

The Auditor-General

Audit Report No.16 1999–2000

Performance Audit

Superannuation Guarantee

Australian Taxation Office

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ISSN 1036-7632
ISBN 0 644 39178 2

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Canberra ACT
15 November 1999

Dear Madam President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit of the Australian Taxation Office in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Superannuation Guarantee*.

Following its tabling in Parliament, 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

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Abbreviations/Glossary

AIS	Australian Taxation Office Integrated System
ANAO	Australian National Audit Office
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
DEWRSB	Department of Employment, Workplace Relations and Small Business
EN	Employee Notification of Insufficient Employer Contributions form
PAYE	Pay-As-You-Earn
PRS	Problem Resolution Service
QA	Quality Assurance
SB	Small Business Line
SEK-B	Strategic Environmental Knowledge Base
SG	Superannuation Guarantee
SG Charge	Superannuation Guarantee Charge
SGR	Superannuation Guarantee Ruling
SOLAR	Superannuation On Line Advisor and Resource
SPR	Superannuation Business Line
SRCT	Strategic Research and Compliance Team
TFN	Tax File Number
Workflow	Correspondence Workflow Management System

Summary and Recommendations

Summary

Background

1. The Superannuation Guarantee (SG), which came into effect on 1 July 1992, was introduced to reduce reliance on the age pension as a means of funding retirement for individuals.
2. The SG legislation requires employers to contribute a prescribed minimum level of superannuation for employees each financial year. From 1 July 1998 the level of SG contributions required was seven per cent of an employee's notional earnings base.¹ Employers that do not meet their SG obligations are subject to imposition of the SG Charge.²
3. In the 1997–98 financial year SG contributions by employers totalled approximately \$15 billion. This represents 44 per cent of all contributions made to superannuation funds in that year. The Australian Prudential Regulation Authority (APRA) has estimated that, in August 1998, approximately 91 per cent of all employees had superannuation coverage.
4. The ATO is responsible for ensuring that employers comply with their SG obligations in accordance with SG legislation. This responsibility is administered within the ATO by the Superannuation Business Line (SPR).

Audit objectives and criteria

5. The objective of the performance audit was to review the ATO's administration of the Superannuation Guarantee and to identify appropriate opportunities for improvement.
6. The ANAO assessed the ATO's administration of SG using a risk management framework. Our assessment focussed on the ATO's performance in the areas of:
 - risk assessment strategies (identifying significant SG risks);
 - risk planning strategies (prioritising identified SG risks and developing business plans that include strategies to address these risks);

¹ The relevant notional earnings base for an employee is usually specified in the trust deed of the superannuation fund where the superannuation support is provided, a law of the Commonwealth, a State or Territory, an industrial award or an agreement with the employee.

² Components of the SG Charge are described at paragraph 3.142.

- risk treatment strategies (developing and implementing SG risk treatment strategies including education, client service, audit and enforcement); and
 - performance monitoring strategies (developing performance indicators and monitoring the progress and outcomes of risk treatment strategies).
7. The criteria used to assess the ATO's performance in relation to risk management were adapted from MAB/MIAC's *Guidelines for Managing Risk in the Public Service*³ and are set out in relevant sections throughout this report.

Overall conclusion

8. Overall, the ANAO found that the ATO's administration of the SG is sound. We found that SPR generally had effective risk assessment, risk planning, risk treatment and performance monitoring strategies in place for SG.

9. However, the ANAO has identified a number of areas where improvements are possible including:

- ensuring that the Superannuation Business Line (SPR) reviews compliance analysis performed by other areas of the ATO, particularly the Small Business Line (SB) because SG employers are usually clients of both business lines;
- supplementing current high level SG performance indicators to provide a more complete picture of SG compliance;
- investigating options for reducing the amount of manual processing necessary for SG forms;
- exploring options that may be available to reduce the number and value of unredeemed vouchers;
- taking steps to ensure that staff are using the correct reference material when defining for employers and employees who is an employee for SG purposes;
- coordinating audit activities between SB and SPR where the same clients are involved; and
- developing an effective prosecution strategy for SG avoidance.

³ Management Advisory Board/Management Improvement Advisory Committee, Report No. 22, *Guidelines for Managing Risk in the Australian Public Service*, October 1996.

Key Findings

Risk management (Chapter 2)

Risk assessment strategies

10. The ANAO found that the SPR Business Line had effective mechanisms in place to ensure that it used accurate, timely and relevant internal and external information to identify SG risks. SPR regularly monitored this information to identify emerging SG risks.

11. We noted that:

- the SPR Business Line's organisation structure and processes enabled the Business Line to effectively identify and assess all major operational, compliance and environmental risks for SG;
- SPR rated its SG risks in terms of likelihood and consequence, the ratings assigned were consistent with the available information and, as a result, identified SG risks had been effectively prioritised; and
- all major operational, compliance and environmental risks for SG had been identified and assessed by the ATO.

12. However, we consider that SPR's risk assessment processes would be improved if it used the compliance analysis performed by other areas of the ATO as a source for risk identification. Compliance analysis from SB would be particularly helpful because SG employers are usually clients of both SB and SPR.

Risk planning strategies

13. The ANAO found that SPR business plans included treatment strategies for identified high priority SG risks and that business plans included clear accountability for the implementation of these treatment strategies. SPR staff interviewed during the audit appeared to:

- understand the risk treatment strategies set out in business plans; and
- be committed to the success of these strategies.

14. We noted that SPR provided full cost estimates for its four key strategic outputs⁴ and for each of its functional elements (Core Processes).

⁴ The four key strategic outputs which SPR and the ATO reports against to the Parliament are:

- providing policy input;
- collecting estimated revenue;
- arranging for the transfer of funds between clients; and
- providing cross agency support.

However, we suggest that measuring and reporting full cost estimates (which include indirect costs) be considered for several other key activities. Such information would enable SPR to more accurately assess the costs and benefits associated with these activities and, as a result, determine whether these activities are cost-effective or ascertain whether there are more cost-effective ways of achieving required outcomes. The key activities currently performed by SPR that the ANAO suggests should be fully costed are:

- the annual SG compliance survey;
- SG compliance project work;
- telephone enquiry activities; and
- processing SG forms (such as statements and vouchers).

Risk treatment strategies—development

15. SPR's mix of SG risk treatment strategies included client education, client service, audit, penalty and debt collection strategies.

16. We found that SPR's organisation structure enabled these strategies to be carried out cost effectively and that SPR staff interviewed during the audit appeared to understand their responsibilities in relation to the implementation of risk treatment strategies.

17. However, the ANAO also found that SPR had not developed a clear strategy for prosecuting employers who choose not to comply with their obligations. In our view, an effective prosecution strategy should be an important element in SPR's overall compliance strategy. Although we recognise that it is not cost effective to pursue prosecution action in all instances, we recommend that SPR develop an effective prosecution strategy for SG avoidance.

Performance monitoring strategies

18. SPR's Strategic Plan generally included relevant high level performance indicators. SPR's Core Process business plans included detailed performance indicators for each strategy or activity outlined in those plans.

19. We found that these performance indicators included time and quality dimensions, where appropriate. However, we recommend that SPR consider measuring and reporting its performance against a number of additional performance indicators to provide a more complete picture of SG compliance, including:

- the amount of money involved with SG non-compliance (in addition to the number of non-compliant obligated employers); and

- the percentage of employees affected by employer SG non-compliance (in addition to the number of non-compliant obligated employers).

20. SPR was developing or already had in place business systems and procedures to enable cost-effective monitoring of performance. We noted that SPR reviewed regularly its progress against most key performance indicators such as those contained in business plans. However, we also noted that SPR did not report its performance against the ATO's commitment (as set out in the Taxpayers' Charter) to respond to clients within seven days of receiving a complaint.

21. We found that a formal performance appraisal process is in place to assess an individual's performance against his/her performance agreement. Individual performance agreements for each staff member include performance indicators which are linked to those contained in business plans. SPR staff interviewed during the audit indicated that they were committed to monitoring individual and Business Line performance against established SG performance indicators.

22. SPR's performance against key performance indicators was generally sound, particularly in relation to the Taxpayers' Charter and quality assurance for SG processes such as providing technical advice and conducting audits.

Risk treatment strategies—implementation (Chapter 3)

23. The ANAO found that SG risk treatment strategies (including education, client service, audit and enforcement) were usually implemented in a timely, consistent and cost-effective manner. SPR staff interviewed during the audit appeared to understand their responsibilities in relation to the implementation of risk treatment strategies. SPR's business systems, guidelines and control mechanisms to support the implementation of risk treatment strategies are adequate.

Education

24. The ANAO found that the ATO has made effective use of a wide range of education strategies, involving publications, advertising campaigns and seminars, to educate employers about their SG obligations and employees about their SG entitlements. We also noted that SPR had utilised its strong professional relationships with superannuation industry stakeholders to educate employers and employees.

Client service

25. We found that the client services provided to SG employers and employees are satisfactory in terms of timeliness and quality. For example,

results of SPR's July 1999 national quality assurance review indicated that the quality of advice provided by SPR staff to SG employers and employees is sound. In particular:

- 98 per cent of SG telephone advice provided by SPR staff achieved a 'pass' standard against SPR's quality assurance criteria; and
- 96 per cent of written advice provided and audits conducted by staff on SG matters achieved a 'pass' rating against SPR's quality assurance criteria.

26. In addition, during 1998–99, approximately 95 per cent of all superannuation telephone calls received were answered within the time requirements set down by the Taxpayers' Charter. For the same period, approximately 90 per cent of responses to client correspondence on superannuation subject matter were provided within the time requirements set down in the Taxpayers' Charter.

27. However, the forms completed by SG employers and employees were captured and processed manually, as opposed to electronically, by SPR. The ANAO considers that SPR should investigate options for reducing the amount of manual processing necessary for SG forms.

28. We noted also that SG vouchers⁵ totalling approximately \$66 million had not been redeemed by employees and that this amount increased by more than 70 per cent from 1997–98 to 1998–99 and by more than 100 per cent each year from 1994–95 to 1997–98. A large value of unredeemed SG vouchers can impact negatively on one of the key objectives of SG, that is, to reduce the reliance of individuals on the aged pension to fund their retirement. The ANAO recommends that SPR explore a range of options to reduce the number and value of unredeemed SG vouchers.

29. Finally, the ANAO found that SPR team members we spoke to during the audit were not using the correct reference information to define who is an employee for SG purposes. Because a significant number of the enquiries received by SPR from employers are relevant to this area, use of incorrect reference material can have a significant impact on employer compliance with the SG legislation. We recommend that SPR takes steps to ensure staff are using the correct reference material when providing advice to employers and employees.

⁵ See paragraph 3.39 for an explanation of SG vouchers.

Audit

30. The ANAO noted that SPR recently changed its approach to SG desk and field audit activities from a follow-up of each individual Employee Notification of Insufficient Employer Contributions form (which was not a risk-based approach) to implementing risk-based compliance audit projects. The ANAO supports this change.

31. We also support SPR's annual survey of SG employers aimed at assessing SG compliance levels. Results of SPR's 1998 survey indicate that SG compliance levels are reasonably high. In particular:

- 71 per cent of capital city employers and 59 per cent of regional employers complied fully with their SG obligations; and
- only five (less than one per cent) of the 2454 employers addressed in the survey were fully non-compliant (that is, they had not made any superannuation contributions on behalf of their employees).

32. However, the ANAO found that there was no coordination of audit activities between the SB and SPR Business Lines, even though most employers are clients of both Business Lines. We recommend that SPR and SB coordinate their audit activities, where appropriate, to reduce the compliance burden for employers who may be subject to audit activity from both Business Lines.

Enforcement

33. The ANAO found that SPR improved its SG debt collection performance between 1997–98 and 1998–99. The level of SG debt outstanding, as a percentage of the total SG Charge⁶ imposed on employers, also decreased during this period.

34. In relation to SG penalties, the ANAO was advised by SPR of a number of issues that were of concern in relation to its administration of the SG Charge. We noted that SPR was considering possible legislative options to present to government on the imposition of penalties under SG legislation. The ANAO would support the ATO pursuing this course if the Parliament considers the SG Charge is too harsh and/or there is not enough discretion and flexibility in its application under existing legislation.

⁶ The SG Charge is imposed on employers who do not meet their SG obligations. Components of the SG Charge are described at paragraph 3.142.

Recommendations

Set out below are the ANAO's recommendations aimed at improving the ATO's administration of the Superannuation Guarantee. Report paragraph references and abbreviated ATO comments are also included. More detailed responses are shown in the body of the report. The ANAO considers that the ATO should give priority to recommendations 2,3,5 & 6.

Recommendation No.1
Para. 2.9 The ANAO recommends that the SPR Business Line obtain the results of compliance analysis performed by other ATO Business Lines (particularly the Small Business Line which deals with the same clients) and use this information as an additional source for identifying SG risks.

ATO Response: Agree.

Recommendation No.2
Para. 2.40 The ANAO recommends that SPR develop an effective prosecution strategy for SG avoidance.

ATO Response: Agree.

Recommendation No.3
Para. 2.56 To better assess whether the SG system is meeting its objectives, the ANAO recommends that SPR consider measuring and reporting its performance against the following performance indicators:

- the amount of money involved with SG non-compliance; and
- the percentage of employees affected by SG non-compliance

ATO Response: Agree.

Recommendation No.4
Para. 2.63 The ANAO recommends that SPR record and report regularly to the ATO Commissioners its performance against the ATO's commitment (as set out in the Taxpayers' Charter) to respond to clients within seven days of receiving a complaint.

ATO Response: Agree.

Recommendation No.5
Para. 3.50 The ANAO recommends that SPR explore whether transferring voucher amounts into existing employee superannuation accounts (identified through superannuation surcharge data) is an option to reduce the number and value of unredeemed SG vouchers.

ATO Response: Agree.

Recommendation No.6
Para. 3.75 The ANAO recommends that SPR take steps to ensure its staff, when providing advice to SG employers and employees, are using the correct definition (as set out in SG Ruling 93/1) as to who constitutes an employee for SG purposes.

ATO Response: Agree.

Recommendation No.7
Para. 3.90 The ANAO recommends that SPR examine the costs and benefits of various options to reduce the amount of manual processing necessary for SG forms. Options may include developing forms that can be:

- completed electronically by employers or employees; and/or
- completed manually by employers and employees and captured on ATO systems using the ATO's existing Optical Character Recognition technology.

ATO Response: Agree with qualification.

Recommendation No.8
Para. 3.119 The ANAO recommends that the Superannuation and Small Business Lines coordinate audit activities, where appropriate, to make more efficient use of ATO resources and to reduce the compliance burden for employers who may be subject to audit activity from both Business Lines.

ATO Response: Agree.

Audit Findings and Conclusions

1. Introduction

This Chapter provides an overview of the Superannuation Guarantee and the ATO's administration of SG. It also sets out the audit objectives, criteria and approach for the audit and outlines the structure of this report.

Overview of the Superannuation Guarantee

1.1 Australia's current retirement incomes policy is based on a 'three pillars' approach, comprising:

- an age pension paid from current revenue;
- voluntary savings, including superannuation; and
- compulsory saving through mandatory superannuation contributions by employers on behalf of their employees.

