



Key concepts

GUIDANCE NOTE 1

October 2022

About this guidance note

This guide sets out key concepts of the *Payment Times Reporting Act 2020* (the Act).

It provides information about the entities that are required to give a payment times report, the timing for reporting periods and what information needs to be reported.

Our documents

We provide information to reporting entities and other stakeholders to:

- allow contribution to policy development
- inform stakeholders of how we administer the Act
- provide guidance to assist reporting entities to comply with their obligations.

Consultation papers seek feedback from regulated entities and other stakeholders on how we administer the Act or intend to administer the Act.

Guidance notes explain how the law operates generally and outline our administrative approach. These documents also provide practical examples that may assist in navigating regulated processes. Examples in this guidance note are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

Information sheets are short guidance documents on a specific process or function.

Document history

This guidance note was published on 28 October 2022 and based on the *Payment Times Reporting Act 2020* and *Payment Times Reporting Rules 2020* as of that date.

Disclaimer

This guidance note does not constitute legal or professional advice and it should not be relied on as such. You should seek your own legal or professional advice to find out how the *Payment Times Reporting Act 2020* and other applicable laws apply to your organisation, because you are responsible for determining your obligations.

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Reporting entities

Key points

- An entity can become a reporting entity by meeting standard criteria prescribed by the Act or by volunteering.
- Entities that carry on an enterprise in Australia will need to know their total income and if they are a constitutionally covered entity to determine if they are a reporting entity.
- Entities incorporated in Australia or overseas are constitutionally covered entities. Whether other entity types are constitutionally covered may be complex and require independent legal advice.
- The income threshold applicable is generally A\$100 million but may be A\$10 million for some subsidiary entities of Australian incorporated entities.
- An entity in a corporate group will need to assess whether it is a controlling corporation or member entity to know which income threshold applies.

Types of reporting entities

Entities meeting standard criteria

- 1 To be a reporting entity an entity must become a reporting entity under the standard criteria of the Act or volunteer as a reporting entity.
- 2 An entity will become a reporting entity if it meets the 3 standard criteria prescribed by the Act. These criteria are that the entity:
 - is a constitutionally covered entity
 - carries on an enterprise in Australia
 - has total income that exceeds prescribed income thresholds in its most recent income year.
- 3 The only exception for entities that meet these 3 standard criteria are charities and not-for-profit entities registered under the *Australian Charities and Not-for-profit Commission Act 2012* (ACNC Act).¹ These entities are not reporting entities even if they meet the 3 standard criteria.
- 4 Entities that operate as a charity or not-for-profit but are not registered under the ACNC Act cannot rely on this exception. These entities may consider applying to cease to be a reporting entity. See [Guidance note 3: Applications and notifications](#).
- 5 Once an entity is a reporting entity, it continues to be a reporting entity until it ceases to be a reporting entity in accordance with one of the methods set out in the Act. For information on ceasing to be a reporting entity see [Guidance note 3: Applications and notifications](#).
- 6 An entity that has not met the 3 standard criteria prescribed under the Act must volunteer as a reporting entity if it wishes to report.

¹ *Payment Times Reporting Act 2020* (Cth) s 7(2)(c)

- 7 We do not register reports given by entities that are not reporting entities. See [Guidance note 2: Preparing a payment times report](#).

Volunteering entities

- 8 An entity that does not satisfy the standard criteria to become a reporting entity can register a report if it volunteers as a reporting entity.²
- 9 Only constitutionally covered entities can volunteer and must give written notice to the Regulator that they elect to become a reporting entity.³
- 10 Written notice can be given through the [Payment Times Reporting Portal](#).
- 11 A volunteering entity starts reporting in the first reporting period commencing after they give notice as a volunteer. This could be the first or second half of its income year, depending on when it gives notice.⁴
- 12 After giving notice, a volunteering entity has the same reporting obligations as other reporting entities and continue to be a reporting entity until they apply to cease to be a reporting entity and the Regulator has determined they cease to be a reporting entity.
- 13 For more information on how to give notice as a volunteering entity or to apply to cease to be a reporting entity see [Guidance note 3: Applications and notifications](#).

Constitutionally covered entities

Identifying constitutionally covered entities

- 14 In broad terms, an entity is a constitutionally covered entity (CCE) if:
- it is a constitutional corporation⁵
 - it is a foreign entity⁶, or
 - it is carrying on an enterprise, or is a body corporate formed, in a Territory⁷.
- 15 Whether an entity is a CCE can be complex depending on its structure and operations. This guidance assists entities with common circumstances. We do not give legal advice regarding an entity's status as a CCE. If an entity's status as a CCE is complex, unclear or uncertain we recommend seeking legal advice.

