

2021

# Drawbacks and refunds – a survey and analysis



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## Drawbacks and Refunds - survey analysis

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2.1 Qualifying criteria for refunds and drawbacks ..... 21

2.3.1 Requirements to qualify for Schedule 5 refunds, drawbacks, and manual claims ..... 21

In support, the document SE-REF-03-M01, 2.3 Field A, stipulates:..... 21

The suggestion is to add the below timeframes and or broad expectations on behalf of SARS to the policy document SC-DT-C-13 document, in event of a query or rejected claim: ..... 21

## **Executive Summary:**

In summary, this paper contains a collective request from the private sector to ascertain the underlying issues relating to the SARS drawback and refund claiming processes. There seem to be three definite themes throughout the analysis. Firstly, inconsistency on behalf of SARS in terms of applying the policy. Secondly, poor communication on behalf of SARS in terms of feedback on drawback/ refund applications, especially considering responding to requests for updates or reasons for rejections or delays. Thirdly, the unpredictability experienced by the private sector due to the inconsistency within the process and sub-optimal communication from SARS. Lastly, the quality of refund applications on behalf of trade needs to be addressed to avoid multiple rejections and delays. There is a real need for capacity building by hosting workshops and providing training. If applicants pay more attention to the eleven Annexures of SC-DT-C13 and, particularly, A01, it will go a long way towards improving the quality of applications and, ultimately, the entire process.

Overall, the private sector indicated that delays in feedback on claims submitted and subsequent payments have become more evident during the Covid-19 lockdown period and the period following the national lockdown. Most refund claims pertain to goods that have been imported for trade purposes. Feedback on a claim and EFT payments have been received more than a day after submission. Out of the 24 respondents, most of the claims were submitted at the Durban branch for consideration. Once feedback was received, SARS usually requested additional documentation, pointed out calculation errors and duplicated claims.

Most participants indicated that they are not receiving feedback on their rejected claims promptly in terms of rejected claims. Mainly, SARS indicated issues with the type of supporting documents submitted and the way it was submitted. In addition, some incidents pointed out to documents requested by SARS after submission, which was submitted by the client initially, or SARS requesting documents that do not pertain to the type of claim. Moreover, claims are being submitted in a different jurisdiction than where the goods were exported. These issues highlight the need for intensive capacity building among the SARS representatives and the private sector to improve the quality of applications.

According to the private sector, the most permanent challenge relating to the refund and drawback processes was poor communication and issues relating to the escalation process. Once an application was sent to the head office, more delays and disputes were noted by the specific regional customs office. Non-adherence to the policy was the third most prominent issue listed. It was further pointed out that SARS had unreasonable expectations by requesting documents that have no relevance to the type of claim submitted. In addition, a participant indicated that the drawback process in Durban differs from the process in Johannesburg. A lack of feedback and responses from SARS on claims submitted were also mentioned numerously. These incidents make it apparent that more needs to be done to transparent the drawback and refund claiming process among all SARS offices and its delegates. In addition, improving the communication on behalf of SARS, relating to feedback requested on delays or rejected claims, can also go a long way towards improving the process.

Furthermore, the SC-DT-C-13 as a policy document is reasonably comprehensive, with very specific and strict instructions in terms of time frames within which refund applications may be lodged or can be lodged (Par 2.1 (l) and (m) as well as the entire Par 2.5). It further stipulates the requirements to qualify per drawback/refund item and refers to the different annexures available that demonstrate how to complete the applications in various circumstances. However, there is a lack of an indication of the time frames provided by SARS in which an applicant may expect feedback, especially considering a subsequent rejection of a claim. The reference made to this point is stipulated as per [Annexure 1](#).

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Therefore, in summary, a suggestion is put forward to implement an SLA (Service Level Agreement) or service charter or add a general time frame to receive a response from SARS on an application and its rejection as an Annexure to the policy. This approach will go a long way towards improving the transparency and predictability of the process. The aim would be to establish a framework of predictability for trade and mutual accountability for both the private sector and SARS.

**Date: 12 October 2021**

## **About this request**

This paper contains an overview and analysis of the current issues revolving around the SARS refund and drawback processes.

### **1. Introduction**

SARS (South African Revenue Service) allows and provides for clients to apply for a Customs refund or drawback on duties and taxes within a specific time frame as prescribed in Sections 75 and 76, together with Section 76B of the Customs and Excise Act.

Important to note<sup>1</sup>:

- Refunds are paid in respect of duty or levy overpaid, or where goods are exported in the same condition as they are imported.
- Drawbacks are paid in respect of specified materials used in the manufacture, processing, packing, etc., of goods that are subsequently exported (as explained in more detail above).
- The onus is on the applicant to ensure that the correct forms and supporting documents are attached before submitting the Refund/drawback application to SARS. In addition, the reason(s) provided by the applicant must be specific and adequately set out in the application.
- Customs duty and taxes paid on goods, having been imported contrary to the provisions of any law, will not be refunded.
- Amended Customs clearance declarations (CCDs) that result in a refund, which are lodged via electronic data interchange (EDI), do not require the manual submission of the refund application forms. However, all amended CCDs will automatically request the submission of supporting documentation.

