

The Auditor-General
Audit Report No.20 2004–05
Performance Audit

The Australian Taxation Office's Management of the Energy Grants (Credits) Scheme

© Commonwealth
of Australia 2004

ISSN 1036–7632

ISBN 0 642 80815 5

COPYRIGHT INFORMATION

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth available from the Department of Communications, Information Technology and the Arts.

Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Intellectual Property Branch, Department of Communications, Information Technology and the Arts,
GPO Box 2154
Canberra ACT 2601 or posted at

<http://www.dcita.gov.au/cca>

Canberra ACT
21 December 2004

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Australian Taxation Office in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *The Australian Taxation Office's Management of the Energy Grants (Credits) Scheme*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely



P. J. Barrett
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

For further information contact:

The Publications Manager
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Telephone: (02) 6203 7505

Fax: (02) 6203 7519

Email: webmaster@anao.gov.au

ANAO audit reports and information about the ANAO are available at our internet address:

<http://www.anao.gov.au>

Audit Team

Anne Cronin
Andrew Huey
Katherine Buchanan
Peter White

Contents

Abbreviations and glossary	7
Summary and Recommendations	9
Summary	11
Recommendations.....	19
Audit Findings and Conclusions	21
1. Background and Context.....	23
Introduction.....	23
Energy Grants Credits Scheme	26
EGCS policy context	30
Consultations.....	35
Previous reviews	36
Audit objective, methodology and cost.....	37
Audit report structure.....	38
2. Planning, Monitoring and Reporting.....	39
Introduction.....	39
Effective planning processes	40
Monitoring performance	43
A structured and regular system of performance reporting.....	49
Framework to evaluate EGCS performance against its objectives.....	50
3. EGCS Compliance Management	54
Introduction.....	54
EGCS intelligence and risk management	54
ANAO comment	58
ATO Compliance Program	59
EGCS Compliance Program	60
Conclusion.....	68
Debt management and penalty processes.....	69
Cost of compliance and cost of administration.....	71
4. Scheme Processes and Controls	73
Introduction.....	73
EGCS processing.....	74
Controls	76
ANAO conclusion	78

Appendices79

Appendix 1: Agency response.....81

Appendix 2: Grant rates for the EGCS and relevant excise duty rates.....88

Appendix 3: Evolution of EGCS policy91

Appendix 4: Monitoring bodies94

Appendix 5: Overview of EGCS IT systems.....95

Index97

Series Titles99

Better Practice Guides.....101

Abbreviations/glossary

ATO	Australian Taxation Office
AWA	Automated Work Allocation system
BDAC	Business Delivery and Active Compliance stream
business rule	A rule with its basis in ATO policy or legislation that is applied to information provided by clients to establish the integrity of that information. Business rules can be configured in different ways for different schemes. Some validations check for data errors, others check for risk.
DAFGS	Diesel and Alternative Fuels Grants Scheme
data exception	Generated when data provided by a taxpayer is incorrect and needs amending to process fully.
DEH	Department of the Environment and Heritage
DFIG	Diesel Fuel Industry Group
DFRS	Diesel Fuel Rebate Scheme
DOTARS	Department of Transport and Regional Services
ECCC	Excise Client Contact Centre. Also known as the Diesel Fuel Information Line (DFIL) and the Fuel Grants Info-Line (FGIL).
ECI	Electronic Commerce Interface
EGCS	Energy Grants Credits Scheme
ELS	Electronic Lodgement Service
FSAF	Fuel Schemes Advisory Forum. Also known as the Fuel Schemes Advisory Group (FSAG).
GPS	Generic Payments System
IT	Information Technology
off-road scheme	DFRS
on-road scheme	DAFGS
R&I	Risk and Intelligence stream. Also known as Risk & Intel.
TAA	Taxation Administration Act

Summary and Recommendations

Summary

Context

Introduction

1. The Australian Taxation Office (ATO) is responsible for administering Australian taxation law and collecting taxation revenue. In administering taxation law, the ATO also administers commodity-based revenue (excise) and payment schemes.¹
2. The Energy Grants Credits Scheme (EGCS) is the most significant of the ATO's four excise transfer schemes.² It provides a credit on excise and customs duty for the off-road and on-road use of diesel fuel and alternative fuels³ used in certain eligible activities.⁴ Compared to total revenue collected from petroleum fuel excise of approximately \$13 billion in 2002–03, some \$3.1 billion was returned under EGCS' off-road and on-road credits in 2003–04.
3. EGCS replaced the Diesel Fuel Rebate Scheme (DFRS) and the Diesel and Alternative Fuels Grants Scheme (DAFGS) in July 2003 as part of the Government's May 1999 policy changes in its *Measures for a Better Environment*. EGCS maintained the entitlements that claimants had under DFRS and DAFGS, its underpinning policy being to reduce costs for key export industries and the cost of transport in regional and rural Australia.

EGCS administration

4. EGCS is administered under two pieces of legislation. The *Energy Grants (Credits) Scheme Act 2003* sets out the eligibility requirements for a grant or credit and the *Product Grants and Benefits Administration Act 2000* sets out the framework for the administration of a number of energy grants and benefits administered by the Commissioner of Taxation, including EGCS.
5. The EGCS administrative process involves: registration of claimants; the principles of self-assessment, whereby claimants are responsible for assessing their eligibility in accordance with the rules of the Scheme, and

¹ The ATO assumed responsibility for excise collection and payments from the Australian Customs Service in February 1999.

² The other excise transfer schemes are the Fuel Sales Grants Scheme (FSGS), Product Stewardship (Oil) Scheme (PSO), and the Cleaner Fuels Grants Scheme (CFGs).

³ Alternative fuels (in the case of on-road use) include ethanol, compressed natural gas, and liquefied petroleum gas. Although alternative fuels are eligible under EGCS, they are not widely used; approximately 99 per cent of all EGCS claims are for diesel.

⁴ Eligible EGCS activities include: road, rail and marine transport; agriculture; fishing; forestry and mining.

keeping appropriate records to support their claims; and a claiming process. Claims may be submitted at any time within three years of fuel purchase, as long as the claimant has purchased the fuel, and used it (or intends to use it) in an eligible activity. During 2003–04, there were approximately 24 000 registrations for EGCS, and the ATO received almost 450 000 claims.

6. At the end of June 2004, there were almost 194 000 claimants for EGCS, 91 per cent of which were micro entities.⁵ The agriculture and road transport industries account for the most claimants, over 60 per cent and 36 per cent respectively. The mining and road transport industries account for most payments in value terms, over 34 per cent and 27 per cent of the value of payments in 2003–04, respectively.

Future of EGCS

7. On 15 June 2004, the Prime Minister announced a range of changes to fuel excise as part of the Energy White Paper.⁶ The White Paper also proposes, as of mid-2006, new eligibility criteria for EGCS (including expanding the Scheme in terms of eligible fuels and activities) and that EGCS be part of the single system of business credits administered through businesses' existing Business Activity Statements.

Audit rationale, objective and scope

8. EGCS has only been operating since mid-2003. However, it accounts for significant payments, and concerns had been raised about the administration of DFRS, a precursor to EGCS.⁷ In light of these factors, and the further changes in EGCS foreshadowed in the Energy White Paper, we considered it appropriate to examine, at this point, whether the ATO has reasonable (comprehensive and dynamic) frameworks underpinning the administration of the Scheme.

9. The objective of the audit was to assess whether the ATO has established an administratively-effective framework for the management of EGCS. Specifically the audit sought to:

- appreciate the Scheme's policy context and rationale;
- review the ATO's EGCS planning, compliance management, monitoring, reporting and evaluation frameworks; and

⁵ For the ATO, micro businesses are entities with an annual turnover of less than \$2 million.

⁶ Australian Government, 2004, *Securing Australia's Energy Future*.

⁷ See, especially, Audit Report No.20 1995–96 *Australian Customs Service—Diesel Fuel Rebate Scheme*.

- assess the Scheme's administrative framework, bearing in mind the administrative difficulties highlighted in the previous ANAO performance audits⁸ of the Scheme's predecessor, DFRS.

Key findings

Background and context—Chapter 1

10. The policy context for EGCS, and indeed its predecessor schemes, has been dynamic. Factors, such as evolving tax and environmental measures and negotiations at the Parliamentary level, have affected EGCS policy.

11. The legislated policy objectives of EGCS were to: encourage the use of cleaner fuels; replace DFRS and DAFGS with a single payment scheme providing entitlements equivalent to those schemes; and provide a common administrative approach for all clients, as well as simplifying their interactions with the ATO.

12. There has been an evolution in the manner in which some of the originally-announced goals of EGCS have been met. In particular, the Government's 'cleaner fuel' policy objectives for EGCS have been addressed, in most part, by measures other than EGCS, notably by subsidies for the production of low sulphur diesel and petrol for two years, prior to the mandating of cleaner fuels standards for these fuels. One result of this evolution is that there is only a partial match between some of the originally-announced goals of EGCS, the purpose stated in the legislation and supporting materials, and what was introduced in EGCS.

New policy objectives and administration for EGCS

13. The Government's Energy White Paper outlines a complete overhaul of the excise system (of which EGCS is a part). It advocates marked changes in the underlying policy principles for the excise system. It also proposes major changes to EGCS' scope and administration, commencing in mid-2006. Although details are yet to be defined, the proposed changes have substantial implications for EGCS in the future. The formulation of legislative and administrative design to give effect to these changes requires the input of the Treasury, the ATO, and other agencies such as the Department of Transport and Regional Services (DOTARS) and the Department of the Environment and

⁸ Audit Report No.20 1995–96 *Diesel Fuel Rebate Scheme—Australian Customs Service*, which followed up on the earlier report, Audit Report No.27 1990–91 *Australian Customs Service—Diesel Fuel Rebate Scheme*.

Heritage (DEH).⁹ These development and design tasks require relevant agencies to work together to give effect to the policy objectives of Government. Part of the process will require relevant agencies to clarify some of the policy objectives outlined in the White Paper.

Previous reviews

14. We reviewed how the ATO's framework for EGCS administration deals with the concerns identified in relevant previous performance audits¹⁰, particularly the concerns in the 1995–96 audit. These issues included the clarity of scheme objectives, IT systems for scheme support, staff training, risk management, the application of administrative penalties, performance review, quality assurance, and cost of administration.

15. The ATO's frameworks and systems deal with most of the themes of concern, but the clarity of Scheme objectives and evaluation of performance against Scheme objectives remain outstanding issues. When looking at changes to the Scheme in the context of the Energy White Paper, Treasury, the ATO and other relevant agencies should consider:

- the clarity of objectives;
- the ways the design of the new Scheme addresses these objectives; and
- sources of data to evaluate performance against the stated objectives.

Consultations

16. We consulted with industry groups and government bodies represented on the ATO's Fuel Schemes Advisory Forum (FSAF), individual claimants and the Commonwealth Ombudsman's Special Tax Adviser about the ATO's administrative frameworks and processes for EGCS. Stakeholders were supportive of the ATO's administration of EGCS, including consultation and information provision mechanisms, Scheme processing and compliance activities.

Planning, monitoring and reporting—Chapter 2

17. The ATO has established robust planning, monitoring and reporting frameworks. These involve: structured approaches to planning; extensive

⁹ DOTARS has responsibilities in relation to fuel emission standards. For EGCS it will have responsibilities in administering the criteria that allow excise credits for heavy diesel vehicles that meet one of five emission performance criteria. DEH has responsibilities in relation to the Greenhouse Challenge Program which will apply to certain categories of EGCS beneficiaries (namely, businesses receiving fuel excise credits of more than \$3 million per year).

¹⁰ Audit Report No.20 1995–96 and Audit Report No.27 1990–91, *ibid*.

processes; active bodies for performance monitoring; and well-structured and timely performance reports, despite the reporting framework being complex.

18. The inclusion of explicit targets for performance in EGCS planning, monitoring and reporting documents would strengthen the overall planning, monitoring and reporting framework for EGCS administration. Targets provide benchmarks against which to assess activity and performance.

19. The ATO assesses its performance in undertaking activities in administering the Scheme (for example, processing registrations and timeliness of claims processing). It performs these administrative activities well, meeting or exceeding its forecasts and service standards. However, the ATO does not consolidate these performance views, to articulate or monitor what these aspects mean for the ATO's overriding Scheme objectives (that is, to reduce the cost of compliance for clients and the cost of administration for the ATO).

Framework to evaluate EGCS performance against objectives

20. The ATO's performance review focus, to date, has been on its administrative tasks in devising and managing EGCS in its early stages. These tasks relate to Scheme design, practices and mechanisms to implement and operate the single payment scheme replacing the two previous schemes, and provision of equivalent entitlements to those schemes. The ATO's performance monitoring framework does not include ways to monitor in a formal, collective and ongoing way, performance against its overriding Scheme administrative objectives. However, the ATO monitors activities that provide indications of performance against these administrative objectives. There would be benefit in the ATO developing its performance monitoring framework by bringing together its current relevant, though partial, views of administrative performance and articulating these in plans and performance reports in a consolidated way.

21. Although the ATO does not have a formal framework to assess EGCS performance against its administrative objectives, the ATO has 'achieved' its objectives in key areas. The ATO introduced and administers EGCS. In doing so the ATO:

- replicated, in one scheme, the entitlements under the previous two separate schemes;
- introduced some common provisions; and
- applied a common legislative framework for administration.

22. These administrative changes allow the ATO to streamline administration and permit clients to simplify their interactions with the ATO.

23. There is a divergence between the formal objectives of EGCS as originally framed (including in legislation) and subsequent policy and administrative developments. This divergence should be resolved for a greater measure of transparency in Government operations.

24. The Government intends to reshape EGCS at both the policy and administrative levels as part of the Energy White Paper proposals. In the development phase, agencies, such as Treasury, the ATO, DOTARS and DEH, have roles in the development of detailed operational policy and the legislative and administrative design of the new Scheme. In undertaking these development tasks, it would be prudent for relevant agencies to document their considerations of how the design of the new Scheme aligns with the objectives Government has specified.

EGCS compliance management—Chapter 3

EGCS intelligence and risk management

25. The ATO uses a range of intelligence and risk management approaches to assist it to target its compliance activities to areas of highest risk. The ATO largely focuses on the identification, assessment and treatment of risks at an individual claim and claimant level, and risk management analytical work largely has an operational/tactical focus. The continued development and documentation of the ATO's analytical work, and consideration of potential strategic risks and their management, would improve Scheme administration at the strategic level.

EGCS compliance program

26. Key elements of the well-developed EGCS compliance framework include: marketing and education; interpretative advice; and active compliance.¹¹ The compliance framework also includes debt management and penalties and specific measures to deal with more serious non-compliance, for example, where fraud is suspected.

27. The ATO does not clearly document how the EGCS compliance program targets identified compliance risks as opposed to responding to non-compliance at the case level. The ATO's apparent focus on individual claims or clients, limits its ability to address, through its compliance program, industry-specific and whole-of-Scheme compliance risks.

¹¹ Active compliance activities include: checking registration, eligibility and some claims; undertaking audits; and assessing overall revenue leakage.

28. One of the ATO's specific compliance tools is to assess Scheme revenue leakage (that is underpayments and overpayments), based on a statistical sample of randomly-selected claims in the review period. EGCS claims have not been included in the revenue leakage assessments so far as the Scheme only commenced in mid-2003. However, the leakage assessment work is relevant to EGCS compliance management, as many of the claimants examined in the preceding schemes have become EGCS claimants. The ATO's revenue leakage assessments estimate leakage for DFRS at 1–2 per cent of claims paid. The ATO considers this to be an acceptable rate. We agree, given the numbers of claims and payments made.

29. The revenue leakage review results may not be reported for up to two years after the period in which the ATO payments were made. The latest revenue leakage assessment (relating to 2002–03 claims), was completed in 2004–05. The ATO's ability to adjust claims retrospectively and recover any overpayments, mean lags in finalising the review do not affect the overall amounts paid. However, lags do bear on the timeliness of risk and compliance management activity. ATO compliance management would be improved by the ATO improving the timeliness of the revenue leakage review processes.

Cost of compliance and cost of administration

30. The activities that the ATO undertakes to manage compliance, translate, for clients, into compliance activities bearing on them and, therefore, cost of compliance. The compliance and processing activities translate, for the ATO, into the cost of administration. The ATO's estimates of the cost of administering EGCS and its predecessors since 2000–01, show that its administrative costs per claim have declined. The ATO's consultative and complaint monitoring mechanisms, and our discussions with claimants and their representative organisations, show that claimants are broadly supportive of the ATO's administrative processes and compliance efforts.

Scheme processes and controls—Chapter 4

31. The ATO has established an appropriate and comprehensive framework for EGCS processing. This framework is supported by automated and manual controls such as: business rules to detect incorrect EGCS information; procedures documentation; staff skilling; and quality assurance processes.

Overall conclusion

32. Overall, we consider that the ATO has comprehensive and administratively-effective frameworks relating to the management of EGCS.

33. The policy and administrative environments have evolved and continue to do so. The foreshadowed, further changes in policy and administration present an opportunity to enhance the transparency of Scheme objectives and ways to evaluate performance against these objectives.

34. The frameworks are reasonable (and deal with most of the themes of concern in DFRS administration). The planning, monitoring and reporting framework is structured and appropriate. The risk and compliance management framework is generally well-developed and the processes and controls framework is comprehensive. Moreover, there are positive indications about the administrative effectiveness of the frameworks in practice, with the achievement of ATO processing standards (where these have been defined), the reduced cost of Scheme administration compared to its predecessors, and broad support about ATO administration from stakeholders and claimants.

35. The ATO's future management of EGCS could be improved in the following areas:

- performance monitoring;
- strategic management of EGCS risks;
- revenue leakage assessment processes as part of compliance management; and
- the links between risk management and compliance management activity.

Recommendations and ATO response

36. The ANAO has made five recommendations aimed at improving the ATO's administration of EGCS.

37. The Department of the Treasury agrees with the recommendation directed to it.

38. The ATO has advised that it welcomes the report and agrees with all four recommendations. While the ANAO has concluded that the ATO has a comprehensive and administratively-effective framework for managing EGCS, the ATO accepts that improvements can be made as the Scheme moves from its first year of operation.

39. The ATO's full response is reproduced in Appendix 1 of the report.

Recommendations

Set out below are the ANAO's recommendations aimed at improving the ATO's administration of EGCS. Report paragraph references are included, with abbreviated responses. More detailed responses are shown in the body of the report. We consider that the ATO and the Treasury should give priority to Recommendations 2, 3 and 5.

Recommendation

No.1

Para 2.39

The ANAO recommends that, to improve management's ability to gauge success in EGCS administration, the ATO:

- devise performance measures, which relate directly to the ATO's overriding objectives in administering the Scheme;
- define explicit targets or benchmark standards for performance measures; and
- include such targets in planning documents.

ATO Response: Agreed.

Recommendation

No.2

Para 2.61

The ANAO recommends that, in developing legislative and administrative frameworks for EGCS, Treasury, in consultation with the ATO and other agencies with relevant administrative responsibilities:

- clearly express the way in which the Scheme's objectives will be achieved; and
- identify data by which to assess Scheme performance in achieving Government objectives.

Treasury Response: Agreed.

Recommendation

No.3

Para 3.23

The ANAO recommends that, in order to enhance the strategic management of EGCS risks and the transparency and rigor of the process, the ATO:

- undertake more extensive analysis of available data, including payment histories, compliance results, and case referrals. This analysis should be undertaken at an industry and whole-of-Scheme level; and
- more clearly document potential strategic EGCS risks, their assessment and treatment.

ATO Response: Agreed.

Recommendation

No.4

Para 3.64

The ANAO recommends that the ATO improve the timeliness of its revenue leakage assessment process, to enhance its contribution to EGCS compliance management.

ATO Response: Agreed.