Constitutional corporations

- 16 Constitutional corporations are either:
- trading, or financial corporations formed in Australia, or
 - foreign corporations.
- 17 The most common circumstances in which corporations are formed within the limits of Australia is if they are incorporated under the *Corporations Act 2001* or some other Commonwealth, State

² *Payment Times Reporting Act 2020* (Cth) s 7(1A)

³ *Payment Times Reporting Act 2020* (Cth) s 7(1A)

⁴ *Payment Times Reporting Act 2020* (Cth) s 8 (2)-(3)

⁵ *Payment Times Reporting Act 2020* (Cth) s 6(a)

⁶ *Payment Times Reporting Act 2020* (Cth) s 6(b)

⁷ *Payment Times Reporting Act 2020* (Cth) s 6(c)-(e)

or Territory legislation. Foreign corporations include any entity that has been incorporated under the laws of a foreign jurisdiction.

- 18 Incorporated entities that engage in substantial trading or financial activities, which are not merely peripheral activities, are generally considered constitutional corporations. In this context:
- **trading** is the activity of providing, for reward, goods or services, and extends to business activities carried on with a view to earning revenue
 - **financial** is the activity of commercial dealing in finance, including transactions in which the subject is finance, such as borrowing and lending money.
- 19 A charity or not-for-profit may be a constitutional corporation but not a reporting entity if it is registered under the ACNC Act, unless it volunteers to be a reporting entity. This is due to an exception from the standard criteria for reporting entities. See [paragraph 4 – Entities meeting standard criteria](#).
- 20 Constitutional corporations can also include incorporated entities controlled by the Commonwealth government, including corporate Commonwealth entities and Commonwealth companies.⁸
- 21 Our initial compliance enquiries may assume that an entity with a business name that suggests it is incorporated is a constitutional corporation. This may include entities that have Pty Ltd, Ltd, NL or Inc in their name for Australian entities, or GmbH, Pte Ltd, AG, PLC, SARL or LLC for foreign entities.
- 22 Where an incorporated entity does not consider itself to be a CCE because it is not a trading or financial corporation, it should obtain independent legal advice.

Foreign entities

- 23 Incorporated foreign entities may be a foreign corporation, and therefore a constitutional corporation.
- 24 Where a foreign entity is not incorporated, such as a trust, investment scheme or partnership, it may be a CCE if the entity was formed outside Australia.
- 25 Having a registered address, governing legislation or regulations or tax reporting obligations in a jurisdiction outside of Australia may indicate the entity is a foreign entity.

Entities incorporated or carrying on an enterprise in a territory

- 26 Entities incorporated under territory-based legislation or registered in a Territory under s119A of the *Corporations Act 2001* are CCEs.⁹
- 27 Any entity, other than a body politic, that carries on an enterprise in a Territory is a CCE. This means unincorporated entities that operate in a Territory are likely to be a CCE, regardless of their structure. This may include partnerships, superannuation funds that are trusts and sole traders that operate in a territory.
- 28 Being formed, having a physical presence or providing goods and services to customers in a Territory may indicate an entity carries on an enterprise in a Territory.
- 29 Territories of Australia include:

⁸ *Public Governance, Performance and Accountability Act 2013* s 11, 89(1)

⁹ *Payment Times Reporting Act 2020* (Cth) s 6(d)-(e)

- the Australian Capital Territory
- the Northern Territory
- Jervis Bay
- external territories.

30 Where an entity is uncertain whether it carries on an enterprise in a Territory, we recommend obtaining independent legal advice.

Table 1 – Guidance on constitutionally covered entities (CCEs)

Entity type	Guidance
Australian incorporated entity (Pty Ltd, Ltd, NL)	Generally considered a CCE as a constitutional corporation. This includes Commonwealth government owned or controlled corporate entities (but not their subsidiaries).
Foreign incorporated entity (GmbH, Pte Ltd, AG, PLC, SARL, LLC)	Generally considered a CCE as a constitutional corporation.
State-incorporated entity (Inc)	Generally considered a CCE as a constitutional corporation. Entities that are incorporated under state-based legislation as a charity or not-for-profit may be a CCE but not a reporting entity if registered under the ACNC Act. See Entities meeting standard criteria .
Trust	A trust can be a CCE if it is a foreign entity or carries on an enterprise in a Territory. See Foreign entities and Entities incorporated or carrying on an enterprise in a territory . If a trust is a reporting entity, its trustees have the obligation to report on behalf of the trust. ¹⁰
Incorporated trustee	An incorporated trustee may be a CCE because it is a constitutional corporation. See Constitutional corporation . An incorporated trustee may be required to report both on its own behalf and on behalf of a trust. See Trusts .
Unincorporated trustee	An unincorporated trustee is not a constitutional corporation but may be a CCE if it is a foreign entity or carrying on an enterprise in a territory. An unincorporated trustee may be required to report both on its own behalf and on behalf of a trust. See Trusts .
Partnership	A partnership may be a CCE where it is: <ul style="list-style-type: none"> • an incorporated partnership (see Constitutional corporations)