1.2 The Superannuation Guarantee (SG), which came into effect on 1 July 1992, represents the compulsory pillar of retirement incomes policy. When introduced, the aim of the SG was to increase the proportion of 'self-funded' retirees. It was also seen by the Government at that time as a means of increasing national savings. The then Treasurer noted that SG would provide an orderly mechanism by which employer superannuation support could be increased over time, consistent with the economy's capacity to pay.⁷

1.3 The legislative framework for SG is provided by the *Superannuation Guarantee (Administration) Act 1992* and the *Superannuation Guarantee Charge Act 1992*.

1.4 This legislation requires employers to contribute a prescribed minimum level of superannuation for employees. The statutory contributions for any financial year are to be paid by 28 July in the next financial year. From 1 July 1998, the level of SG contributions has been seven per cent of an employees' notional earnings base⁸. This will rise to eight per cent in 2000–01 and to nine per cent for 2002–03 and subsequent years.

⁷ Treasurer, Second Reading Speech, *Superannuation Guarantee (Administration) Bill 1992*, 2 April 1992, Hansard, p. 1764.

⁸ The relevant notional earnings base for an employee is usually specified in the trust deed of the superannuation fund where the superannuation support is provided, a Commonwealth, State or Territory law, an industrial award or an agreement with the employee.

1.5 SG contributions do not have to be made for:

- employees aged 70 years or over;
- work performed outside of Australia by employees of a non-resident employer;
- work performed by ‘prescribed’ non-resident employees; or
- part-time employees who are under 18 years of age.

1.6 In addition, if an employer pays an employee wages and salary totalling less than \$450 in a month, the amounts paid to the employee in that month are not included for SG purposes.

1.7 In 1997–98 employers contributed approximately \$15 billion for employees under the SG. This represents 44 per cent of all contributions made to superannuation funds in that year. The Australian Prudential Regulation Authority (APRA) estimated that in August 1998 approximately 91 per cent of all employees (including those who are exempt from SG) had superannuation coverage.⁹

1.8 Figure 1 sets out the amount of SG contributions made by employers each year from 1995–96 to 1997–98.¹⁰

1.9 The Superannuation Guarantee Charge (SG Charge) is imposed on an employer where SG contributions for a financial year have not been made by 28 July of the following financial year or where contributions made are below the minimum specified level. The SG Charge¹¹ consists of the amount of the shortfall in contributions, plus a 10 per cent interest penalty,¹² plus an administration fee. If an employer becomes liable to pay the SG Charge, the employer is required to send an SG Statement to the ATO, together with payment of the SG Charge, by 14 August.

1.10 When an employer sends an SG Charge payment to the ATO, the latter draws an SG voucher for each affected employee. The total amount of each voucher is the amount of shortfall in contributions plus a 10 per cent interest charge, which is calculated from the beginning of the applicable financial year.

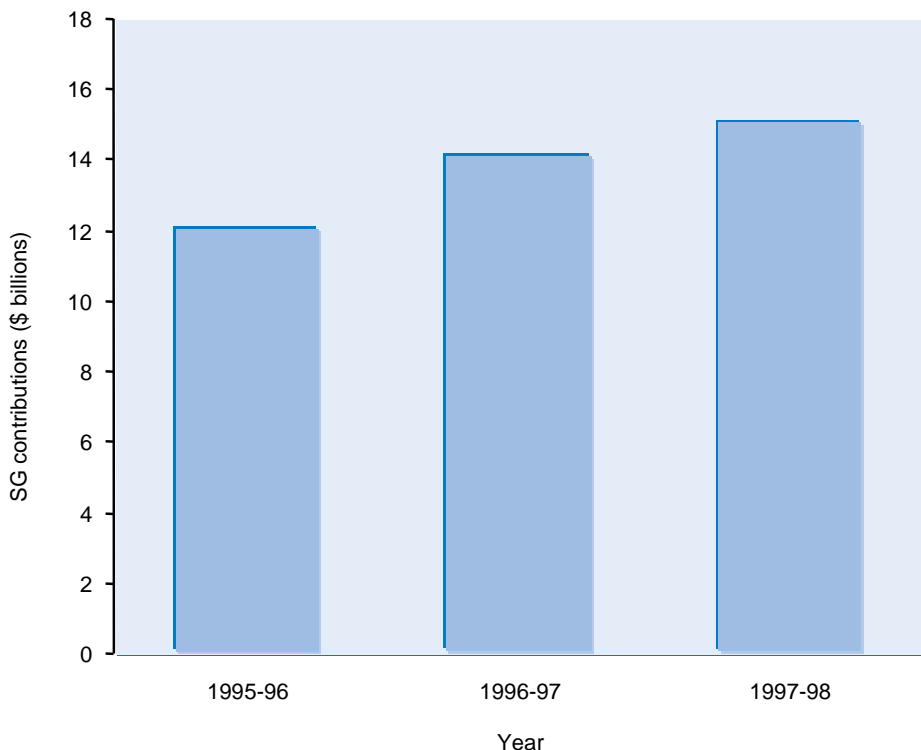
⁹ Australian Prudential Regulation Authority, *Superannuation Trends – March Quarter 1999*, APRA Insurance and Superannuation Research Unit, June 1999.

¹⁰ As there is no annual SG employer return, these figures are estimated by the Australian Prudential Regulation Authority using information received from superannuation funds. Estimates were not made for years prior to 1995–96 and an estimate for 1998–99 will not be available until November 1999.

¹¹ Components of the SG Charge are described in more detail at paragraph 3.142.

¹² The 10 per cent interest penalty is imposed to compensate employees for the loss of earnings on the superannuation contributions which should have been made by the employer.

Figure 1
SG contributions from 1995–96 to 1997–98



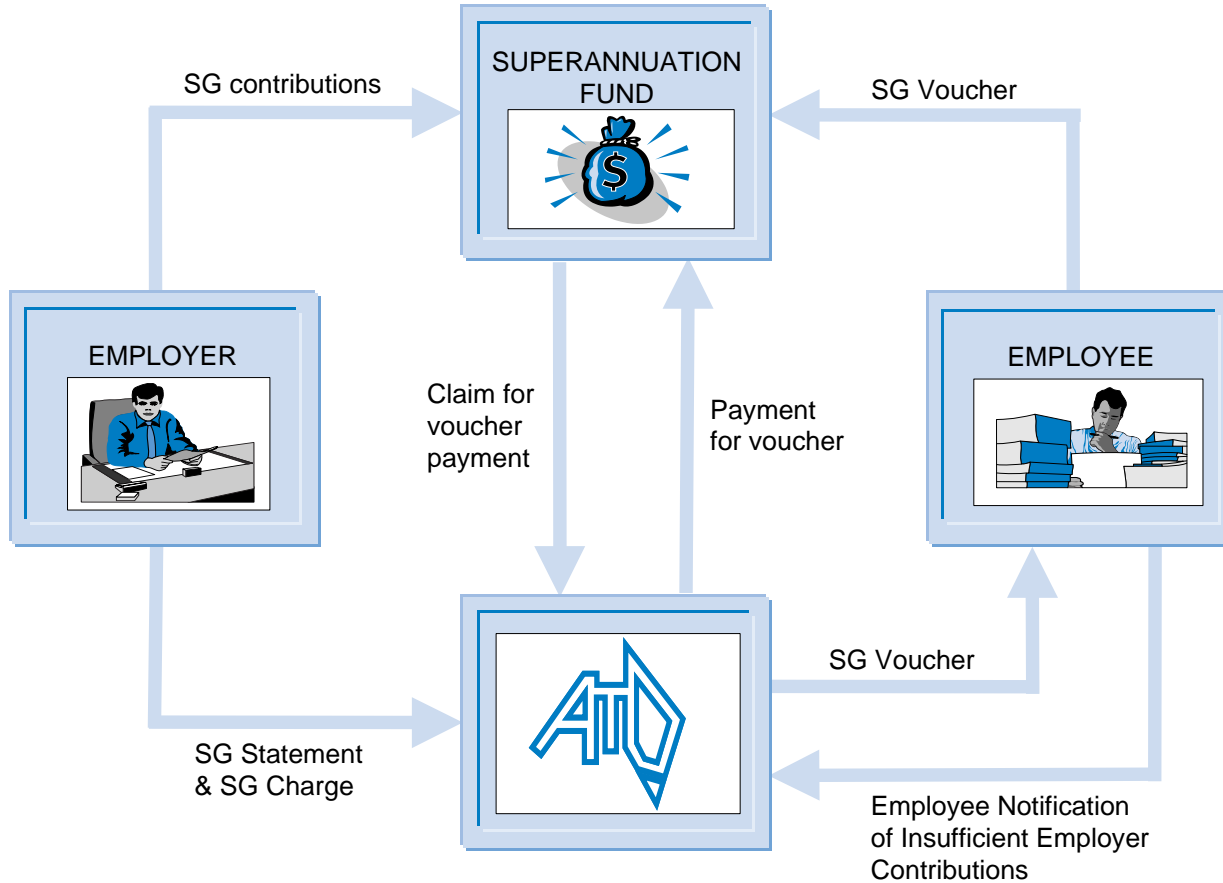
1.11 Upon receipt of a voucher from the ATO, an employee can present the voucher at a superannuation fund of his/her choice. The fund then requests the amount of the voucher from the ATO and deposits this amount in the employee's superannuation account.

1.12 If an employer complies with its SG obligations for a financial year, there is no requirement for that employer to send an annual return to the ATO. However, if an employee considers that his/her employer has not made the required SG contributions, he/she can complain to the ATO by completing an Employee Notification of Insufficient Employer Contributions (EN) form.¹³

1.13 The SG processes described above are depicted in Figure 2.

¹³ ATO follow up of ENs is discussed in detail at paragraph 3.102.

Figure 2
SG processes



Current superannuation environment

1.14 Two policy initiatives currently under consideration will potentially impact on the ATO's administration of the current SG system:

- the requirement for employers to provide for employees some measure of choice regarding the fund to which Superannuation Guarantee contributions are made; and
- the ability to 'opt out' of the Superannuation Guarantee for employees with incomes lower than specified levels.

1.15 During the audit, Parliamentary debate on the legislation required for these initiatives was postponed. As a result, it is not clear whether these proposals will be implemented or, if they are implemented, when this will occur.

ATO administration of SG

Organisation structure

1.16 The ATO is responsible for administering the Superannuation Guarantee. On 1 July 1996, the ATO established the Superannuation Business Line (SPR) to integrate most of its existing superannuation administration responsibilities into one organisational area. SPR was set up initially to deal with the ATO's administrative responsibility for the SG. Although SPR has since taken on other activities, such as administration of the Superannuation Surcharge, SG remains the largest responsibility for the ATO in terms of superannuation administration.

1.17 The Superannuation Business Line has staff located in six ATO offices—Belconnen, Moonee Ponds, Bankstown, Pulteney, Cannington, Upper Mount Gravatt.

1.18 The SPR Business Line was restructured in December 1997 after a comprehensive business process re-engineering exercise. As a result, SPR's current organisation structure is divided into four Core Processes:

- Core Process 1: Develop and implement superannuation policy—provides superannuation policy advice to the Government and performs other functions such as answering ministerial correspondence;
- Core Process 2: Change superannuation infrastructure—develops SPRs business systems and technology infrastructure;
- Core Process 3: Provide superannuation services—provides services for SPR clients, including answering telephones and correspondence, and implementing client education strategies; and

- Core Process 4: Ensure movement of money—undertakes SPR audit activities. Core Process 4 also includes SPR’s strategic risk assessment unit (the Strategic Research and Compliance Team) and SPR’s forms processing and accounting team (the Movement of Information and Money team).

1.19 In addition to these Core Processes, SPR has established two support processes as follows:

- Support Process 1—Business planning and improvement—provides administrative support for SPR including planning, budgeting and human resource management; and
- Support Process 2—Technical and quality support—provides technical support and coordinates technical quality assurance processes for SPR.

1.20 Core Processes 3 (Provide superannuation services) and 4 (Ensure movement of money) are further divided into teams. Each team is assigned to one of the following three Segments:

- Employers and Employees (responsible for all contact with employers and employees);
- Intermediaries (responsible for all contact with intermediaries such as financial advisors and tax agents); and
- Retirement Product Providers (responsible for all contact with superannuation funds).

1.21 Day-to-day administration of SG is primarily the responsibility of Core Process 3 Employers and Employees teams and Core Process 4 Employers and Employees teams.

1.22 The SPR Business Line organisation structure is depicted in Appendix 1.

Administration resources

1.23 The ATO estimates that SG administration costs totalled \$12.6 million for 1998–99 with an average staffing level of 225 staff over this period.

Audit objectives, criteria and methodology

1.24 The objective of the performance audit was to review the ATO’s administration of the Superannuation Guarantee and to identify appropriate opportunities for improvement.

1.25 The ANAO assessed the ATO’s administration of SG using a risk management framework. Our assessment focussed on the ATO’s:

- risk assessment strategies (the identification of SG risks);

- risk planning strategies (the prioritisation of identified SG risks and development of business plans which include strategies to address prioritised risks);
- risk treatment strategies (the development of SG risk treatment strategies); and
- performance monitoring strategies (the development of SG performance indicators and monitoring the progress and outcomes of SG risk treatment strategies).

1.26 Our assessment of the ATO's administration in these areas can be found in Chapter 2.

1.27 In assessing the ATO's SG risk management strategies, the ANAO considered how SPR's activities aligned with the ATO Compliance Model.¹⁴ This model was developed by a joint ATO/industry Cash Economy Taskforce and sets out the various levels of compliance strategies the ATO intends to employ, based on the compliance behaviour of a client or taxpayer. The four dimensions depicted in the Model (see Figure 5 at paragraph 2.47) represent a hierarchy of regulatory strategies for the ATO and include:

- education, record keeping and service delivery strategies (self-regulation strategies);
- real time business examinations and record keeping reviews (enforced self-regulation strategies);
- audit with or without penalty (discretionary command regulation strategies); and
- prosecution (non-discretionary command regulation strategies).

