

**Business Subsidies & Grants Fraud
During Covid-19 and Role of IFAs in
Assisting Banks/Governments in
Detecting and Recovering**

**Research Project for Emerging Issues/Advanced Topics Course Master
of Forensic Accounting Program University of Toronto**

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1.0 Research Topic

The topic selected for research project is “Business Subsidies and Grants Fraud During Covid 19 and Role of IFA in Assisting Institutions in Detecting and Recovering”.

During 2020 & 2021, government of Canada committed and spent over \$250 billion in economic response plan to help businesses, institutions and individuals survive and stay afloat during covid 19 pandemic.¹ This research project talks about corporation registration as well as subsidies that were introduced to help business and dives deep into “Canada Emergency Wage Subsidy (CEWS)”.

Emergency wage subsidy was originally meant to be \$49 billion but has already surpassed that by a big margin and by the end of April 2022, it has already crossed \$100 billion mark.² It is estimated it could become Canada’s most expensive covid relief program and can even surpass Canada Emergency Response Benefit.

Reports and articles covered in this research project highlight how some business used much of rebates offered including small business financing to fund their own growth. It draws attention to some loopholes that were there in the system which were exploited by some large corporations and emphasize how Investigative and Forensic Accountants can add value by detecting and recovering these funds. Moreover, how IFAs can be helpful in adding a layer of check and balance in design and distribution process of such schemes.

¹ (Response Plan, n.d.)

² (Claims to date , 2022)

2.0 Motivation

Main motivation in selecting this topic is that its quite relevant and very recent. We read stories about large corporations who were doing quite well but still ended up getting these rebates while some other smaller ones who deserved it more, did not qualify. I do not intend to take this topic to critic the policy making but to point out the short comings that were not addressed which gave some corporations or even smaller business free hand to take advantage of such subsidies.

More importantly I opened my own business during 2021 and experienced firsthand the overall process of registering new corporation and was able to avail government grants meant for new businesses. Through the means of this report, I want to mention some points that as IFA I would want to improve on to make the system more secure.

3.0 Introduction

During the spread of Covid 19, governments-imposed lockdowns restricting people from visiting businesses that it considered non-essential and were compelled to stop carrying out all operations.

With the lockdown imposed, small business as well as large corporations were forced to shut and for any one not compatible to operate remotely, suffered losses. They could not sell products or services and as a result were not left with adequate funds required to carry out day to day operations. To sustain, businesses always need some source of revenue and without it during the lockdown, were at the brink of closing for good.

In the absence of sales revenues, business had no choice but to rely on funds from grants and loans for working capital, to hire staff, buy machinery or refinancing existing loans to reduce costs.

To help cope with the situation, governments introduced many programs to assist pay their bills and survive during pandemic.

Governments needed to provide support to businesses that were required to close or significantly restrict services due to provincial public health measures. Eligible businesses were able to apply for rebates, provided in the form of grants, to help with their fixed costs.

The scheme of thought was to pay these companies so they remain afloat and could continue paying their staff and keep them employed rather than laying them off. This would in turn result in supporting the economy overall and keep the finances flowing. To expedite the grants, government had to make them available as soon as possible without making it too difficult for business to apply and avail. Due to the inherent pressure to approve grants quickly, adequate screening and other fraud prevention measures were neglected which gave some businesses a chance to exploit.

Before we explain forms of frauds and abuses, we will cover some background details on what grants/subsidies really are and how are they applied. As well as impact of pandemic on businesses and how Canadian & US governments responded.

4.0 Background of Government Subsidies

Government grants or subsidies are financial awards either by state, local government, or federal authority for an individual project or towards the betterment of society. These are generally in terms of transfer payments where person or business receiving them is not expected to repay the money, but to use the funds for specified purpose. In other words, there are no hidden costs or fees. These are outright rewards that are not a loan and hence not to be returned. The World Trade Organization defines subsidy as “any financial benefit provided by a government which gives an unfair advantage to a specific industry, business, or even individual”³.

Objective of government grants or subsidies is to promote and reduce cost of doing business. Grants are generally provided to fund innovative ideas or projects that help stimulating the economy.

Despite the need and urgency, grants are something that need to be applied for by individual or businesses and are not just bestowed upon by government. They need to provide details specifying how they qualify for certain grants and how the awarded funds would benefit local community.⁴

4.1 Applying Process Before Covid 19

Getting government grants or subsidies prior to Covid 19 pandemic were quite competitive and complex. Businesses needed to know and understand if they qualified for a particular grant and if they met all conditions. Once they qualified, they would need to get all necessary information, and submit the documentation for reviewal and approval.

³ (World Trade Report 2006 II. B.: Defining Subsidies)

⁴ (Segal, 2021)

It's important to note there were multiple requirements and paperwork to be submitted when applying for rebates or grants. At times it could be challenging, and applicants often needed to hire professionals to help with the process which added more time in approval and processing. Thought process at the time of introducing government rebates or subsidies during Covid 19 were that businesses should be able to apply with easy without any dependence on professional help.

4.2 Approval Process in US and Canada

US - In US, grants from federal government are approved through bills that are passed by congress and signed by the president.⁵ Grant authority varies among agencies and one such major agency in US is “Small Business Administration” (SBA) which is designed to strengthen and promote the economy by assisting the country's small businesses. Amongst other things, its major function is to aid individuals who want to start and grow their own business.

Canada - When it comes to government of Canada's grants/rebates, Crown plays a big role in approval process with Prime minister, deputy prime minister and finance minister at the top of hierarchy. Crown is comprised of the Sovereign, the House of Commons, the Senate, and the 13 provincial and territorial legislatures, a shared system of responsible government that functions through both written rules and unwritten conventions.⁶

⁵ (Budget Process, 2021)

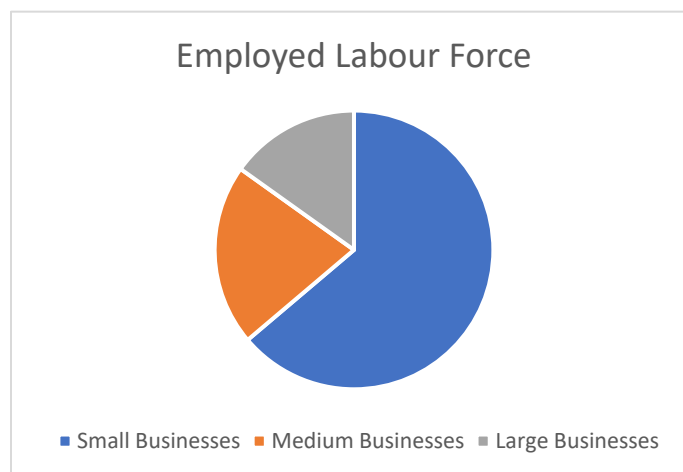
⁶ (Canada T. g., n.d.)

Ministers in the parliament are required to submit a request to House of Commons through the Crown, which in turn authorizes the necessary aids. Crown with its administrative powers is responsible for payments for the public service including introducing new grants or incentives.⁷

5.0 Impact of Covid 19 on Canadian & US Businesses

5.1 Canada

Canada experienced a drop in its real gross domestic product (GDP), with the economy contracting 18.2% between March and April 2020.⁸ Canadian economy greatly benefits from small and medium sized businesses. Small businesses made up 64% of all employer businesses in Canada in 2021 employing 9.7 million individuals which is about two-thirds of the total labour force, in 2020. In contrast, medium-sized businesses employ 3.2 million individuals (21.2% of the labour force) & large businesses employed 2.3 million individuals (14.8% of the labour force).⁹



Based on the above pie chart, it is evident that small businesses play a key role in employing Canadians and significantly contribute towards economic recovery. Government by introducing

⁷ (House of Commons Procedure & Practice, 2017)

⁸ (Li, Sood, & Johnston, Impact of COVID-19 on small businesses in Canada, fourth quarter of 2021, 2022)

⁹ (Li, Sood, & Johnston, Impact of COVID-19 on small businesses in Canada, fourth quarter of 2021, 2022)

rebates and subsidies wanted the economy to stay afloat and survive the impact of shutdowns due to pandemic.

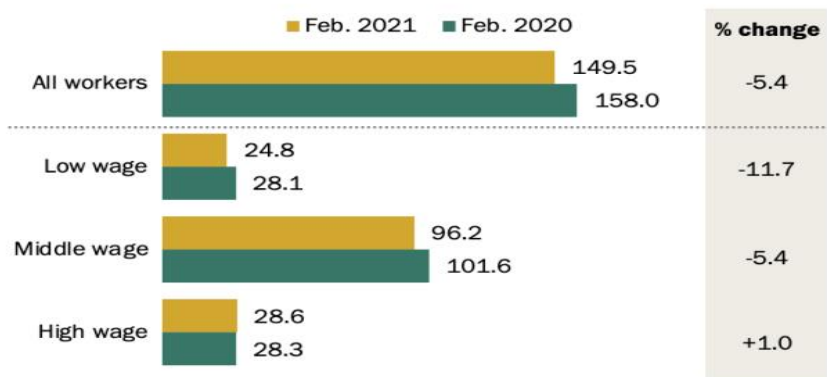
5.2 USA

On the other hand, US economy as measured in GDP actively contracted at an annualized rate of 5% in the first quarter and then an exceptional 32% in the second quarter making it one of the most severe economic shocks of modern times.¹⁰

Workers in low-wage jobs experienced the greatest drop in employment. From February 2020 to February 2021, employment among low-wage workers fell by 11.7%, from 28.1 million to 24.8 million. This compared with a loss of 5.4% among middle-wage workers, whose employment fell by 5.5 million over the period. Meanwhile, employment among high-wage workers was unchanged, at slightly more than 28 million.¹¹

During COVID-19 pandemic, employment fell by more than 10% among low-wage workers

Employment (in millions), February 2020 and February 2021



Note: Estimates refer to people ages 16 and older and are not seasonally adjusted. Low-wage occupations paid less than \$15 per hour on average, middle-wage occupations paid \$15 to \$45, high-wage occupations paid more than \$45.
 Source: Pew Research Center analysis of 2019 OES National Occupational Employment and Wage Estimates and 2020 and 2021 Current Population Survey monthly files (IPUMS).