Recommendation

No.5

Para 3.72

The ANAO recommends that the ATO strengthen, and make more explicit, the links between its risk and compliance management activities to better target industry-specific and whole-of-Scheme risks, and allocate appropriate resources to areas of highest risk.

ATO Response: Agreed.

Audit Findings and Conclusions

1. Background and Context

This Chapter outlines the Energy Grants Credits Scheme and its policy context, and considers how the Scheme deals with the issues that were particularly problematic in its predecessor, the Diesel Fuel Rebate Scheme. The Chapter also describes the audit's conduct.

Introduction

The Australian Taxation Office and excise payment schemes

1.1 The Australian Taxation Office (ATO) is responsible for administering Australian taxation law and collecting taxation revenue. In 2003–04, the ATO's total revenue collections were \$198.7 billion.

1.2 In administering taxation law, the ATO also administers commodity-based revenue (excise) and payment (or transfer) schemes.¹² The Energy Grants Credits Scheme (EGCS or the Scheme) is the largest of the ATO's excise transfer schemes.¹³ EGCS replaced the Diesel Fuel Rebate Scheme (DFRS) and the Diesel and Alternative Fuels Grants Scheme (DAFGS) in July 2003 as part of the Government's May 1999 policy changes in its *Measures for a Better Environment*. EGCS maintained the entitlements that claimants had under DFRS and DAFGS.

1.3 As at 30 June 2004, 21 009 staff were employed by the ATO. Of these, approximately 197 full-time equivalent (FTE) staff undertook EGCS-related activities. During 2003–04, the ATO processed almost 450 000 EGCS claims, paying over \$3.1 billion.

Entitlements under DFRS and DAFGS

1.4 DFRS (also called the 'off-road scheme') provided a rebate of the excise and customs duty paid on diesel and like fuels¹⁴ purchased for specific off-road

¹² Transfers are movements of money that is not revenue, eg tax offsets and grants. The ATO assumed responsibility for the management of excise collection and transfers from the Australian Customs Service in February 1999.

¹³ The other excise transfer schemes are the Fuel Sales Grants Scheme (FSGS), Product Stewardship (Oil) Scheme (PSO), and the Cleaner Fuels Grants Scheme (CFGs). The 2004–05 Budget announced that the FSGS will cease in 2006–07 and funding be redirected to roads. In 2003–04, EGCS accounted for approximately 93 per cent of the payments made under the ATO's excise fuel transfer schemes.

¹⁴ Like fuels attracting the same rate of rebate as diesel were: fuel oils, kerosene, heating oil, and any other petroleum products that could have been used in an internal combustion engine.

uses.¹⁵ Started in 1982, but with origins going back to 1957, one purpose of DFRS was to maintain competitiveness in key export industries, such as mining and agriculture, by reducing the tax impost on fuel in specified circumstances.

1.5 DAFGS (the ‘on-road scheme’) provided grants for the on-road use of fuel by businesses and other entities. The scheme started on 1 July 2000 and was designed to reduce transport costs, particularly for rural and regional Australia. DAFGS was available for the on-road use of diesel and specified alternative fuels¹⁶ in vehicles, with a gross vehicle mass of 4.5 tonnes or more, registered for use on public roads. However, place of use, nature of journey and type of vehicle also affected eligibility.¹⁷

ATO Excise business line

1.6 Most EGCS-related administrative activities¹⁸ are carried out by the ATO’s Excise business line.¹⁹ The Excise business line consists of three streams: Business Delivery and Active Compliance (BDAC); Risk and Intelligence (Risk & Intel); and Business and Technical Support (BATS). BDAC is a key player in Scheme administrative processes, including registration and claim processing. The areas of the Excise business line undertaking EGCS-related activities are depicted in Figure 1.1.

¹⁵ Mainly activities in mining, primary production (including forestry, agriculture and fishing) and rail and marine transport. However, not all off-road activities in these operations were eligible for the rebate. The use of any vehicle on a public road was not eligible for DFRS.

¹⁶ Compressed Natural Gas (CNG), Liquid Petroleum Gas (LPG), recycled waste oil, ethanol and canola oil.

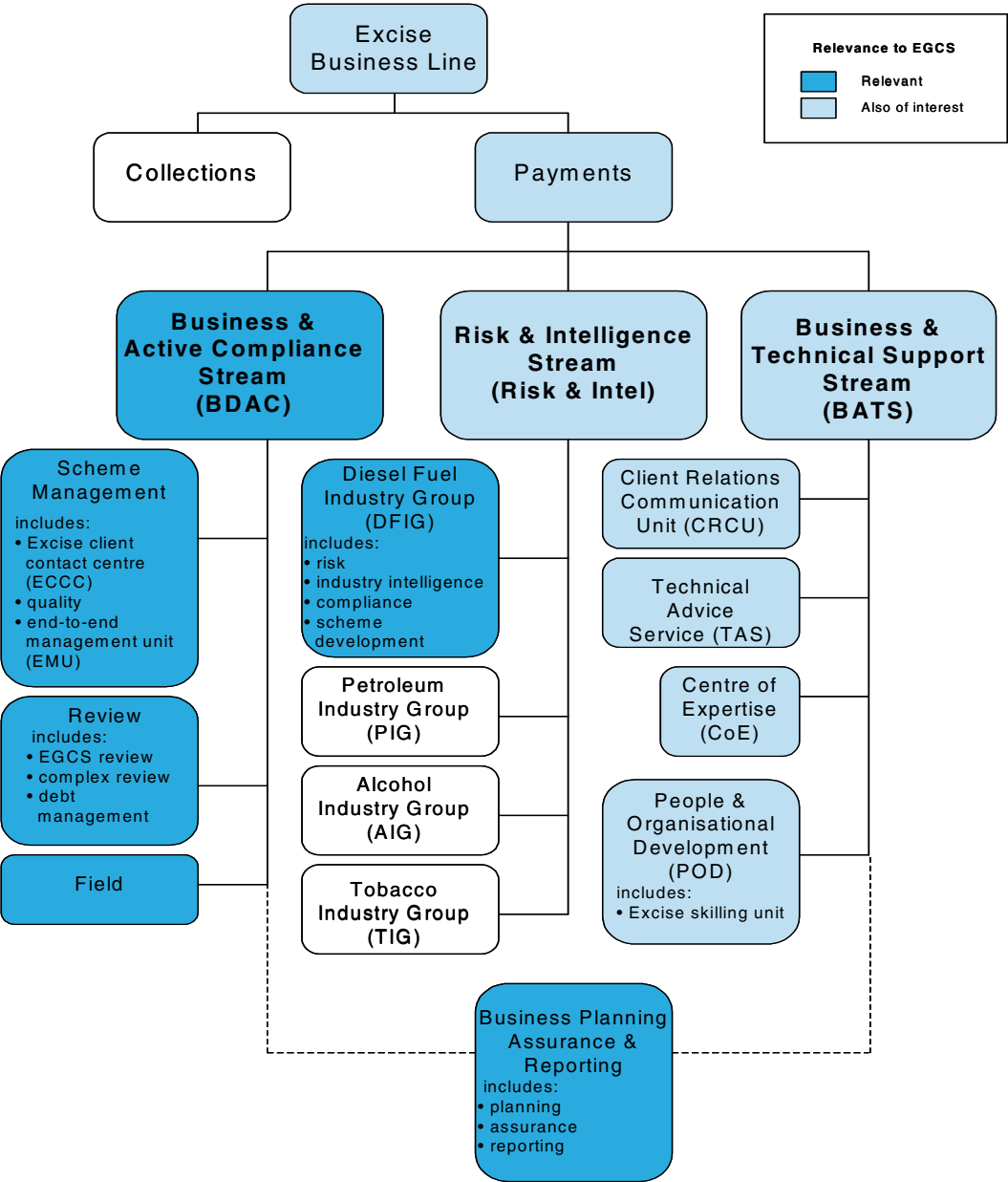
¹⁷ Eligibility was for all business-related on-road use of diesel and alternative fuels in vehicles over 20 tonnes. Eligibility for vehicles between 4.5 and 20 tonnes, depended on where the journey was undertaken and the type of transport service provided. The grant was not available for journeys solely within metropolitan areas. Journey restrictions did not apply to vehicles transporting goods or passengers on behalf of primary production businesses, buses using alternative fuels and emergency vehicles.

¹⁸ Other commodity-based revenue and business payment systems are also managed by the business line.

¹⁹ Other business lines are also involved in aspects of EGCS administration. For example, the scanning and printing functions associated with lodging EGCS claims made on paper forms, are undertaken by the ATO Operations service line. Investigations into serious non-compliance, or fraud are undertaken by the Serious Non-Compliance (SNC) service line. The focus of this audit was the EGCS activities carried out by the Excise business line.

Figure 1.1

Organisational chart—EGCS administrative responsibilities in the Excise business line



Source: ANAO representation of ATO information

Energy Grants Credits Scheme

Legislation

1.7 EGCS is administered by the ATO under two pieces of legislation. The *Energy Grants (Credits) Scheme Act 2003* sets out the eligibility requirements for a grant or credit. The *Product Grants and Benefits Administration Act 2000* sets out the framework for the administration of a number of energy grants and benefits administered by the Commissioner of Taxation. The latter legislation covers topics such as registrations, payment arrangements, provision of technical advice (public and private rulings), record-keeping requirements and ATO information gathering powers.

1.8 The approach of having a standard framework for administering grants and benefits payment schemes, and having this standard framework separate from the specific entitlements element, was taken in 2000. The aim was to have a streamlined, modular approach in the legislative framework. This was so that, should Government decide to introduce new grants and benefits schemes²⁰, the ATO would be able to apply the standard administrative/compliance framework module, and develop quickly the entitlement module specifically required for the new Scheme.

Features of the Scheme

1.9 EGCS has three main administrative features:

- registration for the Scheme can be done by telephone;
- it is based on self-assessment, which means that claimants are responsible, in the first instance, for assessing their eligibility in accordance with the rules of the Scheme, and keeping appropriate records to support their claims; and
- there is no set claiming cycle, and claims may be submitted at any time within three years of fuel purchase. This means that EGCS claims may be submitted at any time, as long as the claimant has purchased the fuel, and used it (or intends to use it) in an eligible activity. Claims can also be made in respect of eligible purchases made *prior* to registering for the Scheme, provided the claim is made within three years of fuel purchase.

²⁰ As has happened with the introduction of the Energy Grants Cleaner Fuels Scheme in 2003.

Eligibility and rates

1.10 Eligible fuels are categorised by method of use, and include diesel and alternative fuels. Some 99 per cent of all claims are for diesel. EGCS eligible activities include: road, rail and marine transport; agriculture; fishing; forestry; mining; nursing and medical; generating electricity; and other specified industrial processes.

1.11 Rates for EGCS vary depending on activity and fuel type, and are also subject to eligibility requirements. Under the Scheme, there is no relationship between the amount of excise paid and the amount of credit or grant. For example, off-road agricultural claimants receive a payment of approximately 38 cents per litre, whereas on-road transport claimants receive a payment of around 18 cents per litre. See Appendix 2 for EGCS grant rates by activity.

Scheme administration

1.12 The BDAC stream (see Figure 1.1) conducts the day-to-day EGCS processing and administration from a number of ATO offices nationally. The primary EGCS activities carried out by BDAC are:

- **registration**—Clients contact the ATO through the Fuel Grants Information Line (FGIL), also known as the Excise Client Contact Centre (ECCC). ATO operatives ask questions relating to eligibility and identification, and enter data into the Generic Payments System (GPS).²¹ In addition to EGCS registrations, ECCC also manages EGCS-related calls about claims and benefits, account maintenance, (including changes to client details), and requests for general advice.²² In 2003–04, the ATO processed over 24 000 EGCS registrations;
- **claiming**—EGCS claims are submitted to the ATO via one of three channels: manually on paper forms (accounting for the vast majority of claims); electronically using the electronic commerce interface (ECI) or electronic lodgement service (ELS); or eGrant.²³ EGCS claims, by lodgement method, are shown in Figure 1.2;

²¹ Telephone registration is the primary method used. In 2003–04, over 77 per cent of registrations were by telephone. Paper registrations are processed by the Correspondence Unit in ECCC.

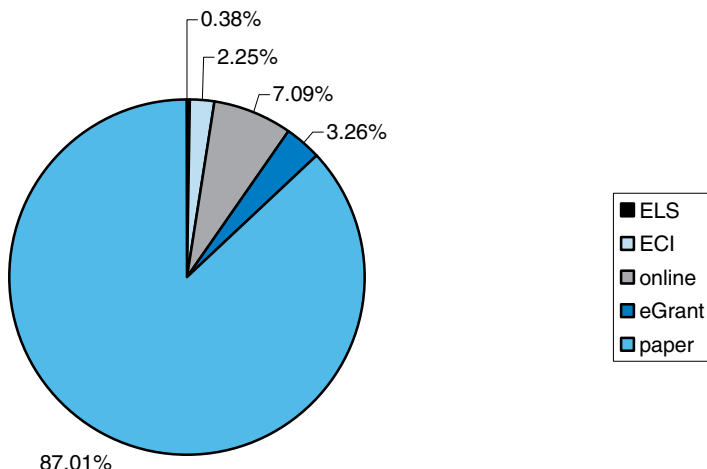
²² General advice includes eligibility for EGCS and other Excise schemes, notices of assessment, and record keeping.

²³ eGrant is a claiming facility that does not involve the client having to lodge a claim form. Instead, the client has their fuel card provider pass their fuel purchase information to the ATO, using the ECI channel to enter the data for processing.

Figure 1.2

Lodgement methods for EGCS claims 2003–04

Lodgement methods for EGCS claims 2003–04



Source: ANAO analysis of ATO data²⁴

- **processing claims**—EGCS registration and claim information lodged with the ATO is transferred to the GPS for processing.²⁵ GPS validates EGCS claims (that is, tests the information against defined business rules), calculates claim amounts, posts successful claim amounts to the client accounts, and initiates refunds and assessment notices (and forms), as appropriate; and
- **ATO relationship management**—Activities (including implementing service agreements) are undertaken to provide assurance that EGCS-related functions done by ATO business lines outside the Excise business line are carried out effectively and efficiently. The End-to-end Management Unit (EMU) undertakes the relationship management activities.

1.13 The Risk & Intel and BATS streams (see Figure 1.1) also support Scheme administration. Within Risk & Intel, the Diesel Fuel Industry Group

²⁴ In 2003–04 of the 449 944 claims lodged, 391 021 were lodged via paper forms. The remainder were: 1511 via ELS; 9 952 via ECI; 14 627 via eGrant; and 32 833 lodged online.

²⁵ GPS and EGCS processing are discussed in Chapter 4.

(DFIG) undertakes industry intelligence gathering and risk and compliance activities. Within BATS, the:

- Client Relations Communication Unit provides advice on professional communication and services for Excise's external and internal clients;
- Technical Advice Service and the Centre of Expertise provide technical advice (including ATO interpretive decisions and rulings); and
- People and Organisational Development unit provides staff training.

Scheme demographics

1.14 There being no set claiming cycle for EGCS, different sectors have different patterns of claiming. For example, most agricultural sector claims are made once or twice a year, often coinciding with harvesting activities when fuel usage is relatively heavy, while road transport sector claims are made much more frequently.

1.15 At the end of June 2004, there were almost 194 000 active claimants for EGCS, 91 per cent of which were micro entities.²⁶ The numbers of clients and claims, and payments made in 2003–04, by industry activity, are presented in the following table.

Table 1.1

EGCS demographics 2003–04

Industry activity	No. of active clients	%	No. of claims	%	Payments (\$)	%
Agriculture	116 969	60.3	191 961	42.7	720 043 587	22.9
Burner use	180	0.1	162	0.0	3 433 403	0.1
Electricity & nursing	2 010	1.0	3 019	0.7	17 311 521	0.6
Marine	1 657	0.9	5 318	1.2	182 759 431	5.8
Mining	2 379	1.2	7 794	1.7	1 078 881 328	34.3
Rail transport	129	0.1	511	0.1	246 656 989	7.9
Road transport	70 538	36.4	240 678	53.5	855 827 686	27.2
Specified industrial	71	0.0	303	0.1	36 780 723	1.2
Ineligible	0	0.0	198	0.0	0	0.0
Totals	193 933	100	449 944	100	3 141 694 668	100

Source: ATO information (based on active client by claim)

²⁶ For the ATO, micro businesses are entities with an annual turnover of less than \$2 million.

1.16 As shown in Table 1.1, in 2003–04, agriculture and road transport account for the most claimants, over 60 and over 36 per cent, respectively. However, the mining industry and road transport categories account for most payments in value terms, over 34 and over 27 per cent of the value of payments, respectively.

EGCS policy context

1.17 The policy context for EGCS, and indeed its predecessor schemes, has been dynamic. The context has been affected by a range of factors. They include evolving tax and environmental measures and negotiations at the Parliamentary level. The Department of the Treasury, which is responsible for tax policy, advised us during the audit that the policy objectives of EGCS need to be understood in the context of the enabling legislation and the Government's later policy announcements on fuel tax reform. We drew on their guidance as regards the evolving EGCS policy context and objectives.

1.18 DFRS was a longstanding, and administratively complex, scheme that supported selected industries and certain activities within industries.²⁷ DAFGS was introduced in July 2000 after negotiations between the Government and the Australian Democrats as part of tax changes with *A New Tax System*.²⁸ The Government had intended²⁹ to introduce EGCS by July 2002 and put sunset clauses to that effect on the DFRS and the DAFGS. However, the Government extended the schemes to 30 June 2003 after having established the wide-ranging Fuel Tax Inquiry in 2001.

1.19 The Inquiry examined the existing structure of fuel taxation, including related rebates, subsidies and grants. The extension of time on DFRS and DAFGS allowed the Inquiry to complete its work and the Government to consider its report and recommendations.

²⁷ Among the off-road activities *ineligible* for DFRS were: construction, manufacturing, quarrying, dredging, extractive industries and cement makers. Moreover, DFRS operated selectively within industries, for example, within the forestry industry, fuel used in milling timber was eligible, but fuel used after that point in the production process was not.

²⁸ The Government had originally intended with *A New Tax System* to replace the DFRS with diesel fuel credits, with the off-road credit scheme being extended to marine, rail and road transport. Agreed changes in respect of credits on on-road use of diesel extended the scheme to alternative fuels, as well as diesel, to maintain previous price relativities, and also restricted the benefit to certain users in certain geographical areas (to try to address concerns about air quality in large metropolitan areas). Since it is unconstitutional for taxation to discriminate between the States in this way, the on-road scheme had to be made a grants scheme rather than a credit of excise scheme.

²⁹ The Prime Minister's Statement of May 1999 stated that the EGCS 'will be developed jointly by the Government and the Australian Democrats. It will replace the diesel fuel credit scheme on 1 July 2002 by a jointly sponsored bill. The existing diesel fuel credit scheme will have a sunset clause expiring on 30 June 2002. The Energy Credit Scheme will provide price incentives and funding for conversion from the dirtiest fuels to the most appropriate and cleanest fuels.'

1.20 The Inquiry was critical of both schemes, saying that DFRS eligibility was arbitrary, inconsistent and confusing; criticising the cost of compliance reflecting the schemes' cumbersome rules; and casting doubt that DAFGS' metropolitan and vehicle size restrictions would affect diesel use and emissions in urban areas.³⁰

1.21 The Inquiry reported to Government in March 2002³¹, recommending, among other things, replacing DFRS, DAFGS and excise concessions and remission systems with a business fuel credit scheme. The Government responded to the report in May 2002 rejecting the Inquiry's main recommendations. However, the Government has since acted on the recommendations in key areas. These initiatives include the taxation of fuels, and the 2004 Energy White Paper³² proposal to incorporate excise credit payments into the current system of business credits, administered through Business Activity Statements (BAS) (described later in this Chapter).