1.28 These strategies are generally consistent with the four risk treatment strategies on which this audit focussed:

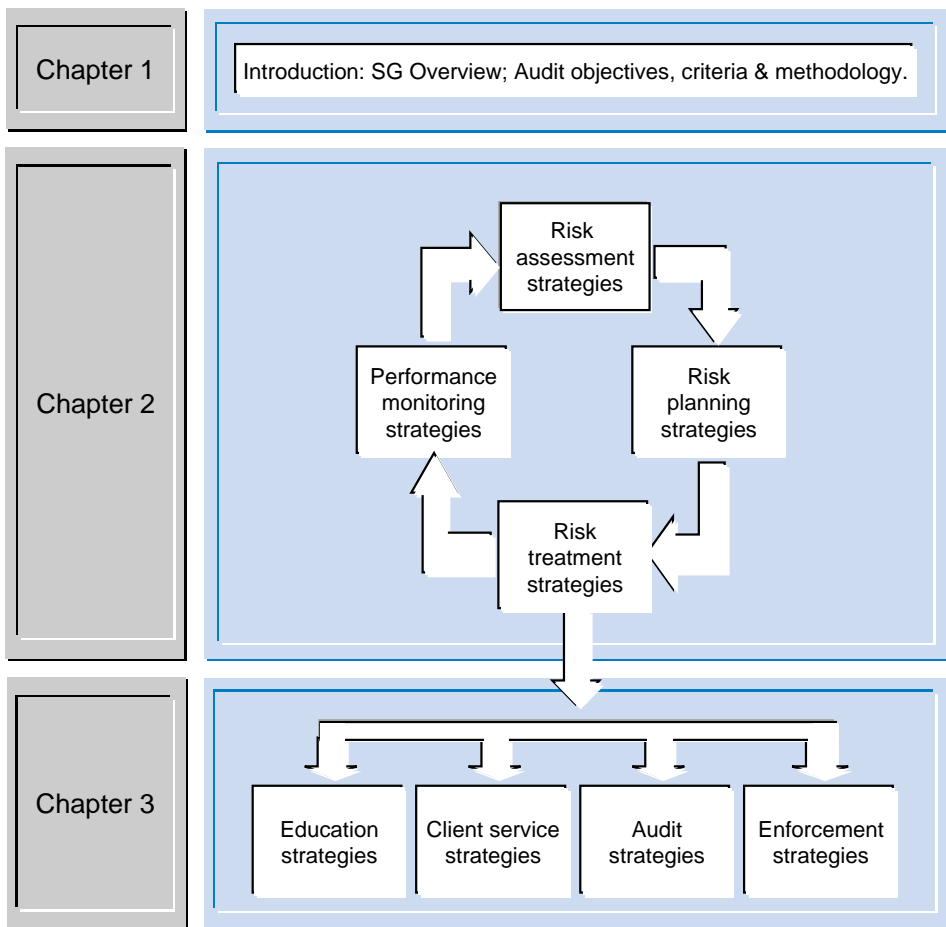
- education;
- client service;
- audit; and
- enforcement (penalties, debt collection and prosecution).

1.29 Detailed findings in relation to these areas can be found in Chapter 3.

¹⁴ Cash Economy Task Force Report, *Improving Tax Compliance in the Cash Economy*, April 1998, p.25.

1.30 Figure 3 provides an overview of the structure of this report which mirrors the framework used by the ANAO to analyse the ATO’s SG administration.

Figure 3
Structure of this report



1.31 The individual criteria used to assess the ATO’s performance in relation to risk management, which are set out in relevant sections throughout this report, have been adapted from MAB/MIAC’s *Guidelines for Managing Risk in the Public Service*.¹⁵

1.32 Audit field work was conducted at the ATO’s Bankstown, Moonee Ponds, Upper Mount Gravatt and Belconnen offices. As well, the ANAO held discussions with SPR staff in other ATO sites using conference

¹⁵ Management Advisory Board/Management Improvement Advisory Committee, Report No. 22, *Guidelines for Managing Risk in the Australian Public Service*, October 1996

telephone facilities. The ANAO also sought the views of the Department of the Treasury, the Australian Securities and Investments Commission (ASIC) and APRA, and key superannuation industry stakeholders, such as the Association of Superannuation Funds of Australia.

1.33 The cost of the audit was approximately \$265 000. The audit was conducted in accordance with ANAO Auditing Standards.

Previous reviews

Previous ANAO reviews

1.34 There has been no previous ANAO examination of the ATO's administration of the Superannuation Guarantee.

1.35 However, in Audit Report No. 28 of 1994–95 *Insurance and Superannuation Commission: Superannuation Industry (Supervision) Act—Administrative Arrangements* the ANAO reported on the interface between the ATO and the then ISC on a range of superannuation issues. The recommendations contained in that report related to administering the taxation of superannuation funds and are not relevant to the ATO's administration of SG.

1.36 As stated in paragraph 1.25, the ANAO assessed the ATO's administration of the SG using a risk management framework. The ANAO has reported on risk management practices within the ATO in two previous reports. Audit Report No. 37 1996–97, *Risk Management—Australian Taxation Office*, focused on the broad strategic issues relevant to risk management for the ATO as a whole and Audit Report No. 19 1997–98, *Risk Management in ATO Small Business Income*, focused on the risk management processes of the ATO's then Small Business Income Business Line.

Reviews of the Senate Select Committee on Superannuation

1.37 The Senate Select Committee on Superannuation was established in June 1991 by resolution of the Senate. The Committee has examined each of its seventeen terms of reference and presented a number of reports on a range of superannuation issues.¹⁶

¹⁶ The Senate Select Committee on Superannuation was re-established with effect from 11 October 1999. The Committee will inquire into and report on, inter alia, enforcement of the Superannuation Guarantee Charge.

1.38 The ANAO considered the reports of the Committee and took account of the Committee's findings and views where they are relevant to the subject matter of the audit. In particular the ANAO considered:

- the Committee's Second Report *Super Guarantee Bills* (June 1992) which addressed the provisions of the intended SG legislation, and also covered four of the Committee's original terms of reference relating to, *inter alia*, the means for achieving adequate levels of superannuation; and
- the Committee's Fifteenth Report *Super Guarantee—Its Track Record* (February 1995) which assessed the relevance, operation and adequacy of the SG.

1.39 In the latter report, the Committee noted the following:

- the level of SG compliance compared extremely favourably with compliance with other tax legislation (page 135);
- ATO compliance activities were being targeted toward risk areas (page 136); and
- the ATO appeared to be methodically formulating strategies for targeting the causes of SG non-compliance (page 149).

Acknowledgments

1.40 The ANAO wishes to express its appreciation for the time, effort and expertise contributed by ATO officers during the audit and the preparation of this report.

2. Risk Management

This Chapter focuses on the ANAO's findings on the effectiveness of the ATO's risk management strategies for SG. In particular, it addresses risk assessment strategies, risk planning strategies, risk treatment strategies and performance monitoring strategies.

2.1 The ANAO reviewed the effectiveness of the ATO's SG risk management strategies by focusing on the following areas:

- risk assessment strategies (identifying significant risks);
- risk planning strategies (prioritising identified risks and developing business plans which include strategies to address prioritised risks);
- risk treatment strategies (developing strategies to treat prioritised risks); and
- performance monitoring strategies (developing performance indicators and monitoring treatment strategy progress and outcomes).

2.2 The criteria we used to assess the ATO's performance in these areas and our findings in relation to these areas are set out below.

Risk assessment strategies

2.3 The ANAO reviewed the effectiveness of the ATO's SG risk assessment strategies based on the following criteria:

- does the ATO use accurate, timely and relevant internal and external information to identify SG risks;
- does the ATO continually monitor this information to identify emerging risks;
- have identified SG risks been assessed in relation to likelihood and consequence and are the ratings assigned to identified risks consistent with the evidence available;
- does the ATO effectively prioritise SG risks; and
- have major operational, compliance and environmental risks for SG been identified and assessed by the ATO.

2.4 ANAO findings in relation to these criteria are discussed as follows.

Information sources and monitoring

2.5 The ANAO found that the SPR Business Line uses accurate, timely and relevant internal and external information to identify SG risks. We

found also that SPR monitors this information to identify emerging SG risks.

2.6 The mechanisms implemented by SPR to identify SG risks include:

- maintaining regular contact with superannuation industry and professional organisations to ensure that the ATO is kept informed of developments that might impact on its administration of SG;
- undertaking SG compliance projects to:
 - estimate compliance levels in particular industries, geographical locations or different sized businesses;
 - review the impact of various strategies (such as education) on compliance; and
 - determine whether compliance history is a sound indicator for future compliance;¹⁷
- undertaking periodic surveys of employers and employees to measure attitudes to superannuation and compliance levels. The results of these surveys are used to identify emerging SG compliance issues;
- developing a comprehensive SG compliance database. Although this database was still being developed at the time of the audit, the ANAO noted that the ATO intends to include in this database information such as details of complaints from employees regarding their employers' SG compliance¹⁸; Superannuation Surcharge data; anonymous tip-offs; referrals from other areas of the ATO; results from SG compliance projects; and results from the annual SG compliance survey of employers¹⁹. This information will then be used to determine compliance risk characteristics and to develop risk profiles;
- developing the Strategic Environmental Knowledge Base (SEK-B) system that would provide for the storage, viewing and analysis of strategic superannuation information (including SG). Because of its recent implementation at the time of the audit, the SEK-B database had not been widely used within SPR. However, SPR plans to include the following information on the system: issues of critical importance to SPR or one of its segments; original views or thinking on important subjects for SPR; insights into the clients of a particular segment; and information that will aid in decision making by SPR management, including on strategies and future direction; and

¹⁷ The ATO's strategy in relation to SG compliance projects is discussed further from paragraph 3.102.

¹⁸ Employee complaints are referred to as ENs and are defined in paragraph 1.12.

¹⁹ This survey is discussed in detail from paragraph 3.123.

- implementing a process to ensure that significant SG technical issues are brought to the attention of staff at the appropriate level for resolution.

2.7 We noted that SPR has quality assurance mechanisms in place to ensure that the data entered into both the SG compliance and SEK-B databases meets established quality standards.

2.8 However, we consider that SPR's risk assessment processes would benefit if SPR also used the compliance analysis performed by other areas of the ATO. This is particularly the case for SB which is responsible for the administration of the Pay-As-You-Earn (PAYE) system²⁰—businesses that are employers for PAYE purposes are usually employers for SG purposes. The ANAO considers that employers who do not comply with their PAYE obligations probably do not comply with their SG obligations. Information sharing between the two Business Lines would also serve to reinforce the community perceptions that the ATO operates consistently.

Recommendation No.1

2.9 The ANAO recommends that the SPR Business Line obtain the results of compliance analysis performed by other ATO Business Lines (particularly the Small Business Line which deals with the same clients) and use this information as an additional source for identifying SG risks.

ATO Response:

2.10 Agree.

2.11 Since its establishment, SPR has been working informally with other business lines to coordinate activities and share information regarding common clients, including exploring any connection between Pay As You Earn and SG non-compliance.

2.12 Over the last six months we've moved to formalise arrangements with other business lines through the appointment of liaison officers and development of a memorandum of understanding with each line. In relation to SB, work has commenced on the coordination of general audit activities and sharing of information to assist our risk management processes.

²⁰ The PAYE system will be replaced by the Pay-As-You-Go system on 1 July 2000.

Risk identification

2.13 The ANAO found that the SPR Business Line has implemented an organisation structure which enables the Business Line to effectively identify key SG risks. In addition, we found that the organisation structure and processes in place support the identification of major operational, compliance and environmental risks.

2.14 The SPR Business Line was restructured in December 1997 as a result of a comprehensive business process re-engineering exercise. An important aim of this exercise was to put in place an organisation structure which encourages a focus on identifying emerging superannuation risks. To support this aim, the SPR Business Line has:

- assigned the responsibility for coordinating its formal annual risk assessment process to a dedicated resource whose role includes coordinating the assessment of identified risks in terms of likelihood and consequence;
- assigned overall responsibility for identifying and monitoring Client Segment compliance risks to Segment Strategists (the Employers and Employees Segment Strategist has overall responsibility for identifying compliance risks in relation to SG); and
- established the Strategic Research and Compliance Team (SRCT) whose responsibilities include assisting Segment Strategists with identifying compliance risks in relation to SG.

Risk prioritisation

2.15 The ANAO found that SPR had rated identified SG risks in terms of likelihood and consequence. We consider that the ratings assigned by SPR were consistent with the evidence provided in information used by the ATO to assess risks. As a result, we found that identified SG risks had been effectively prioritised, based on the likelihood and consequence ratings assigned.

2.16 The ANAO considers that SPR has identified and assessed all major operational, compliance and environmental SG risks.

Risk planning strategies

2.17 The ANAO assessed the effectiveness of the ATO's SG planning processes based on the following criteria:

- does the ATO develop business plans which include treatment strategies for high priority SG risks;
- do these business plans include clear accountability for the

implementation of SG treatment strategies and appropriate performance indicators; and

- do staff understand the risk treatment strategies set out in business plans and are they committed to the success of these strategies.

2.18 Our findings in relation to these criteria are discussed below.

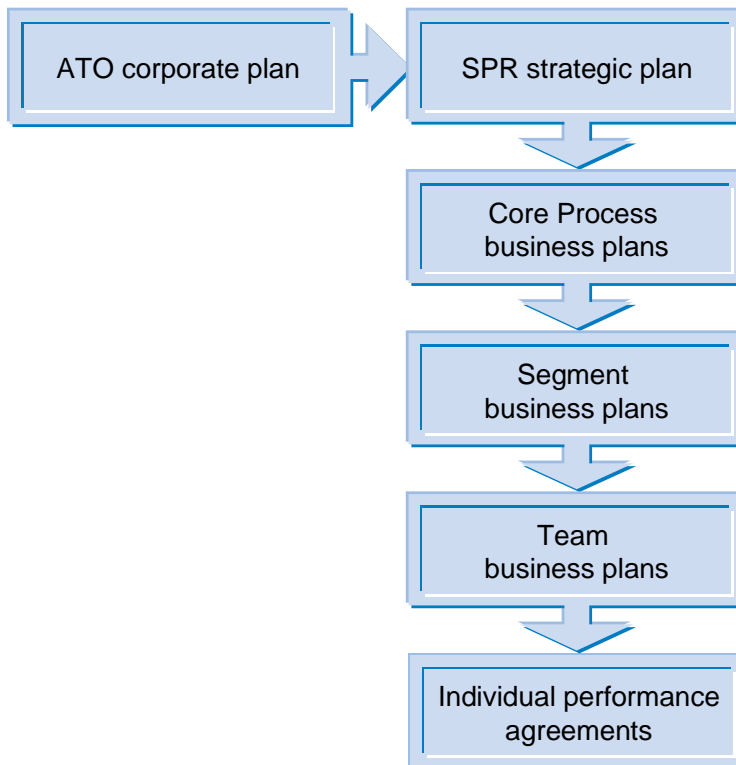
Accountability and links between key risks and business plans

2.19 The ANAO found that SPR business plans include treatment strategies for high priority SG risks and clear accountability for the implementation of treatment strategies.

2.20 SPR's business planning consists of cascading planning levels as depicted in the following figure.

Figure 4

SPR Planning cascade



2.21 The strategies and performance indicators in SPR's strategic plan are linked to the ATO's Corporate Plan and the strategies and performance indicators contained in each lower level plan are linked to those contained in higher level plans.

2.22 The SPR Business Line Strategic Plan includes:

- SPR's vision and objectives (linked to the ATO strategic plan, including the four strategic outputs discussed at paragraph 2.25);
- long term strategic outcomes for SPR (including high level performance indicators);
- SPR's values;
- key corporate directions for SPR (based on a three year outlook);
- an overview of the factors of influence in SPR's environment; and
- key risks to SPR's administration and the superannuation system in general.

2.23 SPR's Core Process plans include:

- a description of each proposed activity or strategy (including other Core Processes which are affected by the activity or strategy);
- a description of the relationship between each strategy or activity and SPR's prioritised SG risks;
- the performance indicators used to assess the success of each strategy or activity;
- an estimate of the resources required for each strategy or activity; and
- the designated individuals or teams who are responsible for implementing each strategy or activity.