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¹⁰ (H.Meyer, BrianPrescott, & SimonSheng)

¹¹ (Bennett & Kochhar, 2021)

¹² (KOCHHAR & BENNETT, 2021)

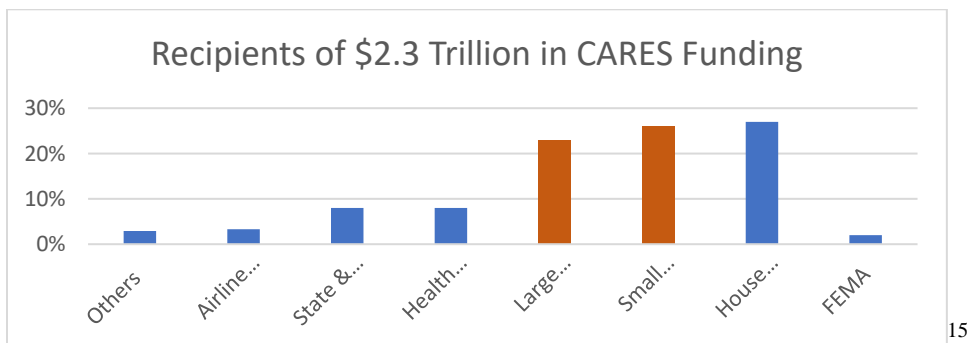
6.0 Government's Response

Canada - Canada entered this crisis with a strong balance sheet, the lowest net debt-to-GDP ratio in the G7, and historically low borrowing rates, giving the government the ability to respond to the immediate needs of Canadians with decisive action and protect the Canadian economy from the unprecedented nature of the COVID-19 pandemic.¹³

Government support programs were put in place to provide a lifeline to businesses as the pandemic impacted their ability to operate and survive. Budget 2021 introduced Canada Emergency Wage Subsidy that was initially until September 25, 2021 but was later extended to fiscal year 2022.

In addition, government of Canada announced Canada Emergency Business Account (CEBA) that provided interest-free, partially forgivable loans to more than 850,000 Canadian small businesses. In December 2020, the government increased the value of the loan from \$40,000 to \$60,000 to help small businesses bridge to recovery.¹⁴

USA - On March 2020, then US president passed a 2.3 trillion economic stimulus bill, the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act in response to the economic fallout of the Covid-19.



¹³ (Li, Sood, & Johnston, Impact of COVID-19 on small businesses in Canada, fourth quarter of 2021, 2022)

¹⁴ (Canada D. o.)

¹⁵ (A Visualization of the CARES Act, 2020)

A major portion of this stimulus package was apportioned towards small and large businesses combined so they could maintain their payroll and some overhead expenses through the period of emergency. Its aim was to keep the workers paid and during the emergency period.

To put that in perspective, a combined total of almost 50% of \$2.2 trillion with view to circulate funds back into the economy by employing workers were allocated mainly towards small and large businesses.

6.1 Weaknesses in the System

Though the economic response plan introduced by Canada and US were meant to stimulate the economy by supporting the businesses, there were a few loopholes in the system. Intention of the governments was to inject funds into the economy as soon as possible to allow businesses sustain the enforced lockdown which had adversely affected their sales. In doing so, the primary objective focussed more on releasing the funds rather than making sure its going to businesses that needed it the most.

Applying for rebates or subsidies which generally was extremely time consuming and at times required professional assistance were now made easy so more and more affected businesses could apply and get their rebates easily. This opened a venue for fraudsters to register new businesses/corporations and start applying for these rebates which were for a large portion went unchecked. Even businesses that did well and were not dependent on government funding exploited the system by applying and getting paid.

We will discuss more in detail the overall process of registering a new Canadian corporation and orchestrating this type of scheme in next section.

Below were some factors that made it easier for fraudsters to commit the crime:

- Unlike earlier times, everything was done online.
- It was easier to either fake someone's identity (Identity Theft) or make new one required for applying these rebates.
- People or businesses who applied for these rebates numbered in hundreds of thousands which made it extremely difficult to audit.
- Automated systems, lack of preparedness and short staffing at government offices responsible for approving & releasing covid related funds.

7.0 Registering for New Business

One of the primary conditions set out by Canadian and US governments while providing Covid 19 rebates and subsidies to businesses, was the proof of their existence. Meaning if they were either incorporated with a legitimate business number or had master business license in case of sole proprietorship or partnership in province of Ontario.

Its worth noting that CRA in Canada required businesses to show some level or reduced sales due to Covid 19 to be able to apply for grants. Whereas in US, grants were handed out to any small business who asked.¹⁶

¹⁶ (Davis, Mider, & Mosendz, An Avalanche of Fraud Buried a Small-Business Relief Program, 2020)

7.1 Master Business License

Amongst other things, registering a business is important as it generates a Master Business License (MBL) that includes Business Identification Number (BIN). Master Business License is also known as business licence or business registration and allow individuals or corporations to operate a business under a name separate from their own personal legal name. It contains business name, address, business number, and a brief description of everyday activity. Sole proprietorship and partnerships are the two most common business structures that require master business license to operate. It identifies business with a unique number that serves as a confirmation of its registration with provincial and federal governments.

Master business license does not provide corporate tax benefits or any other government rebates in case it's for a corporation. For that business must have a legitimate business number.¹⁷

7.2 Business Number

When a business is registered, it generates a Business Number (BN) which is a unique 9-digit identifier account number that recognizes the business to provincial, federal, and municipal governments. Businesses number is issued by Canada Revenue Agency and is required every time dealing with the government to sort out tax, apply for any rebate and so on.¹⁸ It identifies the province that the business is resident in, as well as the program.

Business number could also contain HST or Payroll account numbers. When registering for business number, one can apply for GST/HST as well as payroll number at the same time.

Below are samples of how Master Business License & Certificate of Incorporation looks:

¹⁷ (Bennett & Kochhar, 2021)

¹⁸ (Government of Canada)

Ontario  **Master Business Licence**

Date Issued: 2021-05-17 (yyyy-mm-dd) Business Number:

Business Name and Mailing Address:
ROBLERT
241 TORBARRIE ROAD
NORTH YORK, ONTARIO CANADA M3L 0E5

Business Address: SAME AS ABOVE

Telephone: Ext: Fax:

Email:

Legal Name(s): ROB CAMERON
ALVIN CAMERON

Type of Legal Entity: **GENERAL PARTNERSHIP** (This business has 2 partner(s) recorded on this licence)

Business Activity: RESTAURANT, INTERIOR DECOR, SALON, GIFT

Business Information	Number	Effective Date (yyyy-mm-dd)	Expiry Date (yyyy-mm-dd)
BUSINESS NAME REGISTRATION	310797006	2021-05-17	2026-05-16

Owned by two or more persons or Corporations

Request ID: 123
Demande n°: 123456
Transaction ID: 123456
Transaction n°:
Category ID:
Catégorie: A

Province of Ontario
Province de l'Ontario
Ministry of Government Services
Ministère des Services gouvernementaux

Date Report Produced: 05.08.2014
Document produit le:
Time Report Produced: 05.08.2014
Imprimé le:

Certificate of Incorporation Certificat de constitution

This is to certify that ABC Limited

Ceci certifie que

Ontario Corporation No. 12345678

Numéro matricule de la personne morale en Ontario

is a corporation incorporated,
under the laws of the Province of Ontario.

est une société constituée aux termes
des lois de la province de l'Ontario.

These articles of incorporation
are effective on 05.08.2014

Les présents statuts constitutifs
entrent en vigueur le

Jean Jaque

Director/Directeur
Business Corporations Act/Loi sur les sociétés par actions

19 20

We will briefly explain below the process of registering a business along with other requirements needed to qualify for business rebates, grants, or subsidies:

7.3 Process and Requirement

Anyone with a valid mailing address in Canada can register a new business, get all relevant business, and tax numbers that are required for applying government rebates.

In the province of Ontario, majority of the people register their businesses online since it is extremely easy and takes as much as 10 minutes as long as you have all the details as discussed

¹⁹ (MBL: Sample Documents, n.d.)

²⁰ (Business Registration)

above and a credit card for making payment.²¹ It is done through Integrated Business Services Application where it could be registered anytime and would generate a temporary printable Master Business License you can use right away.

People tend to register businesses as corporations because of all the following benefits:

- Corporations can borrow money at lower rates.
- Corporations are taxed separately from their owners and are lower than personal income tax rates.
- Shareholders are not responsible for a corporation's debts.
- Corporations have the same rights as a real person, including owning property, getting loans, and entering contracts.
- Corporations live on until they wind up, amalgamate, or give up their charter (for example, when they go bankrupt).

7.4 Weaknesses

Now that we know the background of registering a business, we will try covering how people or business exploited this to their benefit and were able to claim for millions of dollars of government subsidies.

7.4.1 Pre-existing Business & HST Number for Tax Purposes Only

As discussed above, one of the major requirements by CRA in Canada was the proof that business was registered on or before a specific date to be able to claim for subsidies offered.

²¹ (Service Ontario)

Many people despite carrying out business had it registered for tax purposes and to limit their liability. If incorporated, a business cannot be held financially responsible if legal claims are brought against it.²² This type of business can be formed by one or more owners. Therefore, it benefited people from getting a business number or an incorporation.

It was due to this set up, many people already had relevant business numbers and valid documentation to prove they carried out businesses and as such were able to claim for these rebates/subsidies since they qualified gracefully.

Canada Revenue Agency defines a business as an activity that one intends to carry on for profit on day-to-day bases and there is evidence to support that intention. However much of this did not apply and people were able to claim for grants without performing any day-to-day business activities just on the bases of their previously issued business and tax numbers.

7.4.2 Industry Specific Registration

Other inherent weakness in the system was the flexibility and lack of validation to confirm which industry would a business operate in. During registration process, when selecting the industry/trade a business would operate in, there is no pre set drop down menu to go for. Users can add and chose in their own words that describe the business model or type. Doing so allows them to define the business in multiple categories.

This meant when government introduced rebates for businesses in certain industries only, businesses who were not necessarily in that sector could easily have applied for those subsidies.

²² (Business Banking - advise and planning)

Below is a list of rebates offered as well as industries they were offered mostly to due to being adversely affected by Covid 19

- Restaurants and bars
- Facilities for indoor sports and recreational fitness activities (including fitness centres and gyms)
- Performing arts and cinemas
- Museums, galleries, aquariums, zoos, science centres, landmarks, historic sites, botanical gardens, and similar attractions
- Meeting or event spaces
- Tour and guide services
- Conference centres and convention centres
- Driving instruction for individuals
- Before- and after- school programs

7.5 Recommendations

7.5.1 Introduce Data Mining

Government of Canada or US can introduce presence of forensic accountants in respective departments responsible for disbursement and distribution of government subsidies. They should be part of government audit team responsible for making sure all funds were paid out to those qualifying and not to anyone exploiting it.

Investigative and forensic accountants can add value by bringing in tools like data mining. It is one of the methods of data analysis to discover a pattern in large data sets using databases or data mining tools. It is used to transform raw data into business information.

The way IFAs could use this tool is to identify patterns, anomalies, and trends from a large group of data to isolate something that appears to be red flag. Data here represent list of all the corporations or businesses who had applied for one or more form of government rebates. Any detected anomalies could point IFAs towards something that may need further investigation.

