

**REPORT ON PROGRESS: SEVENTH REPORT OF THE
STANDING COMMITTEE ON PUBLIC ACCOUNTS – 44th PARLIAMENT, 1st SESSION
(RESPONSE TO RECOMMENDATION 4)**

INTRODUCTION

On behalf of the Government of Canada, on June 8, 2022, the Minister of National Revenue tabled the Government's Response to the recommendations contained in the Seventh Report of the Standing Committee on Public Accounts entitled: *Report 7, Canada Emergency Wage Subsidy, of the 2021 Reports of the Auditor General of Canada*.

As requested, the Canada Revenue Agency (CRA) is pleased to provide its final report on progress related to recommendation 4.

Recommendation 4: *“That, by 31 January 2022, the Canada Revenue Agency provide the House of Commons Standing Committee on Public Accounts with a report outlining the preliminary results of its post-payment audits for the Canada Emergency Wage Subsidy, including the amounts recovered. A final report should also be presented to the Committee by 31 January 2023.”*

Government Response (as tabled on June 8, 2022): *“The GC (Government of Canada) supports this recommendation. The information in the following paragraphs represents the January 31, 2022, report requested by the Committee.*

When the Canada Emergency Wage Subsidy (CEWS) was introduced, the shared priority of the Government and the CRA was to assist businesses in maintaining their workforce, alleviating pressures on businesses that were impacted by COVID-19 and supporting Canadian employees. The CRA implemented the program based on timelines that were established by Parliament in order to meet urgent financial and economic needs.

Generally, for a traditional refundable tax credit program for business, verification and compliance work begins only after the end of the taxation year and the filing of tax returns. However, for CEWS, given the size of the program, the CRA began compliance interventions, including audits, much earlier than it has done traditionally. Starting CEWS audits before the end of the taxation year is an innovative approach that provides taxpayers with earlier certainty of eligibility and allows for better stewardship.

The CRA developed a comprehensive compliance program for the CEWS which has largely found that the majority of businesses and employers are applying the CEWS rules correctly and making every effort to comply. There is also a small minority of claimants who did not understand all of the rules and made honest mistakes when filing their CEWS applications. However, the CRA has also found that there have been instances where CEWS claimants have attempted/committed fraud and/or aggressive non-compliance and may be subject to significant penalties and/or possible criminal prosecution.

The CEWS comprehensive compliance program consists of many activities, including automatic and manual pre-payment verification, post payment audits, a public facing CEWS registry and repayment opportunities. As of February 18, 2022, these activities have resulted in over \$1.4B of CEWS benefits being denied or reversed, subject to further recourse by the employer (taxpayer). The following is more detailed information on some of these compliance activities.

Pre-payment verification: When the CRA processes CEWS applications, it uses a combination of automated validation and manual verification to ensure that the subsidy is provided to eligible applicants and that certain elements of their claim are correct. Automated validation is applied to all CEWS applications and approximately 894,000 have been subject to manual verification, which is 17.8% by dollar value, or \$34.5B of the CEWS program. As of February 18, 2022, approximately \$100B has been paid out to eligible employers in support of their employees.

Post-payment audit program: After payment of the CEWS benefit, more comprehensive audits are being conducted to further examine the level of compliance. The vast majority of these audits are selected using a risk-based approach based on the findings at the pre-payment stage and the use of sophisticated business intelligence tools. In most cases, the CRA proactively conducts these comprehensive CEWS audits before an income tax return is filed to ensure compliance and to protect the integrity of the tax system. The preliminary post payment audit program (Phase 1) began in August 2020. Approximately 700 CEWS claims, representing \$1.5B in CEWS, were selected for audit, including claims prepared by third party promoters. It is currently too early to report on results from Phase 2, given its launch was in fall 2021. The results of Phase 1 and 2 will determine the scope of future phases and/or the possibility of merging this workload into CRA's existing audit programs to further enhance compliance and fairness.

Voluntary repayment: Since the inception of the CEWS program, some amounts have been voluntarily repaid through client-initiated action by taxpayers that were either selected for audit and/or included on the public facing CEWS registry.

The CRA is closely monitoring its audit efforts and expects to meet its reporting commitments to the OAG, the Committee and to Parliament.”

Report on Progress: The CRA worked quickly and diligently to administer the CEWS. The CEWS delivered payments to employers impacted by the COVID-19 pandemic, allowing them to keep workers on their payroll, bring back previously laid-off employees and help ease their businesses back into normal operations.

Overview of the CEWS compliance program

A comprehensive compliance program was quickly developed to verify that claimants were eligible to receive payments for the CEWS, and that the amounts were accurate.

As of October 28, 2022, through its compliance activities, the CRA has manually reviewed over \$33B at the pre-payment stage and \$2.9B during the post-payment audit stage, with additional amounts currently under review. Amounts reviewed to date in these various compliance activities have resulted in approximately \$1.5B (includes both pre-payment and post-payment assessments that have been processed) of CEWS benefits being denied or adjusted. While post-payment verification activities are still underway, the CRA considers this preliminary outcome to be indicative of a high level of compliance.

CEWS compliance activities include the following:

1. *Automated pre-payment validation criteria* were applied to 100% of CEWS applications (i.e., 5,091,630 applications) to confirm eligibility and to identify claims of risk requiring additional review prior to payment.
2. *Manual pre-payment verification* was conducted on all claims where validation criteria identified potential concerns regarding eligibility at the application stage. This manual intervention included activities such as phone calls to verify that certain elements of the claim were correct. Over \$33B of the total CEWS claims were subject to manual pre-payment verification.
3. *Comprehensive post-payment audits* are ongoing to further examine the level of compliance of claimants who, based upon risk criteria, warrant further review. As of October 28, 2022, 3,660 post-payment audits are either in-progress or have been completed, representing \$12.2B of the total CEWS benefits paid.