2.24 Segment and team business plans contain similar detail at lower strategic levels.

2.25 We noted that SPR provides full cost estimates (including direct and indirect costs) for its four key strategic outputs²¹ and for each Core Process. However, although most activities or strategies in Core Process business plans included estimates of the resources necessary for implementation, these estimates generally consisted of an Average Staffing Level/Full-time Equivalent estimate plus an administration cost estimate for direct costs such as travel.

²¹ The four key strategic outputs which SPR and the ATO reports against to the Parliament are:

- (1) providing policy input;
- (2) collecting estimated revenue;
- (3) arranging for the transfer of funds between clients; and
- (4) providing cross agency support.

Most of SPR's SG administration functions are covered by the third strategic output.

2.26 Although the ANAO does not consider that it is practical to identify full cost estimates (including all indirect costs) for all SPR functions, we consider that provision of full cost estimates should be considered for key activities. Such estimates would enable SPR to more accurately assess the costs and benefits arising from key activities and, subsequently, determine whether there are more effective means of achieving the same outputs and outcomes.

2.27 As an example, an estimate of the full costs associated with the annual SG compliance survey (discussed in detail from paragraph 3.123) would provide important information for decision-makers when determining the design for each annual survey.

2.28 Another consideration for SPR is whether the net benefits (including qualitative benefits such as client satisfaction) of answering telephone queries within SPR outweigh those of providing this service through ATO call centres. Full cost information is an essential requirement when answering this question.

2.29 We note in paragraph 3.103 that SPR has recently significantly changed its SG audit approach to focus on project-based audit activity. To determine whether this change in approach has been beneficial in terms of efficiency and effectiveness, SPR will need estimates of the full costs of undertaking project-based audit activity.

2.30 The ANAO noted that SPR has undertaken an exercise aimed at determining the full cost of activities within the Provide Superannuation Services Process (Core Process 3) and that it intends to extend this process to those activities carried out within the Ensure Movement of Money Process (Core Process 4). This exercise should enable SPR to include full cost estimates for key activities in future business plans.

Staff commitment

2.31 The staff interviewed by the ANAO during the audit appeared to understand the risk treatment strategies set out in business plans and indicated that they were committed to the success of these strategies. The SPR Business Line has encouraged staff commitment and understanding by:

- ensuring that each individual staff member has a performance agreement in place which is linked to the Business Line's business plans; and
- undertaking a regular 'Culture Print' exercise which involves a review of staff members' understanding of and commitment to SPR values and building strategies aimed at correcting identified deficiencies into business plans.

Risk treatment strategies—development

2.32 The ANAO assessed the ATO’s identification and implementation of SG risk treatment strategies based on the following criteria:

- has an appropriate mix of SG risk treatment strategies (for example, education, client service, audit and prosecution) been developed consistent with the ATO Compliance Model; and
- does SPR’s organisational structure enable cost-effective implementation of treatment strategies.

2.33 Our findings in relation to these criteria are set out below.

Mix of risk treatment strategies

2.34 The ANAO found that SPR has developed a mix of risk treatment strategies for SG which has included client education, client service and audit. However, we noted that SPR does not have a prosecution strategy in place for SG avoidance.

2.35 Under current legislation SPR can pursue prosecution action against SG employers who:

- fail to provide information or answer questions when required by the ATO;
- fail to provide an SG Statement;
- make false or misleading statements to the ATO;
- do not maintain sufficient SG records;
- falsify or conceal their identity; and/or
- obstruct ATO officers in the performance of their duties.

2.36 In launching the ATO Compliance Model in April 1998, the ATO acknowledged that its approach to enforcement has a critical part to play in the taxpayer compliance equation. At that time, the ATO also stated that, if taxpayers refuse to comply with their obligations, the ATO will demonstrate that it has the power and is ‘brave enough’ to use its heaviest punishment.²² The Commissioner of Taxation has strongly endorsed the ATO Compliance Model.

2.37 Although prosecution action may not change the compliance behaviour of all taxpayers, prosecution may be the only option to enforce compliance by some SG employers and reinforce the preventative strategy. Prosecution plays a key role also in ensuring that SG employers face a level competitive playing field. That is, if deliberate non-compliance by

²² Cash Economy Task Force, *Improving Tax Compliance in the Cash Economy*, April 1998, pp. 24, 26.

an SG employer is not dealt with effectively, the non-complying employer has the use of funds which are not available to his/her competitors.

2.38 The ANAO recognises that:

- when SG was introduced, the ATO's intention was to ensure that SG employers were aware of their obligations. As a result, the ATO initially focussed largely on education strategies to encourage voluntary compliance with SG legislation; and
- SPR's annual compliance survey results, discussed from paragraphs 3.128 to 3.130, indicate that most SG employers are complying with their obligations.

2.39 Nevertheless, for the reasons outlined above, the ANAO considers that SPR should develop an effective prosecution strategy for SG avoidance.

Recommendation No.2

2.40 The ANAO recommends that SPR develop an effective prosecution strategy for SG avoidance.

ATO Response:

2.41 Agree.

2.42 SPR is in the process of developing a new prosecution strategy which will be incorporated in general enforcement activities in accordance with the ATO Compliance Model.

2.43 We will continue to use prosecution action where appropriate and are currently in the process of pursuing a number of prosecutions under section 77 of the *Superannuation Guarantee (Administration) Act 1992*. Knowledge gained from this and previous prosecution action (against more than 120 employers under section 8C of the Taxation Administration Act) will help in the development of the prosecution strategy.

Organisation structure

2.44 The ANAO found that SPR's organisation structure enables it to implement cost-effectively its treatment strategies. This has been achieved by ensuring that division of work by function or process is supported by further division of work by key client categories.

2.45 As noted in paragraph 1.18, in December 1997 SPR was divided structurally into four Core Processes. We noted also that Core Process 3 (Provide superannuation services) and Core Process 4 (Ensure movement of money) are further divided into the following three Segments:

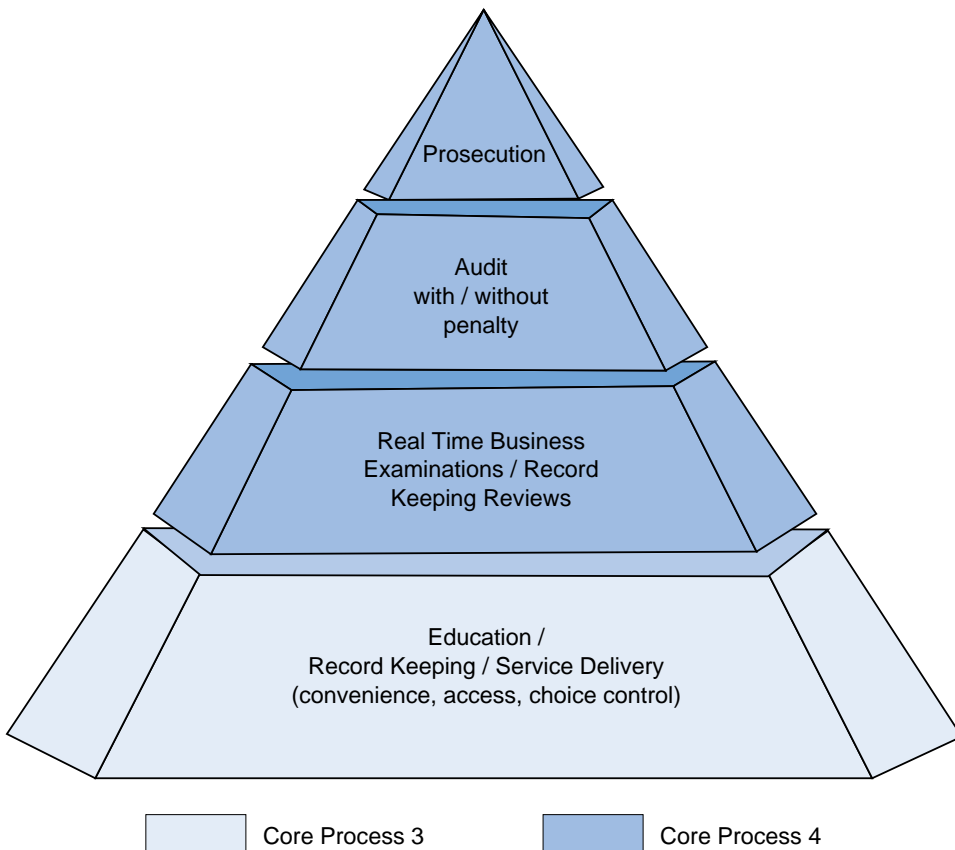
- Employers and Employees;
- Intermediaries; and
- Retirement Product Providers.

2.46 This division by Segment ensures that SPR work teams can focus on particular aspects of superannuation administration, with Superannuation Guarantee administration primarily contained within the Employers and Employees Segment.

2.47 Figure 5 sets out the relationship between the functions performed in SPR's Core Processes 3 and 4 and the ATO Compliance Model which should be the basis of SPR's risk treatment strategies.

Figure 5

Relationship between ATO Compliance Model dimensions and SPR Core Processes 3 and 4.



Note: The delineation of Core Process 3 and 4 responsibilities is not at all times as clear cut as indicated above. Core Process 4 teams undertake some education activities and Core Process 3 staff have been involved in some audit strategies.

Source: Adapted from the ATO Compliance Model as depicted on page 25 of the Cash Economy Task Force Report, *Improving Tax Compliance in the Cash Economy*, April 1998.

2.48 In paragraph 2.14 we noted that SPR has established Segment Strategist positions which are responsible for coordinating the strategic direction for each Segment across Core Processes 3 and 4. This structure has enabled SPR to focus the work of individual teams on specific types of work or processes (such as client service or audit) within specific aspects of superannuation administration (such as SG), while ensuring that the risk management strategies for different work type teams are strategically coordinated for each client group.

Performance monitoring strategies

2.49 The ANAO assessed the effectiveness of the ATO's SG performance monitoring strategies based on the following criteria²³:

- do SG performance indicators enable SPR to determine the success of implemented treatment strategies and include time, cost and quality dimensions as appropriate;
- does the ATO continually monitor the progress and outcomes of its risk treatment strategies;
- do staff understand SPR performance indicators and are they committed to the monitoring of individual and Business Line performance against established SG performance indicators; and
- does SPR have business systems and procedures in place to enable cost-effective monitoring of performance.

2.50 Our findings in relation to these criteria are discussed below.

Development of performance indicators

2.51 As discussed in paragraph 2.22, SPR's Strategic Plan includes high level performance indicators. Those that directly impact on SG are as follows:

- increase the percentage of obligated employers who meet SG requirements;
- reduce the number of debt collection cases on hand;
- meet Taxpayers' Charter²⁴ service standards; and
- improve the quality of technical advice provided to clients.

²³ These criteria have been adapted, to suit the focus of this audit, from the ANAO's Better Practice Guide, *Performance Information Principles*, November 1996.

²⁴ The Taxpayers' Charter is a service treaty issued by the ATO which sets out taxpayers' rights and obligations, the responsibilities of the ATO and its standards for dealing with clients. Taxpayers' Charter standards apply to all Business Lines in the ATO and encompass commitments by the ATO to process returns, reply to correspondence, review objections, answer telephone calls, supply rulings, process registrations and deal with complaints within specified timeframes

2.52 SPR's Core Process business plans also include detailed performance indicators for each strategy or activity outlined in the plans. These include, among other things:

- Taxpayers' Charter standards for relevant activities;
- Quality Assurance (QA) standards—these apply to audit and advisings²⁵ activities carried out within SPR teams. Regular QA reviews are carried out by Team Advisors, the Technical and Quality Support Process and external reviewers; and
- compliance targets in specific areas.

2.53 The ANAO found that these performance indicators generally include time and quality dimensions where appropriate. However, we consider that a number of additional high level indicators should be included to provide a more complete picture of SG compliance.

2.54 We noted that SPR's annual SG compliance survey²⁶ includes a measure of the percentage of SG employers who do not comply with their SG obligations. Although the ANAO agrees that this is an important compliance measure, we consider that the amount of money involved with non-compliance and the number of employees affected by non-compliance are also important considerations. These measures would enable SPR to better determine the extent to which SG is meeting its objectives of:

- reducing the reliance on future government revenues to fund the retirement of individuals—the larger the amount associated with SG non-compliance, the larger the impact on future government outlays; and
- ensuring that as many individuals as possible accrue savings for their retirement—the number of employees who are affected by SG non-compliance will impact on this objective.

2.55 For these reasons, the ANAO considers that SPR would be in a better position to determine whether SG is achieving its goals if it measured and reported on:

- the amount of money associated with SG non-compliance; and
- the number of employees affected by SG non-compliance.

²⁵ Advisings work includes providing technical advice to taxpayers who request this information through correspondence or by telephone.

²⁶ Further details on the conduct and outcomes of SPR's annual SG compliance survey are provided from paragraph 3.123.

Recommendation No.3

2.56 To better assess whether the SG system is meeting its objectives, the ANAO recommends that SPR consider measuring and reporting its performance against the following performance indicators:

- the amount of money involved with SG non-compliance; and
- the percentage of employees affected by SG non-compliance.

ATO Response:

2.57 Agree.

2.58 These performance indicators should complement existing measures and help provide a more complete picture of SG compliance.

Monitoring progress

2.59 The ANAO found that SPR regularly monitors progress against key performance indicators contained in business plans and against most Taxpayers' Charter standards.

2.60 Performance against Taxpayers' Charter standards and other key ATO performance indicators is reported publicly by the ATO in its Annual Reports. As part of the ATO's governance processes, Business Lines are required to report to the Commissioner of Taxation on a trimester basis on their progress against business plans (including performance against key indicators and Taxpayers' Charter standards). Core Process 3 and Core Process 4 report their performance against business plans to the SPR Executive on a monthly basis. In addition, SPR has a formal performance appraisal process in place which involves assessment of an individual's performance against their performance agreement. As discussed in paragraph 2.31, these individual performance agreements are linked to business plans.

2.61 The Taxpayers' Charter requires that the ATO contact clients within seven days of a complaint being made. SPR has stated that its management of complaints ensures that complaints' case managers contact complainants within 24 to 48 hours of receiving a complaint. However, the ANAO found no evidence that performance against this standard is formally monitored, or reported, by SPR.

2.62 Given that the ATO has made a commitment to report publicly its achievements against Taxpayers' Charter standards, the ANAO considers that SPR's performance against the timeliness requirement for complaints (as set out in the Taxpayers' Charter) should be recorded and reported regularly to the ATO Commissioners.

Recommendation No.4

2.63 The ANAO recommends that SPR record and report regularly to the ATO Commissioners its performance against the ATO's commitment (as set out in the Taxpayers' Charter) to respond to clients within seven days of receiving a complaint.

ATO response:

2.64 Agree.

2.65 'Level 3'²⁷ complaint information is recorded corporately with each business line of the ATO, including SPR, having a responsibility to report about their performance in this area and against the commitments set out in the Charter standards.

2.66 At present, 'Level 1 and 2' complaint information is reported to the Executive within each business line but not formally to the Commissioners. SPR records and monitors this type of information and provides monthly reports to the SPR Executive (SPR usually responds to 'Level 1 and 2' complaints within 48 hours).