Over the years there has been many computerized applications for the forensic accountants to successfully perform financial forensic investigations using these data mining tools. Having access to these tools, IFAs can take an unbiased look at complete list of businesses who would have applied narrowing down to those that seem suspicious. Furthermore, it would add the ability to analyze, read, compare, or even extract information from any source even reports in readable PDF or printed to a file.²³

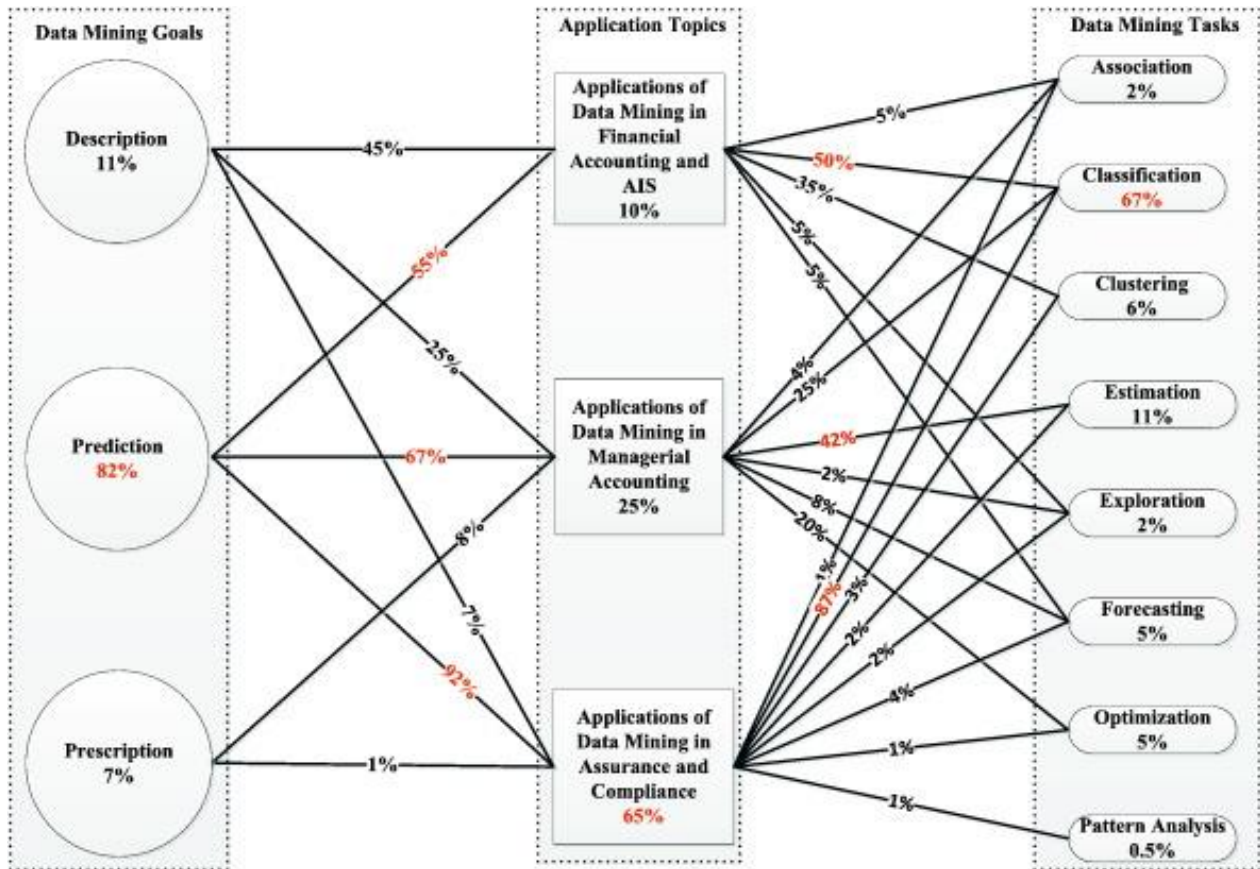
Frauds when concealed tend to develop abnormal digit patterns that does not generate random numbers. Data mining could help accountants analyze these variances and help fight catch such frauds.

To put this in perspective, data mining can be helpful in narrowing down on different companies whose attributes match on more than one circumstance (such as same address or telephone

²³ (Marcus)

number). If someone creates a fake company to apply for rebates, they may have used some details more than once and data mining would help narrow down and catch such perpetrators.

Descriptive Overview of Data Mining & Tasks its Accomplishes



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²⁴ (Amani & Fadlalla, 2017)

8.0 Major Incentives and Rebates Offered to Canadian & US Businesses

Canada revenue agency and US treasury department took significant steps to boost the economy by supporting businesses small or large. Amongst many rebates and subsidies offered, this report briefly touch base all but mainly focusses on Canada Emergency Wage Subsidies and would discuss some loopholes that were exploited to commit fraud by some businesses. Lastly, we would recommend measures to strengthen systems or narrow down and recover defrauded funds using forensic and investigative accounting tools.

- Canada Emergency Wage Subsidy (CEWS)
- Paycheck Protection Plan (PPP) under CARES Act
- Economic Injury Disaster Loans & Grants (EIDL)
- Small business relief program

9.0 Canada Emergency Wage Subsidy (CEWS)

9.1 Definition/Meaning

The Canada emergency wage subsidy also known as CEWS was a taxable benefit introduced by government of Canada and is still in effect as of 2022 offered to employers who had experienced reduced revenues due to covid 19.

It was introduced to prevent more job losses by assisting employers covering part of their wage expenses to retain staff on payroll as well as to rehire workers that had previously been laid off.

The wage subsidy program was expected to encourage employers keep their staff, avoid future layoffs and was to encourage return to normal operations to pre-covid levels.

Employers who qualified could easily apply for the benefit and would receive a portion (75%*) of the overall wages if they could prove reduced or lost revenue since before the pandemic. It is managed and overlooked by Canada revenue Agency (CRA) on a month-to-month bases where employers could provide the data and get the subsidy in just few simple steps.²⁵ In budget 2021, the direct program expense for the Canada Emergency Wage Response was reported as \$84.6 billion for fiscal year 2020/2021.²⁶

9.2 Need for Urgency

Covid 19 pandemic had a major impact on businesses across Canada in 2020 and close of 12% of all the businesses that were active in February, were closed by September.²⁷ Majority of these businesses remained closed for the rest of the year leaving millions with out any jobs. A total of more than 50% of all the business across Canada reported a decline in revenue between August 2019 and August 2020 according to Canadian survey on business conditions. Statistics showed that businesses were at a greater risk of closure due to government induced lockdowns and overall negative sentiment in the public about the pandemic. The chances were extremely high for business that were: entrants in 2019, smaller businesses, less productive businesses, and businesses with less liquidity, greater indebtedness, few assets, and lower profitability) and businesses in the accommodation and food services, and arts, entertainment, and recreation industries (which were more directly impacted by travel and restrictions on gathering.²⁸

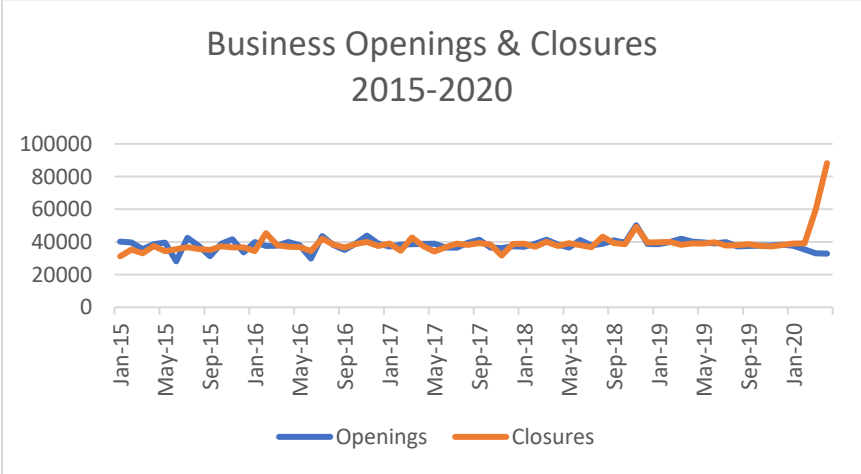
²⁵ (COVID-19 Update: Canada Emergency Wage Subsidy Program, 2021)

²⁶ (Danny Leung; Huju Liu, 2022)

²⁷ (Danny Leung; Huju Liu, 2022)

²⁸ (Danny Leung; Huju Liu, 2022)

Initially, organizations needed to exhibit a threshold level of decreased revenue (15% in the period from March 15 to April 11, and 30% afterward) to be eligible. That restriction was relaxed in July, whereby the subsidy was scaled by drop in revenue.



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As noted in the chart sourced from Stats Canada, blue graph represents new business opening and orange represents closures of businesses. We can see through the years the graphs consistently go up and down without and specific trend in direction. Years 2015 to 2019 does not see much change in number of businesses opening and closing.

Suddenly during the pandemic, there was a steep increase in number of businesses closing and lower number of new business opening.

Responding to this situation as described above, Government of Canada rolled out an emergency response plan to offer several programs/rebates to help business and individuals. One of the major programs to counter this was being the Canada emergency wage subsidy. The aim was to encourage businesses to continue operating and retain all their employees. Even hire back staff that had originally been laid off.

²⁹ (Lafrance-Cooke, Macdonald, & Willox, 2020)

9.3 Qualifying for Emergency Wage Subsidy

To be able to qualify to claim emergency wage subsidy, businesses needed to meet all three of the following conditions:

- **Must have a CRA payroll or business account on or prior to March 15, 2020**

The business number, also referred to as HST number is a nine-digit number designated by the Canadian Revenue Agency (CRA) and is used as a common client identifier for businesses to simplify their dealings with federal, provincial, and municipal governments.³⁰

Also described as payroll program account, it is an account number assigned to either an employer, a payer or a trustee of other amounts related to employment to identify themselves when dealing with the CRA.³¹

It's a unique federal government numbering system that identifies a business and various accounts it maintains.

- **Be one of the following types of employers**
 1. Individuals (such as sole proprietors)
 2. corporations (or trusts) that are not exempt from income tax
 3. Registered charities
 4. Partnerships where all members are eligible employers
 5. Other prescribed organizations as mentioned under CRA guidelines³²

³⁰ (AccessOCE Support)

³¹ (Government of Canada)

³² (Government of Canada)

- **Experienced drop in revenue**

Businesses would need to show that overall sales were reduced from what it was prior to pandemic. For each claim period, it was required to report how much eligible revenue had dropped since before the pandemic. The drop in revenue was to be calculated by comparing eligible revenue during the crisis with eligible revenue from a previous period (baseline revenue) as provided in the guidelines.