As results and improved data became available, lessons learned were applied throughout all steps of the process. For example, although using GST/HST revenue data as a comparative was considered for the purposes of verifying reasonability of CEWS claims at the prepayment stage, it was concluded that it would not be a viable option and would result in most if not all cases being flagged, given inherent data differences as a result of several key factors. These factors include:

- The filing periods for CEWS and GST/HST do not align;
- Qualifying revenue for CEWS and GST/HST revenue are not closely comparable;
- The option to file revenue calculations on a consolidated basis for a group of affiliated entities for CEWS purposes would result in the data being incomparable.

It is important to note that GST/HST revenues were a source of data used for purposes of reasonability and revenue drop evaluation at the post-payment audit stage as well as for many claims referred for manual review at prepayment for other reasons.

Further, the CRA implemented the use of GST/HST data as a pre-payment validation for the revenue drop criteria of the Canada Emergency Rental Subsidy (CERS) program, as the revenue drop rules rely on the same revenue test as the CEWS. Results to date show that the vast majority of CERS applicants that did not meet the "revenue drop" test based strictly on GST/HST filing data, did in fact meet the revenue drop test based on qualifying revenue for CEWS/CERS purposes. This supports the position that there is very limited correlation between the two different concepts of revenue.

CEWS Post-Payment Audit Results

As of Oct 28, 2022	
Audits in progress	1,921
Audits in progress - dollar amount	\$9.22 billion
Completed audits	1,739
Amounts approved (no changes)	\$2.79 billion
Amounts denied	\$199.9 million
Penalties applied	\$11.6 million

CEWS post-payment audits are being conducted in phases, with the lessons learned from each phase informing the next. This approach allows the CRA the flexibility to expand or reduce its focus in different areas as audit activities progress and business intelligence is acquired.

Post-payment audit activities are undertaken on a risk-based model which allows the CRA to focus on those claims that are more likely to be ineligible or overstated. This approach optimizes recoveries and ensures that higher-risk situations are addressed with appropriate compliance actions, while recognizing the importance of stewardship of public funds and efficient use of CRA resources.

Phase 1

- Phase 1 commenced in August 2020, using a combination of risk-assessment and random selection from the claimant population, to assist the CRA in better understanding the risks, gauge the degree of non-compliance, validate the effectiveness of existing pre-payment validation criteria and obtain feedback from auditors and claimants.
- The risk-based approach included pre-payment verification findings, advanced business intelligence tools and internal and external leads.

Phase 2

- Phase 2 commenced in November 2021 and targeted the highest risk claimants by using enhanced risk assessment algorithms and lessons learned from Phase 1 completed audits.
- Phase 2 is ongoing, with additional audits to be identified. File selection will continue to be based on business intelligence, referrals, leads and enhanced risk-assessment algorithms to ensure the CRA focuses its audit resources on the claimants who demonstrate the highest level of risk for non-compliance.

Overall, CEWS compliance audits have largely found that most claimants have applied the rules correctly and have made every effort to comply. Some claimants, while eligible, simply did not understand all of the rules and made honest mistakes when filing their applications. The most common adjustments relate to payroll issues, mathematical and calculation errors, as well as instances where the claimants failed to provide responses or information to the auditors. Likewise, the CRA has found that most applicants correctly applied and met the revenue drop requirements for the CEWS. For example, in its ongoing audits of CEWS claims of small employers identified as high-risk, the CRA has found that only about 5% of amounts adjusted were due to a failure to meet the required revenue decrease in at least one period claimed.

However, as is found in most compliance programs, the CRA has identified a small pocket of CEWS claimants that are suspected to have committed fraud and/or aggressive non-compliance, including preparers of ineligible claims. Preparers of ineligible claims are individuals or entities who promote and assist in breaking or bending the rules and knowingly facilitate the production of inaccurate or fraudulent claims. The CRA is continuing to identify and pursue all preparers that appear to have prepared or counselled others to file ineligible CEWS and the CERS claims as well as their associated claimants.

As of October 28, 2022, approximately 2,000 CEWS/CERS high risk preparer-linked claimants have been identified and are being evaluated for potential denial or adjustment based upon ineligibility. In addition, it is anticipated that additional third-party penalties may be applied to preparers who knowingly engaged and facilitated these activities.

Separate from the compliance program, the CRA observed an influx in suspicious activities during the early stages of the pandemic as third-party bad actors capitalized on the unique set of circumstances and the attestation model to gain unauthorized access to CRA accounts and submit CEWS applications. Many of these cases were identified through the automated and manual pre-payment verification activities and subsequently reviewed by specialized teams.

When the CRA becomes aware that the information of a business is at risk, controls are immediately put in place to prevent suspicious disbursements and protect the integrity of the information and CRA accounts. Depending upon the circumstances, cases may also be referred to the Criminal Investigations Program in the CRA which may in turn, refer cases to the Public Prosecution Service of Canada for criminal prosecution in the courts.

Finally, as outlined above, many CEWS post-payment audits remain underway and additional audits will continue to be identified based on risk assessments and lessons learned to date. Therefore, the results of the CEWS post-payment audit activities will continue to change as the CRA's compliance actions progress. The CRA has the flexibility to do additional stand-alone CEWS audits, or to combine CEWS audit work with its regular income tax audit program. Furthermore, there is no deadline for reassessing in cases of fraud, or negligent, careless, or wilful misrepresentation.