¹⁰ *Payment Times Reporting Act 2020 (Cth) s 50(2)-(3)*

Entity type	Guidance
	<ul style="list-style-type: none"> • a foreign partnership (see Foreign entities), or • a partnership that carries on an enterprise in a territory (see Entities incorporated in or carrying on an enterprise in a territory). <p>Individual partners have the obligation to report on behalf of the partnerships that are reporting entities.¹¹</p>
Commonwealth, state and local government bodies	<p>Government bodies, such as Commonwealth and state departments and local government bodies are not CCEs.</p> <p>Businesses owned by Commonwealth, state or local government may be a CCE if incorporated and significantly involved in either trading or financial activities. See Government businesses below.</p>
Government businesses	<p>May be a CCE if the entity is incorporated and engaged in trading or financial activities that are not merely peripheral or incidental to its activities. See Constitutional corporations.</p>
Sole trader	<p>A sole trader may be a CCE if they operate in a Territory. See Entities incorporated in or carrying on an enterprise in a territory.</p>
Incorporated joint venture	<p>A joint venture formed by creation of an incorporated entity will generally be a constitutional corporation. See Constitutional corporations.</p> <p>Managers and members of incorporated joint venture entities may also be reporting entities if they are a CCE and meet financial thresholds.</p>
Unincorporated joint venture	<p>An unincorporated joint venture (UJV) is not an entity for the purpose of the Act. For this reason, it cannot be a CCE.</p> <p>A UJV may appoint an entity as the manager or operator for day-to-day operations. If the managing entity is a reporting entity, they may have to report on transactions in its capacity of manager of the UJV. This depends on the contractual relationship of the UJV.</p> <p>If 2 or more UJV members hold joint contracts and pay a small business supplier from a joint bank account, they may be required to report on their agreed portion of the invoice.</p> <p>If a UJV member is a reporting entity it may be required to report individually and not on behalf of the UJV.</p>
Cooperative	<p>A cooperative registered under State or Territory legislation regulating cooperatives may be a CCE if it is engaged in trading or</p>

¹¹Payment Times Reporting Act 2020 (Cth) s 48(2)

Entity type	Guidance
	financial activities that are not merely peripheral or incidental to its activities or it carries on an enterprise in a Territory.
Superannuation fund or other financial institution	<p>A superannuation fund or other financial institution formed as a trust may be a CCE. See Trusts.</p> <p>Funds and institutions formed under statute or other manner may be a CCE if it is incorporated and engages in trading or financial activity. See Constitutional corporations.</p>

Carrying on an enterprise in Australia

- 31 Carrying on an enterprise is a broad term and can include anything in relation to the commencement or termination of an enterprise.
- 32 Indicators an entity is carrying on an enterprise in Australia include, but are not limited to:
- having a physical presence in Australia
 - providing goods or services to persons in Australia
 - having an Australian Business Number (ABN)
 - being required to report income or Goods and Services Tax (GST) to the ATO.

Income thresholds

Identifying the relevant income threshold

- 33 A CCE carrying on an enterprise in Australia will become a reporting entity at the start of an income year if in its most recent income year:
- its total income was more than A\$100 million
 - for an entity that is a **controlling corporation**, the combined total income of the members of the controlling corporation's group was more than A\$100 million, or
 - for a **member entity** whose controlling corporation's group has a combined total income of more than A\$100 million, the total income for the member entity was at least A\$10 million.
- 34 To identify the applicable threshold to apply, an entity must determine whether it is a controlling corporation, member entity or neither a controlling corporation nor member entity. For information about controlling corporations and member entities see [Controlling corporations and member entities](#).
- 35 An entity's corporate structure and income can be complex. Information in this guidance note is to assist entities in common circumstances. If an entity's status or income is complex, unclear or uncertain we recommend seeking legal advice.

Applying income thresholds

- 36 An entity becomes a reporting entity at the beginning of an income year following the income year it exceeds a relevant income threshold.
- 37 For example, an entity with an income year ending 30 June had a total income of A\$90 million and A\$110 million in its 2021 and 2022 income years respectively. The entity became a reporting entity on 1 July 2022.

Controlling corporations and member entities

- 38 The financial thresholds that apply to determine whether an entity becomes a reporting entity, depend on its classification. The Act classifies 3 types of entities:
- controlling corporations
 - member entities
 - entities that are neither a controlling corporation nor member entity.
- 39 Controlling corporations are Australian body corporates that are not a subsidiary of another Australian body corporate.
- 40 A subsidiary of a controlling corporation that is a body corporate is a member of the controlling corporation's group, unless:
- it is also a subsidiary of another entity, and that entity has the ability to control the composition of the subsidiary's board or the majority of votes in a general meeting of the subsidiary,¹² and
 - the other parent entity is not a part of the controlling corporation's group.
- 41 In these cases, the parent entity that has control of the subsidiary may be the controlling corporation for the purposes of the Act.
- 42 Entities incorporated in Australia will either be a controlling corporation or a member entity. Entities that are not incorporated cannot be a controlling corporation or member entity.