Scheme objectives

1.22 The legislated objectives of EGCS were to:

- encourage the use of cleaner fuels;
- replace DFRS and DAFGS with a single payment scheme, providing entitlements equivalent to those schemes; and
- provide a common administrative approach for all clients as well as simplifying their interactions with the ATO.

1.23 There has been an evolution in the manner in which some of the originally-announced goals of EGCS have been met; the Government's 'cleaner fuel' policy objectives for EGCS having been addressed, in most part, by measures other than EGCS.

1.24 Figure 1.3, following, highlights the evolving policy context for EGCS. It focuses on the manner in which its 'cleaner fuels' objective emerged and was addressed. A detailed narrative of this process is at Appendix 3.

³⁰ Fuel Taxation Inquiry, *Report*, 2002, pp.121–2.

³¹ Fuel Taxation Inquiry, *Report*, 2002.

³² Australian Government, *Securing Australia's Energy Future*, 2004.

Figure 1.3

Highlights of EGCS' evolving policy context

Objectives and purposes

1999 and 2002—Original goal of EGCS— ‘to provide active encouragement for the move to the use of cleaner fuels by measures additional to DAFGS, while maintaining entitlements equivalent to DAFGS and DFRS.’

2003—Second Reading Speech—to introduce a single scheme (replacing DFRS and DAFGS). The Government indicated it would pursue options as to how EGCS will encourage the conversion to cleaner fuels, as part of the cross-Departmental Energy Task Force then operating. The Task Force was examining fuel taxation, including cleaner fuel initiatives and excise treatment of alternative fuels.

2003—EGCS Bill's Explanatory Memorandum—EGCS will simplify the administrative complexity and requirements and the cost of administration, by replacing two separate schemes with a single compliance and administrative framework (the *Product Grants and Benefits Administration Act 2000*)

2003—During Parliamentary consideration of the EGCS Bill, Government agreed to amend the Bill, inserting section 3A stating that the purpose of EGCS is ‘to provide active encouragement for the move to the use of cleaner fuels’, although the Bill contained no measures to achieve this purpose and the Government had not finalised its policies in relation to cleaner fuels.

Cleaner fuels and associated excise measures

Budget 2003–04 measures for cleaner fuels—for example additional alternative fuels within the scope of EGCS, and incentives for the production of low sulphur diesel and petrol (via the Energy Grants Cleaner Fuels Act) for two years prior to the mandating of cleaner fuel standards for these fuels. The subsidy was funded by an increase in excise rates for petrol and diesel.

Budget 2003–04 announcement of changes to fuel taxation to bring all then-untaxed fuels into the excise and customs duty system, phasing in from mid-2008. This was later deferred to phasing in from mid-2011, with final rates applying in mid-2015. Excise rates are to be based on energy content and provide alternative fuels with a discount of 50 per cent on the full energy content rate.

Source: Department of the Treasury advice

1.25 One result of this evolution in the policy and legislative landscape is that there is only a partial match between some of the originally-announced goals of EGCS, the purpose stated in the legislation and supporting materials, and what was introduced in EGCS. We consider Scheme objectives and the ATO's framework to evaluate performance against its objectives, in Chapter 2.

Further policy and administrative change for EGCS—the Energy White Paper

1.26 On 15 June 2004 the Government released its Energy White Paper, *Securing Australia's Energy Future*.³³ With regard to fuel taxation, the White Paper outlines a complete overhaul of the excise system and replacing the existing system of credits, rebates and subsidies with a comprehensive excise credit arrangement. The White Paper also sets out the Government's guiding excise policy principles, stating that the reform of the excise system is based, to the greatest extent possible, on the view that the excise system should:

- apply in a consistent and transparent way to all relevant fuels and fuel users;
- be competitively neutral, avoiding instances where taxed fuels compete with untaxed fuels;
- minimise tax on business inputs;
- minimise compliance and administration costs for business and government; and
- take account of the government's environmental, social and fiscal objectives.

1.27 The White Paper proposes to reshape EGCS significantly, with changes to eligibility criteria for fuel grant payments (including EGCS), as well as administrative arrangements for managing the payments through a new business credit system. The following changes, outlined in the White Paper, bear on EGCS and Scheme beneficiaries:

- the existing system of excise credit payments will be replaced by a single system of business credits to be administered through businesses' existing BAS. Excise credits will be claimable through the BAS from 1 July 2006³⁴;
- from 1 July 2006, businesses receiving fuel excise credits of more than \$3 million per year will be required to monitor and manage their greenhouse emissions as members of the Greenhouse Challenge programme³⁵;

³³ Australian Government, *Securing Australia's Energy Future*, 2004.

³⁴ *ibid.*, p.93.

³⁵ *ibid.*, p.102.

- as of 1 July 2006, partial excise credits will apply to all fuels, including petrol, used for all business purposes on-road in vehicles with a gross vehicle mass of at least 4.5 tonnes³⁶;
- from 1 July 2006, access to on-road credits for heavy diesel vehicles will be linked with meeting one of five emissions performance criteria designed to provide assurance that vehicles meet the emission standard set under the Diesel National Environment Protection Measure. This replaces the urban-regional boundary system under EGCS, governing eligibility for excise credits for heavy vehicles³⁷;
- from 1 July 2006, a full credit will apply to all fuels used by households and businesses in power generation;
- additional activities will be eligible for credits for fuel used off-road (eg manufacturing, quarrying and construction businesses). Credits for newly eligible activities will be phased in, commencing 1 July 2008³⁸; and
- excise credits will be expanded to deliver zero excise for all business use of all taxable fuels in all off-road activities by 2012.³⁹

Implications of the White Paper for EGCS administration

1.28 Although details are yet to be defined, these proposed changes have substantial implications for the administration of the EGCS in the future. The formulation of legislative and administrative design requires the input of the Treasury, the ATO, and other agencies such as the Department of Transport and Regional Services (DOTARS) and the Department of the Environment and Heritage (DEH).⁴⁰ The ATO has developed an initial project management framework for its work in developing the new Scheme. Once the policy elements are set out after the formulation and circulation of a Treasury discussion paper in November 2004, the ATO proposes to advance work on the administrative design.

³⁶ *ibid.*, p.93.

³⁷ *ibid.*, p.104.

³⁸ *ibid.*, p.17.

³⁹ *ibid.*, p.102.

⁴⁰ DOTARS has responsibilities in relation to fuel emission standards. For EGCS it will have responsibilities in administering the criteria that allow excise credits for heavy diesel vehicles that meet one of five emission performance criteria. DEH has responsibilities in relation to the Greenhouse Challenge Program which will apply to certain categories of EGCS beneficiaries (namely, businesses receiving fuel excise credits of more than \$3 million per year).

1.29 The ATO's task in working with other agencies to devise its new administrative framework for EGCS has some challenges. These arise because the differences between some of the guiding excise policy principles the Government has set out require clarification. An example arises in the goals to minimise compliance and administration costs. The ATO must work to develop and accommodate a range of delivery mechanisms for EGCS recipients, as required, not only the BAS delivery mechanism which was specified in the White Paper.⁴¹

1.30 The EGCS recipients outside the BAS system highlight some of the challenges the ATO has in discharging its administrative design responsibilities. This illustrates the way in which the ATO's administrative solutions must balance its administrative objectives to minimise compliance and administrative costs.

1.31 Concurrent with the ATO's challenge of devising a new administrative framework via the BAS for its energy business credits scheme, it also has the imperative to maintain the current EGCS appropriately. In formulating the new Scheme, the ATO can take some reassurance that its previous EGCS administrative design experience⁴² worked well and resulted in a good administrative framework for EGCS.

Consultations

1.32 We consulted with industry groups and government bodies represented on the ATO's Fuel Schemes Advisory Forum (FSAF), individual claimants and the Commonwealth Ombudsman's Special Tax Adviser. These consultations allowed us to canvass a range of views on the ATO's administrative frameworks and processes for EGCS.

1.33 Those consulted were supportive of the ATO's administration of EGCS, including consultation and information provision mechanisms, Scheme processing and compliance activities. The Commonwealth Ombudsman's

⁴¹ The White Paper states that the existing excise credit payments will be replaced by a single system of business credits administered through the BAS. However, some proposed new recipients of EGCS (for example, some households who will be entitled to a full credit on the excise they pay on the fuel they use for heating) are not part of the BAS system and will require a different delivery mechanism for their excise credits. See page 99 of the White Paper.

⁴² In designing the administrative frameworks, systems and processes for EGCS, the ATO used an integrated design approach to develop and clarify its administrative elements, with an explicit focus on the client experience and how the interaction of ATO processes affected the client experience.

Special Tax Adviser told us that, during 2003–04, there had not been any taxpayer complaints to the Ombudsman⁴³ about EGCS.

1.34 The main comments highlighting perceived needs for improvement, relate to two matters. One is the Scheme’s required record keeping for certain categories of claimants.⁴⁴ The other is the need for the ATO to continue its information provision and education efforts to provide assurance that parties who would be entitled to the Scheme are aware of it.

Previous reviews

1.35 Two previous performance audit reports⁴⁵ are relevant to this audit of EGCS. Both concerned DFRS when it was administered by the Australian Customs Service.

1.36 We did not attempt to conduct a follow-up audit of the previous audits. EGCS is a different Scheme, run by a different agency in a different time period. However, we were interested to explore how the ATO’s framework for EGCS administration dealt with the concerns identified in the previous performance audits, particularly ones in the 1995–96 report. These issues included the clarity of Scheme objectives, IT systems for Scheme support, staff training, risk management, the application of administrative penalties, performance review, quality assurance and cost of administration.

1.37 In summary, the ATO’s frameworks and systems have dealt with most of the themes of concern. As noted in detail in this and subsequent Chapters, EGCS administration is supported by:

- new legal frameworks for eligibility and compliance;
- processing supported by an IT system with a substantial range of manual and automated controls, and supported by analytical and reporting capacity in a related system;

⁴³ The Commonwealth Ombudsman’s Office advised that it has since received one complaint about EGCS. The experience for the Ombudsman concerning very few complaints is matched by the ATO’s own experience. We found that the ATO has received only very few complaints or feedback comments from claimants about EGCS administration. The ATO received 33 complaints in 2003–04, dealing with a range of issues, such as the clarity of ATO correspondence. By way of context, the ATO received over 430 000 EGCS claims in that period.

⁴⁴ Namely trucks operating in areas ineligible for EGCS payments as well as other areas for which they *are* eligible for EGCS payments. The Government’s June 2004 Energy White Paper proposes changes to EGCS to remove this level of complexity. The new arrangement proposes that all diesel used for business be claimable as a business credit; there not being any discrimination made between diesel used in urban and metropolitan areas and elsewhere.

⁴⁵ Audit Report No.20 1995–96 *Diesel Fuel Rebate Scheme–Australian Customs Service*, which followed up on Audit Report No.27 1990–91 *Australian Customs Service–Diesel Fuel Rebate Scheme*.

- a training regime, formal performance review and quality assurance processes;
- a formal risk management framework and processes;
- a standard ATO administrative penalty regime; and
- apparent economies, over time, in the cost of ATO administration of the Scheme.

1.38 In our view, clarity of Scheme objectives, and evaluation of performance against these, should be considered in the context of changes to EGCS administration resulting from the Energy White Paper. This will enhance transparency and improve Scheme administration.

Audit objective, methodology and cost

1.39 The objective of the audit was to assess whether the ATO has established an administratively-effective framework for the management of EGCS. Specifically, the audit sought to:

- appreciate the Scheme's policy context and rationale;
- review the planning, compliance management, monitoring and reporting framework used by the ATO;
- identify external stakeholders' perceptions of the ATO's administration of EGCS; and
- assess EGCS' administrative framework, bearing in mind the administrative difficulties highlighted in the previous performance audits of the Scheme's predecessor, DFRS.

1.40 After preliminary planning work, we conducted audit fieldwork between June and August 2004. As part of this work, we interviewed key ATO staff from the Excise business line in Canberra, Melbourne, Wollongong, Hobart, Brisbane and Perth. We also reviewed documents, analysed qualitative and quantitative information from the ATO, and reviewed aspects of a number of ATO IT systems related to EGCS processing.

1.41 We spoke to a range of parties with an interest in EGCS administration, consulting individual claimants⁴⁶ and representatives of industry and government bodies.⁴⁷ We also spoke to the Commonwealth Ombudsman's

⁴⁶ A range of small and large claimants in several industries (mining, agriculture and road transport).

⁴⁷ Including representatives from: the Australian Trucking Association; National Farmers Federation; Transport Workers Union, Australian Institute of Petroleum, Association of Mining and Exploration Companies; Australian Seafood Industry Council, Australian Local Government Association, Australian Greenhouse Office and the Department of the Environment and Heritage.

Special Tax Adviser, (because the Commonwealth Ombudsman may receive complaints from taxpayers about ATO administration), and officers of the Department of the Treasury, which has responsibility for taxation policy matters.

1.42 In examining the ATO's administration of the EGCS, we sought examples of comparable overseas practice. We found that the Australian administrative model is not directly comparable with current practices in other jurisdictions, although schemes providing excise or other exemptions, in certain circumstances, apply overseas.⁴⁸

1.43 The ANAO appreciates the time, effort and expertise contributed by ATO and Treasury staff during the audit. We also, similarly, thank the members of the professional organisations and other stakeholders we consulted.

1.44 The audit was conducted in accordance with ANAO auditing standards at a cost of \$359 000.

Audit report structure

1.45 Our discussion proceeds from over-arching issues related to governance to more specific aspects focussing on management and operational controls. The structure of the report is as follows:

- Chapter 1: sets out the context of the topic and the Scheme, and the audit objective and methodology.
- Chapter 2: examines the planning, monitoring and reporting framework for managing EGCS and the ATO's framework for evaluating Scheme performance against its objectives.
- Chapter 3: reviews the ATO's frameworks for managing EGCS intelligence, risk and compliance activity.
- Chapter 4: sets out EGCS' systems and processes and reviews the Scheme's automated and manual controls.

⁴⁸ International practice is described in Fuel Taxation Inquiry Background Papers, 2001, *Fuel taxation-international experience* <<http://fueltaxinquiry.treasury.gov.au/content/background/003.asp>>, viewed on 12 February 2004.

2. Planning, Monitoring and Reporting

This Chapter examines the planning and performance information monitoring and reporting framework for managing EGCS. It also reviews the ATO's framework for evaluating the Scheme against its objectives.

Introduction

2.1 Effective planning, performance monitoring and reporting frameworks are essential elements of a robust governance framework. These elements provide assurance that an organisation achieves its overall outcomes in such a way as to enhance confidence in the organisation, its decisions and its actions.

2.2 As outlined in Chapter 1, two of the intended objectives of EGCS are to reduce the cost of compliance for clients, and the cost of administration for the ATO. Good management practice requires that these overriding Scheme objectives shape ATO management plans, and are reflected in monitoring and reporting processes. In this way, the ATO is in a position, not only to monitor and report on its administrative processes, but is also able to determine whether its activities are contributing to the achievement of its overriding objectives. The specification of objectives is also an intrinsic part of the evaluation process.

2.3 We sought to determine whether the ATO had:

- a structured and comprehensive approach to planning, demonstrating the relationship between EGCS planning processes and ATO planning processes;
- mechanisms to monitor progress of EGCS activities towards achieving objectives; and
- a structured and appropriate reporting framework to enable issues to be identified and managed, and to provide an appropriate mechanism for accountability and performance.

2.4 We also sought to assess the ATO's framework for evaluating how successful it is in administering EGCS to achieve Scheme objectives.

2.5 In looking at monitoring and evaluation, we had regard to performance review and the clarity of the Scheme objectives, which were issues of concern in the 1995–96 performance audit of DFRS.⁴⁹

⁴⁹ Audit Report No.20 1995–96 *Diesel Fuel Rebate Scheme—Australian Customs Service*.

Effective planning processes

2.6 Effective corporate and business planning processes comprise aligned, and mutually supportive, corporate and business plans. Ideally, planning should cascade from an agency's intended purpose (as expressed in its outcomes and outputs) through to individual performance plans and agreements.⁵⁰ Such a structured approach reduces scope for confused objectives or gaps in performance planning and monitoring.

2.7 The ATO bases its planning and governance framework on a multi-layered, or tiered, approach. The four layers in the tiered approach are:

- **the ATO Outcome Outputs framework**, which reflects the ATO's business deliverables and the approaches to meet those deliverables, and shows the relationship between the government outcome and the contributing outputs for the ATO;
- **the ATO Plan**, which comprises five sub-plans that define in detail how the ATO intends to deliver outputs through the ATO Outcome Outputs framework⁵¹;
- **tactical, functional or stream plans**⁵², which translate the high-level strategic objectives outlined in the sub-plans into measures for practical implementation; and
- **team plans**, which provide direction to staff on the practical implementation of the various elements of stream plans.

2.8 An effective planning process and planning documentation should also make clear the basis by which activity will be measured and success assessed (with performance measures and targets, respectively).

2.9 Performance measures and targets should be included in the planning documents (as well as any performance review and reporting documents) so that the planning documents are self-contained, explicit statements of what staff aim to achieve with allocated resources, and how success will be assessed and transparent.

⁵⁰ That is, starting with an overarching view, and progressing down through the business levels, to the operational areas within that organisation, each with a more detailed and task specific focus than the previous one, while still retaining the linkages to the overall objectives of the organisation.

⁵¹ The five sub-plans are the: Compliance sub-plan; Operations sub-plan; Information Technology sub-plan; People and Place sub-plan; and the Easier, cheaper and more personalised (Change program) sub-plan.

⁵² As described in Chapter 1, the Excise business line comprises three streams: Business and Technical Services (BATS); Risk and Intelligence (Risk & Intel); and Business Delivery and Active Compliance (BDAC).

EGCS planning

2.10 EGCS planning is part of the Excise business line's planning process. Excise business line plans range from high-level strategic plans to lower-level team plans guiding specific day-to-day activities. The Excise business line plans relevant to the management of EGCS are the:

- **Excise Line Delivery Plan 2003–04**, which defines the outputs and sub-outputs that the Excise business line is responsible for achieving. This plan also provides an overview of the business line's compliance program commitments for the coming year and the operations, compliance, and staffing and location workload projections⁵³;
- **Excise stream delivery plans 2003–04**. The Business Delivery and Active Compliance (BDAC) stream is responsible for most of the activities surrounding the administration of EGCS.⁵⁴ The BDAC stream plan outlines the risk environment according to type of risk; defines the key assumptions that relate to the stream; and specifies the resource allocations for BDAC from both the Operations sub-plan and the Compliance sub-plan; and
- **Excise team plans**, which provide direction to staff on the practical implementation of the stream plans. Specifically, they are intended to specify team performance measures, risks and mitigation strategies, as well as quality assurance and resource allocation.

EGCS fraud control planning

2.11 Another aspect of EGCS planning relates to fraud management. The ATO, as part of its approach to managing fraud, has prepared an ATO Fraud Control Plan. The ATO Fraud Control Plan consists of a number of sub-plans. One of these is the Excise Business Line Fraud Control Plan. This Plan, among other things, documents identified EGCS fraud risks and control measures. It was developed following a fraud risk assessment.⁵⁵

2.12 The Plan documents six potential EGCS fraud threats. It concludes that, overall, EGCS controls are sound, although there is opportunity to strengthen the existing controls relating to EGCS in one area.

⁵³ As discussed in Chapter 1, some activities related to the administration of the Scheme are undertaken by business and service lines other than the Excise business line. The *Excise line delivery plan 2003–04* presents the projected workload that will be undertaken by areas outside the Excise business line.

⁵⁴ However, the other Excise streams are also involved in aspects of EGCS administration and planning (for example, Risk & Intelligence and Business and Technical Services).

⁵⁵ The fraud risk assessment comprised an interactive workshop with key Excise staff to identify and assess fraud risks.