2.67 SPR will introduce formal reporting of this information to the Commissioners as per the recommendation.

2.68 SPR's actual performance against its performance indicators is discussed as appropriate in Chapter 3.

Staff commitment

2.69 The staff interviewed during this audit appeared to be committed to the monitoring of individual and Business Line performance against established SG performance indicators. SPR has encouraged this by ensuring that each individual staff member has a performance agreement in place which includes performance indicators (linked to those in business plans). This finding is also supported by the outcome of SPR's most recent culture print exercise which established that, although SPR was subject to a significant rate of cultural change, its staff values were strongly aligned with the Taxpayers' Charter.

Business systems and procedures

2.70 The ANAO found that, during the audit, SPR was planning to review its current performance monitoring systems and procedures and to implement a new reporting system which could be used to monitor performance against key indicators.

²⁷ The definition of Level 1, 2 and 3 complaints can be found at paragraph 3.62.

2.71 By the time this report was finalised, this review and formal planning for a new system had not been completed so the ANAO was unable to assess the outcomes. However, we support these developments as they are likely to lead to more cost-effective outcomes for SPR in monitoring its performance.

3. Risk Treatment Strategies— Implementation

This Chapter includes the ANAO's detailed findings in relation to the implementation of education, client service, audit and enforcement risk treatment strategies employed by SPR for SG.

3.1 As discussed in paragraph 1.27, in performing its assessment of the ATO's risk treatment strategies, the ANAO considered the compliance strategies set out in the ATO Compliance Model (depicted in Figure 5). The risk treatment strategies we focused on during the audit are consistent with the ATO Compliance Model and include:

- education strategies;
- client service strategies;
- audit strategies; and
- enforcement strategies (including debt collection, penalties and prosecutions).

3.2 The ANAO assessed SPR's implementation of SG risk treatment strategies based on the following criteria:

- do SPR staff understand their responsibilities in relation to the implementation of risk treatment strategies;
- are appropriate business systems, guidelines and control mechanisms in place to support the implementation of risk treatment strategies; and
- are risk treatment strategies implemented in a timely, consistent and cost-effective manner.

3.3 The SPR staff we interviewed during the audit appeared to understand their responsibilities in relation to the implementation of risk treatment strategies. We found that SG risk treatment strategies are generally implemented in a timely, consistent and cost-effective manner. Detailed findings in relation to the implementation of individual treatment strategies are set out below.

3.4 The ANAO found also that SPR has generally put in place appropriate business systems, guidelines and control mechanisms to support the implementation of risk treatment strategies. However, we noted that SPR's administration of SG would improve if SPR:

- could transfer some of the large number and value of unredeemed SG vouchers to identified employee superannuation accounts;
- took steps to ensure that staff are using the correct reference materials when determining who constitutes an employee for SG purposes;
- automated the processing and capture of SG forms; and
- coordinated audit activities with SB to make more efficient use of ATO resources and to reduce the compliance burden for employers who may be subject to audit activity from both Business Lines.

3.5 These findings (and relevant recommendations) are discussed further below.

Education strategies

3.6 SG education activities and strategies are aimed at making employers aware of their SG obligations and employees aware of their SG entitlements. Successful education strategies are extremely important because employers who are not aware of their obligations will not comply with them and employees who are aware of their entitlements can encourage employers to comply with their obligations.

3.7 The ANAO reviewed the range and effectiveness of SPR's provision of client education. We found that the ATO has implemented a comprehensive range of SG education strategies, including:

- producing publications (such as booklets, brochures and fact sheets) which are provided to clients upon request by post, the Internet or facsimile;
- maintaining regular contact with key stakeholders such as superannuation industry and professional bodies;
- conducting seminars for various client groups (including specific industries and new employees); and
- conducting SG advertising campaigns.

3.8 In addition, the ANAO reviewed SPR's effectiveness in gaining leverage from the education strategies of other ATO areas and other Commonwealth agencies. SPR's implementation of education strategies is discussed in detail below.

Publications

3.9 The ANAO found that SPR has a comprehensive range of publications in place to educate SG clients about their rights and responsibilities. We found also that SPR has used an appropriate range of delivery methods to provide clients with access to these publications.

3.10 SPR has developed brochures, booklets and other publications that are designed to provide information to employers and employees on SG matters. These publications are less detailed than SG public rulings²⁸ and include:

- information booklets and brochures for employers and employees;²⁹ and
- various fact sheets for employers and employees on specific issues (such as an explanation of Superannuation Guarantee Vouchers).

3.11 Clients can obtain these and other materials by:

- telephoning the ATO and requesting publications from an ATO operator;
- using the 'A Fax from Tax' facility which uses automated telephone technology to establish what information the client requires and to fax the information requested to a number specified by the client; or
- down-loading these publications from the ATO's website via the Internet.

3.12 The ANAO noted that, at the time of the audit, a review of all SPR publications was being conducted to ensure that the format of these publications was consistent with SPR standards and that the content of these publications was current.

3.13 In 1998, SPR contracted an external organisation to conduct a survey of clients which included asking clients where they sourced superannuation information from. Most employers and employees surveyed reported that they did not feel comfortable approaching the ATO for information. This finding supports SPR's aim to promote a more self-supporting superannuation system by encouraging, where possible, industry participants (such as SG employers and employees) to resolve issues without needing to contact the ATO.

3.14 The ANAO supports SPR's aim in this regard and we note that consequential benefits are possible in terms of overall retirement income policy by having a more direct linkage of employers and employees with superannuation holdings. We note that, in addition to the implications for SPR's education strategies, this issue impacts on the demand for ATO service from clients.

²⁸ SG rulings are discussed in detail from paragraph 3.71.

²⁹ SPR currently produces a booklet for SG employers: *The Superannuation Guarantee—An Employer's Guide* and a brochure for employees: *The Superannuation Guarantee—The Facts for Employees*.

3.15 To promote a more self-sufficient industry, SPR has recognised that superannuation funds and various intermediaries must be willing and able to provide investors and employers with the information that they need. In addition, employers must be willing and able to provide employees with appropriate information. Although SPR's influence on the willingness of participants to operate this way is limited, it can ensure that the various industry players have ready access to the relevant superannuation information if they are willing to provide it.

3.16 As noted in paragraph 3.11, SG publications are available to superannuation industry participants on the ATO's website. To support its aim of encouraging a more self-sufficient superannuation system, the ANAO suggests that SPR consider the costs and benefits of providing current brochures and booklets to key industry participants such as industry associations and asking them to distribute these publications to members.

Coordination with other areas

3.17 The ANAO noted that SPR has taken advantage of the education activities of other ATO Business Lines and other Commonwealth agencies. For example:

- the PAYE information sent to employers contains information on their SG obligations;
- the publication *A Tax Guide for New Small Business* which has been published by SB contains information for new small businesses regarding their potential SG obligations; and
- SPR cooperates with the Department of Employment, Workplace Relations and Small Business (DEWRSB) to make SG information available in DEWRSB publications on its Internet site. For example, an Information Sheet *Australian Workplace Agreements and Superannuation Guarantee* is currently available for employees on the DEWRSB website.

3.18 The ANAO supports this activity as it provides a low cost option for SPR to educate employers and employees about their SG obligations and entitlements.

Advertising campaigns

3.19 The ANAO found that the ATO has used media advertising campaigns to inform employers and employees about SG issues.

3.20 For example, when the Superannuation Guarantee was introduced in 1992, a significant national press and television advertising campaign was conducted to inform employers of their SG obligations and to inform

employees of their entitlements under SG. In February 1995, the Senate Select Committee on Superannuation noted that this campaign '*had been extremely successful in communicating the requirements of SG to the community*'.³⁰ This campaign was also a finalist in the Australian Advertising Effectiveness Awards. However, in 1995, the ANAO reported that no performance targets were set for this campaign.³¹

3.21 During the course of this audit, SPR's Public and Industry Communication team (part of Support Process 1) developed a position paper regarding a continuing, brand-based communication strategy to build support for superannuation as an investment choice. The project brief included a mix of communication strategies, including television, syndicated radio, cinema and press advertisements as well as press editorials. Although a decision had not been made on whether to proceed with this campaign at the time this report was prepared, the ANAO noted that the project brief included both performance indicators and plans for an evaluation of the campaign.

3.22 The ATO undertook a press advertising campaign during the audit to inform employers of their responsibilities regarding SG, including the final date for payment of SG due for 1998–99.

3.23 We noted also that SPR had used media outlets to publicise the results of significant compliance work. For example, SPR issued a press release summarising the results of its 1998 SG compliance survey (these results are discussed at paragraph 3.128). As a result, several articles appeared in major Australian newspapers on this issue.

Seminars

3.24 The ANAO found that the ATO has used seminars as an educational tool for SG employers.

3.25 For example, the Intermediaries Segment of SPR, as part of the ATO's 1999 Tax Time program, conducted seminars with tax agents throughout Australian capital cities and major regional areas during May and June 1999. The topics covered in these seminars included specific advice on SG matters.

3.26 Another example is SPR's involvement in the ATO's Bizstart program. This program is coordinated by SB and is aimed at informing new businesses of their taxation obligations. A project under way at the time of the audit involved evaluation of SPR's involvement with this

³⁰ Senate Select Committee on Superannuation, Fifteenth Report, *Super Guarantee—Its Track Record*, February 1995, p.136.

³¹ Auditor-General Report No. 30, 1994–95, *Commonwealth Government Information and Advertising*, June 1995, pp. 44 & 52.

program with a view to providing recommendations about how to enhance the program's effectiveness from SPR's perspective. The results of this project were not available when this report was prepared. However, the ANAO supports this review because it should lead to more effective educational outcomes for SPR.

Contact with industry and professional bodies

3.27 The ANAO found that the ATO has established strong relationships with superannuation industry participants such as representative bodies, tax professionals and superannuation funds. SPR meets regularly with these organisations.

3.28 For example, the Superannuation Advisory Committee, which meets each quarter, brings together representatives from the SPR Business Line, Treasury, ASIC, APRA, the Association of Superannuation Funds of Australia, the Investment Financial Services Association, the Australian Society of Certified Practising Accountants, the Australian Chamber of Commerce and Industry and the Australian Consumers Association. This Committee discusses current and emerging superannuation issues and provides a medium for the exchange of more general industry intelligence.

3.29 SPR has also developed Key Client Manager relationships with superannuation funds and intermediaries such as accountants and tax agents. For each key client, SPR nominates a specific officer who is responsible for providing assistance and advice to the client on all superannuation matters.

3.30 The ANAO supports the development of strong relationships with superannuation industry participants as a means of encouraging a more self-sufficient superannuation industry.

Client service strategies

3.31 SG client service activities and strategies include:

- providing enquiry and technical assistance to clients; and
- processing forms sent in by clients (such as SG statements).

3.32 These strategies play a key role in assisting SG employers to comply with their obligations.

3.33 The ANAO reviewed SPR's provision of client services with reference to:

- the range of service options provided to clients;
- the quality of service provided to clients;
- the support available to staff who provide client services; and

- the business processes and systems in place to support client service activities.

3.34 Our findings in relation to these areas are discussed below.

Range of service options

3.35 The ANAO found that SPR has implemented a comprehensive range of service options for clients.

3.36 Clients can currently request information by telephone (using the widely publicised ATO Superannuation Helpline), by written correspondence and/or by facsimile (using the ATO's 'A Fax from Tax' service to request SG fact sheets).

3.37 In addition, at the time of the audit, the ATO was planning to provide clients with access to information through the Internet. As discussed above, educational materials are available for clients on the ATO's Internet site. Although, at the time of the audit, this facility did not enable clients to send individual requests for information to SPR, we noted that the ATO is currently testing the facility for lodgment of requests for information by individuals via the Internet.

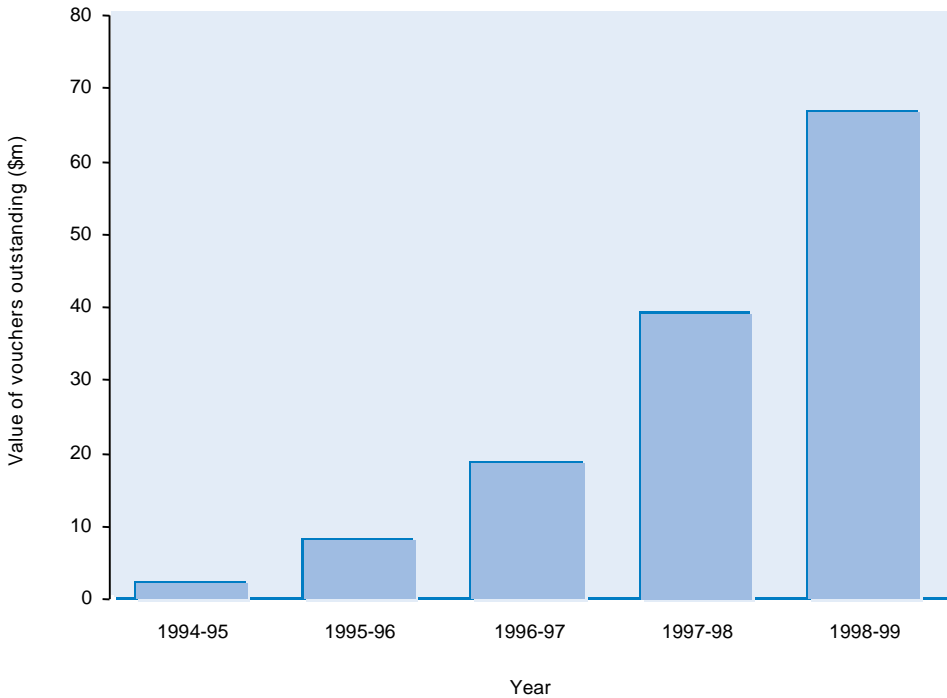
3.38 In addition, the ANAO noted that, at the time of the audit, SPR was developing an electronic SG calculator which it plans to make available for clients on its web page. Employers can use this tool to automate the calculation of their SG liability.

Vouchers

3.39 If an employer pays the SG Charge³² to the ATO, the ATO forwards to each affected employee a voucher for the amount of SG contributions owed plus interest charged at the rate of 10 per cent per annum on contributions owed. Once issued, vouchers can be redeemed by employees by depositing the voucher with a superannuation fund of their choice.

3.40 The number and total value of unredeemed SG vouchers has increased significantly since the introduction of SG in 1992. At 30 June 1999, there were approximately 96 800 outstanding SG vouchers (with a total value of \$66.7 million). The following figure depicts the growth in the value of outstanding vouchers over the past five years. The data presented in this figure demonstrates that the value of outstanding SG vouchers increased by more than 70 per cent from 1997-98 to 1998-99 and by more than 100 per cent each year from 1994-95 to 1997-98.

³² The components of the SG Charge are described at paragraph 3.142.

Figure 6**Value of unredeemed SG vouchers—1994–95 to 1998–99**

3.41 The large number of outstanding vouchers is a problem because:

- an employee does not earn interest on the funds associated with a voucher until that voucher is redeemed; and
- if a voucher is not redeemed by an employee within 10 years, the employee's entitlement to the amount of the voucher lapses.

3.42 Large amounts of money associated with outstanding vouchers will have an adverse impact on the SG objective of reducing reliance on future Commonwealth pension outlays.