Head entities

- 43 For the purposes of administering the Act, 'head entity' was introduced as another entity type.¹³
- 44 The term head entity is not defined by the Act. It refers to the ultimate parent entity of a corporate group.
- 45 Head entity is a concept introduced to simplify reporting for corporate groups. A single reporting template may be used to submit reports for all reporting entities in a group.
- 46 Where a reporting entity's ultimate parent entity is not the controlling corporation it should include details of the ultimate parent entity as its head entity in its payment times report. The head entity does not have to be a reporting entity. For example, it may be a foreign entity that is not a reporting entity.

¹² For information on parent and subsidiary control see s 46(a) of the *Corporations Act 2001*

¹³ Payment Times Reporting Rules 2020 s 9(f)

- 47 Where the head entity of a corporate group is not the same as its controlling corporation, the reporting entities in the corporate group must include the name of the head entity in their report.¹⁴
- 48 We encourage all entities that are part of a corporate group to report details of their head entity, even where the head entity is also the entities' controlling corporation. Reporting of a head entity can assist users of the [Payment Times Reports Register](#) to identify entities in the corporate group.
- 49 Subsidiary entities should determine whether they are member entities because different income thresholds apply. For example, if a reporting entity has a head entity but no controlling corporation, the income threshold of A\$100 million applies (not the \$10 million threshold that applies to member entities). Refer to [paragraphs 33 – 42](#) for information on member entities.

Unincorporated entities

- 50 Unincorporated entities cannot be a controlling corporation or member entity.

Table 2 – Guidance for corporate structures and income thresholds

Example scenario	Guidance
Entity incorporated in Australia and has no subsidiaries.	Entity is not part of a corporate group. Threshold applicable is over A\$100 million.
Entity A owns 100% of Entity B. Both entities are incorporated in Australia.	Entity A is a controlling corporation. Entity B is a member entity. Entity A will be a reporting entity if the combined total income of Entity A and Entity B is over A\$100 million. Entity B will be a reporting entity if the total aggregate income of Entity A and Entity B is over A\$100 million and the total income of Entity B is A\$10 million or more.
Entity A owns 50% of Entity B. Entity A appoint 3 of the 5 directors of Entity B. Both entities are incorporated in Australia.	Entity A is a controlling corporation because it controls the composition of the board of Entity B. Entity B is a member entity of Entity A. Entity A will be a reporting entity if the total aggregate income of Entity A and Entity B is over A\$100 million. Entity B will be a reporting entity if the total aggregate income of Entity A and Entity B is over A\$100 million and the total income of Entity B is A\$10 million or more.
Entity A owns 70% of Entity B. Entity A appoints 2 of the 5 directors of Entity B. Both entities are incorporated in Australia.	Entity A is a controlling corporation because it controls more than 50% of the votes at a general meeting of Entity B. Entity B is a member entity of Entity A. Entity A will be a reporting entity if the combined total income of Entity A and Entity B is over A\$100 million.

¹⁴ Payment Times Reporting Rules 2020 s 9(f)

Example scenario	Guidance
	Entity B will be a reporting entity if the total aggregate income of Entity A and Entity B is over A\$100 million and the total income of Entity B is A\$10 million or more.
Entity A owns 100% of Entity B. Entity A is a foreign entity and Entity B is incorporated in Australia.	Entity A is not a controlling corporation because it is not incorporated in Australia. The income threshold for Entity A is over A\$100 million. Entity B is not a member entity because Entity A is not a controlling corporation. The income threshold for Entity B is over A\$100 million. Entity A may be a head entity for reporting purposes.

Total income

Key points

- Total income is measured based on income reported to the Australian Taxation Office.
- If an entity does not prepare a tax return or is part of a tax consolidated group, it may use financial statements or calculate total income nominally to measure its total income.
- If an entity uses financial statements to measure its total income, statements must be prepared in accordance with Australian accounting standards or an equivalent standard.
- In business combinations, controlling corporations may measure total income on a consolidated basis, while member entities measure total income on a pre-consolidated basis.
- Where an entity has been part of a control transaction (such as a merger or takeover) it should follow the relevant accounting standards for measurement and recognition of total income.

Measurement

- 51 Total income, for the purposes of the Act, has the same meaning as section 3C of the *Taxation Administration Act 1953* (the *TAA 1953*).
- 52 The *TAA 1953* does not define ‘total income’ but it will generally correspond to the total income reported to the Australian Taxation Office (**ATO**) in an entity’s tax return before claiming deductions to calculate taxable income.
- 53 Entities that prepare a tax return for the ATO and are not part of a tax consolidated group can use the total income reported for tax purposes to determine their total income for the purposes of the Act. For a company, this will correspond to item 6S of its tax return. For other entity types it will be the total income reported for tax purposes before excluding exempt income, expenses and other deductions.
- 54 Entities that are part of a tax consolidated group may not be able to use tax return information to determine their total income because total income is generally determined on an individual entity

basis. An exception to this is for controlling corporations that measure total income based on the aggregate total income of their corporate group.