2.13 In accordance with the ATO's then-current fraud control planning approach, the ATO did not test the EGCS controls as part of its fraud control assessment and planning process, instead relying on the advice of relevant staff. We understand, however, that the ATO intends to test, over time, fraud controls on a priority basis across the organisation, as resources allow. In our view, the fraud control assessment and planning process for the Excise Business Line Fraud Control Plan will be more rigorous, and provide greater assurance, when the ATO has tested the controls appropriately.

ANAO comments

2.14 We found good features in the planning framework. The ATO sub-plans and Excise plans examined are aligned, and there are clear links between them. In particular:

- linkages between the outputs defined in the ATO sub-plans, and those in the Excise Line Delivery Plan, BDAC stream plan, and relevant team plans, are clear;
- responsibility for sub-output activities has been allocated to work areas;
- activities related to each output are defined and specific; and
- the allocation of staffing resources in the plans is based on workload expectations.

2.15 On the other hand, we also saw some shortcomings in the plans and the planning framework in that the plans lacked a consistent and explicit use of targets to measure success in achieving the desired results. In our view, having targets would strengthen the planning (and also monitoring and reporting) framework, because targets provide benchmarks against which to assess activity and performance.

2.16 Following are some examples⁵⁶ of shortcomings in the specification and documentation of targets in the BDAC stream plan (the main plan relevant to EGCS administration) we reviewed:

- targets are not always clearly specified in the planning documents. For example, the BDAC stream plan includes the headings 'Strategies' and

⁵⁶ We recognise that most of these shortcomings in planning documentation are not specific to EGCS planning; rather they reflect ATO-wide issues in planning documentation.

‘KPIs for Strategy’⁵⁷, but does not always include the strategies, and does not include KPIs, in the documents⁵⁸;

- where service standards⁵⁹ are referred to, they are not always explicit in the plans. For example, in the BDAC Stream Delivery Plan 2003–04, where the quality measure specified is the number and percentage of new registrations ‘processed within Charter standards’, the standard is not reproduced in the plan.⁶⁰ Although this omission is a minor process matter, it is also ‘an ease of use’ issue because it means that the plans are not stand-alone documents, and require the reader to know, or refer to, other ATO documents to identify the service standards and any targets implicit in the particular plan; and
- most of the EGCS-related service standards had targets against which to gauge success. At the time of audit fieldwork, a target had not been developed for the service standard ‘processing energy grants and rebates within 14 days’. The ATO has advised since that the Executive has agreed to a processing target of ‘92 per cent within 14 days’.

2.17 The articulation of targets in plans will, in turn, enhance the performance monitoring and reporting elements of the planning, monitoring and reporting framework, because progress against the targets, and emerging trends, will be apparent. In addition, planning documents will be self-contained, comprising all the necessary information to enable staff to work toward achieving Scheme objectives.

Monitoring performance

2.18 Regular performance monitoring against defined measures and targets for those measures, enables management to:

- monitor ongoing trends;

⁵⁷ The BDAC stream plan refers to key performance indicators (KPIs) as indicators to support the achievement of strategies in the plan. KPIs provide management with a way to determine success against activities.

⁵⁸ For example in the BDAC Delivery Plan, for the output ‘registrations’, the result sought is the ‘timely and accurate processing of registrations through ECCC’. However, the strategy and KPI fields in the plan are blank.

⁵⁹ Service standards are the standards for service delivery that ATO clients can expect from the ATO. These are documented in the Taxpayers’ Charter. For details of the service standards relevant to the EGCS refer to the *Taxpayers’ Charter – Our Service Standards*. The Taxpayers’ Charter is being examined as part of another ANAO performance audit.

⁶⁰ The same issue appears in the higher level plans as well, namely the Excise line Delivery Plan 2003–04 and the ATO Operations Sub-plan 2003–04.

- identify and assess deviations from operational and budgetary forecasts early;
- provide assurance that the administration of the Scheme works toward achieving Scheme objectives; and
- implement appropriate remedies quickly.

2.19 The Excise business line uses a number of approaches to monitor performance of EGCS. These include:

- defining performance measures in ATO plans, and service standards in the ATO's *Taxpayers' Charter*;
- using groups within the ATO's management and reporting framework; and
- undertaking quality assurance reviews, as part of both internal reviews and external accreditation.⁶¹

Performance measures

2.20 Performance measures facilitate performance assessment by specifying the areas of focus in reviewing performance.

2.21 As noted in the planning section of this Chapter, the EGCS quantitative and qualitative performance measures are defined in the ATO sub-plans, and Excise business line plans. Quantitative measures relate to the numbers of products processed, for example registrations to the Scheme or EGCS claims processed. Qualitative measures primarily relate to aspects of the ATO's performance against relevant Taxpayers' Charter service standards, and levels of satisfaction of relevant stakeholders. We recognise the difficulties associated with measuring stakeholder satisfaction, and note that the ATO has in place mechanisms, such as surveys, to collect and analyse qualitative data.⁶²

2.22 We found that the performance measures relevant to EGCS administrative activities (for example processing registrations, processing grants and timeliness of claims processing and enquiries responded to), have good features in that they are specific, measurable, achievable, relevant, and timed.⁶³ They also appropriately highlight areas of Scheme administration to which the ATO must attend.

⁶¹ International Organisation of Standardisation, ISO 9001:2000 Quality Management Systems.

⁶² An example is the ATO Professionalism Survey carried out by Colmar Brunton Social Research, May 2004.

⁶³ See ANAO, *Better practice in annual performance reporting*, 2004, p.13.

2.23 That said, we found that the ATO's current approach to measuring/assessing performance could be improved in two ways:

- by specifying performance measures that explicitly relate to the ATO's overriding objectives in administering the Scheme (namely reducing the cost of compliance for clients and the cost of administration for the ATO). That is, although the ATO assesses its performance in undertaking important activities in administering the Scheme, as noted above, it does not consolidate these performance views, to articulate and monitor what these aspects mean for the ATO's overriding Scheme objectives; and
- by specifying targets for its performance measures in its planning documents, that would allow the ATO to judge the success of its EGCS administrative performance in those areas. As we observe in the planning section of this Chapter, the targets that *are* defined relate to the ATO's Charter service standards, discussed below.

Service standards for monitoring performance

2.24 Service standards are the standards for service delivery that ATO clients can expect from the ATO under the *Taxpayers' Charter*. The ANAO found that EGCS performance against the standards is regularly monitored and reported comprehensively to the Excise Executive. For example, performance against the standards of EGCS registration processing and calls answered within two minutes, are presented in Excise Executive performance reports.

2.25 The ATO has developed targets for most of its service standards relevant to EGCS administration (that is, its work directly relating to commitments regarding client interactions, as opposed to other, internal EGCS administrative activities). Examples of service standards are outlined in Table 2.1.

Table 2.1**Examples of EGCS-related service standards**

Service standard	Target per cent
Notify registrants of the ATO's decision on the registration application within 28 days of receiving all necessary information.	93
Process energy grants and rebates within 14 days of receiving all necessary information.	92
Respond to written enquiries within 28 days of receiving all necessary information.	87
Answer the majority of calls to info-line services within two minutes.	83

Source: ANAO compilation of ATO data

2.26 As mentioned previously, the ATO uses the targets to monitor and report performance against each standard, and can use these targets and standards to assess performance over time.⁶⁴ Where the ATO does not have a corporate target, as was the case for grants processing timeliness, the ATO is not able to assess readily, in a collective way, how well it is performing.

Groups monitoring performance

2.27 Within the Excise business line, six groups are directly involved in monitoring various aspects of the EGCS administration and performance.⁶⁵ Each body focuses on specific aspects of EGCS administration. The role and function of each group is outlined in Appendix 4. The ANAO found that these groups are a critical part of the overall decision-making and of EGCS management and review process by raising, discussing, resolving or escalating matters, as appropriate.

Monitoring for decision-making

2.28 Informed decisions about management of the EGCS should be based on the timely collection and analysis of information. This information may relate to claims processing, risk treatments or customer satisfaction. Decisions regarding management of EGCS should be clearly documented to provide assurance that the impact (the risks, costs and benefits) of potential decisions has been appropriately considered.

⁶⁴ We note that, in 2003–04, the ATO exceeded all its EGCS-related service targets.

⁶⁵ These are the Fuel Schemes Product Reference Group, Excise Executive Forum, Excise Compliance Risk Forum, Executive Risk Forum, Excise Product Committee, and the Active Compliance Steering Committee.

2.29 We found that important decisions relating to the EGCS are, generally, appropriately considered and documented. The monitoring, assessment, and escalation of issues were clearly documented in most instances. Of three management issues we selected to examine in detail, we found one instance in which comprehensive documentation was not maintained. This related to changes in the methodology for assessing revenue leakage (see Chapter 3).

Quality Management System and quality assurance

2.30 The ATO has implemented a quality management system (QMS) in the Excise business line. As part of the QMS, the ATO assesses its ongoing performance through the conduct of quality assurance reviews. The quality assurance reviews are done as part of internal quality reviews and external quality accreditation reviews.

2.31 Internal quality reviews are undertaken on Excise processes, including EGCS processes, every six months. The reviews include:

- assessing technical decision-making processes;
- process assurance;
- oral advice judgements;
- correspondence processing;
- EGCS registration requests; and
- initial claim processing.

2.32 QA activities are also carried out on those EGCS functions that are completed by other business lines. Results are reported to the Payments Reference Group, and assist in identifying opportunities for improvement in business processes.

2.33 The Excise business line (including EGCS-related work areas) received ISO 9001:2000 QMS accreditation in June 2003 and this was reconfirmed in May 2004. At the time of ANAO fieldwork in mid-2004, almost all EGCS core business areas were accredited.

2.34 The QMS review is an external process, with a focus on document control and records management. The outcomes of external accreditation reviews are reported to the Fuel Schemes Product Reference Group, one of the bodies monitoring for EGCS administration and performance.

ANAO comments

2.35 The ANAO examined the ATO's mechanisms to monitor EGCS performance. We found that the ATO has an extensive framework to monitor performance. The framework includes:

- measurable and relevant qualitative and quantitative performance measures, consistent with the ATO's Outcome and Outputs framework;
- *Taxpayers' Charter* service standards relevant to EGCS;
- processes to gauge client satisfaction, through the monitoring of client feedback and conduct of surveys and questionnaires;
- an extensive network of groups to monitor performance, discuss issues, take decisions, and undertake approval processes; and
- a comprehensive quality management system, with a formal process of ongoing and consistent reviews.

2.36 However, targets, or benchmarks, against which to monitor activities relating to performance measures, are not always explicit. We found that the ATO monitors EGCS performance against corporate targets, even though they may not be included explicitly in EGCS planning documentation, because these targets are referred to in performance reports we reviewed.

2.37 In addition, the ATO monitors its EGCS administrative activities, but it does not consolidate these performance views, to articulate and monitor what these aspects mean for the achievement of the ATO's overriding Scheme objectives.

2.38 The ATO's performance monitoring approach would be improved by the ATO explicitly identifying appropriate targets by which to assess administrative activity. It would be further enhanced by the ATO identifying performance measures and appropriate targets relating to its EGCS objectives, such as costs of compliance and administration.

Recommendation No.1

2.39 The ANAO recommends that, to improve management's ability to gauge success in EGCS administration, the ATO:

- devise performance measures, which relate directly to the ATO's overriding objectives in administering the Scheme;
- define explicit targets or benchmark standards for performance measures; and
- include such targets in planning documents.

ATO Response

2.40 Agreed. Where possible the ATO will include such targets and measures in future planning documents, rather than use general terminology.

A structured and regular system of performance reporting

2.41 Performance reporting is an important aspect of EGCS management. It provides a mechanism to document the monitoring process, identify management issues, including trends, potential risks and responses, and supports accountability.

2.42 The ANAO found that EGCS performance reporting is undertaken as part of the regular reporting process from Excise teams and streams to ATO management. Reporting for EGCS activities follows a tiered approach, which is consistent with the one used for corporate and business planning. The EGCS reporting approach is multi-dimensional, comprising four layers, from stream reporting to reporting to the Commissioner of Taxation and ATO Executive.

2.43 The various reports provide management with a snapshot and/or year-to-date picture of activities, issues, and emerging matters relating to Excise functions, including EGCS administration. In addition, the ATO reports performance against its expectations by tracking actual performance against budgets or forecasts, and against Charter service standards. In general, the ATO's expectations surrounding the EGCS since its implementation have been met or exceeded; for example, in relation to registration and claiming patterns of claimants, and expected overall payments.⁶⁶ We also note that, where standards are defined, the ATO is generally meeting those standards, for example, in relation to processing telephone calls within Charter service standards.⁶⁷

2.44 We found that the content and timing of performance reports varies, quite reasonably, depending on the function and focus of the report (that is, whether operational and/or strategic, how it is to be used, and the monitoring body to which it is provided).

2.45 We consider that the various reports produced in the Excise business line are a reasonable basis by which the ATO can monitor performance, make informed decisions and hold relevant parties to account. However, we found that the reporting framework is complex, with many different reporting

⁶⁶ The forecast for EGCS payments in 2003–04 was \$3.175 billion. The actual EGCS payments made, as at June 2004 were \$3.075 billion, a variation of three per cent from forecast.

⁶⁷ The Charter service standard for calls answered within two minutes is 83 per cent, and the EGCS performance at the end of June 2004 was over 95 per cent.

channels and reporting bodies, each with a different focus. This complexity, while perhaps unavoidable given the range of parties across the ATO with an interest in EGCS, has implications for costs, effective decision-making, and accountability. We are aware that the Excise business line is currently assessing its reports and reporting processes in order to simplify and improve them.⁶⁸

2.46 With regard to performance reporting, overall, we consider that the performance reports produced for EGCS-related functions are well-structured, consistent and timely. Moreover, where there are defined benchmarks against which to gauge performance, we consider that the ATO has a basis for assessing results and exercising accountability.

Framework to evaluate EGCS performance against its objectives

2.47 Evaluating administrative activity and performance against Scheme objectives is an important part of sound program performance management and good governance. In looking at a framework to evaluate EGCS performance against its objectives, we expected to see that the ATO had considered the following questions:

- What is the ATO supposed to achieve in administering EGCS?—(that is the Scheme objectives—be they the administrative objectives or the ‘cleaner fuels’ objectives)
- Is the ATO achieving its objectives, and how does the ATO know? (that is, say, the range of performance information that should be collected and reported periodically to the ATO Executive relating to the cost of administration and compliance)

2.48 Evaluation of EGCS against its objectives involves some difficulties for the ATO. As noted in Chapter 1, the legislated objectives of EGCS were to: replace DFRS and DAFGS with a single payment scheme, providing entitlements equivalent to those schemes; provide a common administrative approach for all clients as well as simplifying their interactions with the ATO; and encourage the use of cleaner fuels. Treasury advised us that the policy objectives underpinning EGCS were to reduce costs for key export industries and the cost of transport in regional and rural Australia.

Administrative objectives

2.49 The ATO’s attention, in considering its operational performance, has focussed to date, quite reasonably, on its performance against the

⁶⁸ This is an Excise business line project, and the task covers more than EGCS.

‘administrative’ tasks in devising and managing EGCS. By this we mean that the ATO has focussed on Scheme design and operational practices and mechanisms to implement the single payment scheme replacing the two previous schemes, and providing equivalent entitlements to those schemes. The ATO has also spent considerable effort in engaging with stakeholders on an ongoing basis and it supports the Scheme with a wide range of supporting compliance measures (see Chapter 3).

2.50 As noted earlier, we found that the ATO does not include in its performance monitoring framework, ways to monitor in a formal, collective and ongoing way, cost of compliance and administration. However, we recognise that the ATO monitors activities that provide indications of performance against these administrative objectives. For example, the ATO’s performance monitoring framework does not track the ‘cost of compliance’ as such. However, the ATO has consultative mechanisms that inform it of stakeholder issues regarding compliance costs. As well the ATO monitors processing statistics that relate to ease and accuracy of client claims and processing.

2.51 The ATO estimated the cost of administering EGCS in 2003–04 and compared that with costs under the previous schemes (see Chapter 3). This was a one-off exercise performed at our request; the ATO’s performance monitoring framework does not track this on a regular basis.

2.52 Given that the cost of compliance and cost of ATO administration are two of the Scheme’s underlying objectives, we consider that it would be beneficial for the ATO to develop further its performance monitoring framework. We see merit in the ATO bringing together its current relevant, though partial, views of administrative performance and articulating these in plans and performance reports in a consolidated way. This would set out an overall planning direction for the Scheme and allow an overall assessment against the ATO’s overriding Scheme objectives regarding cost of compliance and administration.

Cleaner fuels objective

2.53 As outlined in Chapter 1, EGCS does not contain significant measures to encourage the use of cleaner fuels. EGCS’ cleaner fuel objective has effectively been replaced by the measures provided for under the Cleaner Fuels Act. It is not surprising, therefore, that the ATO’s review and evaluation mechanisms for EGCS do not seek to measure the Scheme’s success in meeting the ‘cleaner fuels’ objective.

2.54 We understand the reason and context for this divergence between the formal objectives as originally framed, and subsequent policy and administrative developments. However, in our view this divergence should be

resolved for a greater measure of transparency in Government operations. Having Scheme objectives more clearly expressed, will provide the basis for more meaningful and transparent assessment of performance.

The new objectives for EGCS

2.55 Treasury advised that the release of the Energy White Paper represented the outcome of a comprehensive review of the Government's fuel taxation arrangements, undertaken by the interdepartmental Energy Task Force. According to Treasury, this review proposed reframing the 'cost reduction' policy objectives underpinning EGCS, and effectively replacing these with an overarching taxation objective based on economic principles of competitive neutrality and minimising taxes on business inputs.

2.56 According to the White Paper, the principles underpinning the reform of the excise system were that excise should:

- apply in a consistent and transparent way to all relevant fuels and fuel users;
- be competitively neutral, avoiding instances where taxed fuels compete with untaxed fuels;
- minimise tax on business inputs;
- minimise compliance and administration costs for business and government; and
- take account of the government's environmental, social and fiscal objectives.

2.57 Treasury, the ATO and other agencies are currently working towards devising new frameworks for the reshaped EGCS to implement the Government's Energy White Paper proposals. Both Treasury and the ATO have roles to play in devising detailed legislative and administrative frameworks, for Government approval. Other agencies, such as DOTARS and DEH, which have administrative responsibilities in relation to the new Scheme, as noted earlier, also have roles to play. In undertaking their roles, agencies will need to clarify how the legislative and administrative design addresses the Government's objectives (see Chapter 1) and consider the data required to be able to assess aspects of Scheme performance relevant to their responsibilities.

2.58 It would be appropriate for the ATO to work with Treasury to provide assurance that the detailed administrative objectives of any new scheme are clearly expressed, and that ways to assess scheme performance are identified. To the extent that the economic/taxation principles and objectives become the primary objective for the new excise arrangements, then Treasury and the ATO

would both have responsibilities to evaluate the effectiveness of the new Scheme in meeting those goals and complying with those principles.

2.59 Attention to both scheme objectives and ways to assess performance at the time that the new Scheme is being developed, legislated and designed in detail, is important. It enhances the likelihood of the ATO, Treasury, DOTARS, and DEH (or other parties that may be charged with evaluation responsibilities such as the Government's joint Departmental Fuels Task Force) being able to assess the way in which the Scheme meets the various objectives the Government outlined for it, and assess the performance of the new Scheme, using data that is relevant and accessible.

2.60 With the processes of formulating the new legislative and administrative frameworks for new EGCS currently in train, it is timely for:

- the Treasury to ensure that the new legislative framework (that is the legislative design) appropriately reflects the Government's policy intent;
- the ATO to ensure that its administrative design of the Scheme addresses the administrative objectives for which the ATO is responsible (namely minimising compliance and administrative costs for business and government); and
- all government agencies, whose activities relate to EGCS, to consider how they can collect appropriate data to assess the effectiveness of the Scheme in meeting the policy objectives the Government has set for it (for example, tax policy, tax administration, environment, fiscal and social objectives).