3.43 Research conducted by the ATO in 1996 involved contacting voucher recipients to check why they had not presented vouchers. Almost 50 per cent of those surveyed reported that they were not able to understand what the voucher represented nor what should be done with it. To address this problem, SPR amended the information supplied when the voucher is sent to an employee. The ANAO noted that amendment of the information supplied with a voucher will not impact on the number of vouchers outstanding prior to this change. Also, the fact that the number of unredeemed vouchers has continued to increase significantly since 1996 suggests that changing the information supplied with vouchers has not had a noticeable positive impact on the accumulation of outstanding vouchers.

3.44 Further action taken or planned by SPR to address the problem of outstanding vouchers includes:

- letters were sent to employees who had unredeemed vouchers which were more than three months old and for an amount of greater than \$500 in March 1995; and
- holders of unredeemed vouchers (for amounts between \$1000 and \$5000) were contacted by telephone in August 1999 in an attempt to reduce the number of outstanding vouchers.

3.45 The impact of contacting holders of unredeemed vouchers in August 1999 had not been determined at the time this report was prepared. However, the ANAO noted that the action taken by SPR in 1995 did not significantly impact on the value or number of outstanding vouchers. We noted also that considerable resources would be required to contact all employees with outstanding vouchers.

3.46 For these reasons, the ANAO considers the ATO should examine a range of alternative options to reduce the number of outstanding SG vouchers.

3.47 Current SG legislation³³ may provide the necessary authority for the Commissioner of Taxation to pay outstanding voucher amounts directly to an identified superannuation fund and to advise the employee accordingly. It is possible for the ATO to identify any existing superannuation accounts an employee may hold by using information collected through SPR's administration of the Superannuation Surcharge. SPR can match employee Tax File Number (TFN) details provided on SG Statements with the fund member TFN details that superannuation funds provide under Superannuation Surcharge legislation.

3.48 The ANAO recognises that such provisions usually require some form of prior authorisation from the individual affected by the proposed action, before the action could proceed. We noted that a 1998 Federal Court decision (*Findlay vs Federal Commissioner of Taxation*) has also cast doubt on whether the current SG legislation allows the ATO to pursue the above course of action. In addition, under current SG Regulations, the Commissioner of Taxation must be satisfied that 'sufficient information is reasonably available to allow him or her to identify the employee'.³⁴ It is not clear whether use of the employee's TFN and Superannuation Surcharge information satisfies this condition.

³³ Section 65 (1)(b), *Superannuation Guarantee (Administration) Act 1992*.

³⁴ Regulation 11, *Superannuation Guarantee (Administration) Regulations*.

3.49 The ANAO considers that the transfer of voucher amounts into existing employee superannuation accounts using the approach described above is an option which SPR should explore to reduce the number and amount of outstanding SG vouchers. We noted that SPR would require legal advice prior to pursuing this course of action.

Recommendation No.5

3.50 The ANAO recommends that SPR explore whether transferring voucher amounts into existing employee superannuation accounts (identified through superannuation surcharge data) is an option to reduce the number and value of unredeemed SG vouchers.

ATO Response:

3.51 Agree.

3.52 SPR is actually testing this option at present and preliminary results indicate that further investigation, including issues regarding relevant legislative authority, is warranted.

3.53 However, there are other options being explored. One option being examined involves the matching of new entrants to large superannuation funds against ATO SG voucher records. Preliminary results of this exercise are promising.

3.54 SPR will continue to test and explore various options in its efforts to improve superannuation administration.

Quality of service

3.55 The ANAO found that the quality of services provided by SPR to clients is generally satisfactory. As discussed at paragraphs 2.51 and 2.52, SPR has a number of performance measures in place. Several of these measures are used to assess the quality of client services, including:

- assessing the quality of written replies to clients;
- assessing the quality of advice provided over the telephone; and
- assessing the timeliness of SPR's response to client enquiries.

3.56 The following assurance processes, which are aimed at ensuring advice provided to clients is consistent, accurate and comprehensive, are in place in relation to advice provided to SG clients:

- all written advice is subject to peer review before being despatched;
- Team Advisors (who are resources assigned to each SPR team to provide technical advice) review a sample of written advice provided by their team each month;

- SPR's Technical and Quality Support section (Support Process 2) reviews a sample of written advice and audits³⁵ each quarter;
- an external panel regularly reviews a small sample of written advice each quarter; and
- Team Advisors sit in on a sample of telephone calls each month.

3.57 Staff are also encouraged to refer more complex technical matters to the Team Advisor, or to the Technical and Quality Support section.

3.58 The above quality assurance reviews assess the advice provided on a five point scale ('A' to 'E') using the following criteria:

- the staff member providing the advice understood the client's question;
- the decision was clear and convincingly correct;
- the reasons for the decision were well explained and applied to the client's circumstances;
- the answer was well communicated and provided in a timely manner; and
- ATO procedural requirements were followed.

3.59 Results of SPR's July 1999 national quality assurance review (carried out by the Technical and Quality Support section) indicate that:

- 98 per cent of staff who provided telephone advice on SG matters achieved a 'pass' standard on the quality assurance criteria, with 84 per cent being given an 'A' rating; and
- 96 per cent of written advice provided and audits conducted by staff on SG matters achieved a 'pass' (that is, an 'A', 'B' or 'C' rating).

3.60 In accordance with the ATO's Taxpayers' Charter, SPR is committed to meeting the following standards in relation to the timeliness of client services:

- telephone calls are to be answered within two minutes, or within five minutes at times of high demand; and
- responses to correspondence from clients are to be provided within 28 days. Where this is not possible due to the complexity of the matter, another period is to be negotiated with the taxpayer.

3.61 In the 1998-99 financial year, approximately 95 per cent of all superannuation telephone calls received in the client service teams were answered within the time requirements set down by the Taxpayers' Charter. For the same period, approximately 90 per cent of responses to

³⁵ SPR's SG audit activities are discussed from paragraph 3.100.

client correspondence on superannuation subject matter were provided within the time requirements set down in the Taxpayers' Charter. Separate figures for SG telephone calls and correspondence were not available when this report was prepared.

Complaints

3.62 Within the ATO complaints and enquiries, including those arising from advice provided to telephone callers or in correspondence, are dealt with at one of three levels:

- Level 1—original staff member dealing with client to handle;
- Level 2—supervisor or superior to handle; and
- Level 3—ATO's Problem Resolution Service (PRS), created as part of the ATO's implementation of the Taxpayers' Charter, to handle.

3.63 SPR analyses the nature and content of complaints to identify problems in meeting client or industry needs, and, in particular, to assess whether there may be developing issues or trends that need addressing.

3.64 Complaints affecting SPR are recorded on a separate database. All Level 2 and Level 3 complaints are recorded. However, currently SPR does not record all Level 1 complaints. During the audit, SPR was trialing a database system to record on-screen the details of complaints as they are made. Such a system would enhance the management of and reporting on complaints, including Level 1 complaints.

3.65 During 1998–99 SPR recorded 301 Level 1 and Level 2 complaints. Most of these complaints (approximately 53 per cent) were about SG. During the same period, SPR received a total of 35 Level 3 complaints through the PRS. Once again, SG complaints represented the majority of these complaints, accounting for 56 per cent. Level 1, Level 2 and Level 3 complaints recorded during 1998–99 (336 in total) represent less than one per cent of all client contacts for SG.

3.66 The most common subject of all SG complaints was the lack of communication from the ATO regarding the progress of an EN form submitted by an employee. These complaints often arise because, under legislated privacy provisions, SPR cannot provide details to employees about the affairs of employers who may be the subject of an EN. The ANAO noted that the new SG audit compliance project strategy (discussed from paragraph 3.103) was also the subject of some complaints.

Staff support

3.67 The ANAO found that the support available for staff who provide SG client services is satisfactory.

3.68 Team members are provided with SG technical training when they join a team and are initially monitored by more experienced team members. From time to time thereafter team members are also provided with SG technical training, particularly when it is likely that a significant number of clients will contact SPR in relation to a specific issue. All team members have access to specialist technical advice through a Team Advisor who is also responsible for ensuring that the technical skills of team members remain current.

3.69 A number of support tools are provided to staff to encourage accuracy and consistency in the information or advice provided by staff to clients. These include:

- ‘scripts’ that can be used by staff to provide standard answers to enquiries about technical issues such as responding to queries from employers chosen to complete SPR’s SG annual compliance survey³⁶;
- internal publications such as Superannuation Technical Bulletins, which provide information to team members on current and emerging technical issues;
- standard letters, which are used as the basis for preparing written replies to client enquiries. These letters were being reviewed and updated at the time of the audit;
- the GrapeVine system which provides an interactive e-mail communication facility across the ATO for raising technical issues. Staff can use GrapeVine to seek input from other staff members on specific technical issues;
- a number of electronic technical reference databases which include SG and other tax rulings, SG determinations, superannuation and taxation legislation, and decisions from taxation and superannuation AAT and court cases; and
- the Case Reporting System which is a national ATO system used to record significant private binding rulings, objections and appeals.

3.70 In addition, during the audit SPR implemented the Superannuation On Line Advisor and Resource (SOLAR). This is an electronic business support tool that can be used by SPR staff as an up-to-date information resource and technical reference. SOLAR includes, among other things, the following facilities:

- electronic calculators and flow charts relevant to superannuation processes such as SG;

³⁶ The SG annual compliance survey is discussed in detail from paragraph 3.123.

- answers to questions frequently asked by clients;
- information on current issues and news;
- up to date versions of interpretative material such as SG Rulings; and
- contact lists for key stakeholders (such as industry associations).

SG rulings

3.71 The ATO has issued the following SG Rulings, aimed at clarifying the ATO's view of particular aspects of the SG legislation for ATO staff and clients:

- *Who is an Employee?* (SGR 93/1);
- *Earnings Bases* (SGR 94/1);
- *Ordinary Time Earnings* (SGR 94/4); and
- *Superannuation Guarantee: Salary or Wages* (SGR 94/5).

3.72 SPR staff are frequently contacted by SG employers regarding whether particular members of their staff are employees for SG purposes. SG Ruling 93/1, *Who is an Employee?*, was propagated by the ATO to address this issue.

3.73 However, the ANAO found that SPR staff were not using the correct SG ruling as a reference when providing advice to clients about who constitutes an employee for SG purposes.

3.74 The ANAO found that SPR staff are currently using Draft Taxation Ruling 97/D9, *Income tax: Tax instalment deductions* and a PAYE Quick Reference Guide as the basis for interpretation on this issue, rather than SG Ruling 93/1. The Quick Reference Guide is also provided to employers who request advice on this issue for their reference. During the audit the ANAO was informed that the definition provided in the Taxation Ruling is different to that provided in the SG Ruling.

Recommendation No.6

3.75 The ANAO recommends that SPR take steps to ensure its staff, when providing advice to SG employers and employees, are using the correct definition (as set out in SG Ruling 93/1) as to who constitutes an employee for SG purposes.

ATO Response:

3.76 Agree.

3.77 Although SPR accepts that some staff were using the wrong reference material, our evidence suggests that this is not a widespread problem. We also note that results of the July 1999 national quality

assurance review show that the advice provided by SG staff in relation to SG matters is sound.

3.78 However, instructions have been issued to remind staff of the correct reference material and SG Ruling 93/1 has been included on SOLAR under the heading of “frequently asked questions” for Superannuation Guarantee.

3.79 In addition, SG Ruling 93/1 is reinforced through training on employment status as it forms the basis of our training packages and training manual in this regard.

Business processes and systems

3.80 The ANAO found that SPR is developing or has in place a range of business processes and systems to support its SG client service activities. The key processes and systems are:

- the Workflow system;
- forms processing; and
- the SG system.

Workflow system

3.81 The Correspondence Workflow Management System (Workflow) is a joint project of the ATO’s SPR, Individuals Non-Business and GST Business Lines. Implementation of a pilot of the system commenced across SPR sites in July 1999, initially for written requests handled by Core Process 3. The implementation date for the system in Core Process 4 had not been decided at the time of the audit.

3.82 Workflow will enable all correspondence received from clients to be scanned and distributed for action electronically. The advantages of the system are:

- correspondence can be automatically forwarded to the appropriate staff member or team for action;
- it can detect and control duplicate correspondence;
- it provides for flexibility in the management of workloads for the ATO because correspondence can be distributed across ATO sites to address peaks and troughs in the numbers of written requests received from clients; and
- it provides telephone operators with on-line access to details of client requests. These operators can then assist without delay clients who call to enquire about the progress of their requests or clients who call to provide further information.

3.83 Workflow should enable SPR to increase the quality of service to clients by reducing response times. The ANAO supports the implementation of this system and sees this development as an important contribution to the improvement of ATO's client service.

Forms processing

3.84 The forms currently provided to the ATO by SG employers and employees are:

- a Superannuation Guarantee Statement from employers who fail to provide the required minimum level of SG contributions for their employees in a given financial year. The ATO received 8833 SG Statements during 1998–99; and
- an Employee Notification of Insufficient Employer Contributions form (EN) which is completed by an employee who believes that their employer is not meeting its SG obligations. The ATO received 10 795 ENs during 1998–99.

3.85 The information on these forms is currently processed and/or entered manually into ATO business systems by SPR staff. This means that approximately 20 000 SG forms are processed manually each year.

3.86 The ANAO considers that the ATO should investigate possibilities for reducing the amount of manual processing necessary for SG forms, and therefore, potentially, the costs associated with processing these forms. Because the information provided in these forms is necessary to support the targeting of SG compliance activity, we do not consider that the ATO should reduce the amount of information captured from these forms.

3.87 The ANAO noted that SPR has developed electronic forms for Superannuation Surcharge and has facilities to allow surcharge information to be submitted electronically by superannuation funds. Clients can access these forms at the ATO's Internet web site. We suggest that SPR investigate the costs and benefits of providing this facility as an option for SG forms.

3.88 We suggest also that the ATO investigate the costs and benefits of producing forms that can be read electronically using the ATO's existing Optical Character Recognition technology. These forms would be useful for clients who do not have access to Internet technology.

3.89 We consider that SPR should examine a range of options to reduce the amount of manual processing necessary for SG forms, including the options discussed above.

Recommendation No.7

3.90 The ANAO recommends that SPR examine the costs and benefits of various options to reduce the amount of manual processing necessary for SG forms. Options may include developing forms that can be:

- completed electronically by employers or employees; and/or
- completed manually by employers and employees or employees and captured on ATO systems using the ATO's existing Optical Character Recognition technology.

ATO Response:

3.91 Agree with qualification.

3.92 There are areas for improvement of the SG processing system as it currently exists and SPR is constantly looking for ways to streamline and improve manual processes. However, options, such as the development of forms, which impact on the SG computer system need to be considered in the context of the broader superannuation systems design.

The SG processing system

3.93 The SG processing system is a computer system which was designed and built in 1992–93 when SG was introduced. SPR uses this system to process employers' assessments and accounts, employee vouchers and claims by superannuation funds for voucher amounts. The SG system is essentially an accounting system and there is some integration with the ATO Integrated System (AIS).

3.94 During the audit, the SG system was tested for compliance with Year 2000 requirements. The ANAO noted that the system was signed-off for Year 2000 compliance in late June 1999.