10.0 Shortcomings in Canada Emergency Wage Subsidy (CEWS) Program

10.1 No limit to amount businesses can receive

There wasn't any maximum dollar amount a business could claim from the program, however, there was a limit on the amount of subsidy it could receive for a single employee's weekly wages. This limit changed depending on the claim period.³³

10.2 Process for applying CEWS

When CEWS was launched, government wanted to make it easy for businesses big or small to be able to apply without hiring or taking any professional help. The system was designed to speed up the overall payment process and no paperwork was required to prove reduced sales other than filling out numbers on a sheet. Businesses needed to just log in to their CRA account and would add the numbers showing the reduced sales and based on that it would calculate and dispense the amount.

³³ (Canada Emergency Wage Subsidy (CEWS))

This encouraged many businesses to use the opportunity and claim for funds from government. As the program did not differentiate between business experiencing reduced sales due to covid or other economic factors due to their own deficient performance, it was easier for anyone to apply. As such companies who lost sales and would have gone out of business anyways were able to claim under CEWS.

10.3 Unclear Conditions Required to Apply

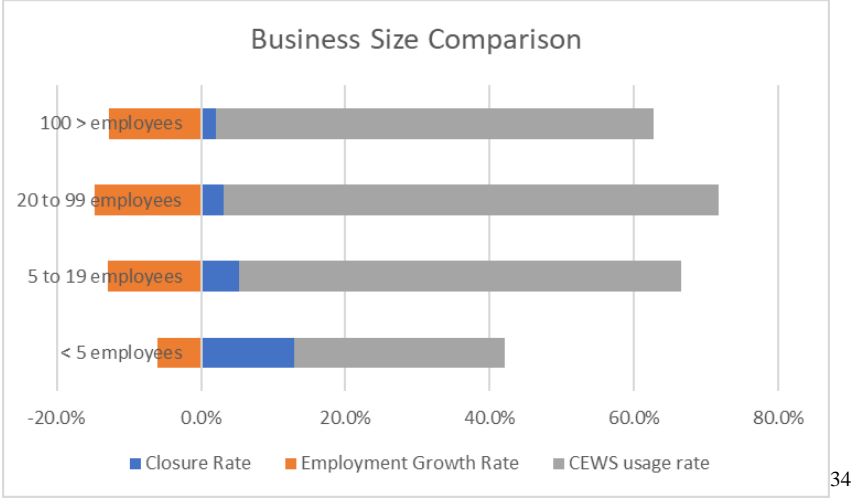
As described above, that there were three conditions required to be met to be able to claim CEWS. However, these conditions were very general and majority of businesses who with or without covid, suffered any losses, were able to apply and claim substantial amounts of wage subsidies. The program failed to exclude firms that would have otherwise shut down between March 2020 and October 2021, even without the shock of the pandemic. Set conditions made it extremely easy for any business to report reduced sales due to covid which in fact could have been due to any other reason.

Although CEWS subsidies were tied to employer payrolls, payments were received by firms, not by workers. Therefore, on many occasions end up as a source of revenue or at times even part of profits which businesses used for their growth.

10.4 Gains by Larger Corporations

Canada emergency wage subsidy suffered from design flaws that allowed larger corporations that were performing well to claim for billions of dollars in these subsidies. These

companies didn't need assistance to weather the pandemic and yet were able to claim and receive the funds.



The figure above shows that small businesses with less than 5 employees had a higher rate of closure almost at 13% than businesses with 5 to 19 employees. The closure rate continues to decline with size. Firms with 20 to 99 employees had a closure rate of 3.2% and those with 100 or more employees had the lowest at 2%.

Yet it was worth noting that some of the largest amounts of money claimed and received were amongst those bigger corporations. Below we will mention how some of these businesses managed to claim large sums under government subsidies.

Based on this we can see smaller businesses that suffered most during pandemic with highest closure rate, utilized this subsidy the least. Whereas larger businesses with least closure rate claimed it the most.

³⁴ (Danny Leung; Huju Liu, 2022)

11.0 Large Businesses – Usage of CEWS (Fraud or Manipulation)

The subsidy program has been criticized for its excessive cost to federal government, relative to small number of jobs it created or saved during the pandemic. Larger corporations specifically used the subsidy to offset payroll expenses which ended up subsidizing all employees on payroll and not just the ones in danger of being laid off. This resulted in driving up the cost of saving each job and some experts anticipate it costed government almost \$14,500 per month for every job saved.³⁵

11.1 Companies Making Money

Stories in the media have documented several large companies that received CEWS while paying exceptional dividends and/or repurchasing some of their own shares from the market.

Finances of the Nation published a recent report that highlighted the list of CEWS recipient companies owned by billionaires and by large multinational enterprises. While the data is circumstantial, it does illustrate how large business houses were able to manipulate and use the awarded funds for their own benefits and how smaller businesses who needed it the most were left behind despite them being a major employer in Canada or US.

Table listed below mentions some groups of foreign controlled recipient companies which received large sums of wage subsidies. Those owned businesses were listed in S&P 500 index and were amongst the largest capitalization companies in the US. There were 39 recipients of

³⁵ (Montpetit, Nakonechny, & Hélène, Why millions of dollars in pandemic aid is going to corporations making healthy profits, 2020)

wage subsidies that were owned by S&P 500 companies, including 11 owned by Berkshire Hathaway which is a large multinational conglomerate controlled by billionaire Warren Buffet.³⁶

Foreign Controlled Large Companies which received Canada Wage Subsidy Benefits

Recipient	Group	Market cap US \$Bn
Allegion Canada Inc.	Allegion Plc	9.47
Anixter Canada Inc.	Anixter International Inc	3.33
Centra Industries Inc.	Berkshire Hathaway Inc	508
Gendon Polymer Services Inc	Berkshire Hathaway Inc	508
Iscar Tools Inc.	Berkshire Hathaway Inc	508
Jomac Canada Inc	Berkshire Hathaway Inc	508
Marmon/Keystone Canada Inc	Berkshire Hathaway Inc	508
Mitek Canada, Inc	Berkshire Hathaway Inc	508
Noranco Inc.	Berkshire Hathaway Inc	508
Nu-Line Products Inc.	Berkshire Hathaway Inc	508
Procrane Inc.	Berkshire Hathaway Inc	508
Sanctuary Paint & Decor Inc.	Berkshire Hathaway Inc	508
Southwest United Canada, Inc.	Berkshire Hathaway Inc	508
Vantage Airport Group Ltd.	Citigroup Inc	91.5
Fiduciary Trust Company Of Canada	Franklin Resources Inc	11.5
Gap (Canada) Inc.	Gap Inc	8
Old Navy (Canada) Inc.	Gap Inc	8

³⁶ (Smart & Mahoney, 2020)

Intercontinental Hotels Group (Canada), Inc.	Intercontinental Hotels Group Plc	11.39
Chemetics Inc.	Jacobs Engineering Group Inc	12.92
Leighfisher Canada Inc.	Jacobs Engineering Group Inc	12.92
Operations Management International Canada, Inc.	Jacobs Engineering Group Inc	12.92
Mercer Consulting Ltd.	Marsh & McLennan Companies Inc	57.59
Les Restaurants Mac-Vic Inc.	Mcdonalds Corp	170.18
Rkjl Foods Ltd.	Mcdonalds Corp	170.18
Nike Canada Corp	Nike Inc	204.06
Northrop Grumman Canada (2004) Inc.	Northrop Grumman Corp	51.42
Bbdo Canada Corp	Omnicom Group Inc	11.33
Fleishmanhillard Highroad Corp.	Omnicom Group Inc	11.33
Omnicom Canada Corp.	Omnicom Group Inc	11.33
Xlr8 MÃ©Dia Inc.	Omnicom Group Inc	11.33
Tracer Industries Canada Limited	Pentair Plc	8.65
Metokote Canada Limited	Ppg Industries Inc	31.72
Ppg Canada Inc	Ppg Industries Inc	31.72
Robert Half Canada Inc.	Robert Half International Inc	5.92

Rockwell Automation Canada Ltd.	Rockwell Automation Inc	28.19
3089554 Nova Scotia Ulc	Roper Technologies Inc	44.88
Northern Digital Inc.	Roper Technologies Inc	44.88
Tyco Electronics Canada Ulc	Te Connectivity Ltd	35.08
Jamer Materials Limited	Vulcan Materials Co	19.26

³⁷

We can see from the table that larger corporations or business houses were able to claim wage subsidies for different divisions they managed. Berkshire Hathaway Inc, for example despite being profitable in amalgamated financial statements of all companies they own, were able to claim large sums of money under Canada Wage Subsidy program.

It was possible for them to do so since they managed a large conglomerate of companies and were able to transfer loses from one division to another. We will cover this more in details under the section “Modus operandi of fraud”.

11.2 CEOs Making Money

Despite the onset of pandemic which led to layoffs and financial meltdown, Canada’s 100 top paid CEOs had a glamorous year in 2020 according to a report “Canadian Centre for Policy Alternatives (CCPA). It examined 100 highest paid CEOs at publicly listed Canadian based companies and found their average annual compensation totalled \$10.9 million for 2020. The amount is \$95,000 more than what they received on average just a year before in 2019.³⁸

³⁷ (Smart & Mahoney, 2020)

³⁸ (Harris, 2022)

CEOs salaries are made up of regular pay plus compensation such as stock options and bonuses. According to CCPA report, more than one third of companies headed by these CEOs received Canada emergency wage subsidy either directly or indirectly through their subsidiaries or franchises. Since much of these bonuses are tied to achieving sales target or exceeding expectations, they benefit when price of company stock goes up. Much of the wage subsidies received were used towards paying off large sums of dividends to shareholders which result in increasing the stock price.

12.0 Fraud vs Abuse

With the way paved for companies who witnessed reduced sales during Covid 19 to apply for emergency wage subsidy, it's hard to tell if businesses claimed CEWS because they really needed to retain employees or did so just because they could.

Fraud in this regard would be an intentional deception or falsification of records to show company suffered losses which was a major requirement in claiming CEWS, whereas in reality, they did not. Businesses did so by cooking up the books and updating financial statements that showed reduced sales by means and methods as explained below under section “modus operandi,” simply to profit from the government funding program.

Abuse on the other hand are the actions that are inappropriate and outside the acceptable standards of professional conduct. They can be considered legally right but ethically wrong.

With regards to claiming Canada emergency wage subsidy, many companies exploited this just

so they could benefit from the system. The objective of the program was to compensate companies, so they do not lay off employees and to assist them in reducing wage expenses. Many of the companies who applied simply did so because they qualified despite even making profits.

The main difference between fraud and abuse of government funds boils down to business' intent. Both have a negative effect and consume valuable government resources which would otherwise be used to provide benefits to companies that needed them to keep paying their staff. It is the intent that really creates the fraudulent situation.