- 55 Controlling corporations may be able to use tax consolidated group information if the entities in their tax consolidated group are the same as the entities in their corporate group for the purposes of the Act. See [paragraphs 38 – 42](#) for information on controlling corporations.
- 56 Entities that cannot use tax return information to determine total income can:
- Use total income as reported in their financial statements, provided the statements are prepared in accordance with Australian accounting standards (or other International Financial Reporting Standards equivalent standards), or
 - Calculate what their nominal total income would be if they were required to prepare a tax return or prepare financial statements.
- 57 We will consider a nominally calculated total income to be a reasonable basis for determining total income provided it would be acceptable for the purposes of tax reporting to the ATO or calculated using the measurement and recognition criteria of an acceptable accounting standard.

Foreign currency translation

- 58 Entities that prepare financial statements and tax returns in a foreign currency need to translate their total income to Australian dollars to determine whether they meet income thresholds. Entities should translate total income using the ATO rules for determining taxable income.¹⁵

Business combinations and control transactions

- 59 Where an entity is part of a tax consolidated group or prepares financial statements on a consolidated basis, it may need to measure total income either pre-consolidation or post-consolidation. This will depend on the type of entity.
- 60 Member entities and entities that are not a controlling corporation or member entity would generally measure total income pre-consolidation. This may include income from intracompany transactions.
- 61 Controlling corporations that determine total income based on combined income with member entities, would generally measure total income post-consolidation. However, they may need to exclude income from subsidiary entities that are not member entities, such as trusts that operate as part of the group's structure.
- 62 Where an entity has been part of a control transaction, such as a merger or acquisition, the acquiring entity should assess total income in accordance with the relevant tax reporting requirements or apply the accounting standards for recognition and measurement of income in a business combination.¹⁶

¹⁵ See ATO website: [Functional currency translation rules](#). Note: the ATO translates at the taxable income line. We encourage use of the translation methodology, but at the total income level.

¹⁶ For example see [AASB 3: Business combinations](#)

Table 3 – Guidance for determining total income

Example scenario	Guidance
<p>Entity A is the parent entity of Entity B and a controlling corporation.</p> <p>Entity B is a member entity and subsidiary of Entity A.</p>	<p>The Act requires Entity A and Entity B to determine whether they are reporting entities.</p> <p>Total income for Entity A is based on the post-consolidation total income of the corporate group (A\$100 million).</p> <p>Total income for Entity B is based on the pre-consolidation total income on an individual basis (A\$10 million).</p>
<p>Entity A keeps and prepares its tax and accounting records in USD.</p>	<p>Entity A must translate its total income from USD to AUD to determine whether it is a reporting entity.</p> <p>Entity A should translate its total income, not its taxable income, using the ATO rules for determining taxable income.</p>
<p>Entity A is a subsidiary of Entity B (a controlling corporation).</p> <p>Entity C (a controlling corporation) acquires Entity A during an income year.</p>	<p>Entity A should determine its total income based on the total income for the entire income year. The acquisition does not impact Entity A's total income for the income year.</p> <p>Entities B and C must recognise the income earned from Entity A, as a member entity, in accordance with tax reporting requirements or using the measurement and recognition requirements under the relevant business combination accounting standards.</p>
<p>Entity A is a foreign entity that earns income in Australia and overseas and prepares consolidated financial statements in accordance with International Financial Reporting Standards (IFRS)</p>	<p>Entity A can determine total income as reported in its Australian tax return (excluding foreign income).</p> <p>If Entity A cannot use its tax return because it reports as part of a tax consolidated group, it can use the total income earned in Australia if it is identifiable from its financial statements or prepare a nominal calculation of what its total income would be for tax reporting purposes.</p>
<p>Entity A does not prepare an income tax return or prepare financial statements.</p>	<p>Entity A does not have tax return information so it can prepare a nominal calculation of what its total income would be for tax reporting purposes or under Australian accounting standards (or equivalent standard).</p>

Reporting period

Key points

- There are 2 reporting periods per income year. An entity's income year is the same as it is for tax purposes.
- Reporting periods are generally for a 6-month period but may be slightly longer or shorter where an entity uses a 52-53-week income year.
- A reporting period should commence on the date immediately after the end of an entity's prior reporting period.
- Where an entity has a transitional income year longer or shorter than 12 months it should report a 'stub' period of less than 6 months in order to align to its new income year.

