 2024)
Source: APRA Superannuation Expenditure Data

Ultimately, the onboarding process should be simplified for employees, so that it only includes the necessary legal requirements such as 1) stapled fund information, 2) information about the employer default fund and 3) the SSCF to enable the right for an employee to choose their super fund.

Advertisements unnecessarily complicate this process for Australians, enabling onboarding service platforms to monetise employees and increase the risk of duplicate accounts. The draft legislation allowing some advertisements delivers less benefit to the community than a total ban. We strongly urge the Government to adopt the recommendation of the majority of submissions on this topic, and Treasury's cost-benefit analysis, and implement a total ban on super fund ads during onboarding.

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[15] Ibid

> **Recommendation 4:** A total ban on super funds advertising during onboarding, including through employee onboarding software.

Should the Government proceed with legislation as drafted, allowing advertisements to continue, adequate safeguards must be in place to protect consumers, including:

- The YourSuper Comparison Tool should be prominently featured, on equal footing with advertisements, to counterbalance the marketing efforts during the onboarding process with unbiased and independent information about super investment options.
- Advertisements should be required to display a warning label, so new employees are warned about the risks of creating duplicate super accounts and that having a duplicate account is estimated to harm their retirement savings by $50,000.[16]

> **Conditional Recommendation 4.1:** If the Federal Government proceeds with its proposed decision to allow super advertisements during the onboarding process, the YourSuper Comparison Tool and a warning about duplicate super accounts should be prominently featured to reduce consumer harm.

Implementation of Payday Super reforms need oversight

Implementing the Payday Super and onboarding reforms will require a significant process change for many stakeholders. Thus, careful consideration is needed to ensure the successful implementation of reforms and to measure the effectiveness of the reforms' impact and industry compliance.

Currently, the implementation of the original stapling reforms has been ineffective, partly due to the unintended consequence of placing the stapling check at the end of the onboarding process rather than at the beginning, and partly due to the ATO's data specifications for software providers, which erroneously omit stapling.

To ensure that the new onboarding process is efficient, simple and consumer-friendly for all Australians, it should be well-consulted on and undergo consumer testing before implementation.

Monitoring the implementation of these reforms will also be essential to evaluate their success and long-term effectiveness. In the interest of transparency, the ATO should collect and publish data measuring the impact of these reforms, in particular how many people stay with their stapled fund, how many exercise choice, how many consolidate accounts and how many people create a

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[16] Productivity Commission. (2018). *Superannuation: Assessing Efficiency and Competitiveness* (Inquiry Report No. 91).
https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report/superannuation-assessment.pdf

duplicate account. This reporting will allow relevant stakeholders to assess whether the current reforms are achieving their intended goals, or whether further policy improvements are necessary.

We also recommend that post-implementation review should be conducted in 2028 to assess whether the implementation has achieved the desired outcome. This would allow for a timely evaluation of whether the reforms are on track or require revisions to improve their effectiveness.
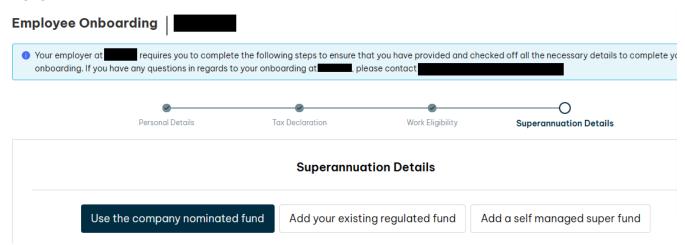
Recommendation 5: The design of the onboarding process be subject to thorough consultation and consumer testing to ensure the process is streamlined, easy to navigate and consumer-friendly.

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Recommendation 7: Treasury should conduct a post-implementation review of the reforms in 2028.

Appendix

Employee Onboarding | ▮▮▮▮▮▮

> ℹ Your employer at ▮▮▮ requires you to complete the following steps to ensure that you have provided and checked off all the necessary details to complete y̶
> onboarding. If you have any questions in regards to your onboarding at ▮▮▮, please contact ▮▮▮▮▮▮▮▮▮

✓ Personal Details   ✓ Tax Declaration   ✓ Work Eligibility   ○ **Superannuation Details**

Superannuation Details

Use the company nominated fund   Add your existing regulated fund   Add a self managed super fund

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