Recommendation No.2

2.61 The ANAO recommends that, in developing legislative and administrative frameworks for EGCS, Treasury, in consultation with the ATO and other agencies with relevant administrative responsibilities:

- clearly express the way in which the Scheme's objectives will be achieved; and
- identify data by which to assess Scheme performance in achieving Government objectives.

Treasury Response

2.62 Agreed.

ATO Response

2.63 The ATO considers that no response is required from the ATO.

3. EGCS Compliance Management

This Chapter reviews the ATO's framework for managing EGCS intelligence, risks and compliance activity.

Introduction

3.1 In reviewing the ATO's approach to EGCS compliance management, we sought to determine whether the ATO had established a risk and compliance management framework that would assist it in identifying, assessing, and treating compliance risks.

3.2 Although EGCS was only introduced in mid-2003, it was based on earlier, separate schemes. We expected to see that the ATO had a structured, multi-faceted and dynamic approach to managing compliance, and that:

- processes were appropriately informed by documented intelligence, knowledge of EGCS risks, and analysis;
- staff undertaking compliance activities were supported by procedural guidance; and
- the Executive was appropriately involved in the compliance management processes.

3.3 In looking at compliance management, we had regard to risk management, revenue leakage assessments, penalties and the cost of administration, which were themes of concern in the 1995–96 performance audit of DFRS.⁶⁹

EGCS intelligence and risk management

Managing EGCS compliance risks

3.4 The ATO expresses risks relating to the fuel grant schemes it administers, including EGCS, as one strategic, collective risk, namely the 'risk of incorrect payments'. This risk has three components:

- **system risks**, which relate to the administrative design of the Scheme. This includes errors in payment arising from claim preparation, client record keeping and ATO data entry;
- **Scheme risks**, which relate to the legislative design of the Scheme and clients claiming and/or incorrectly receiving payments under the

⁶⁹ Audit Report No.20 1995–96 *Diesel Fuel Rebate Scheme—Australian Customs Service*.

Scheme, due to legislative complexity, provision of incorrect advice, and/or insufficient information provided by the ATO to support client self-assessment; and

- **fraud risks**, which include both internal and external fraud, and relate to intentional non-compliance with the requirements of the Scheme.

3.5 The ATO categorises particular risks to EGCS into the three subject areas of the collective risk and outlines proposed risk treatments for 2004–05 in the *Energy Grants Credits Scheme Risk Management Plan 2004-2005*. The ATO assessed the collective risk for fuel schemes⁷⁰, and EGCS overall, as ‘moderate’.

3.6 By placing EGCS risks within an analytical and management structure common for its fuel grants schemes, the ATO has an interlinked framework for the management of EGCS risks. EGCS risks identified at the individual claimant and industry level can be reviewed, assessed and escalated within the framework, as appropriate. The bodies reviewed below contribute to this process.

Key bodies in EGCS intelligence and risk management

3.7 Three groups within the Excise business line have significant roles in identifying, assessing and prioritising EGCS risks. These are the Excise Intelligence Operations and the Industry Intelligence units⁷¹, and the Excise Compliance Risk Forum.

Excise Intelligence Operations

3.8 Intelligence Operations’ analysts identify potential risks through the assessment of referrals and other research. Intelligence information comes from a variety of sources including ‘dob-ins’ from industry and third parties, referrals from other ATO business lines, reports from review teams, and desk and field audit staff. Staff record this information in the *ATOintelligence* and/or *Exciseintelligence* databases.⁷²

3.9 Although the majority of Intelligence Operations’ work relates to operational/tactical intelligence, analysts also conduct strategic risk assessment work. For instance, if a matter relates to a potential system weakness or appears to warrant further review, analysts undertake a more

⁷⁰ The ATO followed *Practice Statement PS CM 2003/02 Corporate Management: Governance* in making this assessment.

⁷¹ The Excise Intelligence Operations and Industry Intelligence units are part of the Diesel Fuel Industry Group (DFIG).

⁷² *ATOintelligence* is an organisation-wide intelligence database, which allows staff to record relevant information about ATO clients or their activities. *Exciseintelligence* is a sub-component of *ATOintelligence* that is dedicated to the recording of information of interest to the Excise business line.

detailed analysis or data mining exercise of ATO systems to try to identify the scope and nature of the potential risk.

3.10 In 2003–04, Intelligence Operations received 49 referrals, seven of which were considered to raise matters of a strategic nature and which are the focus of the unit's work.⁷³

3.11 Intelligence Operations advised that, since the introduction of EGCS, it has identified three potential strategic risks. These relate to clients with an ATO debt and existing EGCS claims, clients with whom the ATO has been unable to make contact, and clients who are in receipt of Centrelink payments (suggesting they are unemployed) and also claiming EGCS. The ATO is assessing the latter risk topic.

Industry Intelligence

3.12 Potential strategic risks are escalated through the Intelligence Operations team leader to DFIG and the relevant Industry Intelligence team. The Industry Intelligence teams may undertake a more detailed analysis of the risk as it relates specifically to an industry sector, relevant to the ATO's management of the EGCS (for example rail or road transport). The ATO advised that this analysis is used in developing EGCS industry strategic intelligence papers and risk management plans.

3.13 The ANAO reviewed a number of industry risk assessments related to EGCS, and found that this aspect of administration was improving. The recent assessments are more comprehensive than the earlier ones and incorporate both ATO and external industry data. We appreciate that the risk management process (including the assessment process) is an iterative one as knowledge incrementally increases. We also acknowledge the improvements in the assessments reported. That said, we found:

- the assessments are still largely a description of the industry, rather than an assessment of the potential risks;
- the risk assessments could be strengthened by the comprehensive analysis of historical payment data (because EGCS, while new is in part a consolidation of some previous fuel transfer schemes), supported by the evaluation of compliance activities. This would provide greater detail in relation to claim patterns, compliance outcomes and potential industry risks; and

⁷³ The remaining 42 referrals were passed to DFIG or other ATO areas, with recommendations for compliance treatment. Following further assessment, 14 of these cases were referred to the Serious Non-Compliance service line (SNC) for review as potential fraud cases.

- a lack of documentation to support the recording, assessment and quantification of potential strategic risks, in a systematic manner. The focus appears to be largely on the identification, assessment, and treatment of risks at an individual claimant level. Accordingly, the ATO appears to be limited in its ability to target emerging risks effectively through its compliance program, at an industry and/or whole-of-Scheme level.

3.14 Notwithstanding these problems in the ATO's formal risk management processes, we found that the assessment of risks leads to, or supports, compliance treatments.

Excise Compliance Risk Forum

3.15 The Excise Compliance Risk Forum has a broad role to: identify, analyse, assess and review compliance risks relating to Excise products; oversight development of appropriate compliance risk treatment strategies; and monitor the impact of these on an ongoing basis. We reviewed minutes and supporting papers of the Excise Compliance Risk Forum and found that, although the Forum is involved in compliance management, there was limited evidence of the Forum playing an active role in the management of *strategic* EGCS compliance risks.

3.16 One positive example of the Forum acting to consider the strategic implications of a particular risk (though not specifically an EGCS issue) was the Forum's response to an (over-claim and) overpayment issue identified through the 2001–02 revenue leakage program.⁷⁴ In response to the identified overpayment, the Forum recommended that a survey of mining industry claimants be undertaken. The aim of the survey is to assess mining industry claimants' understanding of entitlement, and compliance with the ATO's relevant technical guidance.⁷⁵

3.17 The Excise Compliance Risk Forum plays an important role in the allocation and/or reallocation of resources to compliance treatments. The Forum reviews the proposed Excise Compliance Program and sub-components and approves the high-level allocation of compliance resources across the Excise business line. The EGCS component of the Excise Compliance Program is discussed later in this Chapter.

⁷⁴ The client over claimed because they received incorrect advice under a previous administration. The claimant had rectified more recent claims following the release of *Taxation Ruling PGBR 2003/03* relating to off-road entitlements in the mining industry. The revenue leakage assessment program is the ATO's method for assessing EGCS and/or its predecessor schemes' revenue leakage. It is based on the assessment of a statistically valid sample of claims for the particular period and extrapolation of results. The program is discussed later in this Chapter.

⁷⁵ *Taxation Ruling PGBR 2003/03*.

3.18 The ATO advised that the operation of the Excise Compliance Risk Forum is evolving and becoming somewhat more formalised in its documentary requirements. For example, each area of Excise, including EGCS-related areas such as DFIG, is now required to submit a formal risk update to the Forum prior to each meeting (detailing the status of Excise risks, and emerging risks).

ANAO comment

3.19 The ATO has established a structured and interlinked framework for managing EGCS risks. This framework involves interconnected processes and bodies, focussing on the strategic risk for EGCS—‘risk of incorrect payments’. The risk management processes are supported by procedural guidance for staff at the corporate level.

3.20 The information reviewed suggests that the ATO is largely focusing on the identification, assessment and treatment of risks at an individual claim and claimant level, and risk management analytical work largely has an operational/tactical focus. In our view, this focus on quite specific cases means that the ATO’s ability to identify, and effectively manage (via its compliance program) risks that may emerge at an industry and/or whole-of-Scheme level is limited.

3.21 The continued development and documentation of the ATO’s analytical work is important. For example, drawing on data to build up and assess the picture of business, industry, sociological, economic and psychological factors bearing on taxpayers (claimants in the case of EGCS) might help the ATO to consider risk factors, and their possible implications, at a more systemic level. Appropriate documentation of this process would enhance the exercise and would facilitate review and improvement because the assumptions, data and approaches would be apparent. Facilitating review and improvement is important, given that the risk environment is dynamic, and the risk management process necessarily iterative.

3.22 We also found that the Excise Compliance Risk Forum could take a more active oversight role. The transparency of the EGCS risk management process would be improved by more clearly documenting the Forum’s assessment and monitoring of strategic compliance risks. We acknowledge that the ATO is implementing several strategies to formalise operation of the Excise Compliance Risk Forum. This will, in turn, improve the transparency of the EGCS risk and compliance management processes.

Recommendation No.3

3.23 The ANAO recommends that, in order to enhance the strategic management of EGCS risks and the transparency and rigor of the process, the ATO:

- undertake more extensive analysis of available data, including payment histories, compliance results, and case referrals. This analysis should be undertaken at an industry and whole-of-Scheme level; and
- more clearly document potential strategic EGCS risks, their assessment and treatment.

ATO Response

3.24 Agreed. It is noted that the ANAO have concluded that the ATO has established a structured and interlinked framework for the management of EGCS risks.

3.25 In seeking to improve the manner in which risks are recorded, the ATO has implemented changes in the way EGCS risks are described. These changes will ensure that emerging risks are more clearly documented, as well as ensuring that assessments and proposed mitigation strategies are developed at a more strategic level.

ATO Compliance Program

3.26 A well-developed and structured EGCS compliance approach, that effectively targets identified risks, is important in maintaining compliance. The ATO's *Compliance Program 2003–04*, outlines the ATO's overall approach to compliance. The Program discusses the risks associated with Australia's self-assessment revenue system and how the ATO proposes to treat them. The Program also outlines, at a high level, the compliance activities the ATO plans to undertake in relation to EGCS.

EGCS compliance approach

3.27 In 2002–03, the ATO undertook a range of compliance activities in relation to Excise grants, including EGCS. This incorporated various audit activities, claim checks prior to issue, and education and advisory visits.

3.28 The ATO's *Compliance Program 2003–04*, states that in relation to the EGCS, the ATO will:

- check all claims for payment against a range of risk criteria; and

- complete approximately 800 audits to confirm the accuracy of claims and payments.⁷⁶

3.29 The ATO undertook these activities as planned in 2003–04, and advised that it plans a similar suite of compliance activities for 2004–05.

EGCS Compliance Program

3.30 The EGCS compliance program⁷⁷ is designed to target, in a tailored way, compliance across all industry sectors. Key elements of the EGCS compliance framework include: marketing and education; provision of interpretative advice; active compliance; and other measures to deal with more serious non-compliance, with penalties or other measures where fraud is suspected. These are outlined in the following sections.

Communication and education

3.31 The communication and information activities undertaken by the ATO's Excise Client Relations and Communications Unit when EGCS was being introduced, and since, have covered a broad spectrum. These include; liaison with representatives of industry and other stakeholders interested in fuel schemes, including EGCS; direct mail outs of information to EGCS claimants; and call centre services.

3.32 Through its ongoing marketing and education campaigns, the ATO aims to improve claimants' understanding of eligibility and provide education and advice to support informed self-assessment. The ATO proposes to continue to produce and distribute EGCS fact sheets and guides in 2004–05.

3.33 As well as providing materials on EGCS, another part of the ATO's marketing and communication activities has been to survey clients to assess their views on the ATO's processes. The survey, among other things, sought clients' views on materials, advice and assistance provided by the ATO in relation to EGCS processes.⁷⁸ The survey results were very positive, particularly regarding the quality and timeliness of EGCS-related information and advice.

3.34 We asked a range of industry representatives and individual EGCS claimants about the ATO's marketing and education materials and services.

⁷⁶ Australian Taxation Office, *Compliance Program 2003–04*, p.16.

⁷⁷ DFIG is responsible for the development of the EGCS compliance program, risk treatments and the allocation of compliance resources.

⁷⁸ The ATO Professionalism Survey carried out by Colmar Brunton Social Research, May 2004, canvassed EGCS as well as other fuel transfer schemes administered by Excise, and many other areas of activity conducted by ATO business lines.

The parties we consulted were supportive of the accessibility, relevance and clarity of the ATO's consultation, education and communication processes and materials, including the call centre information and the streamlined EGCS claim form. However, some noted that, despite these efforts by the ATO, some potential claimants appeared still not to be aware of the Scheme.

3.35 The ANAO considers that the ATO has implemented a diverse, and well-regarded, range of measures to make its client population aware of EGCS eligibility requirements and responsibilities.

Fuel Schemes Advisory Forum

3.36 The ATO has on-going relations with a wide range of industry sectors and government stakeholders through its consultative group, the Fuel Schemes Advisory Forum (FSAF).

3.37 Through the Forum, the ATO aims to inform industry and other stakeholders about EGCS and other fuel scheme tax matters, and to gain assurance that its strategies meet the education and information needs of claimants. The FSAF provides the ATO with an opportunity to assist the business community in resolving industry specific issues and to engage them in wider discussions relevant to fuel taxation administration.

3.38 FSAF representatives we consulted presented positive views about the conduct of the FSAF and its value. They also anticipated that the Forum would be even more important in the future as the ATO develops the administrative arrangements for the changes to EGCS proposed in the Government's Energy White Paper.

Provision of interpretive advice

3.39 The provision of interpretive advice to taxpayers on taxation issues, either individually or collectively through the issuing of taxation rulings, is important in securing compliance with the taxation law. In Australia's self-assessment taxation system, the onus is on taxpayers to interpret the law as they see it applying to them. Interpretive advice from the ATO (via, for example, public rulings and private binding rulings (PBRs)⁷⁹) can help taxpayers understand the taxation law and its application.⁸⁰ The ATO's ability to provide technical advice on EGCS-related issues is a new element of the compliance framework, which was not available in the Scheme's predecessors.

⁷⁹ The preparation of which is guided by ATO Law and Administrative Practice Statements.

⁸⁰ For details regarding the ATO's administration of the taxation rulings, refer to ANAO Audit Report No.7 2004–05 *The ATO's Administration of Taxation Rulings—Follow-up*.

3.40 The ATO's risk management strategies may identify the need to clarify a technical issue and provide guidance to taxpayers. This in turn, may involve drafting and issuing a public ruling. The ATO advised that it is proposing to release public rulings for EGCS in respect of agriculture, forestry and fishing in 2004–05, and proposes to review the implementation of the *Taxation Ruling PGBR 2003/03* (mining off-road entitlements) released in 2003.

3.41 The ATO has a comprehensive approach to drafting and issuing PBRs. All PBRs issued by the ATO rely on ATO precedent. The Excise line Centre of Expertise is responsible for establishing relevant ATO precedent for EGCS. During 2003–04, the ATO issued 102 PBRs relating to fuel schemes, 97 of which relate to EGCS.

Active compliance

3.42 The ATO has implemented an active compliance program covering several core elements of EGCS. The 2004–05 EGCS compliance program includes consideration of:

- exceptions generated by the Generic Payments System (GPS);
- registration and eligibility checks;
- targeted compliance activity; and
- assessment of revenue leakage.

3.43 Some of these elements are described in Chapter 4 as they are part of EGCS' processes and controls, but are outlined here in relation to their role in active compliance.

Verification of GPS exceptions

3.44 Exceptions⁸¹ generated by GPS are forwarded to EGCS review teams for verification. Review staff contact the claimant where additional information is required to facilitate processing of the EGCS claim. Where necessary, the review teams can refer the claim to DFIG for escalation and consideration of higher-level compliance action. This higher-level compliance action may include a desk and/or field audit or referral to the Serious Non Compliance service line (SNC), if fraud is suspected. The ATO has a policy to guide escalation of cases through compliance treatment measures.

3.45 As context regarding this aspect of EGCS active compliance work, during 2003–04, the ATO received almost 450 000 EGCS claims, with these claims generating 126 786 GPS exceptions. These exceptions resulted in

⁸¹ An exception is broadly defined as an event that interrupts workflow through a process or system that requires correction through manual or electronic intervention.

payment adjustments to the value of \$303 million. The incidence of exceptions and value of adjustments suggest that this active compliance tool is an important element of the ATO's administrative framework.

Registration and integrity checks

3.46 The ATO has a registration and 'first claim' compliance strategy to manage the risks around entitlement and assess the robustness of the registration process. In 2003–04, the ATO completed 110 registration/first claim reviews. During 2004–05, the ATO plans to review 2 000 client registrations and/or first claims (with increased compliance attention being devoted to fuel schemes, including EGCS, compared to other Excise compliance work).

3.47 Case selection methodologies for registration/first claim reviews include:

- selecting a random sample of first claims for review;
- reviewing registrations flagged for evaluation by the client service representatives registering the claimant; and
- targeting first claims that have triggered a GPS registration business rule.

3.48 The results of reviews are forwarded to DFIG, who may undertake further analysis to assess the effectiveness of the compliance strategy. Such analyses of the effectiveness of compliance activities and strategies can be a worthwhile way to identify scope for improvement and promote good practice.

Targeted compliance activity

3.49 The ATO undertakes a small number of EGCS-targeted activities as part of its active compliance program. The majority of the audits occur in response to the analysis of information (typically operational/tactical information) received and assessed by Intelligence Operations. Accordingly, this audit activity largely addresses risk at the individual claimant level. As noted previously, this heavy emphasis may limit the ATO's ability, through its compliance program, to address industry-specific and whole-of-Scheme compliance risks. However, the ATO advised that, if strategic compliance risks are identified, resources can be reallocated within the compliance program to address these risks.

Client Compliance Rating (CCR) tool

3.50 During 2003–04, to enhance case selection and better target compliance activity, the ATO piloted a CCR tool. The CCR tool is designed to assist in identifying compliance risks from within the client population. The tool draws

together information from a range of ATO systems to formulate a CCR score for each client and thereby identify higher risk clients.

3.51 The ATO undertook 59 targeted audits as part of the CCR pilot. As a result of this audit activity, the ATO adjusted 29 claims. These adjustments included \$1.5 million in overpayments relating to 25 claims, and \$3 803 in underpayments relating to four claims. The pilot confirmed that the aggregated risk factors that collectively form the CCR score, clearly highlight risk, including non-compliance with the EGCS.

