

## **AER minute of 8 December 2022 meeting with ATO staff**

**Date of minute:** 8 December 2022

**Author:** Kenneth Liu (Australian Energy Regulator)

**Date of meeting:** 8 December 2022

**Location:** Online

### **Attendees:**

#### **Australian Energy Regulator (AER)**

- Warwick Anderson
- Pradeep Fernando
- Kenneth Liu

#### **Australian Tax Office (ATO)**

- Julia Neville
- Tangamani Kusa
- Rickchee Lee

### **Background to the meeting**

The AER must reduce the tax allowance it provides to regulated business for the 'value' of imputation credits.

Under the AER's 'utilisation' approach to estimating the value of imputation credits, the value of imputation credits is effectively calculated as the proportion of company tax paid by the benchmark efficient entity expected to be returned to investors through the utilisation of imputation credits.

The ATO has previously provided to the AER summarised data on imputation credits distributed and utilised.<sup>1</sup>

The 2022 Draft Rate of Return Instrument was published in June 2022 and was reviewed by an Independent Panel of experts. The Independent Panel in its report recommended the AER "[e]ngages further with the ATO to gain a better understanding of any data issues that may have a bearing on the accuracy of this sources of information in order to generate estimates of the Utilisation Rate in which it has greater confidence."

Following on from the Independent Panel's recommendation, the AER and the ATO held a meeting on 8 December 2022.

The final meeting minutes below are finalised by the AER in consideration of comments from the ATO.

---

<sup>1</sup> ATO, *ATO Note*, 28 October 2021, available at: <https://www.aer.gov.au/system/files/ATO%20Note%20-%20Franking%20account%20reconciliation%20-%2028%20October%202021.pdf>

## Meetings minutes as recorded by AER staff

ATO staff:

- Summarised the methodology used to derive its data on imputation credits distributed and utilised, noting that it relies on tax return lodgement data to estimate the amount of franking credits paid versus claimed.
- Indicated that the aggregated data may not be useful as not being detailed enough to give a clear picture. The aggregated data was used to derive the ratio included in the minute to the AER. The ATO is unable to provide unit record data due to taxpayer confidentiality.
- Clarified that the difference between the first and second tables in the 2021 ATO Note<sup>2</sup> is the exclusion of companies in the second table and suggested that the first table may be more reflective of overall imputation credit usage.
- Clarified the difference between the ATO data and the ABS data.
- Agreed to provide to the AER an update of its 2021 ATO Note in the coming days.

---

<sup>2</sup> Ibid.