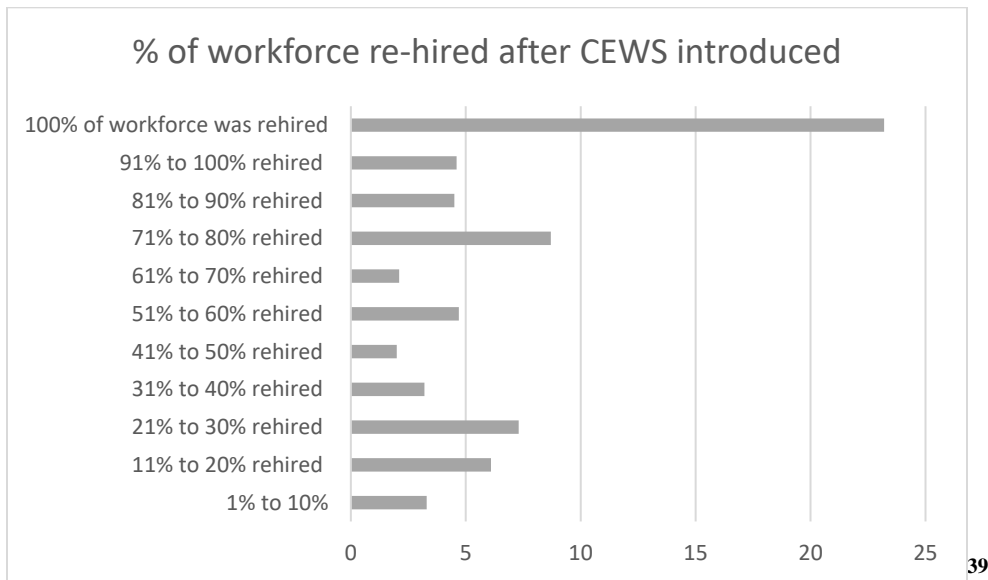
13.0 Percentage of Workforce Re-Hired After CEWS Introduction

When government of Canada rolled out CEWS, it did encourage businesses to re hire the staff originally laid off. However, many businesses despite seeking and receiving wage subsidies, only hired back a small portion of what they had originally laid off.

Chart below shows all businesses eligible for CEWS and highlight some of the findings:

- Only 23% of the businesses who claimed CEWS hired back 100% of their staff
- Only 18% of the businesses re hired 70%-90% of original staff.
- Almost 10% of the businesses despite claiming full subsidies, hired back less than 30% of their staff.

Canada, all provinces, and territories



It could therefore be assumed that businesses claimed wage subsidies but did not hire back majority of their original work force and used the funds for purposes other than recommended use.

14.0 Modus Operandi of Fraud Under CEWS

Many businesses benefitted from government's program of wage subsidies. Below are some examples how a few of them defrauded or abused them for their own benefit.

14.1 Reduce Sales by Recording in Different Period

To claim CEWS, businesses must have experienced at least a 30% decline in their gross revenues for each eligibility period. Decline in revenue was measured by comparing sales for each eligibility period to revenue earned in the corresponding month in previous year.

³⁹ (Statistics Canada)

To qualify for wage subsidies companies could have moved the sales revenue from one period to another so that specific period showed reduced sales when compared. Known as improper timing of revenue recognition and is one of the most common types of accounting frauds. Companies use this to either show an increase in sales or in the case reduced sales to qualify and claim CEWS.

14.2 Show Client Returns to Reduce Sales

Another way for businesses to show reduced revenue through financial statement manipulation is to show sales returns. Sales returns take place when a buyer sends a product back to a seller for a partial or full refund. As a result, it reduces the amount accounted for overall sales.

When claiming for wage subsidies for a specific month and realizing if business does not qualify, businesses may consider reducing the sales by recording items being returned which in fact never took place. Its difficult for anyone to track due to the following reasons:

- Vendor and selling business conspiring to same story
- To validate returned items, forensic accountants would need access to warehouse and count material which at times require getting adequate court order “Anton Piller”.

14.3 Hire Independent Contractors as Staff on Payroll

Another condition that was required to claim CEWS was to show business has eligible employees on payroll. Many businesses indulged in hiring the staff that was otherwise self-employed but worked for the company.

Doing so company could legitimately show staff on payroll and could easily claim for their portion of wage subsidy. Though this may not necessarily count as fraud, this was however a deliberate abuse to use government funds for their own benefit.

14.4 Create Fake Staff

CEWS program provided funding for 75% of employees' wages up-to \$847/week (\$58,700 annually) for each eligible employee for qualifying businesses.⁴⁰ Companies used the incentive to even create fake staff to show up on payroll to be able to claim for subsidies. Businesses to commit this fraud added their own family and relatives as regular staff and paid them through regular payroll.

It would have been difficult to catch unless IFAs perform an investigation and look for records like same address or home phone numbers. Another approach could be to check how long had the staff been employed. If there had been new staff additions only after the subsidy was introduced would hint towards the abuse. However, with the number of online applications processed, it would have been hard to detect.

14.5 Claim for Loses Sustained in Subsidiaries

Several large organizations which, despite being financially strong overall, qualified for Canada Emergency Wage Subsidies because at least one division suffered a significant drop in revenues during the pandemic. Businesses have subsidiaries that are separate legal entities and

⁴⁰ (Nelligan News)

are managed independently despite being controlled by a corporate head. This made them eligible to claim for wage subsidies if they experienced a drop in revenue in that specific division.

Larger corporations used this to claim for emergency wage subsidy and were awarded millions of dollars which was accounted for as income. This extra income automatically increased the stock price and benefited many company CEOs whose bonuses were tied to company performance. Though this was not a fraud, it was blatant abuse of the system where such companies got the funds not because they needed it to retain employees but just because they qualified and benefited from it.

14.6 Paid Dividends and Bought Company Stock

Government of Canada has not released out the amount of money dispensed through CEWS towards specific businesses but only provided the list of companies which have received it so far. Only through the financial statement reporting requirement for public corporations, we learned that at least 68 Canadian companies paid out billions in dividends to their shareholders while receiving government aid.⁴¹ Dividends help determine value of company's shares and depict that business is earning enough to support growth. Paying dividends is a form of compensation of to owners for keeping the value of company shares high.

As mentioned above, the added cash received from government wage subsidies was treated as income and was used to raise dividends and buy back shares. Many firms even introduced share

⁴¹ (Ferreira & Carmichael, 2020)

repurchase programs or actively bought back millions of dollars in shares. There was no rule specifying emergency wage subsidy money cannot also pay or increase dividends to shareholders or hike executive pay.

Attached here is a link to data base showing list of all the companies who received CEWS so far. tgam.ca/cews-companies-january ⁴² The information has since been taken off from CRA website.

15.0 Major CEWS Payouts – Examples

Here are a few examples of larger companies who reported to have claimed and received in millions the Canada Emergency Wage Subsidy either by abuse or fraud.

- Yellow pages – the phone book turned digital marketing company, received \$7.3 million in wage subsidy funds in 2020. It even paid out \$8.8 million in dividends, which was the first such payment to shareholders in many years. The company also bought back \$3.3 million worth of its own stock between august and December. When enquired about the amount its management replied, "The criteria to qualify for the subsidy were clear, and Yellow Pages followed and met those criteria".⁴³
- TFI International - Montreal-based shipping and logistics company with more than 16,000 employees across North America. The company hiked its dividend twice in 2020, paying out more than \$67 million to shareholders while also receiving \$63 million in

⁴² (CEWS: A massive subsidy, shrouded in secrecy, n.d.)

⁴³ (Pierce, Saltzman, & McNair, 2021)

emergency wage subsidy amid rising profits and soaring share price. In the spring of 2020, while laying off 1600 staff, it spent \$9 million to buy back its own shares further increasing its stock price.⁴⁴

- High Liner Foods - Canadian processor and marketer of frozen seafood received \$3.4 million in CEWS and increased its dividend by 40% citing "improving free cash flow." The company even paid out a total of \$5.5 million in dividends in 2020.⁴⁵
- GDI Integrated Facility Services - Some divisions like mechanical services suffered major losses because of the pandemic, however the company as whole flourished amid increased demand for cleaning services. GDI's share price hit all-time highs, and the company posted what it called a "record quarter" between June and September, with revenues up more than 10 per cent. The corporation received more than \$29.4 million from the Canada emergency wage subsidy program (CEWS).⁴⁶

16.0 Fraud Triangle

Businesses who benefitted from Canada emergency wage subsidy despite doing financially well, did so either to abuse or cheat. In any case they both had a negative effect and consumed valuable government resources which otherwise would have been used for companies that really needed it to survive.

⁴⁴ (Pierce, Saltzman, & McNair, 2021)

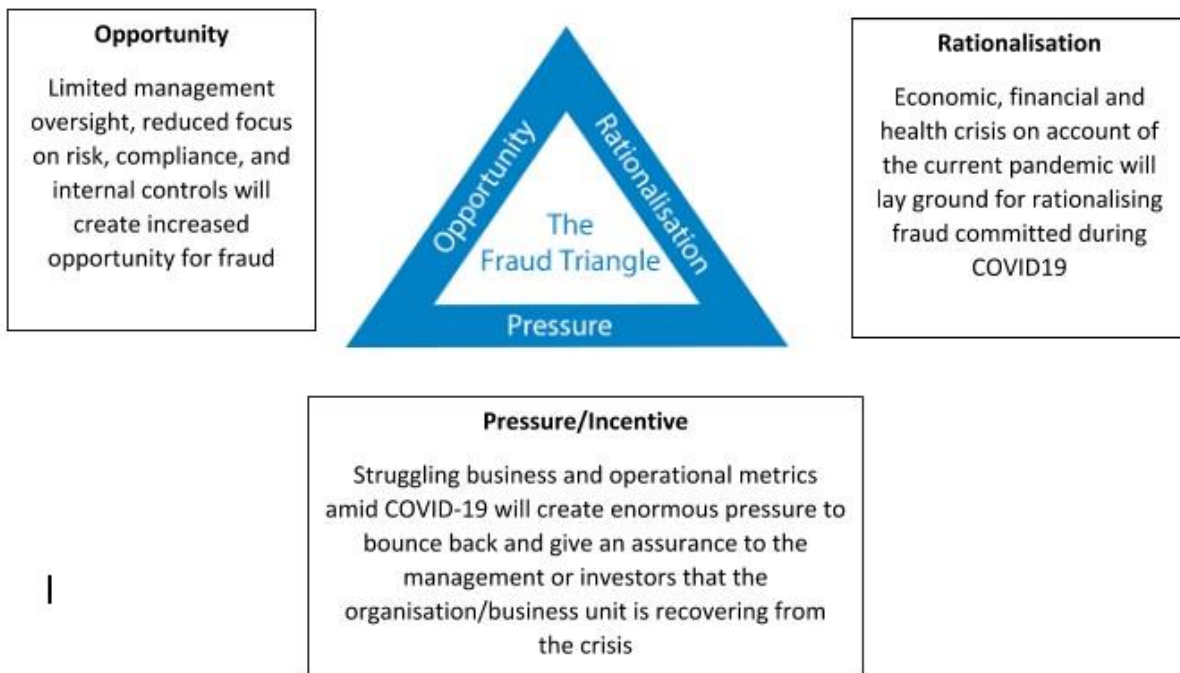
⁴⁵ (Pierce, Saltzman, & McNair, 2021)

⁴⁶ (Montpetit, Nakonechny, & Hétu, Dozens of corporations are paying out dividends while receiving federal wage subsidies, 2020)

The most widely accepted explanation for why some people commit fraud is known as the Fraud Triangle. Here we will try to elaborate and explain through fraud triangle, what prompted businesses that did not need the funds to still apply and benefit from it.