3.52 The ATO advised that the Risk Assessment and Profiling Tool, which includes the CCR, is to be introduced in the latter part of 2004. The ANAO considers that the introduction of the CCR is a good initiative. It will further assist the ATO in targeting higher risk claims and clients, and support the effective targeting of EGCS compliance risks.

Assessment of revenue leakage

3.53 The ATO undertook assessments of revenue leakage of fuel grant schemes for 2001–02 and 2002–03. The assessments were based on a review of a statistical sample of randomly-selected claims, paid within the periods under review. Excluded from the sample were claims less than \$200, and claimants who had been subject to audit activity in the corresponding period. EGCS claims have not been included in the revenue leakage assessments so far, as the Scheme was only introduced in mid-2003. However, as many of the claimants examined in the exercises on the preceding schemes have become EGCS claimants, the work is relevant to EGCS compliance management.

3.54 Where the reviews disclose additional information of interest, ATO staff record that information on the *Exciseintelligence* database. The results of the assessments for 2001–02 and 2002–03 claims are presented in Table 3.1.

Table 3.1

Revenue leakage review results for 2001–02 and 2002–03 claims

	Number of claims assessed	Number of claims in error	Total amount of over and under payments	Net revenue leakage ¹	Amount recoverable
2001–02 ²	383	57	\$182 963 ³	5.17% ⁴	\$25 122
2002–03 ⁵	383	105	\$54 443 ⁶	4.15%	\$52 307

Source: ATO

Note 1: Net revenue leakage is overpayments less underpayments, as a percentage of amount paid.

Note 2: Completed in 2003–04. This revenue leakage review process relates to DFRS claims for 2001–02.

Note 3: Overpayments equalled \$178 971 and underpayments \$3 992.

Note 4: Most, (83.1 per cent), of the 5.17 per cent was due to a single overpayment to a mining industry claimant.

Note 5: Completed in 2004–05. This revenue leakage review process relates to DAFGS claims for 2002–03.

Note 6: Overpayments equalled \$52 307 and underpayments \$2 136.

3.55 The ATO assigns a rating to the revenue leakage assessment results ('acceptable', 'medium' i.e., requiring monitoring, and 'unacceptable').⁸² The ATO may either increase or decrease the risk rating of a payment scheme, based on the results of the assessments. Depending upon the results of the assessment, the ATO may implement additional, targeted compliance activities to address any emerging risks.

3.56 As previously discussed, the ATO is undertaking special compliance activity involving a targeted compliance survey in response to the higher than expected⁸³ 2001–02 revenue leakage assessment. When that overpayment issue is excluded from the analysis of results for 2001–02, the estimated revenue leakage is 0.79 per cent. This value is comparable with previous years' assessments⁸⁴, and is within the 'acceptable' rate range.

3.57 As to the revenue leakage review result for the 2002–03 DAFGS claims, the ATO acknowledges that the leakage review result is higher than the previous year's (which focused on DFRS). However, at 4.15% it is within the ATO's 'amber' range for revenue leakage assessments (that is, between 2 per cent and 5 per cent). The ATO advised that it is analysing individual errors to identify any patterns of non-compliance or changes in compliance behaviour across the client population. The ATO also advised that, based on the results of this leakage assessment of DAFGS claims, the on-road transport component of EGCS continues to be monitored to ensure clients meet their compliance obligations.

ANAO comment about the revenue leakage exercises

3.58 The revenue leakage reviews examine historical payment data, and review results may not be reported for up to two years after the period in which the ATO payments were made. As the ATO has the ability to adjust claims retrospectively and recover any overpayments, lags do not affect the overall amounts paid, but lags do bear on the timeliness of risk and compliance management activity. Delays in collating results do not support the ATO's timely response to emerging risks. In our view, there would be benefit in the ATO concluding and reporting its reviews on a more timely basis.

⁸² Applying the traffic light analogy, acceptable ie 'green', is where the revenue leakage result is 0–2 per cent; medium ie 'amber', is 2–5 per cent and unacceptable, ie 'red', is over 5 per cent.

⁸³ As noted in Table 3.1, this was due to an overpayment to a mining industry claimant. The ATO is now assessing compliance in the mining industry with a survey of 200 mining industry claimants.

⁸⁴ The ATO says that leakage in prior years was consistently between 1–2 per cent. For 2000–01 claims, it was below this amount. The ATO assessed revenue leakage for DFRS claims in 2000–01 at 0.15 per cent of amounts paid, and revenue leakage for DAFGS claims in the same period at 0.61 per cent of amounts paid.

3.59 We identified the following technical issues related to the leakage assessments and their use over time:

- The structure of the fuel grant schemes administered by the ATO differ and have changed several times in recent years. Changes in the schemes mean that for any one year's assessment of revenue leakage, the ATO could be assessing claims paid under one, or a combination, of the following fuel grant schemes: DFRS, DAFGS and in future EGCS. This means that, based on the current methodology, the precise comparability of revenue leakage assessments over time is limited.
- Although the ATO selects a sample of statistically valid claims for review, unless the claims are stratified across the sub-populations (for example industry groups and/or market segments), the sample provides limited ability to analyse results across populations and to draw conclusions about client behaviour based on client/population characteristics.

3.60 The ATO advised that it has now adopted a revised approach to case selection for the revenue leakage reviews. Case selection for 2004–05 will be based on *clients* rather than on *claims* submitted during the preceding period. The ANAO notes that if the ATO continues to review a similar number of clients as before, the new approach will potentially increase the ATO's overall compliance coverage, because the ATO will examine many more claims than under the previous approach. The new approach will also allow the ATO to assess and report on EGCS compliance and revenue leakage by market segment. This could be a useful compliance focus, and would tend to align EGCS reporting with the ATO's corporate approach of reporting by market segment. However, the lags in reporting will mean that the reported information will be dated.

3.61 In addition to timeliness, it is also worth comparing the costs and results of the revenue leakage exercise. During 2003–04, the ATO allocated five full-time equivalent (FTE) resources to its fuel grant schemes revenue leakage program. Applying ATO cost data to this resource allocation, we calculate that the fuel schemes benchmarking program would have cost \$388 600. As to the results, the 2001–02 benchmarking reviews completed in 2003–04, identified overpayments of \$182 963 to clients. Of this amount, \$25 122 is deemed recoverable.

3.62 These figures highlight a large divergence between dollar outlay and recoveries. We recognise that the revenue leakage exercise has important and more general compliance assurance functions than specifically targeting overpayments. There are important reasons to assess revenue leakage in a general way for an overall degree of Scheme assurance. That said, there is

merit in the ATO continuing to assess ways to enhance the timeliness of the revenue leakage assessment process.

3.63 We are aware that the ATO is considering the overall methodology supporting the estimation of revenue leakage as part of the change to client reviews. We feel that, in this context, it would be appropriate for the ATO to consider ways to improve the timeliness of the revenue leakage review processes. A stronger focus on project management, including attention to pursuing more vigorously timely access to client documentation, for example, may help to improve the timeliness of the revenue leakage assessment and reporting process.

Recommendation No.4

3.64 The ANAO recommends that the ATO improve the timeliness of its revenue leakage assessment process, to enhance its contribution to EGCS compliance management.

ATO Response

3.65 Agreed. The ATO accepts the need for the timely completion of the revenue leakage assessment process. It should be noted however, that there is a natural lag of 12 months before the process can be commenced, as the leakage assessment process is based on the random sampling of claims from a complete financial year claim population.

Referrals to the Serious Non-Compliance line

3.66 As noted earlier, when information received by Intelligence Operations or information identified during a compliance activity indicates potential EGCS fraud, the matter is referred to SNC for assessment and possible investigation. The ATO has a policy to support decisions about the referral of potential EGCS fraud cases to SNC.

3.67 Due to the generally small value of potential fraud and SNC's limited resources, only higher-priority cases are accepted by SNC. The Intelligence Operations area monitors the status of cases referred, and liaises with SNC on an ad-hoc basis regarding case progress. During 2003–04, 14 potential fraud cases were referred to SNC. Of these 10 were accepted by SNC. The value of EGCS fraud associated with these cases was \$2.2 million.

3.68 The ANAO considers that, given the relatively small number of EGCS case referrals to SNC, the ATO has established a suitable framework for the referral of potential EGCS fraud cases. That said, we are aware that the ATO has identified the recovery of overpayments as a matter for consideration in EGCS administration. We suggest that a more formal approach to the monitoring of cases and ongoing liaison could be helpful in this regard. This

approach would strengthen the relationship between DFIG and SNC. It also may assist in undertaking targeted activities directed at the recovery of any overpayments, prior to the commencement of a fraud investigation. This would facilitate the recovery process.

Recording and reporting of compliance results

3.69 In our view, the ATO's management of compliance activities is made more difficult than would otherwise be the case by the lack of an integrated case management and reporting system across all compliance functions. As noted in Chapter 2, desk and field audit staff use different systems and the results of these activities have to be consolidated to gain an overall appreciation of EGCS compliance activities and results. We understand that the ATO is considering implementing an organisation-wide case management system. The ATO advised that the Excise business line may be involved in piloting the proposed system (expected to commence in the latter part of 2004). For the reasons noted previously, in our view, this initiative could have benefits to EGCS compliance management.

Conclusion

3.70 We found that the ATO has implemented a framework for the management of EGCS compliance. The expected introduction of the CCR will also improve profiling at the client level. However, we found it difficult to ascertain how the ATO's EGCS compliance program is comprehensively targeting identified compliance risks, as opposed to responding to particular matters in cases. We found that compliance activities, in particular, audit activities, largely address risk at the individual claim or claimant level. The ATO's apparent focus on individual claims or clients, limits its ability to address through its compliance program, industry-specific and whole-of-Scheme compliance risks.

3.71 We consider that the ATO's approach to managing EGCS risks through its compliance program would be improved by the ATO making the linkages between risk management and compliance activities more apparent. Stronger links between risk and compliance management (and analysis of the results of compliance activities as feedback to reassess risks) would assist the ATO to better target compliance risks, and allocate resources to priority areas. This would also provide ATO management with a higher level of assurance that the EGCS compliance program is effectively targeting compliance risks and *potential* compliance risks to the Scheme.

Recommendation No.5

3.72 The ANAO recommends that the ATO strengthen, and make more explicit, the links between its risk and compliance management activities to better target industry-specific and whole-of-Scheme risks, and allocate appropriate resources to areas of highest risk.

ATO Response

3.73 Agreed. The ATO notes that the ANAO found a framework for the management of EGCS compliance had been implemented and that industry intelligence assessments were improving.

3.74 The ATO accepts that the documentation around the risk identification and allocation of compliance resources to risks can be made more transparent.

Debt management and penalty processes

3.75 Debt management and penalty processes are another element of the ATO's compliance framework. In considering ATO debt and penalty management with respect to EGCS, we looked to see whether the ATO has established a legal basis for debt and penalty management and has a framework to manage that aspect of the Scheme.

3.76 An EGCS debt can be created as a result of a client amending their claim or as a result of an EGCS audit, leading to compliance staff creating an amended assessment. EGCS debt is managed under the *Product Grants and Benefits Administration Act 2000* and the *Taxation Administration Act 1953* (TAA 1953).

3.77 The EGCS debt management function is the responsibility of the Excise business line's BDAC stream, the rationale being that this group is well-placed to manage their clients' debt because it has a relatively small client base and staff in this area have an ongoing relationship with clients.⁸⁵ The ATO monitors EGCS debt on a weekly basis, and statistics are reflected in the range of operational monitoring reports.

3.78 The ATO may offset a client's debt (whether an EGCS debt or another tax debt) against future EGCS payments, if the client agrees. If the client does not agree to offset the debt against future EGCS payments, the ATO can nonetheless arrange recovery of the debt, possibly involving a hold on the client's claims until the debt is cleared.

⁸⁵ The ATO Operations line manages ATO debt for the other business lines and is the escalation point for Excise debt following a client's refusal to enter into a suitable repayment arrangement.

3.79 Figures for the numbers of EGCS debt cases reflect, in part, the fact that EGCS can be used to offset other ATO debts. Some 720 EGCS debt cases were finalised in 2003–04, recovering \$13.8 million. As at 30 June 2004, EGCS had 176 debt cases, valued at \$6.1 million (up from a debt valued at \$5.2 million relating to 203 cases for predecessor schemes at the same time in 2003). The ATO reports that this increase in the value of debt cases at 30 June 2004 was a result of its targeted compliance activities.

Administrative penalties

3.80 The ATO's penalty regime for EGCS⁸⁶, like other taxes and payments, falls under the TAA 1953.⁸⁷ The Commissioner has the discretion to remit either part or all of a penalty imposed. In addition, the ATO can also seek, under the TAA 1953, to impose a range of other penalties for non-compliance, such as for failure to answer questions, false or misleading statements, or incorrectly keeping records.

3.81 The ATO has a Practice Statement (PS 2002/9) and internal guidelines (a practice note) to govern the imposition and remission of a penalty to EGCS claimants. The guidance recognises key features of the Scheme—its beneficial intent, prospective entitlement (at the point of purchasing fuel with the intention of using for an eligible purpose) and simplified claiming and record-keeping processes. The ATO has also devised a practice note relating to the application and remission of penalties to transfer schemes including EGCS, where a shortfall amount results from a false or misleading statement. This applies to all grant claims on, or after, 1 May 2004.⁸⁸

3.82 As yet, the ATO has not imposed any penalties in respect of EGCS. It expects that retrospective compliance activities planned for 2004–05 will see the application of penalties where necessary.

ANAO comment on debt management and penalties

3.83 The ANAO considers that the ATO's broad arrangements for managing EGCS debt and penalties are appropriate. There is a formal basis for the ATO's activities, supported by procedural guidance for staff assigned those functions,

⁸⁶ The previous off-road penalty legislation and guidelines applied penalties differently from that under the TAA 1953. The penalty regime prior to 1997, when the Australian Customs Service administered the DFRS, was criticised as being rigid and rarely used.

⁸⁷ The penalties set out in part 4-25 of Schedule 1 to the TAA 1953 can apply. The degree of the penalty depends on the behaviour: failure to take reasonable care, the penalty is 25 per cent of the shortfall amount; recklessness—50 per cent of the shortfall amount; and intentional disregard of a taxation law—75 per cent of the shortfall amount.

⁸⁸ ATO practice relating to grant claims lodged on or before 30 April 2004 was guided by Practice Statements 2000/09 and 2002/08.

and activity is monitored in periodic reports. The ATO plans to apply penalties, as necessary, as of 2004–05.

Cost of compliance and cost of administration

3.84 The activities that the ATO undertakes to manage compliance, such as those described in the previous sections, translate, for clients, into compliance activities bearing on them and therefore cost of compliance. The compliance and processing activities translate for the ATO into the cost of administration. Both concepts were important rationales for the introduction of EGCS in mid-2003.

3.85 Among the intended consequences of the introduction of the EGCS to replace the separate DFRS and DAFGS, was the streamlined administration by the ATO and streamlined processes for claimants. Streamlining was to be achieved by simplifying the administrative complexity and compliance requirements and effectively the costs of administration. This was to be done, in part, by addressing administrative inconsistencies between the two schemes⁸⁹, as well as by using the compliance and administrative framework used for other grant programs administered by the ATO. Part of the ATO's intent was to support the underlying goals of the DFRS and DAFGS and to simplify clients' interactions with the Scheme, by making it easier for clients to participate and claim.⁹⁰

3.86 At our request, during the audit, the ATO estimated the cost of administering EGCS in 2003–04. It also estimated the cost of administering the preceding schemes since 2000–01. These estimates are necessarily imprecise, in part, because they allocate costs to the schemes based on apportioned staff numbers. In reality, staff work on functions supporting more than EGCS and other fuel schemes. In undertaking this exercise, the ATO had to make some assumptions in order to distribute costs.

3.87 The ATO's (unaudited) estimates show that the cost of administering EGCS is lower than the costs of administering DFRS and DAFGS since 2000–01. The results of the ATO's exercise are summarised in the following table.

⁸⁹ For example, adopting a prospective entitlement point and a common provision for calculating entitlements.

⁹⁰ Examples of changes implemented under EGCS to make it easier for claimants include: registration by phone as well as by paper; internet claiming; simplified claim form; provision of binding advice by the ATO; and providing common options for methods of record keeping. (As to the last point regarding the different schemes' record keeping requirements, the off-road scheme required complete records, but the on-road scheme allowed for four additional record keeping options, for on-road clients.)

Table 3.2**ATO costs of administration**

	2000–01	2001–02	2002–03	2003–04
FTE	283	263	264	198
Total costs \$m	19.8	21.5 ¹	18.2	14.8
Claims	470 629	430 579	449 130	449 944
Av cost per claim \$	42.13	49.83	40.54	32.99

Source: ATO data

Note 1: Cost spike reflects the inclusion of depreciation write-off costs of GPS' predecessor.

3.88 These figures indicate that the ATO has reduced the cost of fuel schemes administration. Perhaps more important than the calculated cost in any one year, given that the figures are estimates based on allocations of costs across functions, is the downward trend over time. This trend accords with the ATO's objectives.

3.89 As regards ATO administrative and compliance processes, it is also worth noting that the claimants and representative organisations we consulted were supportive of the ATO's administrative processes and compliance efforts. Only one representative commented on the burden of record keeping involved in claiming on-road grants when heavy vehicle fleets worked in metropolitan and urban areas as well as other areas.⁹¹

⁹¹ The Government's Energy White Paper proposes changes to EGCS to remove this provision and associated record-keeping requirement. The new arrangement proposes that all diesel used for business use is claimable as a business credit; there not being a any discrimination made between diesel used in urban and metro areas and elsewhere.

4. Scheme Processes and Controls

This Chapter outlines the systems, processes and controls the ATO uses to support the integrity of EGCS. We describe the Generic Payments System (GPS) and its place in the process flow and review the automated and manual controls for the Scheme.

Introduction

4.1 EGCS administration is carried out using manual and information technology (IT) systems and processes, supported by manual⁹² and automated controls.⁹³ The audit reviewed the controls integral to those system processes but did not audit the operations of the processes and systems.

4.2 Since the controls are designed to provide assurance that the ATO approves and pays claims correctly, we sought to identify the controls to see whether they constitute reasonable elements of a process control framework. We expected these controls to support and operate as part of, the overall EGCS administrative process. We also expected the controls to include:

- current systems specification documentation⁹⁴;
- processes to detect incorrect information within EGCS processing systems, and mechanisms to allocate and escalate EGCS-related exceptions to appropriate ATO staff for resolution;
- the ability to access EGCS information for monitoring, analysis and reporting;
- appropriate and up-to-date work procedures and staff training to guide staff;
- a system of regular review of processes to identify training needs, or opportunities for improvement to procedures; and
- an appropriate mechanism to monitor and assess EGCS administration activities undertaken by another ATO business or service line.

4.3 In looking at Scheme processes and controls, we had regard to the IT system for processing EGCS, processing controls, quality assurance and staff

⁹² For example, appropriate work procedures and staff training.

⁹³ For example, appropriate business rules. For the purpose of this audit, a business rule is a rule with its basis in ATO policy or legislation that is applied to information provided by clients to establish the integrity of that information.

⁹⁴ Systems specifications are IT technical documents, which describe IT systems, including the hardware software, and data of the system. System specifications should be regularly updated to reflect changes to the system and ensure currency.

training processes, which were themes of concern in the 1995–96 performance audit of DFRS.⁹⁵ We review the controls after describing EGCS processing.

EGCS processing

4.4 The systems, which process, assess and pay EGCS claims, must provide the ATO with adequate assurance that EGCS data is accurately processed and the payments made are correct. The primary processing system for assessing, processing and paying EGCS claims is GPS.⁹⁶

Generic Payments System

4.5 GPS was introduced in mid-2001, replacing the Rebate of Excise on Eligible Fuel (REEF) system used for DFRS and the Claims and Advances Processing System (CAPS) used for DAFGS. GPS is used to administer EGCS, and other Excise fuel schemes.