3.95 Although minor amendments have been made to the SG system since its introduction, many enhancements identified as necessary by SPR staff have yet to be addressed. Examples are:

- improving system response times;
- improving the interface between the SG system and AIS;
- ensuring that all business rules are reflected in the system;
- enabling electronic data transmission from employers and superannuation funds;³⁷

³⁷ SG system functionality in this regard will impact on SPR's ability to implement the ANAO's recommendation regarding electronic forms

- enabling the update of SG system address information from other ATO systems; and
- automating calculations for late payment penalties.

3.96 In the ANAO's opinion, SPR could improve the efficiency and effectiveness of its client services significantly if these enhancements were made.

3.97 We understand that it has been necessary during recent years for SPR to give priority to the development of other systems, such as the Superannuation Surcharge system. We noted also that, during the audit, the SG system was being examined as part of a review of the high level design for SPR business systems. The aim of this review was to specify the level of desirable integration for existing and developing superannuation systems and to identify priorities for future redevelopment of existing systems.

3.98 Although the ATO has recognised the need to redevelop the SG system at some stage in the future, at the time of the audit the ANAO saw no evidence of a firm commitment by SPR to redevelop this system. The ANAO suggests that, given current limitations in the functionality of the system and the consequential impact on the effectiveness and efficiency of client service, the ATO should assign a high priority to the redevelopment of the SG system.

3.99 SPR agrees that there are areas for improvement of the SG computer system as it currently exists. However, it has stated that any redevelopment activity needs to be considered in the context of the broader superannuation systems design. SPR stated also that it considers that the current SG system is functioning and is supported by special business processes to ensure the ATO is providing effective and efficient client service.

Audit strategies

3.100 SG audit strategies are aimed at detecting non-compliance by SG employers and measuring overall SG compliance levels. The ANAO reviewed the effectiveness of SPR's current audit strategies with particular emphasis on the following key activities:

- SG compliance (audit) projects; and
- the annual SG compliance survey.

3.101 Our findings in relation to the effectiveness of these strategies are discussed in the relevant sections below.

Compliance projects

3.102 Until recently SPR's desk and field audit activities for SG consisted of following up ENs.³⁸ This involved carrying out desk or field audits to ensure that those employers who were the subject of employee complaints through ENs were complying with their obligations. Although SPR recognised the importance of the information provided by employees in ENs, it also recognised that there were a number of disadvantages in this approach, including:

- in approximately half of the EN cases followed up by SPR, no evidence was found of non-compliance by SG employers (for example, the employee was unaware that SG contributions had been made by the employer);
- although, at a minimum, telephone contact is made in each case, SPR is not sufficiently resourced to undertake detailed field audit follow up for every EN submitted by employees;
- employees may not submit ENs because they are unaware of their SG entitlements, are unaware that they can complain to the ATO, or are unwilling to submit an EN because they fear reprisal from their employer; and
- this strategy was not based on risk management principles because all ENs were investigated, regardless of the information supplied by employees. As a result SPR was not making the most effective and efficient use of its resources in this area.

3.103 For these reasons, in January 1999, SPR implemented a new strategy designed to better use its resources and, as a consequence, increase SG compliance. This strategy involved undertaking compliance projects to enable better targeting of audit and other resources.

3.104 Under the revised arrangements each EN received by SPR is not necessarily followed up through desk or field audit activity. However, where employers who are considered to be high risk are the subject of an EN, they are contacted by letter or telephone and advised of their obligations and potential penalties under SG legislation.

3.105 The information provided on ENs is now entered into a compliance database.³⁹ The SPR Business Line plans to use this database to identify employer groups with a high risk of non-compliance and undertake appropriate audit activity to detect non-compliance.

³⁸ Employee Notifications are defined at paragraph 1.12.

³⁹ Paragraph 2.6 provides details of the information SPR plans to include in this data base.

3.106 SPR has identified a range of characteristics as possible indicators of compliance risk, including the employer's:

- industry,
- geographical location;
- compliance history (for SG or other areas administered by the ATO);
- rate of staff turnover;
- type of employment (in terms of tenure);
- length of time in business;
- business size; and
- business structure.

3.107 The ANAO supports this risk-based approach.

3.108 In addition to targeting high risk groups, SPR uses strategies such as reminder notices and telephone calls at the end of the financial year to ensure that employers continue to comply with their obligations.

3.109 The ANAO recognises that SPR's move away from following up individual employee complaints through ENs may result in problems for some individual employees. However, we consider that the risk-based approach to audits now being employed by SPR is a more effective use of resources and is more likely to lead to improvements in overall compliance levels. The ANAO therefore endorses SPR's new approach in this area.

Current SPR compliance projects

3.110 During the course of the audit, SPR commenced fifteen compliance projects as the first stage of its revised process. Most of these projects involved some form of field or desk audit activity on employer groups which were considered to be high risk in terms of non-compliance.

3.111 The characteristics used to select employer groups for audit activity in this first round of projects included:

- geographical location
- PAYE compliance history;
- industry;
- SG compliance history;
- average period of employment for employees;
- size of the business; and
- age of the business.

3.112 None of these projects had been completed by the time this report was finalised, so the ANAO is unable to comment on the results of individual projects or confirm that these projects had improved overall SG compliance.

Quality of audit work

3.113 SPR has implemented an assurance process to assess the quality of the SG audit work. The grading system used for audit cases is the same as that discussed in paragraph 3.58 above. The results of audit quality assurance reviews are included with those for written advice and, as discussed at paragraph 3.59, approximately 96 per cent of written advice provided and audits conducted achieved a pass rating.

3.114 These results support our finding that the quality of audits conducted by SPR on SG clients is satisfactory.

3.115 Under the Taxpayers' Charter, SPR is also required to notify the client of the outcome of an audit within seven days of the ATO making a decision. During the 1998–99 financial year, approximately 97 per cent of SPR audits met this standard.

Coordination with other ATO Business Lines

3.116 Although we support the recent change in approach to audit activities by SPR, the ANAO considers that there is a need to coordinate SG audit activities with the audit activities carried out by SB. As noted in paragraph 2.8, SPR and SB often deal with the same clients because businesses that are employers for PAYE purposes are also employers for SG purposes.

3.117 Although the ANAO noted that SPR staff had worked with other ATO Business Lines on superannuation income tax issues, we found no evidence of this approach in relation to SG.

3.118 The ANAO considers that coordination of SB and SPR audit activities on employers who have a PAYE and SG role would lead to more efficient use of resources and a reduced compliance burden for employers. It would also encourage an employer perception of the ATO as an integrated organisation which ensures that non-compliant employers are treated consistently. The ANAO expects that this perception would lead to improvements in SG and PAYE compliance.

Recommendation No.8

3.119 The ANAO recommends that the Superannuation and Small Business Lines coordinate audit activities, where appropriate, to make more efficient use of ATO resources and to reduce the compliance burden for employers who may be subject to audit activity from both Business Lines.

ATO Response:

3.120 Agree.

3.121 As indicated in the response to Recommendation 1, SPR has ongoing liaison with SB and work has commenced on the coordination of relevant audit activities.

3.122 We would see this arrangement extending to the Goods and Services Tax (GST) business line in the future. To date, SPR has concentrated on coordinating education activities with GST, for example, SG is to be included in the training package for GST staff.

SG compliance survey

3.123 The SG compliance survey is a survey of a random sample of SG employers. The key objectives of the survey are to:

- estimate SG compliance levels and monitor changes in the level of compliance over time;
- assess SG compliance within different sectors of the business community;
- assess SG compliance by geographical regions;
- ascertain reasons for non-compliance; and
- educate employers about SG, and thus increase compliance.

3.124 Since the introduction of SG in 1992, surveys have been conducted in 1994, 1996 and 1998 (SG 98).⁴⁰ A further survey (SG 99) was conducted in July and August 1999. However, the results of that survey were not available when this report was prepared. The ANAO understands that SPR intends to conduct these surveys annually in the future.

3.125 Although the detailed methodology for each survey has varied on each occasion, the broad parameters have been:

- employers selected for the audit are randomly selected from ATO database records and stratified by geographical and payroll criteria;

⁴⁰ The 1998 survey is referred to as SG 98 by SPR and throughout this report.

- sample sizes are selected so as to achieve precision in estimating non-compliance levels by geographical location and payroll size;
- selected employers receive a survey questionnaire⁴¹ requesting specific information about the business and its employees (in SG 98 all employers were required to provide full details of superannuation contributions for each individual employee; in previous surveys larger employers were required to provide only summary information); and
- completion of the survey is compulsory for employers.

3.126 For SG 98 the survey comprised two samples:

- Capital city—2294 employers with annual payrolls of between \$35 000 and \$50 million, stratified by region into six groups⁴² and by payroll size; and
- Regional—871 employers with annual payrolls of between \$35 000 and \$3.5 million in only three regions⁴³, stratified by payroll size.

3.127 SG 99 will use a similar methodology to SG 98. However, SG 99 will:

- be conducted in two phases to enable SPR to determine the impact on compliance of survey timing;
- include a more refined measure of compliance to indicate the extent to which each employer complied with its obligations. This will involve allocating a compliance score to each employer; and
- include a sample of new businesses in addition to capital city and regional samples.

3.128 Results obtained in SG 98 include:

- 71 per cent of capital city employers and 59 per cent of regional employers were fully compliant;
- only five (less than one per cent) of the 2454 employers who completed the survey were fully non-compliant (that is, they had not made any superannuation contributions on behalf of their employees);
- the average level of shortfall in SG contributions identified for each employer was \$1934 for capital city employers and \$495 for regional employers;
- the average level of shortfall for employees affected by non-compliance

⁴¹ For SG 98, employers had the option of completing a paper or electronic form.

⁴² The six regional stratifications were Adelaide, Brisbane, Darwin, Melbourne/Hobart, Perth and Sydney/Canberra.

⁴³ The three regions were Ballarat, New England and Townsville/Cairns.

was \$274 for capital city employees and \$150 for regional employees; and

- the groups of employees most likely to be affected by non-compliance were contractors and part-time/casual employees, females and those employed in regional areas.

3.129 The ANAO noted that the stratification and sampling frame, which will be used in SG 99, will enable direct comparison of the compliance levels determined during SG 98.

3.130 The results of the 1994, 1996 and 1998 surveys cannot be compared because stratification and sample frames varied with each survey. However, the ANAO noted the following results from the 1994 and 1996 surveys:

- 83 per cent (1994) and 66 per cent (1996) of the employers surveyed fully complied with their SG obligations;
- the average level of shortfall in SG contributions identified for each employer surveyed in 1996 was \$1157; and
- the average level of shortfall identified for each employee in 1996 was \$236.

3.131 The ANAO supports the survey approach to measuring SG compliance levels, particularly given the absence of an annual SG return, and we support SPR's plans to ensure that the design of future surveys will enable trend comparisons of SG compliance.

3.132 In addition, the ANAO supports the multiple-sample design because it allows SPR to:

- test the hypothesis that compliance levels differed between chosen samples; and
- limit the number of regional locations included in the survey and therefore reduce the time and costs associated with following up non-complying businesses from a large number of geographical locations.

3.133 However, we noted that the outcomes from the 1994 SG survey included an estimated dollar figure associated with *employer* non-compliance and that SG 98 included an estimate of the amount of shortfall associated with each *employee*. In addition, we noted that, although SG 98 included an estimate of the *number* of non-compliant employers in particular categories, it did not include an estimate of the *amount* of SG shortfall associated with employer non-compliance.

3.134 The ANAO considers that the number of non-compliant employers is useful for targeting compliance projects. However, analysis of the

value of SG shortfall associated with non-compliance by employers in particular categories may also be useful for targeting compliance projects.

3.135 The ANAO suggests that SPR, through its annual SG compliance survey:

- determine the dollar value associated with SG non-compliance for each employer; and
- determine whether the dollar value of non-compliance is an effective criterion for targeting audit compliance activity.

Enforcement strategies

3.136 For the purposes of this audit, the ANAO has defined SG enforcement strategies as:

- imposing penalties on employers for SG non-compliance;
- collecting outstanding SG debts; and
- prosecuting employers for SG non-compliance when necessary.

3.137 Although this is generally consistent with the ATO Compliance Model, it should be noted that under the ATO's Model, penalties are included under audit activity because most of the penalties imposed by the ATO can be subsequently remitted by the ATO and therefore include an element of discretion. However, the ANAO has included penalties under enforcement strategy for the purposes of this audit because the main penalty under SG legislation—the SG Charge—cannot be remitted by the ATO. Consequently, we consider that it is more appropriate to include SG penalties under 'Enforcement Strategies' which represent the non-discretionary command strategies of the ATO Compliance Model.

3.138 During the audit, the ANAO was unable to review the effectiveness of SPR's prosecution strategies because, as discussed from paragraph 2.34, SPR does not have an SG prosecution strategy in place and has not pursued any SG prosecutions since the introduction of SG in 1992.

3.139 However, we reviewed SPR's imposition of SG penalties and collection of outstanding SG debt. Our findings are set out below.

Penalties

3.140 Although SPR seeks to promote voluntary compliance with the SG legislation, if an employer does not comply with its obligations, SPR can impose administrative penalties on the employer.

3.141 Broadly defined, administrative SG penalties include:

- the SG Charge; and

- a range of administrative penalties under Part 7 of the SG legislation.

3.142 For a given financial year, if an employer has not complied with its SG obligations by 28 July of the following financial year, the employer must lodge an SG Statement and pay the SG Charge to the ATO. The SG Charge comprises:

- the difference between the total SG contributions that should have been made and any SG contributions that were made for employees (the shortfall);
- a nominal interest component of 10 per cent per annum calculated from 1 July of the relevant financial year on the shortfall. The nominal interest component of the SG Charge is levied to compensate employees for the loss of earnings on SG contributions which are paid late; and
- an administration component which consists of a flat rate of \$50 plus \$30 for each employee for whom the employer has made insufficient SG contributions.

3.143 Both the nominal interest component and the shortfall component of the SG Charge represent a debt owed to the employee, rather than to the Commonwealth.

3.144 Part 7 penalties represent additional SG Charge amounts payable in a range of circumstances such as when:

- an employer lodges an SG Statement late;
- an employer has not kept a record containing details of the SG Charge including calculations of the shortfall, nominal interest and administration components;
- an employer makes a false or misleading statement which results in a reduced SG Charge; and/or
- an employer enters into an arrangement to reduce or avoid the SG Charge.