Generally, its circumstances and not personality traits that lead people to commit fraud. In-fact National Association of State Auditors, Comptrollers, and Treasurers claim that most people could be incentivized to commit fraud under the right circumstances.⁴⁷

Fraud triangle is a framework most frequently used in investigative accounting to explain the reason behind decision to commit such an act. It outlines three components that contribute to increasing risk. They are (1) opportunity, (2) incentive, and (3) rationalization.



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⁴⁷ (The Fraud Triangle - Who commits fraud?)

⁴⁸ (Rao)

16.1 Opportunity

It refers to the situations that allow fraud to take place. Primary example of opportunity under CEWS fraud includes weak application processes as well as poor controls by CRA at the time of releasing funds.

- **Weak application process**

Application process to apply for CEWS was made extremely simple to encourage small businesses apply on their own without hiring any external help. Businesses used this opportunity to submit bogus claims by either manipulating financial statements to show reduced sales or creating fake employees. Moreover, this was to be submitted online which further made it easier to claim.

- **Poor controls at CRA**

CRA received thousands of claims from businesses seeking Canada wage subsidy and as such had no system in place to filter those that presented falsified information verses those with correct data. As such anyone who applied received wage subsidies. This encouraged more businesses to use this opportunity to get government grants even if they did not need it.

16.2 Incentive/Motivation

Incentive, alternatively called pressure or motivation, refers to the mindset towards committing fraud. Examples of things that provide incentives for committing fraud include management bonuses & personal incentives.

- **Performance centric management bonuses**

CEOs of larger corporations have their compensation tied to company's performance. If company does well and price of company shares increase, they get rewarded with huge bonuses. Moreover, public companies need to meet and exceed investor expectations to ensure stock prices are maintained or increased. The pressure to meet these targets cause them to seek any opportunity that would help generate income. Many of the larger corporations that ended up applying for wage subsidies despite doing financially well, could be attributed to management pressure or incentive to perform.

- **Personal Incentive**

Personal incentive on the other hand could be the need to get more money for paying bills or clearing a debt. If the application process was simple and government was releasing the funds just based on the information provided, it provided good incentive for anyone to claim and get these funds for personal use.

16.3 Rationalization

Rationalization refers to the justification for committing fraud. Even with motivation and opportunity, most will not choose to act unless they could justify why it's okay commit to commit. Examples of rationalization for defrauding or abusing CEWS include:

- **Every other business is applying**

Businesses who ended up applying and getting Canada emergency wage subsidy for their own benefit thought of it as easy money and that all other businesses were getting it too. This gave them false justification that they deserve it and if not, others would simply

benefit from the grant. They felt by not applying they are missing out on free money they deserve. Smaller businesses justified doing so by claiming larger corporations are doing it and are getting away with this.

17.0 Recommendations

Since the amounts have already been dispensed and Canada emergency wage subsidy is in the last leg of its lifespan. Government of Canada shall stop receiving any more applications after May 2022. Businesses can still apply afterwards but only until the period of May 2022.⁴⁹

Following are the overall recommendations that CRA could consider:

- Adequate monitoring and controls
- Applying COSO Framework
- Identifying businesses that could have unlawfully benefitted
- Start recovery process

17.1 Adequate Monitoring and Controls

CEWS program does not necessarily restrict how companies cope or manage the funds they receive even though its distributed mainly with the intention to reduce wage costs. For this reason, companies were able to use it as surplus income to pay out dividends or buy back own shares.

⁴⁹ (Canada Emergency Wage Subsidy (CEWS))

As a condition for receiving CEWS, corporations should be mandated to restrict dividend increases, share buybacks, and hikes to executive compensation. New conditions should specifically make the applicant vouch for usage of funds or sign memo pointing it would only be used towards paying wages to employees. With these added memos, it would put more weight on need to use grants/subsidies correctly and only for the intended purpose. Such written consents would bind the company in agreement and would also create legal ground based on which CRA could go after them in case they deviate from promised use.

More importantly payment systems could be set up to check if a business has claimed more than a specific amount in subsidies. There isn't any maximum dollar amount a business could claim from the program, however, there is a limit on the amount of subsidy it could receive for a single employee's weekly wages. Having pre set capped amount would automatically flag a business to provide more details in case they are claiming beyond a reasonable pre-set amount.

17.2 Applying COSO Framework

Forensic accountants can add value by incorporating more controls and one such form would be applying COSO framework with in CRA system.

COSO (Committee of Sponsoring Organizations) Framework is a system used to create internal controls to be incorporated into overall operating processes. Collectively, these controls provide sufficient assurance that the organization is operating ethically, transparently and in accordance with established industry standards.⁵⁰ Organization here being the Canada Revenue Agency.

⁵⁰ (COSO Framework)

It was designed and created to provide comprehensive frameworks on internal control, fraud prevention and enterprise risk management. The overall goal of COSO framework is to develop and improve organizational performance and oversight, as well as reducing the extent of the risk of fraud.

Here's how the framework could be applied:

17.2.1 Conduct a review of internal controls – Control Environment

This would include reviewing the overall approval process that CRA has in place to check and filter for possible fraudulent applications. The process involved logging into CRA account and adding details specifying lost sales and claiming for employee wages. There was no limit on the amount of money claimed as well as requirement of submitting documentations.

17.2.2 Risk assessment and management

Risk evaluation would mean to separating strengths of the system from weaknesses that could have been exploited. For CRA, risk of approving fraudulent applications is an inherent part which they constantly need to monitor and improve to make is easier to catch and detect abuse/fraud.

17.2.3 Control activities

Part of control activities is to design scenarios of potential fraud based on identified weaknesses in internal control and making it fraud/abuse proof. Considering the abuse of CEW, it was apparent that it had some inherent weaknesses which need to be

identified so they could be fixed. The objective of introducing control activities would be to continue disbursement of subsidies efficiently without introducing unnecessary risks into the process.

17.2.4 Monitoring

The last step in incorporating COSO framework would be to make sure all above systems are set up and are functioning the way they were planned. All these checks and balances would deter anyone from making fake claims while at the same time knowing they are being monitored would add added layer of security.

17.3 Identifying Businesses that Benefited Unlawfully

Identifying companies that appear to have progressed well after receiving pandemic support money from Ottawa would require careful analysis. Since money is already distributed and consumed by businesses, the process to recognize businesses that abused CEWS would begin first by analyzing available data, followed by creating hypothesis and testing those hypotheses.

17.3.1 Analyzing available data

Analyzing data would also mean reviewing the information to make a bigger picture. It would include overall evaluation and familiarizing with legal obligations if any.

- **Evaluation**

This step would include reviewing the overall process and data based on which funds were distributed. Investigative and forensic accountants can study the complete process

from start to finish including qualifying criteria for businesses as well as calculation of claim and submission process. This is the most fundamental step as it would support the overall investigation and govern whether IFA would indeed be able to create hypothesis of what could go wrong.

- **Familiarizing with legal requirement**

Forensic accountants would need to look for information that may or may not be privileged and may require access to sensitive company information. All this could lead to potential legal issues and as such, its important to acquaint and have good understanding of legal requirement.

17.3.2 Creating & Testing Hypothesis

Once available data is being assessed, IFAs would need to explore where the system could be exploited and use their own imagination to see how it could have been done.

CRA had approved more that 5 million Canada emergency wage subsidy applications since its start and narrowing down firms that may have exploited or cheated, would be extremely hard. These applications included, small businesses, large privately held corporations and public companies.

Some of the techniques forensic accountants can use to harness their hypothesis would include; sampling method, before & after approach, yardstick approach or hindsight. In either of these cases, they would rely heavily on data analytics to point and narrow down on selected set of companies or industries.

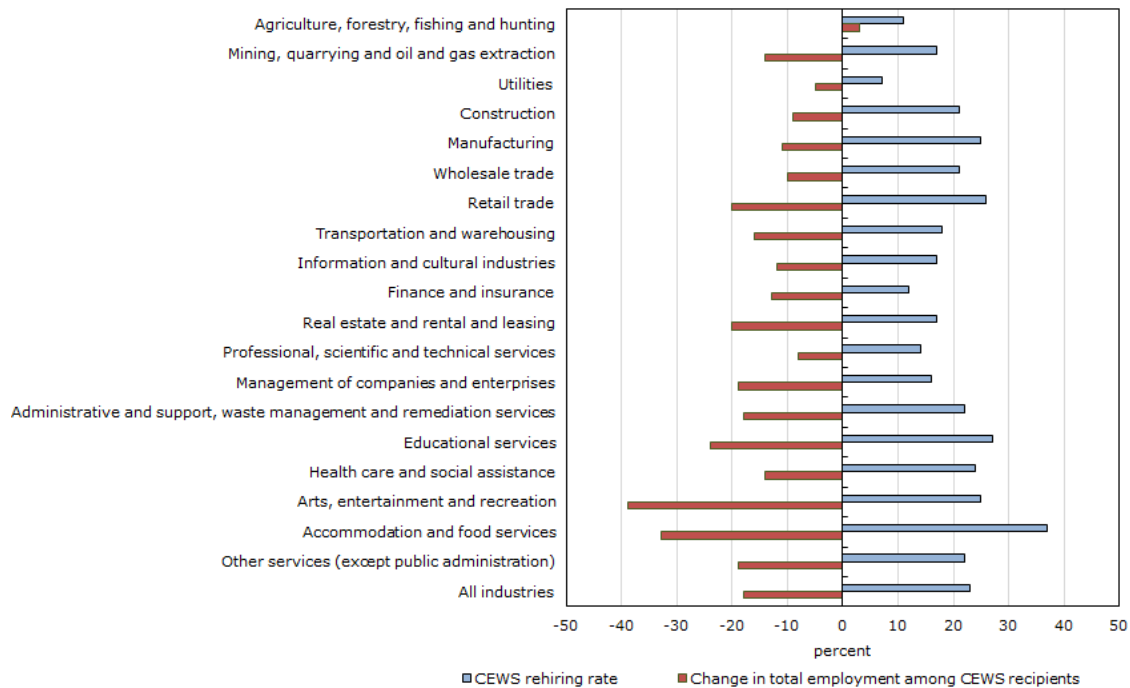
- **Sampling method**

This method would simply be to narrow down on certain businesses or industries that sound suspicious. Blue bars in the graph below point out the characteristics of rehiring after Canada Emergency Wage Subsidy was introduced and has sorted recipients by industry. Red bars show changes (positive or negative) in employment amongst CEWS recipients.