4.6 Claims for EGCS enter GPS for processing via one of the following four streams: information manually keyed into the GPS by ATO staff; paper forms scanned by the ATO's corporate data capture centre⁹⁷; claims submitted by claimants electronically⁹⁸; and eGrant transactions.⁹⁹

4.7 The ATO advised that, regardless of how the data enters the system, GPS claims are processed using the same assessment processes, and are subject to validation by business rules.¹⁰⁰ GPS processes EGCS claims using the following steps.

- **Validate / AWA:** Each claim is initially validated. GPS applies a range of business rules to EGCS claims. If a validation rule triggers an exception, then a work item is created in the ATO's Automated Workflow Allocation (AWA) case management system. The work item

⁹⁵ Audit Report No.20 1995–96 *Diesel Fuel Rebate Scheme—Australian Customs Service*.

⁹⁶ See Appendix 5 for an overview of GPS, in relation to the system's end-to-end process for EGCS claim processing. The data capture process undertaken by the Operations service line, examined in the ANAO Audit Report No.33 2003–04 *The Australian Taxation Office's collection and management of activity statement information* (pp.49–64), is outside the scope of this audit. However, this audit examines the mechanisms the Excise business line uses to monitor EGCS activities undertaken outside the line.

⁹⁷ The CDCC uses Optical Character Recognition (OCR) software to convert the image of the scanned paper EGCS claim form into data that can be processed by ATO IT systems.

⁹⁸ Tax agents submit claims through the ATO's electronic lodgement service (ELS); businesses use the electronic commerce interface (ECI). Approximately 94 per cent of claims are submitted on paper forms and are scanned in the data capture process, 2.5 per cent are submitted electronically, and 3.4 per cent are submitted via eGrant (using ECI).

⁹⁹ eGrant is a claiming facility that does not involve the client having to lodge a claim form. Instead, the client has their fuel card provider pass their fuel purchases to the ATO to form their claim.

¹⁰⁰ Business rules as controls are discussed later in this Chapter.

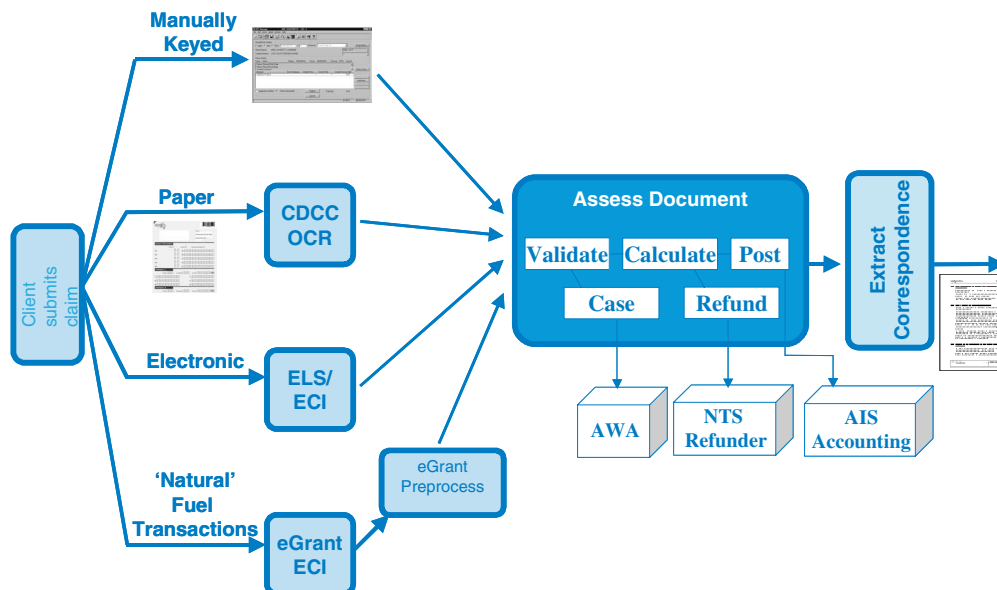
is automatically routed to the appropriate Excise team for manual handling.

- Calculate / Post / Refund: If the claim does not trigger an exception, then final calculations are performed, the claim amount is posted to the client's ATO account in the ATO Integrated System (AIS), and a refund may be paid (using the National Taxpayers System (NTS) and Refunder).
- Extract correspondence: GPS produces regular correspondence extract files, which are sent to an ATO printing contractor. The extract files contain the details for all assessment notices and pre-printed claim forms, which are sent to the EGCS clients.

4.8 The GPS processing model is illustrated in Figure 4.1.

Figure 4.1

The Generic Payments System processing model



Source: ANAO interpretation of ATO data

Controls

4.9 The ATO has implemented a range of controls to provide assurance that EGCS processes are carried out appropriately. The ANAO examined the automated and manual controls that the ATO has implemented to provide that assurance. These controls are discussed below.¹⁰¹

Automated controls

4.10 Automated controls include systems specifications¹⁰², business rules, compliance data collection, and exception management processes.

4.11 The ANAO considers that the ATO:

- has functional specifications for GPS, which: demonstrate version control; provide design objectives; and present a history of the changes to GPS;
- applies business rules to EGCS data to detect incorrect EGCS information, and to validate claim information;
- has a system in place (the active compliance data capture (ACDC) system, described below), which supports data storage and retrieval for analysis and reporting purposes; and
- uses mechanisms, described below, to allocate and escalate EGCS-related exceptions to appropriate Excise staff for review and rectification.

Active compliance data capture system

4.12 GPS is a transaction processing system, which stores the client data necessary for transaction processing (for example, EGCS validation activities). It is not a data retrieval and management system. The ACDC system is a compliance data storage system, providing a function that GPS lacks.¹⁰³ ACDC enhances EGCS compliance activities and the effectiveness of process controls

¹⁰¹ In addition to the controls discussed in this paper, the ATO maintains controls over access to GPS functions and data through the mainframe resource access control facility (RACF). RACF controls user-access to the ATO mainframe environment. However, this security control was not examined as part of the performance audit; it being part of the broader work of the ANAO Financial Statement Audit (FSA) IT program.

¹⁰² Even though systems specifications are *documents* insofar as they describe the IT systems, changes and business rules associated with EGCS processes, we have included them in the review of automated controls because they closely relate to the automated controls in the IT systems.

¹⁰³ There is a limited ability to query and generate reports directly from GPS; most reports are generated by submitting queries to the data warehouse, the ATO's central repository for storage of tax information (see Appendix 5).

by storing client information for analysis, including for: business, industry, and segment intelligence; client profiling; and reporting. It also provides greater capacity for analysing and reporting EGCS information than was available for DFRS information stored in the REEF system, an issue raised in the 1995–96 performance audit of DFRS.¹⁰⁴

Exception management and escalation

4.13 Where EGCS processing has identified an exception, good management requires that exceptions be passed to appropriate staff so that they can be rectified quickly and efficiently. The ATO advised that, during 2003–04, approximately 77 per cent of EGCS claims were processed without generating an exception. However, where exceptions are generated, the ATO must have effective mechanisms to allocate and escalate these claims for resolution.

4.14 The ANAO found that the ATO has multiple processes, which, in combination, manage and escalate exceptions. The processes include: the identification of exceptions using business rules; the automated allocation of exception work items by the GPS to the automated work allocation (AWA) case management system¹⁰⁵; and escalation processes and procedures that enable issues to be escalated to appropriate staff for resolution.

4.15 However, we consider there is a weakness in the ATO's management of exceptions once work items are allocated because the ATO's uses multiple case management tools to manage field audit and case reviews.¹⁰⁶ The multiple case management tools negatively impact on the effectiveness of the EGCS exception management activities because:

- each case management system only provides Excise management with a partial picture of the EGCS workload;
- reports must be manually generated and/or collated to monitor performance and assist decision-making; and
- the manual generation of reports increases the risk of error, or omission of relevant information.

4.16 These problems, in turn, have the potential to undermine the ATO's ability to assess workloads, monitor performance, and appropriately allocate resources, in relation to EGCS administration.

¹⁰⁴ Audit Report No.20 1995–96 *Diesel Fuel Rebate Scheme—Australian Customs Service*.

¹⁰⁵ The AWA work item serves as a notification for a piece of work, which must be actioned manually by Excise staff.

¹⁰⁶ Including through a range of spreadsheets, the field reporting system, and Excise client reporting system.

4.17 As noted at paragraph 3.69, the ATO advised that it is seeking to introduce a common case management tool in the latter part of 2004. The ANAO considers that, once implemented, a single case management system will strengthen the mechanisms already in place for managing exceptions, including the ability to automate the generation of reports.

Manual controls

4.18 Manual controls are those that are not IT dependent. The ATO uses a number of manual controls to provide assurance that staff follow EGCS registration and processing procedures correctly, and make correct decisions when interpreting or analysing EGCS registration or claim data. These controls include: procedures documentation; staff skilling (including training documentation); quality assurance (QA) processes; and relationship management (where EGCS processing is undertaken by ATO business and service lines outside Excise).

4.19 In relation to the manual controls, the ATO maintains:

- relevant, current and accessible procedures for all EGCS-related activities. Procedures are available online, are easily accessible to staff, and are subject to regular review;
- relevant and appropriate staff training, which includes face-to-face training and online learning;
- regular QA reviews of EGCS administrative activities and processes to identify training needs and opportunities for improvement; and
- a formal service agreement between the Excise business line and the Operations service line to manage, monitor and report the EGCS activities carried out by both divisions.

ANAO conclusion

4.20 Overall, the ATO has established an appropriate and comprehensive framework for EGCS processing, supported by automated and manual controls.

Canberra ACT
21 December 2004



P. J. Barrett
Auditor-General

Appendices

Appendix 1: Agency response



Australian Government
Australian Taxation Office

3 December 2004

Ms Anne Cronin
Audit Manager
Performance Audits Services Group
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Ms Cronin

Final ATO response to ANAO Audit Report–Performance Audit of the Energy Grants Credits Scheme (EGCS)– under Section 19 of the Auditor General Act 1997.

Thank you for your letter of 26 November, which outlined some amended text with respect to Chapter 1 and 2 of the report on the ATO's management of the Energy Grants Credits Scheme (EGCS). I also note that the key change is to Recommendation 2.

In light of these changes this response supersedes our previous correspondence of 23 November 2004.

The ANAO has advised that there is a comprehensive framework relating to the management of the EGCS. There is also advice that there are positive indications of the administrative effectiveness within those frameworks. There were five specific recommendations for improvements, against a generally very positive report. Recommendation 2 is considered not to require a response from the ATO and has not been addressed.

The recommendations made have been examined and the ATO responses have been prepared. (Refer to Attachment A).

With regard to recommendations 3, 4 and 5, there is additional detail included in the appendix of this correspondence (Refer Attachment B).

As requested a proposed summary paragraph for the ANAO audit brochure is at Attachment C.

In conclusion, I wish to thank you for your report. The ATO will put in place the necessary steps to implement the recommendations for improvement as agreed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. O'Halloran', with a stylized, flowing script.

James O'Halloran

Assistant Commissioner Excise

Attachment A

Recommendation No. 1

Para 2.39 The ANAO recommends that, to improve management's ability to gauge success in EGCS administration, the ATO:

- devise performance measures, which relate directly to the ATO's overriding objectives in administering the Scheme;
- define explicit targets or benchmark standards for performance measures; and
- include such targets in planning documents.

ATO Response: Agreed. Where possible the ATO will include such targets and measures in future planning documents, rather than use general terminology.

Recommendation No. 3

Para 3.23 The ANAO recommends that, in order to enhance the strategic management of EGCS risks and the transparency and rigor of the process, the ATO:

- undertake more extensive analysis of available data, including payment histories, compliance results, and case referrals. This analysis should be undertaken at an industry and whole of Scheme level; and
- more clearly document potential strategic EGCS risks, their assessment and treatment.

ATO Response: Agreed. It is noted that the ANAO have concluded that the ATO has established a structured and interlinked framework for the management of EGCS risks.

In seeking to improve the manner in which risks are recorded, the ATO has implemented changes in the way EGCS risks are described. These changes will ensure that emerging risks are more clearly documented, as well as ensuring that assessments and proposed mitigation strategies are developed at a more strategic level.

Recommendation No. 4

Para 3.62 The ANAO recommends that the ATO improve the timeliness of its revenue leakage assessment process, to enhance its contribution to EGCS compliance management.

ATO Response: Agreed. The ATO accepts the need for the timely completion of the revenue leakage assessment process. It should be noted however, that there is a natural lag of 12 months before the process can be commenced, as the leakage assessment process is based on the random sampling of claims from a complete financial year claim population.

Recommendation No. 5

Para 3.70 The ANAO recommends that the ATO strengthen, and make more explicit, the links between its risk and compliance management activities to better target industry-specific and whole-of-Scheme risks, and allocate appropriate resources to areas of highest risk.

ATO Response: Agreed. The ATO notes that the ANAO found a framework for the management of EGCS compliance had been implemented and that industry intelligence assessments were improving.

The ATO accepts that the documentation around the risk identification and allocation of compliance resources to risks can be made more transparent.

Attachment B

ATO's detailed responses

Recommendation No. 3

Para 3.23 The ANAO recommends that, in order to enhance the strategic management of EGCS risks and the transparency and rigor of the process, the ATO:

- undertake more extensive analysis of available data, including payment histories, compliance results, and case referrals. This analysis should be undertaken at an industry and whole of Scheme level; and
- more clearly document potential strategic EGCS risks, their assessment and treatment.

ATO Response: Agreed. The ATO notes that the ANAO have concluded that the ATO has established a structured and interlinked framework for the management of EGCS risks. However, in seeking to improve the manner in which risks are recorded, the ATO has implemented changes in the way EGCS risks are described. These changes will ensure that emerging risks are more clearly documented, as well as ensuring that assessments and proposed mitigation strategies are developed at a more strategic level.

From a broader perspective, the ATO continues to improve upon its EGCS compliance risk management through the development of trend analysis and ongoing mitigation strategies. Risk oversight is provided by the Excise Compliance Risk Forum. The Forum continues to improve processes and the description of risk, in this first year of the EGCS. From this very process, the 2004/2005 program will include a revised approach by drawing data from 'whole of ATO' information which will, in conjunction with other strategies, improve our insight into risks within the EGCS scheme and clients' behaviour across the tax system.

At the end of this first year of operation of EGCS, it is now possible to risk assess the EGCS scheme and not rely totally on the history from the two separate schemes. These schemes were effectively 'merged' to form the EGCS. The previous schemes were called the Diesel Fuel Rebate Scheme (DFRS) and the Diesel and Alternative Grants Scheme (DAFGS).

Recommendation No. 4

Para 3.62 The ANAO recommends that the ATO improve the timeliness of its revenue leakage assessment process, to enhance its contribution to EGCS compliance management.

ATO Response: Agreed. The ATO accepts the need for the timely completion of the revenue leakage assessment process. It should be noted however, that there is a natural lag of 12 months before the process can be commenced, as the leakage assessment process is based on the random sampling of claims from a complete financial year claim population.

Feedback from previous benchmarking exercises will be used to improve procedures for future benchmarking to ensure timely completion. A single case management system is now being used and should improve the ability to manage cases to completion. The case management system also includes set times that will allow tracking of individual cases against a standard and with case information held in a single location, better, more timely analysis of results will be possible.

Recommendation No. 5

Para 3.70 The ANAO recommends that the ATO strengthen, and make more explicit, the links between its risk and compliance management activities to better target industry-specific and whole-of-Scheme risks, and allocate appropriate resources to areas of highest risk.

ATO Response: Agreed. The ATO notes that the ANAO found a framework for the management of EGCS compliance had been implemented and that industry intelligence assessments were improving.

The ATO accepts that the documentation around the risk identification and allocation of compliance resources to risks can be made more transparent. It is confident that the recent changes, across the ATO and within Excise BSL, will progressively enable a more integrated picture to be gained.

Attachment C**Proposed summary paragraph for brochure**

The ATO has welcomed the report and has agreed to all four recommendations. While the ANAO have concluded that the ATO has a comprehensive and administratively effective framework for managing the Energy Grants (Credits) Scheme, the ATO accepts that improvements can be made as the Energy Grants (Credits) Scheme moves from its first year of operation.

Appendix 2: Grant rates for the EGCS and relevant excise duty rates

Grant rates for EGCS vary depending on the activity and the fuel, and are subject to eligibility requirements.

Note that there is not a link between the payment of excise and the EGCS grant rate. For example, some on-road claimants can claim a grant for fuel used, even though there is not excise payable on that fuel type. In other instances, entitlement to the grant relates to place of use (eg metro versus rural use).

Activity	Product	Grant Rate	Excise Duty
<i>Road transport (of passengers or goods)</i>	<i>On-road diesel or alternative fuel</i>		
	On road Diesel*	\$0.1851 per litre	\$0.38143 / L (ultra low sulphur diesel—diesel with a sulphur content not exceeding 50 parts per million (ppm)) \$0.40143 / L (other diesel)
	Liquefied petroleum gas (LPG)	\$0.11925 per litre	nil
	Ethanol	\$0.20809 per litre	\$0.38143 / L (denatured ethanol, for use as fuel in an internal combustion engine). However, the effective excise rate is zero for domestic product, because of the production grant administered by the Department of Industry, Tourism and Resources.
	Compressed natural gas (CNG)	\$0.12617 per cubic metre	nil
	Liquefied natural gas (LNG)	\$0.0813 per litre	nil
	Biodiesel (Note 1)	\$0.1851 per litre (effective from 18 September 2003)	\$0.38143 / L (for use as fuel in an internal combustion engine)

Activity	Product	Grant Rate	Excise Duty
<i>Off-road activities</i>	<i>Off-road diesel fuel</i>		
Agriculture	Diesel	\$0.39286 per litre (effective 1 January 2004)	\$0.38143 / L (ultra low sulphur diesel—diesel with a sulphur content not exceeding 50 parts per million (ppm)) \$0.40143 / L (other diesel)
	Heavy fuel oils (Note 3)	\$0.07557 per litre	Fuel Oil, used as a fuel other than in an internal combustion engine. \$0.07557 / L.
Specified industrial uses	Diesel	\$0.38143 per litre	\$0.38143 / L (ultra low sulphur diesel—diesel with a sulphur content not exceeding 50 parts per million (ppm)) \$0.40143 / L (other diesel)
	Heavy fuel oils (Note 3)	\$0.07557 per litre	Fuel Oil, used as a fuel other than in an internal combustion engine. \$0.07557 / L
Use as a burner fuel	Specified diesel (Note 4)	\$0.30586 per litre	\$0.38143 / L (ultra low sulphur diesel—diesel with a sulphur content not exceeding 50 parts per million (ppm)) \$0.40143 / L (other diesel)
All other eligible activities	Diesel (including marine diesel)	\$0.38143 per litre	\$0.38143 / L (ultra low sulphur diesel—diesel with a sulphur content not exceeding 50 parts per million (ppm)) \$0.40143 / L (other diesel)

Activity	Product	Grant Rate	Excise Duty
	Heavy fuel oils (Note 3)	\$0.07557 per litre	Fuel Oil, used as a fuel other than in an internal combustion engine. \$0.07557 / L

Source: ANAO depiction of ATO information as at February 2004

Note 1. To claim a grant for bio-diesel, it must comply with the fuel standard contained in the *Fuel Quality Standards Act 2000*.

Note 2. The kinds of fuel that are not *off-road diesel fuel* are defined in sub-regulation 9(3) of the *Energy Grants Credit Regulations 2003*.

Note 3. A heavy fuel oil is defined in subparagraph 9(1)(b) of the *Energy Grants Credit Regulations 2003*.

Note 4. Specified diesel is defined in subparagraph 9(1)(c) of the *Energy Grants Credit Regulations 2003*.