3.145 All or part of the Part 7 penalties can be remitted by the ATO.

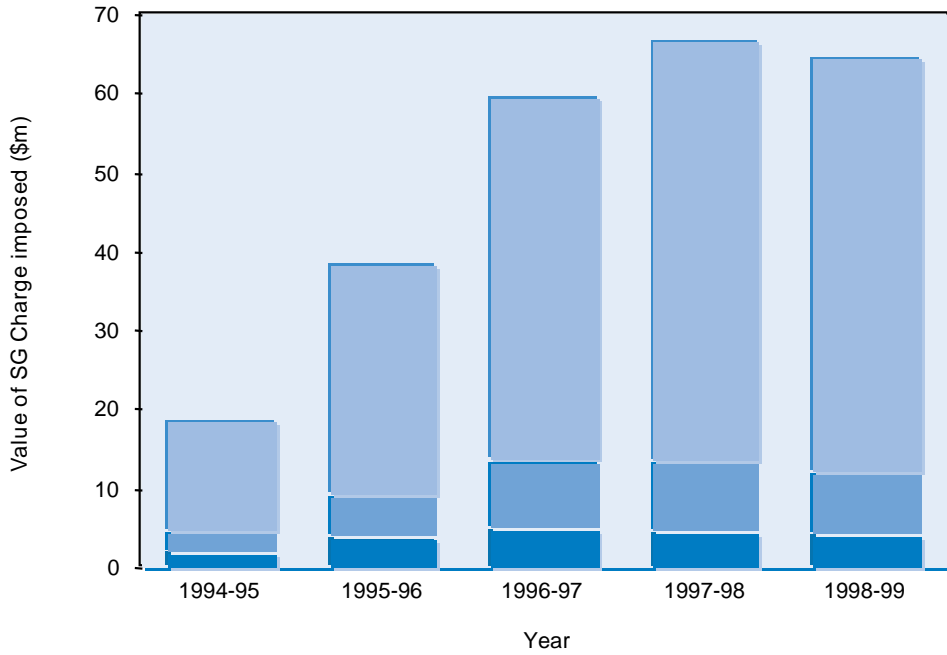
3.146 Superannuation contributions made by employers, in accordance with SG legislation, are normally tax deductible for employers. However, the shortfall component of the SG Charge is not tax deductible.

3.147 During this audit, the ANAO focused on SPR's imposition of the SG Charge because the SG Charge represents more than 80 per cent of all SG penalties imposed.

3.148 Figure 7 illustrates the amount of SG Charge imposed by SPR (including a break up of its components) in each of the past five years.

Figure 7

SG Charge imposed in each year from 1994–95 to 1998–99



	1994-95	1995-96	1996-97	1997-98	1998-99
Contribution shortfall (m)	14.1	29.3	46.4	53.4	52.7
Interest (\$m)	2.6	5.6	8.6	8.9	7.9
Administration fee (\$m)	1.8	3.4	4.5	4.3	3.9
TOTAL (\$m)	18.7	38.4	59.5	66.7	64.5

Note: As a result of rounding, individual components made not add to totals.

3.149 The ANAO noted that the amount of SG Charge imposed by SPR decreased marginally from 1997–98 to 1998–99. In addition, we noted that the number of SG statements received decreased by approximately 32 per cent during the same period. However, the results of SPR’s 1996 and SG 98 compliance surveys do not indicate that there was a noticeable decrease in the average employer SG shortfall or in the number of non-compliant employers which could account for these decreases.⁴⁴

3.150 The ANAO considers that the decreases in 1998–99 may be a result of SPR’s change in audit strategy (discussed from paragraph 3.103). Although we support this change in strategy, we note that it represents a substantial change in approach for SPR. In the short term, the new approach may have a negative impact on the amount of SG Charge imposed because:

- initially, SPR staff may not possess the skills necessary to efficiently and effectively implement project-based compliance activity; and
- sufficient projects must be completed before the results can be used to effectively target future compliance projects.

3.151 However, we suggest that SPR:

- determine the reasons for the decrease in SG Charge imposed from 1997–98 to 1998–99; and
- implement appropriate strategies to address any identified deficiencies in SPR processes which may have contributed to this decrease.

Legislation issues

3.152 During the course of the audit the ANAO became aware of three issues that were of concern to SPR in relation to its administration of the SG legislation. These are:

- although the Commissioner of Taxation has the power to remit all or part of many SG penalties, he/she cannot remit any component of the SG Charge;
- the ATO is required to remove the administration component from the SG Charge before any entitlements are provided by the ATO to the employee. This can reduce employee entitlements if the employer has not paid the full amount of the charge; and

⁴⁴ SG Charge imposed during 1998–99 is the result of employer non-compliance during 1997–98 or earlier years.

- where an employer makes SG contributions to a superannuation fund shortly after the SG deadline of 28 July, the shortfall component of the SG Charge remains payable to the ATO. In effect, an employer in this situation is forced to pay the SG contribution amount twice.⁴⁵

3.153 SPR was unable to provide estimates to the ANAO of the number of employers and employees affected by these issues, or the value of SG contributions involved.

3.154 However, the ANAO noted that SPR was considering possible legislative options to present to government on the imposition of penalties under SG legislation. The ANAO would support the ATO pursuing this course if there is legitimate concern about the SG Charge such as the lack of discretion and flexibility in its application under existing legislation.

Debt collection

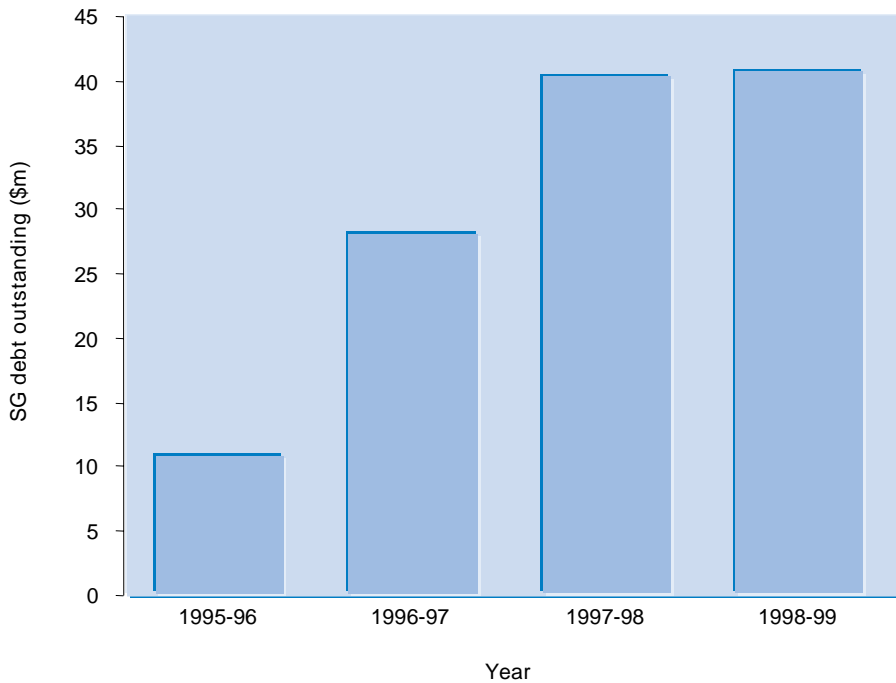
3.155 SG debts relate to outstanding SG Charge amounts and/or SG penalty amounts due from employers. The shortfall component and the nominal interest component of the SG Charge represent a debt to the employee. However, the administration component of the SG Charge and any other SG penalty debts represent debts to the Commonwealth. As well as being responsible for the collection of SG debts to the Commonwealth, SPR is responsible for collecting SG Charge debts which are owed to employees.

3.156 Figure 8 sets out the amount of SG debt outstanding at the end of each of the last four years.

3.157 The ANAO noted that SG debt increased substantially from 1995–96 to 1997–98. However, there was only a slight increase from 1997–98 to 1998–99.

⁴⁵ This issue was also raised by the Commonwealth Ombudsman in his 1997–98 Annual Report (page 60).

Figure 8
SG debt outstanding—1995–96 to 1997–98

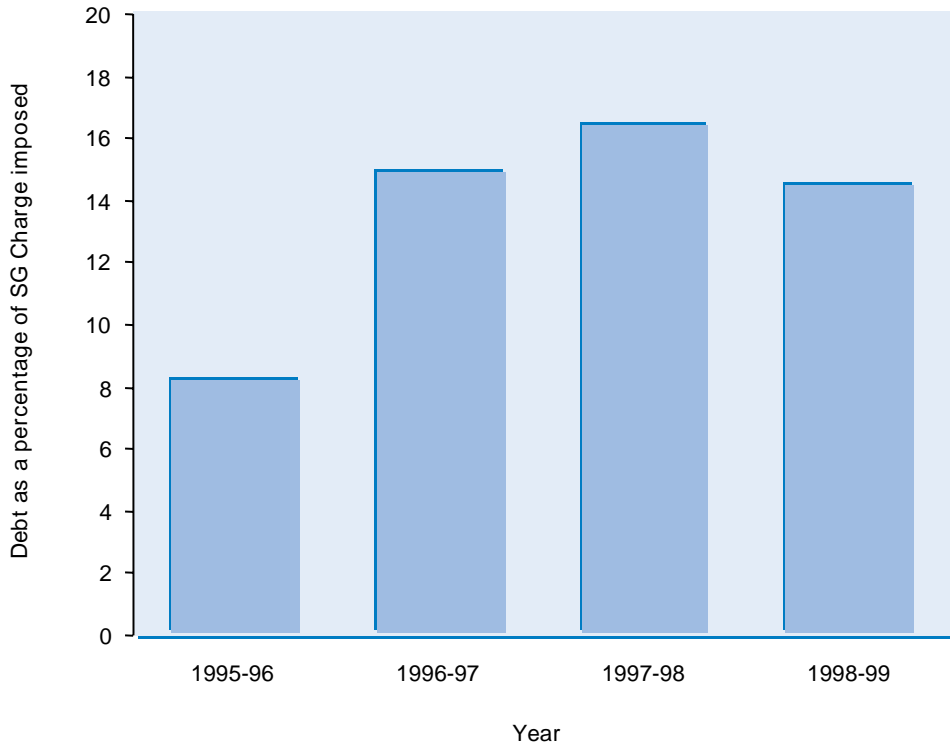


3.158 We also examined the amount of SG debt outstanding each year as a percentage of total SG Charge imposed each year.⁴⁶ The following figure sets out the amount of outstanding SG debt as a percentage of total SG Charge imposed from 1995–96 to 1997–98.

⁴⁶ SG Charge imposed represents more than 80 per cent of total SG debt outstanding.

Figure 9

Outstanding SG debt as a percentage of SG Charge imposed—1995–96 to 1997–98



3.159 The ANAO considers that the levelling-off of SG debt levels from 1997–98 to 1998–99 is a direct result of SPR’s reorganisation in December 1997 which resulted in the establishment of a central SPR debt collection unit to focus on the collection of superannuation debts.

3.160 During the audit, the Commissioner of Taxation announced that ATO debt collection activities for all small businesses, including those relating to superannuation, would be centralised under the receivables management area in SB. The transfer of superannuation debt collection matters to SB is taking place progressively, and is expected to be completed by September 1999. SPR is currently liaising with SB on the transfer of the function.

3.161 This transfer of responsibilities is likely to impact on the collection of SG debt as these debts tend to be considerably smaller than PAYE debts which will also be collected by the centralised area in SB. To address this issue, the ANAO noted that SPR is negotiating a service agreement with the SB receivables management area which will set out what action will be taken on different SG debt categories.

3.162 The ANAO considers that maintaining a focus on the collection of SG debt is extremely important because approximately 80 per cent of the SG debt owed by employers at 30 June 1999 represents amounts owed to employees. As the amount of outstanding SG debt increases, the ability of affected employees to save for their retirement decreases and, therefore, the demand on future Commonwealth pension outlays is likely to increase.

A handwritten signature in black ink, appearing to read 'P.J. Barrett', written in a cursive style.

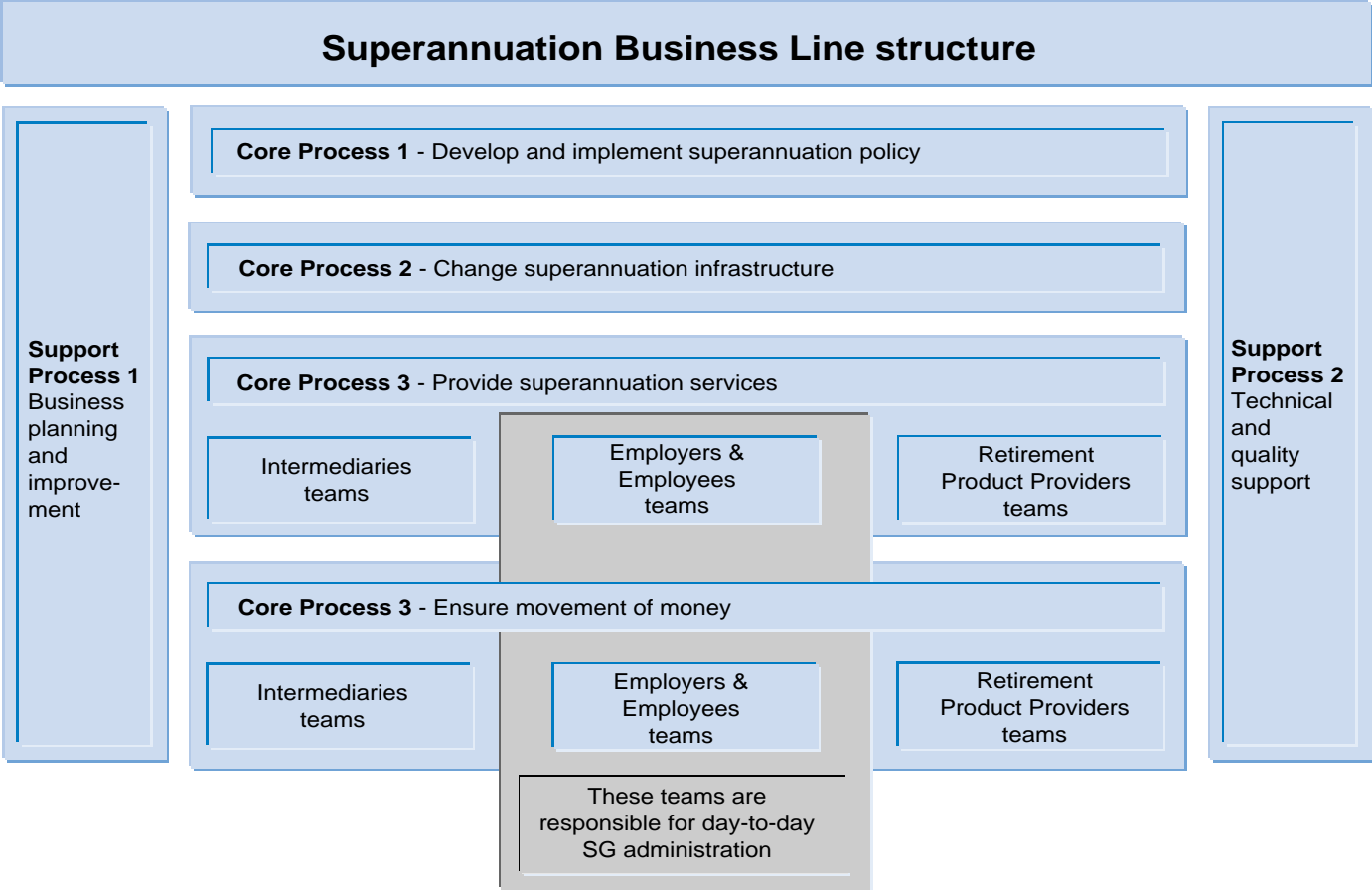
Canberra ACT
15 November 1999

P.J. Barrett
Auditor-General

Appendices

Appendix 1

Superannuation Business Line organisation structure



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