On a simple look, IFAs could see that rehiring rate should precisely be opposite to overall change in employment. However, for certain industries, usage of CEWS exceeds that of the percentage change in employment. Meaning businesses in that sector claimed more in subsidies than they rehired. This way forensic accountant could dive deep and look further.

Chart 3
Rehiring rates and changes in employment among Canada Emergency Wage Subsidy recipients by industry

Industry



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⁵¹ (Liu, Lu, & Willox)

- **Before and after approach**

Once businesses or sectors are narrowed, before and after approach could be used. It is one of the most common methods of finding if there were any lost sales. The concept of before and after method are basically to see how much a business was making in revenue versus afterwards and compare both results. This would help determine if businesses who claimed CEWS did so rightly and per guidelines.

Forensic accountants can start by selecting a sample of businesses from specific industries to perform their analysis. After narrowing down on certain businesses that were red flagged, its financials need to be reviewed to determine if they were really defrauding or abusing.

Note: access to financial statements may require court order “Anton Piller” which would provide the right to search premises and seize evidence without warning.

- **Yardstick Approach**

Another hypothesis could be that businesses in same industry would have suffered loses similarly. Testing on this theory, would involve comparing businesses to see how much each of them claimed considering they had similar turnover and number of employees overall.

Yardstick approach determines lost revenue by looking for another product, service or business within same industry that can be compared with the firm currently being investigated. The assumption here is that damaged business would have performed as well as the “yardstick,” “but for” the wrongful act.

Forensic accountant would want to compare the business that claimed wage subsidies citing reduced sales and would compare those numbers with businesses providing same products or service. In other words, comparable businesses in same industry/sector. For any business that received subsidies more others in same industry would point to deceit and can be investigated further to validate.

- **Smell test**

The size of the revenue losses must be reasonable compared to nature of the problem. In this case reduced due to covid and forced shut down.

In case losses claimed go beyond what the company made in average claimable period, then it would fail the smell test and need further digging by forensic accountant.

Note: all above hypothesis and testing considers IFA would have access to records about dollar value of funds distributed. Most likely the investigation would have carried out by government's internal forensic accounting and auditing team. Outside accountants would not have access to allocation of funds information received through CEWS applications.

17.4 Start Recovery Process

After thorough review and investigation, forensic accountants, and auditors at CRA may issue letters asking to refund the excessive funds to businesses that they know were issued CEWS payments via fake claim. If businesses refuse to pay back the funds, then CRA would have to pursue other options as outlines below.

CRA in the case shall be considered plaintiff or a fraud victim who was defrauded by businesses which claimed CEWS wrongly. Fraud victims in Canada have three avenues that could assist in recovery of such funds:

- Pursuit of civil remedies
- Pursuit of criminal remedies
- Pursuit of both the civil and criminal remedies in parallel

17.4.1 Civil Remedies

- **Mareva Injunction**

Mareva injunction could be considered as the most appropriate and effective remedy. It protects a claimant's right to property until the trial is complete and is achieved by freezing the assets to avoid concealment, removal, or dissipation by the defendant.

Getting Mareva Injunction order should be the first essential step that CRA should pursue to preserve funds.⁵²

The idea behind getting this order is that businesses who claimed CEWS funds fraudulently don't dispose them off and that they are kept secured till decision is made to refund to CRA.

- **Interim preservation of funds**

Not as attractive as Meriva Injunction, interim preservation of funds is the protection of funds till litigation outcome. The issue with this option is unlike Meriva Injunction, it

⁵² (Abela)

notifies the defendant in some form that funds shall be frozen which may give time to dispose off or conceal.

17.4.2 Criminal Remedies

- **RCMP Investigation**

RCMP investigation would follow once all civil remedies to reclaim the CEWS benefits have failed. To pursue criminal investigation, Royal Canadian Mounted Police (RCMP) must initiate an investigation which should be flexible and dependent on the circumstances of the crime and available resources. RCMP could assist using traditional police investigative techniques and methods, including wiretaps and undercover operations if required.⁵³

- **Preservation of assets by RCMP**

RCMP has provision to seize property or at times can procure a restraint order to seize bank accounts. It has done so in the past when it moved to freeze both bank accounts and real estate holdings for a former executive of SNC Lavalin as part of their investigation for alleged bribery and fraud. With the use of affidavit sworn by an RCMP investigator, they can request and attain court order to freeze bank accounts of suspected businesses that abused Canada emergency wage subsidy to pursue or start recovery process.⁵⁴

⁵³ (Abela)

⁵⁴ (Abela)

17.4.3 Pursuit of Civil and Criminal Remedies

CRA can even pursue both civil as well as criminal remedies in case they believe using both legal means would increase the possibilities of recovering defrauded funds. They can send legal notices seeking to get the funds back and if no response is received, they could consider putting in criminal charges.

17.5 Other General Recommendations

17.5.1 Anonymous Whistleblower Hotline

Whistle blower hotline is a secure communication channel for people who suspect fraud or abuse to report their concerns confidentially without fearing any form of retribution. Government can consider appointing a compliance officer specifically towards handling CEWS complaints where anyone who suspect their company of abusing or committing fraud could report privately without fear of getting their identity revealed.

While whistle blower hotline would help government carry out investigations, its important to note that it should be used as a mean to substantiate a suspected behaviour. Launching investigation just based on the complaints could turn out to be extremely costly and time consuming. This tool should work in conjunction with data analytics to narrow down on companies that forensic accountants suspect to have defrauded.

17.5.2 Release Amounts Received by Each Applicant

Canada Revenue Agency has released the list of companies that applied and received CEWS but refuses to release the amounts obtained by each one of them. Government backs the decision and refuses any more details on this citing privacy reasons. Amongst the names released, it does not include names of companies that are sole proprietorships or partnerships considering name of the company could identify the owners or staff.

This provides an ideal environment to businesses that abuse CEWS thinking they can claim as much as possible without anyone finding out how much they received. Not only it restricts independent agencies to highlight unequal distribution of CEWS towards businesses of same size, but also limits independent forensic accountants to carry out their own investigation.

Government of Canada should therefore consider releasing the amounts received by each applicant so businesses know the amount would be available for audit not only by CRA, but also by independent and autonomous organisations thereby increasing their chances of applying ethically.

18.0 Legal Process for Conviction

Businesses or corporations found to have misused the subsidy program, could be asked to pay back any excessive funds they may have received along with other penalties imposed depending on its severity. However, the convictions in Canadian law may differ depending on whether business is charged for fraud or abuse of government funds.

Abuse - it occurs when there is an intentional and unacceptable use of grant funds or misuse of one's position. Common examples of abuse in CEWS would include failure to properly support the use of award funds. That is when businesses used the allowed yet unethical means to obtain government funds meant to pay off staff, but rather used them as surplus to improve company's financial position. Because they received the funds fulfilling the criteria, they may not be fined or prosecuted at all. If however the intent is proven government can ask to refund the amounts claimed, along with added interest as explained below.

Fraud - It is an intentional deceptive action intended to provide the offender with an unlawful gain or to deny right to a victim. Depriving another person or the institution of a benefit to which he/she/it is entitled by using any of the means described above could also be considered as fraud.⁵⁵

18.1 Fraud over \$5,000

Five thousand is a dividing line in fraud cases, separating them into two categories. Fraud over \$5,000 is known as "white-collar" crime, and is more common in accounting, banking, or

⁵⁵ (CHEN, 2022)

finance. Corporations or businesses that committed wage subsidy fraud would mostly be charged under fraud over \$5,000. Given the seriousness of the losses to CRA, it could be treated as an indictable or criminal offence which carries more severe sentences.

Under the Criminal Code of Canada, any person or corporation who is found responsible of fraud over \$5,000 is guilty of an indictable offence that is punishable by a term of imprisonment up to 14 years.⁵⁶ Those accused with fraud over \$5,000 face severe penalties given its treatment in the criminal code. Unlike punishments for less serious offences, which could just include house arrest, penalty for fraud over \$5,000 considers prison time for the total sentence period.⁵⁷

18.2 Section 2.901 & 2.902 - CEWS legislation

Any person or a business found to have misused the system could end up refunding the unauthorized overpayments to CRA. In doing so, it is worth noting whether Public Prosecution Service of Canada (“PPSC”) would or wouldn’t pursue the 25% penalty indicated in section 2.901 & 2.902 of the CEWS legislation.

Section 2.901 of the legislation states that, “*Every eligible entity that is deemed by subsection 125.7(6.1) to have an amount of total current period remuneration for a qualifying period is liable to a penalty equal to 25% of the amount that would be deemed by subsection 125.7(2.2) to have been an overpayment by the eligible entity during that qualifying period if that amount*

⁵⁶ (Damien Frost & Associates LLP)

⁵⁷ (Vilkhov Law, n.d.)

were calculated by reference to the information provided in the application filed pursuant to paragraph (a) of the definition qualifying recovery entity in subsection 125.7(1).”⁵⁸

Therefore, if found guilty, individual, or business would have to refund all the amount plus extra 25% of that amount along with other forms of penalties imposed as seen fit.

18.3 Income Tax Act

It is already an offence to make a false and bogus statement under section 239(1)(a) of the Income Tax Act. The act reads and applies to, *“anyone who has made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation.”⁵⁹*

So, for any business to have claimed CEWS using incorrect data would point towards making a false statement and as such could be convicted under ITA section 239(1)(a). It makes the penalty for making false statement a summary conviction offence liable to a fine of up to 200% of amount sought to be evaded or stolen along with a jail term of up to two years.⁶⁰

Furthermore Sections 152(3.1) & 4 of Income Tax Act allows CRA to issue reassessments within three years for individuals and four years for corporations of the original date of notice of assessment. However, section 152(4)(a)(i) and (4.01) suggest that if any taxpayer has committed fraud in the filing of the return (potentially something similar to CEWS Application), then that return can be reassessed anytime. Meaning clock never runs out and CRA can come back anytime.⁶¹

⁵⁸ (Income Tax Act, RSC 1985, c 1 (5th Supp), n.d.)

⁵⁹ (Kornfeld LLP, n.d.)

⁶⁰ (Kornfeld LLP, n.d.)

⁶¹ (Kornfeld LLP, n.d.)

18.4 Proving Negligence

Note, penalty cannot simply be imposed if a business or employer overclaimed CEWS. It would need to be proven that one or more incorrect statements were made knowingly where person claiming ought to have known that the statements were false. Also, the circumstances amount to gross negligence where there is conduct involving deliberate wrongdoing.