Income year

- 63 An entity's income year is the same as its income year under the *Income Tax Assessment Act 1997*. This will be a year ending 30 June unless the entity uses a substituted accounting period. If an entity does not lodge a tax return with the ATO, its income year is its financial reporting year.¹⁷
- 64 If an entity is not required to lodge a tax return because it is part of a tax consolidated group (TCG) and does not prepare financial statements, it should use the income year used by the TCG. Foreign entities that are not part of a TCG and do not prepare financial statement should use the accounting period used by its domestic tax authority.¹⁸
- 65 An income year will usually be for 12 months but may be shorter or longer if the entity uses a 52-53-week financial year or is reporting for a transitional financial year.

Determining reporting periods

- 66 There are 2 reporting periods in each income year:
- the first reporting period is the first 6 months of an income year
 - the second reporting period is the remainder of the income year.
- 67 The only exception to an income year having 2 reporting periods is for a volunteering entity that give notice to volunteer in the first 6 months of its income year. In this case the entity will only give a report for the second half of that income year.¹⁹
- 68 If an entity uses a 52-53-week income year or is undertaking a transitional income year, we will register reports for irregular reporting periods. Reporting entities are not required to give a report for an irregular reporting period some cases we will register and publish reports for an irregular reporting period where doing so would facilitate an entity's reporting.

¹⁷ *Payment Times Reporting Act 2020* (Cth) s 5

¹⁸ For entities in Australia this is 30 June. This may differ for entities with tax obligations in jurisdictions outside Australia.

¹⁹ *Payment Times Reporting Act 2020* (Cth) s 8

- 69 Where an entity uses a 52-53-week income year, we will register a report for a first or second reporting period that is for a period other than 6 months, where:
- the entity states in the report comments it uses a 52-53-week income year
 - the period reported for is no less than 25 weeks and no longer than 27 weeks.
- 70 Where an entity is undertaking a transitional financial year, we will facilitate the transition by registering a report for a period of less than 6 months for a first or second reporting period, where:
- the entity provides details in the report comments of the transitional reporting period, including reasons for the change in period and details of when its next report will be lodged
 - the transitional period is one-off for synchronisation or other purpose permitted under the *Corporations Act 2001*, *Income Tax Assessment Act 1997* or other legislation, and
 - the report is for a period of no longer than 6 months.
- 71 Where an entity ceases to exist during a reporting period, it is not required to report for the period from the start of the reporting period to the time it ceased to exist.
- 72 To avoid enquiries and potential action by the Regulator regarding non-compliance, reporting entities that cease to exist should update their details in the [Payment Times Reporting Portal](#) and give notice by email to support@paymenttimes.gov.au. See [Guidance note 3: Applications and notifications, Table 2](#).

Procurement

Key points

- Procurement made under trade credit arrangements with small business is included in reporting. Trade credit arrangements are where there is agreement for a delay between supply of goods or services and payment.
- Credits, rebates, royalties, employee payments and intragroup transactions are generally not reported (see details for each type).
- Entities must report on 'standard payment period' for small business procurement. The standard payment period is the period offered in standard payment terms.
- Payment times are based on either the date an invoice was received, or if the date of receipt is not easily determined by the reporting entity, the issue date of the invoice.
- Disputed invoices must be included in reporting metrics.
- Where supply chain finance is offered, payment times are based on the date the payment would have been due if the supplier had not used supply chain finance.

Small business procurement

Supply of goods and services

- 73 Reporting entities must report payment times for all payments to small businesses for goods and services procured under a trade credit arrangement.
- 74 Goods include tangible articles of trade, wares and merchandise, such as retail goods, equipment, food and other materials and consumables. Services include activities provided by others and examples can include professional advice services, subscriptions and contractor services. If GST is payable for a supply, it may indicate the supply was for a good or service.

Trade credit arrangements

- 75 Procurement is made under trade credit arrangements where there is agreement for there to be a delay from the time of receiving goods or services and the payment of those goods and services. Examples include:
- trade acceptance
 - an open account
 - promissory notes.
- 76 Arrangements that are **not** trade credit arrangements include:
- payments for rental leases that are pre-paid
 - travel expenses (including airfares, hotels, taxi, etc.) and restaurant or cafe expenses
 - payments related to employees
 - payments through payroll or reimbursements
 - royalty payments to an Australian state or territory government for the use of natural resources.
- 77 Transactions that occur at the point of sale, or that are made on a prepayment or retainer basis are not trade credit arrangements.
- 78 An arrangement between a small business supplier and a reporting entity can be in any form including a written contract or oral agreement.
- 79 Not all invoices or requests for payment are indicative of an arrangement between entities. In some arrangements, payment of an invoice may be acceptance of an agreement. In these cases, the arrangement may not be under a trade credit arrangement.
- 80 For there to be a trade credit arrangement, the reporting entity must agree – before or at the time of the small business supplier providing the goods or services – to be legally bound to pay for the supply at a later time.
- 81 Where an obligation to pay only takes effect on the occurrence of an event, the trade credit arrangement does not arise until the event occurs and there is an obligation to pay.