*** On Road Diesel:** For the purposes of the Energy Grants Credits Scheme, on road diesel fuel is a substance that:

- (a) has been purchased for use as fuel for road vehicles powered by diesel engines; and
- (b) consists principally of products derived from petroleum or shale, including the following:
 - (i) stabilised crude oil, topped crude oil, or condensate;
 - (ii) a recycled substance that has been produced by a process of refining or has been recovered by another process; and
 - (iii) recycled waste oil that has been blended with diesel.

Appendix 3: Evolution of EGCS policy

Stated EGCS objectives in the various sources

The Government's originally-stated objectives for EGCS were 'to provide active encouragement for the move to the use of cleaner fuels by measures additional to the DAFGS, while maintaining entitlements equivalent to DAFGS and the DFRS'.¹⁰⁷

The Second Reading Speech for the Energy Grants (Credits) Scheme Bill says that EGCS gives effect to the commitment of 28 May 1999 under the *Measures for a Better Environment* to introduce a single scheme (replacing the DFRS and DAFGS fuel schemes). The Second Reading Speech also notes that the Government will pursue options as to how EGCS will encourage the conversion to cleaner fuels as part of the consideration of alternative fuels within its cross-Departmental Energy Task Force.

In the legislation, section 3A of the *Energy Grants (Credits) Scheme Act 2003* states that the purpose of EGCS 'is to provide active encouragement for the move to the use of cleaner fuels'. Section 3A also notes that the Commonwealth intends to restrict entitlements available under EGCS to ultra low sulphur diesel as of 1 January 2006.¹⁰⁸

Other sources provide insights about additional motivations for EGCS, in addition to the 'cleaner fuels' objective. The EGCS Bill's Explanatory Memorandum states, with respect to compliance cost impact, that EGCS will simplify the administrative complexity and compliance requirements and the cost of administration. The Scheme seeks to do this by replacing the dual compliance and administrative arrangements associated with the two separate schemes (DFRS and DAFGS), with a single compliance and administrative framework (the *Product Grants and Benefits Administration Act 2000*).

Evolving policy and objectives

The Government's policy intention for the EGCS, as outlined in the EGCS Explanatory Memorandum and Second Reading Speech, was to replace DFRS and DAFGS with a single scheme that maintained entitlements available under the previous schemes. At the time that the EGCS legislation was introduced the Government had already established its Energy Task Force to examine fuel

¹⁰⁷ Specified in subsection 4(2) of the *Diesel and Alternative Fuels Grants Scheme Act 1999*. These twin purposes of the EGCS were restated in the Treasurer's Press Release 27 2002, *Report of the Fuel Taxation Inquiry*.

¹⁰⁸ However, note the political context in which this section 3A was agreed, as explained in the next section, entitled 'Evolving policy and objectives'.

taxation arrangements, including consideration of cleaner fuels initiatives and the excise treatment of alternative fuels.

During the Parliamentary consideration of the EGCS legislation a number of amendments were passed by the Parliament. One of these inserted section 3A of the Act as cited above, although the Bill contained no measures to achieve this purpose. Treasury advised that the Government accepted the amendment in order to secure passage of the legislation, although at that time it had not finalised its policies in relation to cleaner fuels, nor decided how such policies might be implemented.

Cleaner fuel measures

The Government addressed its 'cleaner fuel' objectives (originally envisaged for EGCS) in a range of ways, some involving EGCS, some not. The Government announced its cleaner fuel initiatives in the 2003–04 Budget. These involved inclusion of liquefied natural gas and biodiesel as alternative fuels under EGCS. As well, there was an increase in the off-road credit for agriculture under EGCS as compensation for the introduction of the excise differential favouring ultra low sulphur diesel. The principal cleaner fuels measure, however, was an incentive to encourage the production of low sulphur fuels. This involved the payment of a production subsidy on the production of low sulphur petrol and diesel for two years prior to the mandating of cleaner fuel standards for these fuels. The production subsidy was funded by an increase in the excise rates for petrol and diesel.

At the same time, the Government announced its intention to change the fuel tax arrangements to bring all currently untaxed fuels into the excise (and customs) duty system from 2008. The introduction of excise on these fuels was to be accompanied by the use of production subsidies to reduce the effective excise on those fuels for a transitional period. Initially, (although later deferred, as noted below), the subsidies were intended to be progressively reduced from 1 July 2008. The intended measure would have raised the effective excise rates from zero prior to 1 July 2008 to their final rates in five even, annual instalments commencing 1 July 2008 and ending 1 July 2012. As part of these reforms, biodiesel became excisable from 18 September 2003 at the same rate as diesel fuel, but attracted a production subsidy so that the effective excise rate was to have been zero until 1 July 2008.

On 16 December 2003, the Prime Minister announced the final rates of excise to apply to all fuels. The excise rates announced were based on energy content and provided alternative fuels with a discount of 50% on the full energy content rate.

The *Energy Grants (Cleaner Fuels) Act 2003*, (the Cleaner Fuels Act), was introduced to provide the mechanism for payment of the production subsidies

for low sulphur fuels, giving effect to the Government's cleaner fuel initiative to encourage the production of low sulphur fuels.¹⁰⁹ The Cleaner Fuels Act also provides the mechanism for achieving effective excise rates (ie excise less production subsidy) for biodiesel and other alternative fuels in line with the Government's wider fuel tax reforms. The Cleaner Fuels Act was established to implement the Government's cleaner fuels initiative as the initiatives were targeted at the production end of the fuel supply chain rather than the user end. The EGCS, which provides grants to end users of fuel, was therefore not a suitable delivery mechanism for the initiative.

As part of the Parliamentary consideration of the Cleaner Fuels Act, the Government also announced that it had decided to extend the excise-free period for currently untaxed fuels, including biodiesel, for three years. This means that these fuels will continue to be excise free until 1 July 2011 (rather than until 2008) and that excise will be phased in between 2011 and 1 July 2015 (rather than in 2012).

¹⁰⁹ The Second Reading Speech on the Bill indicated that the Bill delivered on the Government's commitment under the 'Measures for a Better Environment' to implement measures to encourage the conversion from the dirtiest fuels to the most appropriate and cleanest fuels. See Senate Hansard 18 September 2003, p.15530.

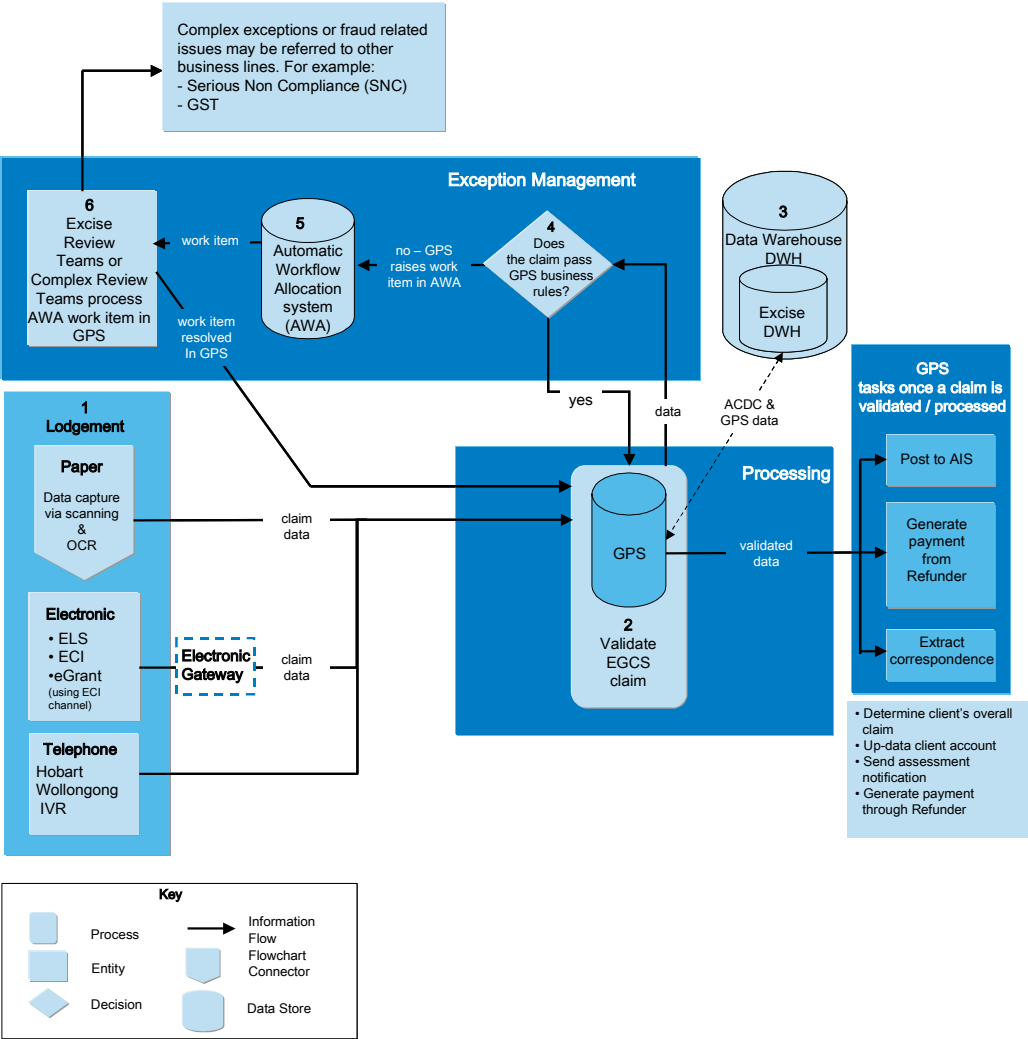
Appendix 4: Monitoring bodies

<p>Fuel Schemes Product Reference Group meets quarterly and is responsible for:</p> <ul style="list-style-type: none"> • marshalling payments expertise and knowledge to optimise payments decision-making; • providing quarterly forecasts for payments; and • analysing past quarter payments. 	<p>Excise Executive Forum is responsible for delivering Excise business strategies within the Excise business line, including:</p> <ul style="list-style-type: none"> • setting strategic directions; • business reporting; • integrity issues; • planning and finance; and • people and place.
<p>Excise Compliance Risk Forum</p> <ul style="list-style-type: none"> • identifies, analyses, assesses and reviews compliance risks; • oversees the development and implementation of appropriate compliance risk treatment strategies; and • monitors the impact of risk treatment strategies. 	<p>Executive Risk Forum oversees:</p> <ul style="list-style-type: none"> • the health of their capability; • workforce skilling, planning and priorities; • levels of service; and • intelligence.
<p>Excise Product Committee</p> <ul style="list-style-type: none"> • sets the strategic direction for Excise products; and • optimises the collection of excise and payment of grants and rebates. 	<p>Active Compliance Steering Committee oversees:</p> <ul style="list-style-type: none"> • improving compliance processes; • implementing new practices; • monitoring compliance practices and outcomes; and • intelligence.

Source: ANAO depiction of ATO data

Appendix 5: Overview of EGCS IT systems

IT systems and processes from lodgement to refund and assessment notification



Source: ANAO analysis of ATO information

Note: The numbers in the diagram above correspond to the numbers in the description below.

1. EGCS claim forms are lodged with the ATO via paper or electronic (including eGrant) lodgement methods. The interactive voice response system (IVR) is an additional lodgement method, which was made available to clients from 30 August 2004. IVR allows the client to ask questions and provide answers by pressing keys on their touch-tone phone. IVR systems are used to automate data entry, eliminating the need for 24-hour staffing of very routine jobs.

2. EGCS information lodged with the ATO via any of the methods above is transferred to the generic payments system (GPS) for processing. GPS validates the claim (ie tests it against business rules), calculates the claim amount, posts successful claim amounts to the client accounts, and initiates a refund and the production of assessment notices (and forms) as appropriate.

EGCS information is stored in the ATO Data Warehouse (DWH).

3. The ATO DWH is a central repository for storage of tax information. Within the repository is an area specifically for Excise-related data, the Excise DWH. Active compliance data capture (ACDC) information collected during registration, and EGCS claim information are updated into the Excise DWH.

The ATO can run queries against the information stored in the DWH database instead of using the data that resides within the processing systems. Queries are run for analysis purposes and to identify items within selected parameters, for example, those that fail business rules.

4. If exceptions are identified when the GPS applies the business rules (see Processes 2 and 4), then processing is stopped and the GPS creates a work item in the automated workflow allocation system (AWA). Once the work item has been resolved in GPS, GPS closes the work item in the AWA.

5. The AWA is intended to identify work items (and make them available to staff) for manual intervention to resolve the issue raised by the failure of the claim against business rules in GPS. The AWA work item serves as a notification for a piece of work, which is actioned manually by ATO staff.

AWA work items generated from GPS exceptions are recorded at the end of each day in the DWH.

Once the work item is resolved, GPS closes the AWA work item and continues processing the claim as appropriate.

6. Claims that have been transferred to the AWA are processed by Excise business line Review Team staff. This involves the staff member accessing the AWA electronic in-tray, viewing the work item, and then accessing the claim in GPS. Resolution may require contact with the client, or escalation to Excise's Complex Review team. Complex exceptions will always be resolved within GPS by Excise Review staff.

Complex exceptions or fraud related issues may also be referred to other business lines so they may examine client activities relevant to their areas of responsibility, for example to Serious Non Compliance (SNC), or GST business lines. However, the Excise business line workforce makes any changes of the claim data within GPS.

Index

A

Administrative penalties, 70

Agency response to the audit, 18-19, 49, 53, 59, 67, 69, 81

Audit rationale, objective and scope, 12

C

Complaints, 36, 38

Compliance, 12, 16, 18, 29, 35-38, 48, 51, 54, 56-57, 59-63, 65, 68-70

Consultations, 14, 35

Controls, 17, 36, 38, 41-42, 73-74, 76, 78

Cost of administration, 14-15, 17, 36, 39, 45, 50-51, 54, 71, 91

Cost of audit, 37

Cost of compliance, 15, 17, 31, 39, 45, 50-51, 71

D

Debt management and penalty processes, 69

demographics, 29

Diesel and alternative fuels scheme (DAFGS), 11, 23, 30, 50

Diesel fuel rebate scheme (DFRS), 11, 13, 18, 23, 30, 36, 37, 39, 50, 54, 74, 77

E

Eligibility, 11, 12, 24, 26-27, 31, 36, 60-62

Energy grants credits scheme (EGCS), 11, 12, 23, 41, 70, 72, 74

Energy white paper, *Securing Australia's energy future*, 12-13, 16, 31, 33, 36-37, 52, 61, 72

Excise business line, 24-25, 28, 37, 40, 41, 50, 78

F

Fraud Control Plan, 41

Fuel schemes advisory forum (FSAF), 14, 35, 61

Fuel Tax Inquiry, 30

G

Generic payments system (GPS), 27, 28, 62, 72-74, 76, 96

GPS processing model, 75

I

Intelligence, 54-55

International standards organisation (ISO), 47

L

Legislation, 11, 26

Lodging a claim, 12, 26, 27-28, 49, 54, 56, 74, 95

O

Ombudsman, 14, 35-37

P

Performance management, 12, 14-15, 18, 32, 37-45, 47-52, 77, 81

Planning processes, 40-41

Policy, EGCS, 11-13, 16, 18, 23,
30-33, 37-38, 50-52, 91

Previous reviews, 36

Q

Quality assurance (QA), 14, 17, 36-37,
41, 44, 47, 73, 78

R

Revenue leakage, 17, 47, 54, 57, 62,
64, 67

Risk management, 14, 16-18, 36-38,
41, 46, 54-55, 57-58, 62-63, 68

S

Scheme objectives, 14-15, 18, 31,
36-37, 39, 44-45, 48, 50-52

Service standards, 15, 43-46, 48-49

T

Treasury, 13-14, 16, 30, 34, 38, 50, 52,
92

Series Titles

Audit Report No.19 Performance Audit
Taxpayers' Charter
Australian Taxation Office

Audit Report No.18 Performance Audit
Regulation of Non-prescription Medicinal Products
Department of Health and Ageing
Therapeutic Goods Administration

Audit Report No.17 Performance Audit
The Administration of the National Action Plan for Salinity and Water Quality
Department of Agriculture, Fisheries and Forestry
Department of the Environment and Heritage

Audit Report No.16 Performance Audit
Container Examination Facilities
Australian Customs Service

Audit Report No.15 Performance Audit
Financial Management of Special Appropriations

Audit Report No.14 Performance Audit
Management and Promotion of Citizenship Services
Department of Immigration and Multicultural and Indigenous Affairs

Audit Report No.13 Business Support Process Audit
Superannuation Payments for Independent Contractors working for the Australian Government

Audit Report No.12 Performance Audit
Research Project Management Follow-up audit
Commonwealth Scientific and Industrial Research Organisation (CSIRO)

Audit Report No.11 Performance Audit
Commonwealth Entities' Foreign Exchange Risk Management
Department of Finance and Administration

Audit Report No.10 Business Support Process Audit
The Senate Order for Departmental and Agency Contracts (Calendar Year 2003 Compliance)

Audit Report No.9 Performance Audit
Assistance Provided to Personnel Leaving the ADF
Department of Defence
Department of Veterans' Affairs

Audit Report No.8 Performance Audit
Management of Bilateral Relations with Selected Countries
Department of Foreign Affairs and Trade

Audit Report No.7 Performance Audit
Administration of Taxation Rulings Follow-up Audit
Australian Taxation Office

Audit Report No.6 Performance Audit
Performance Management in the Australian Public Service

Audit Report No.5 Performance Audit
Management of the Standard Defence Supply System Upgrade
Department of Defence

Audit Report No.4 Performance Audit
Management of Customer Debt
Centrelink

Audit Report No.3 Business Support Process Audit
Management of Internal Audit in Commonwealth Organisations

Audit Report No.2 Performance Audit
Onshore Compliance—Visa Overstayers and Non-citizens Working Illegally
Department of Immigration and Multicultural and Indigenous Affairs

Audit Report No.1 Performance Audit
Sale and Leaseback of the Australian Defence College Weston Creek
Department of Defence

Better Practice Guides

Fraud Control in Australian Government Agencies	Aug 2004
Security and Control Update for SAP R/3	Jun 2004
AMODEL Illustrative Financial Statements 2004	May 2004
Better Practice in Annual Performance Reporting	Apr 2004
Management of Scientific Research and Development Projects in Commonwealth Agencies	Dec 2003
Public Sector Governance	July 2003
Goods and Services Tax (GST) Administration	May 2003
Managing Parliamentary Workflow	Apr 2003
Building Capability—A framework for managing learning and development in the APS	Apr 2003
Internal Budgeting	Feb 2003
Administration of Grants	May 2002
Performance Information in Portfolio Budget Statements	May 2002
Life-Cycle Costing	Dec 2001
Some Better Practice Principles for Developing Policy Advice	Nov 2001
Rehabilitation: Managing Return to Work	Jun 2001
Internet Delivery Decisions	Apr 2001
Planning for the Workforce of the Future	Mar 2001
Contract Management	Feb 2001
Business Continuity Management	Jan 2000
Building a Better Financial Management Framework	Nov 1999
Building Better Financial Management Support	Nov 1999
Managing APS Staff Reductions (in Audit Report No.49 1998–99)	Jun 1999
Commonwealth Agency Energy Management	Jun 1999

Cash Management	Mar 1999
Security and Control for SAP R/3	Oct 1998
Selecting Suppliers: Managing the Risk	Oct 1998
New Directions in Internal Audit	Jul 1998
Controlling Performance and Outcomes	Dec 1997
Management of Accounts Receivable	Dec 1997
Protective Security Principles (in Audit Report No.21 1997–98)	Dec 1997
Public Sector Travel	Dec 1997
Audit Committees	Jul 1997
Management of Corporate Sponsorship	Apr 1997
Telephone Call Centres Handbook	Dec 1996
Paying Accounts	Nov 1996
Asset Management Handbook	Jun 1996