19.0 Other Common Subsidies and Grants Fraud

19.1 Paycheck Protection Plan (PPP) under CARES Act – USA

During March of 2020, US rolled out a \$2 trillion stimulus bill called CARES (Coronavirus Aid, Relief, & Economic Security) Act to slow down the impact of economic downturn caused by global coronavirus pandemic. Part of this was Paycheck Protection Program (PPP) where in the government appropriated \$349 billion to support small business so they could maintain payroll and other overhead expenses.⁶²

Much like CEWS, the goal was to keep workers paid and employed during the period of emergency.

Any business could apply towards the program that had under 500 employees or fell under Small Business Administration standard. Businesses that qualified could receive a “Small Business Interruption Loan” up-to 2.5 times of their average monthly payroll to a maximum of \$10 million.⁶³

⁶² (THE INVESTOPEDIA TEAM, 2021)

⁶³ (THE INVESTOPEDIA TEAM, 2021)

Fraud

US federal government estimates that a total of \$80 billion had been defrauded with Paycheck Protection Program since it rolled out. Primarily citing the fast-tracked application process that resulted in relaxation of internal fraud controls.⁶⁴

PPP were forgivable loans to cover payroll and operating expenses and fraud occurred when businesses or individuals submitted false information in an application to procure them.

Businesses could apply for PPP through commercial banks but must have met eligible qualifying criteria.

Following schemes were involved:

- **Making a false statement on the PPP loan application**

Under the civil FCA, 31 U.S.C. 3729, the violation occurs when a business or person knowingly or recklessly “presents, or causes to be presented, a false or fraudulent claim for payment or approval” to the government”.⁶⁵ Individuals or businesses claiming for PPP either submitted false documents or forged them claiming to be accurate to be able to avail the funds.

- **Applying for PPP loans from multiple lenders with several applications (“loan stacking”)**

The process also refers to as loan stacking and involves getting approval for multiple PPP loans within a short span of time from different banks. The scheme involved getting loans for themselves and their associates by submitting fraudulent loan applications in exchange of share of loan proceeds.

⁶⁴ (Strickler, 2022)

⁶⁵ (PLLC, 2020)

- **Using PPP loan money for an improper or unapproved purpose**

The program was mainly introduced with the intention to provide small businesses, funds to cover payroll costs including benefits so more and more people could stay employed. However, many businesses indulged in applying and receiving PPP loans and used the proceeds for themselves instead despite laying off their staff. There had been many reported cases of individuals who received the funds to have bought luxury cars and expensive houses from government's PPP scheme.

19.2 Economic Injury Disaster Grants – USA

Introduced as “Small Business Administration (SBA) grants, were part of Economic Injury Disaster Loans/Grants Program covered under CARES Act. Government of US offered one-time emergency grant for up to \$10,000 of working capital to small businesses and private non-profits suffering significant economic injury because of Coronavirus.⁶⁶

The grant was provided to those businesses that applied for “Economic Injury Disaster Loan” but did not receive it due to lack of funding or if previously received only partial funding.

The program was meant for struggling small businesses and handed out \$10,000 to just about anyone who asked with in 3 days of applying. It only required anyone to fill out an online application confirming they owned a business with at least 10 employees and grant usually arrived with in a few days. The overall application process was made simple (usually 5 minutes or less) so any small business owner could apply without hiring external professional help.

⁶⁶ (Bant, 2021)

Being a grant, it did not need to be repaid under any circumstances and was handed out with the intention keep employees on payroll, pay for sick leave, meet increased production costs due to supply chain disruptions or pay other business obligations that may include rent, debts or mortgage payments.

Fraud:

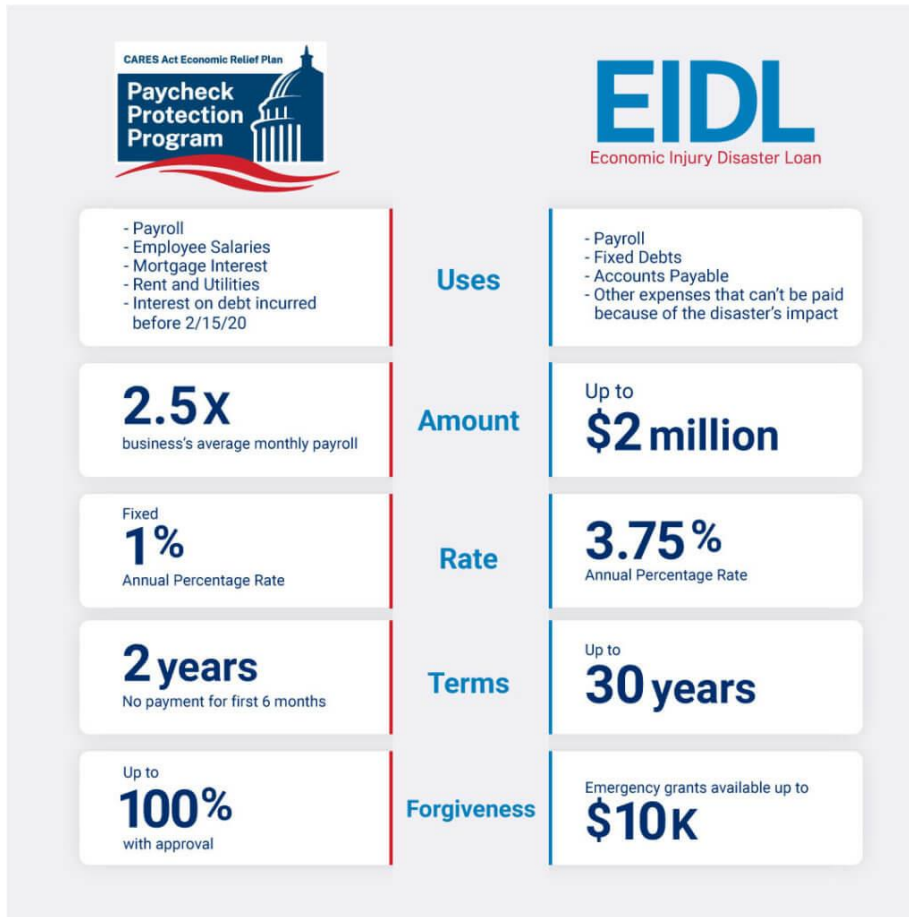
Some neighbourhoods in Chicago as well as Miami saw almost everyone apply for Small Business Administration's Covid 19 economic injury disaster loan program using false application. There were reports and cases where multiple loan payments were sent out to applicants using same bank account and addresses. Amongst the receivers of Federal SBA Disaster Loans, were professional thieves from Nigeria and Russia who applied and received thousands of dollars under this relief program meant only for small businesses in US.⁶⁷

To make it easier to dispense, government instructed agency specifically to relax normal fraud safeguards, declaring that applicants could be considered eligible if they swore they were. Loan officers were provided little training and were under pressure to churn out applications quickly. It made it extremely difficult for them to detect and report suspicious ones. When controls did eventually get tightened, results were often delays and rejections for legitimate applicants. In the end it was estimated more than 5.8 million grants were simply handed out to anyone who applied.⁶⁸

⁶⁷ (Davis, Mider, & Mosendz, An Avalanche of Fraud Buried a Small-Business Relief Program, 2020)

⁶⁸ (Davis, Mider, & Mosendz, An Avalanche of Fraud Buried a Small-Business Relief Program, 2020)

Paycheck Protection Program (PPP) vs Economic Injury Disaster Loan (EIDL) at a glance



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20.0 Machine Learning & Artificial Intelligence in Detecting Fraud

Machine learning (ML) is a collection of artificial intelligence (AI) procedures packed with historical data to suggest risk rules. With the rise of artificial intelligence and big data, new opportunities have emerged in using advanced machine learning models for detecting fraud.

Artificial intelligence is a bigger & wider concept designed to create machines that replicate human like thinking. Machine learning falls under artificial intelligence and allows systems to

⁶⁹ (CARES Act - Economic Relief Plan, n.d.)

learn from inputted data without being programmed. It employs algorithms and structures modeled after the human brain using historical data to define risk rules. These rules are then used to block or allow certain user actions, such as suspicious logins, identity theft or other fraudulent transactions.⁷⁰

20.1 Detecting Fraud

Much of the Canada Emergency Wage Subsidy (CEWS) abuse and other frauds discussed above took place because there were too much to dispense with very little staff reviewing applications. Therefore, anyone who applied, got paid, as governments of Canada and US were not prepared to manage the number of applications. As such the existing controls felt short and people or businesses were able to take advantage of it.

As machines can process a larger data set than humans could, at fraction of a time, it would provide the ability to slice and dice large amounts of data into useful information.

20.1.1 Faster and more efficient detection

It could quickly identify suspicious patterns and behaviours that would take humans months to establish. This was exactly what happened as by the time authorities established trends, fraud had already taken place effecting the overall fund. Systems that were in place did not check for duplication or similarities such as addresses or phone numbers and kept on paying based on applications.

⁷⁰ (Florian, n.d.)

20.1.2 Reduced manual review time

Amount of time spent while manually evaluating data can drastically be reduced when machines scrutinize and analyze all available information. Having automated systems that look for mismatched data or repetitions of claims can help red flag and separate businesses that abuse from those that seem legitimate.

20.1.3 Better predictions with large datasets

Machine learns and corresponds better as more data gets fed into it. With every input of added information, machine learns and becomes more competent in doing what its designed for. While large datasets can make it challenging for humans to find patterns, AI driven systems work opposite and become more productive. Therefore, its important to implement such systems from the start so they could learn from trends and separate genuine application for subsidies from fraudulent ones.

20.1.4 Cost effectiveness

Since much of work is being done by computers or machines which scan to validate applications, it takes away the possibility of human error as well as cost of human resource from the system. Being able to process large number of applications in a short span of time, provides cost effectiveness and value of time and money. Human resources could then be used to further validate red flagged applications rather than spending valuable time in reviewing them at first place.

21.0 Overall Recommendations

Before pooling financial resources to be distributed as subsidies or grants, governments should conduct a detailed risk assessment and analysis of what could go wrong. It would aid in identifying vulnerabilities that can be exploited and could help fix it before its even public, thereby preventing businesses or individuals from taking advantage.

Any immediate need to give out funds should require detailed evaluation in weighing cost versus benefit of the program. Balancing the urgent need to disburse funds quickly with the need for suitable safeguards should always require adequate oversight, auditing, accounting, and reporting mechanisms to prevent or mitigate any scope of fraud or abuse. Not having these processes while such large-scale disbursement of government funds would most certainly guarantee interference and fraud.

No one was prepared for the pandemic and governments pitched in with a bigger vision to support economy by injecting funds in any way it can. At that stage, the objective was the get the money out which was considered more important than who received it. While lessons have been learned, its important that CRA and other counterpart agencies work closely with forensic accountants and get them involved at an early stage to help review and strengthen the system. Involvement of Forensic accountants at an early stage of any future government project would most certainly reinforce the funds allocation process. With their skills and experience in the field, IFAs could pre-empt any fraud scheme thereby recommending ways to mitigate it.

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