Credits, rebates and discounts

- 82 Credits, rebates and negative invoices issued by a small business supplier that do not require payment are not a trade credit arrangement.

- 83 Where an invoice includes an offset amount for a credit note, only the balance payable is used for reporting purposes. Netting off invoice values can only be done where the credit is applied to an invoice that requires (or would require) payment.
- 84 Where an invoice is not payable or only partially payable because of a separately issued credit note, the value used for reporting purposes is the total value stated on the invoice. The date of payment is when payment of the invoice is made or is no longer required.
- 85 Arrangements that have discounts applied, but still require payment, may be a trade credit arrangement if there is a delay between supply of goods or services and the payment of those goods or services. The relevant amount of the invoice is the discounted amount due to be paid.

Excluded payments

- 86 Some payments are not trade credit arrangements with small business suppliers, including:
- payment of royalties that are not connected to the supply of goods or services
 - payment of employees subject to Pay As You Go (PAYG) withholding
 - intragroup payments, that is, payments to other member entities of the same corporate group
 - payments that are pre-paid, such as travel (including airfares, hotels, taxis) and restaurant expenses
 - payments made under arrangements where a recipient created tax invoice is used. Because recipient-created tax invoices are not issued by small business suppliers, they are not a small business invoice for the purposes of reporting.

Credit card payments

- 87 Payment by credit card does not mean a transaction was not made under a trade credit arrangement. Credit cards may be used to make payments under trade credit arrangements.
- 88 Transactions cannot be excluded from reporting on the basis that payment was made by credit card.
- 89 If an entity excludes credit card payments from reports based on their policy that credit cards are not used for trade credit arrangements, we may request details of how the entity audits its credit card payments to ensure compliance.

Payment terms

Arrangements, agreements and contracts

- 90 Reporting entities are required to report on procurement that is made under an arrangement, agreement or contract that creates a legally binding agreement to pay for goods and services.
- 91 Reporting is not limited to formal written agreements and may include oral agreements, or arrangements made partly in writing and partly orally.

Standard payment period

- 92 Standard payment periods are the standard payment terms offered to small business suppliers providing goods and services. If an entity does not have standard payment terms, it reports on

the most common terms (or mode in statistical terms) included in its agreements with small business suppliers.

- 93 If the standard payment period on offer is a date range or period, this must be reported as the highest number of calendar days in that date range or period. For example, a standard payment period of 30 to 60 days is reported as 60 days. Similarly, a standard payment period of 'payable within 30 days of the end of the month' may need to be reported as 61 days.

Invoices

- 94 Reporting entities must report payment times on an invoice payment if all of the following apply:
- The invoice relates to the supply of a good or service by a small business supplier.
 - The entity procured the good or service from the small business supplier under a trade credit arrangement.
 - The reporting entity is contractually obliged to pay the invoice.
- 95 Reporting entities are required to keep records of any information used to prepare a payment times report,²⁰ including all invoices used for calculating total procurement.

Combined invoices

- 96 If an invoice covers payments to be made under different arrangements, agreements or contracts, count each one separately. If one of the agreements is not required to be reported, do not include the payment in the report.

Invoice date

- 97 Reporting entities must report on payment times based on an invoicing date. Entities may use:
- the invoice receipt date – the date the reporting entity received the invoice, or
 - the date of issue on the invoice – if the receipt date cannot be easily determined by the reporting entity.
- 98 For contractual arrangements, the invoice will be considered received by the entity in accordance with the contract's invoicing requirements (either written or oral). This will ensure payment times reported reflect the terms agreed.
- 99 The date of receipt of an invoice is determined by the date it was received by the entity from the supplier, not when the invoice is entered into the entity's accounting or information systems or when it is approved or authorised.
- 100 Where an invoice is issued but is contingent on an event occurring, there may not be a trade credit arrangement until the event occurs. In these cases, the date the event occurred can be used for calculation of payment times.
- 101 If an entity determines that ascertaining the invoice receipt date would not be supported by its record-keeping processes, it may elect to use the invoice issue date for all invoices. Whether an invoice receipt date can be easily determined is not required for each individual invoice. Entities may use an approach that uses both invoice receipt dates and invoice issue dates.

²⁰ *Payment Times Reporting Act 2020 (Cth) s 29(1)*

- 102 We will not consider a report to be misleading because payment times were calculated from the invoice issue date, or a combination of invoice issue date and invoice receipt date, provided this calculation methodology is disclosed in report comments. See [Guidance note 2: Preparing a payment times report](#) for information on false and misleading reports.

Disputed invoices

- 103 An invoice being subject to a dispute is not a reason for excluding it from payment times reporting.
- 104 An invoice may only be excluded:
- where it was reissued following identification of an error (exclude the original invoice)
 - where it was reissued to meet the requirements of a tax invoice (exclude the original invoice), or
 - where it was not given by the small business supplier in the manner it was contractually required to be given. For example, where a paper invoice is issued but the supplier was required to use eInvoicing.
- 105 Disputed invoices are considered resolved when the earlier of the following occurs:
- both parties reach an agreement over the dispute and payment is made, or
 - the small business supplier hasn't raised a dispute and the contractual dispute period has ended.
- 106 Invoices that are partially paid due to a dispute are not considered paid until full payment is made or the dispute is resolved.
- 107 Reporting entities can provide anonymised information about disputed invoices in the comments of their report, including the impact of disputed invoices on payment times. Comments should not include information that identifies, or is capable of being used to identify, the small business supplier. If information does identify a small business supplier, we may redact this information prior to publication.

Supply chain finance

- 108 Where supply chain finance arrangements are used, the invoice is considered paid when it would have been due for payment had the small business supplier not used supply chain finance.
- 109 For example:
- If the payment term is 30 days but the supplier elects to receive payment in 10 days after being offered a dynamic discount of 2% from a third-party supply chain finance financial institution, the reporting entity must use 30 days when calculating its payment times for reporting purposes.
 - If the standard term is 30 days but the supplier and reporting entity have negotiated a settlement discount, where the supplier will accept a 2% discount for the invoice to be paid within 5 days by using a third-party supply chain finance financial institution, the reporting entity must use 30 days when calculating its payment times for reporting purposes.

Governance

Key points

- Reporting requires details of the reporting entity's principal governing body. This includes a description and details of the membership of the body responsible for the entity's governance.
- An individual responsible member of the principal governing body can approve and sign declarations and payment times reports.
- Obligations for partnerships, unincorporated associations, trusts and superannuation funds may be applicable to individuals responsible for their governance.

Principal governing body

- 110 The principal governing body of a reporting entity is the body or group of members of an entity that have primary responsibility for its governance.
- 111 The principal governing body must be made up of individuals that are members of the entity. The principal governing body cannot be a body corporate, external service provider or be formed of other types of entities that are not individuals.
- 112 For clarity, government departments and agencies responsible for the regulatory oversight of the entity, such as Australian Securities and Investments Commission (ASIC) and Australian Prudential Regulation Authority (APRA), are not the entity's principal governing body.
- 113 Responsibility for governance may be determined by legislation, an entity's formation documentation or a contractual arrangement. For example:
- the principal governing body of a body incorporated under the *Corporations Act 2001* will generally be the entity's board of directors who have statutory obligations for the governance of the entity
 - a partnership may assign primary responsibility for governance obligations to a committee or group under its partnership agreement
 - a contractual arrangement may pass governance responsibility for a joint venture to the operator of the joint venture
 - a trustee may be responsible for the oversight and governance of a trust.
- 114 Indicators of primary responsibility may include:
- signing-off annual reports/financial statements
 - an ability to influence or determine the entity's policies
 - oversight of the central management and control of the entity
 - ultimate responsibility for risk management of the entity.
- 115 Reporting entities should provide sufficient information in payment times reports for a reader to be able to identify the principal governing body in the entity's structure and the individuals that made up its membership during the relevant period.

Responsible member

- 116 The Act allows a responsible member to act on behalf of a reporting entity, including for approval of a report and signing required declarations.
- 117 A responsible member of an entity must be an individual member of the entity's principal governing body, or:
- the trustee, for entities that are sole trustees
 - the individual constituting the corporation for a corporation sole, or
 - an administrator where an entity is in administration.
- 118 A responsible member of the controlling corporation may act on behalf of all member entities.

Trusts, partnerships and unincorporated entities

- 119 Obligations may be imposed on individual members of certain unincorporated entities:
- When an obligation under the Act on a partnership is imposed on all partners of the partnership, but obligations can be discharged by any of the partners.²¹
 - When an obligation under the Act on an unincorporated association or body is imposed on each member of its committee of management but can be discharged by any of the members.²²
 - For trusts, superannuation funds and approved deposit funds with a single trustee, obligations of the trust are imposed on the trustee. The trustee must discharge the obligations of the trust.²³
 - For trusts, superannuation funds and approved deposit funds with multiple trustees, obligations of the trust are imposed on any of the trustees. Any trustee can discharge the obligations of the trust.²⁴
- 120 Civil penalties for these entities for failure to comply may also be imposed on individual members or trustees responsible for the governance of the reporting entity.²⁵

²¹ *Payment Times Reporting Act 2020* (Cth) s 48(2)

²² *Payment Times Reporting Act 2020* (Cth) s 49(2)

²³ *Payment Times Reporting Act 2020* (Cth) s 50(2)

²⁴ *Payment Times Reporting Act 2020* (Cth) s 50(3)

²⁵ *Payment Times Reporting Act 2020* (Cth) s 48(3), 49(3) and 50(2)-(3)