#### **a. Explaining drawbacks<sup>2</sup>:**

Duties are only payable upon goods consumed within the SACU (South African Customs Union) region. If goods are therefore imported and then exported outside of SACU, the duties can be claimed back. This concept is known as a drawback. For example, a simple drawback (item 522.00) relates to a refund of duties on goods imported, which are applicable when the goods are exported in the same format. For goods to qualify under this drawback, both the importer and exporter must be registered with SARS and subsequently notify SARS before the export occurs (known as an export under supervision). Furthermore, SARS can inspect the goods before export to determine if the goods claimed to be exported are, in fact, imported. Once the inspection has been completed (or no inspection was requested), the export and drawback may be lodged to the closest regional customs office.

A more complex drawback (relating to item 521.00) refers to a refund on duties on a raw material, which is processed further (value-added) before being exported outside the SACU region. To be eligible for the drawback benefit, the importer and exporter must be registered with SARS. In addition, the importer must apply to ITAC (International Trade Administration Commission of South Africa) for a drawback permit before the drawback application may be considered. The size of the drawback equals the amount of duty contained in the product that is finally exported outside of SACU. The permit will confirm the volume that can be imported with the associated duties to be claimed back as drawbacks. Once the volume stipulated on the permit has been exhausted, a new permit must be applied.

<sup>1</sup> SARS.30/07/2021. [Customs External Policy Refunds and Drawbacks](#).

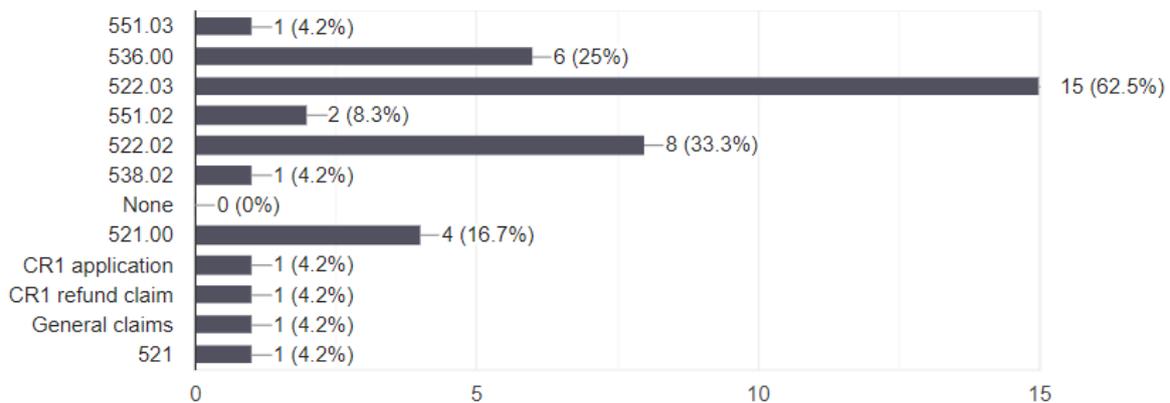
<sup>2</sup> XA International Trade Advisors. [Drawbacks](#)

## Drawbacks and Refunds - survey analysis

Clients must familiarize themselves with the specific drawback and refund qualifying criteria to ensure their application is successful by examining the Customs External Policy Refunds and Drawbacks documents and the various guidelines associated with the type of claim. Each drawback item has its specific requirements regarding supporting documents needed with the application, plus when and where to submit it. However, it has become evident the issues associated with the drawback and refund processes among industry stakeholders.

To get precise and sufficient feedback from the industry on the issues, SAAFF sent a survey to more than 30 participants, who regularly process drawbacks and duty refunds within the Customs business environment. The survey ran for 20 days and produced 24 responses, which will be examined in more detail below.

### Question 1: Specify the 5th Schedule item number against which drawback claim was lodged?

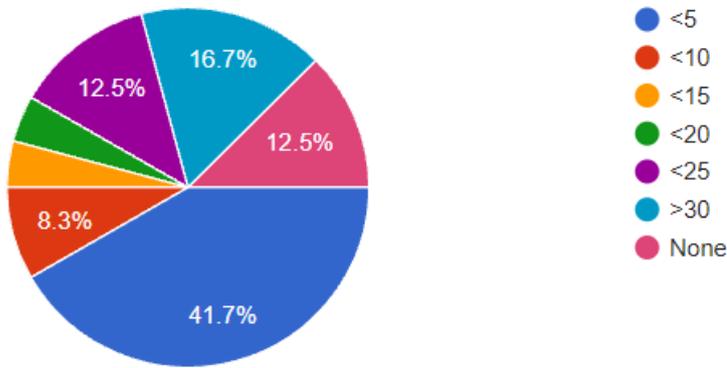


According to the analysis, most drawback claims were lodged against the 5<sup>th</sup> Schedule item: 522.03 (62.5% of total responses) – representing goods exported for trade purposes. Goods that exceed a total value of R200,00 for each consignment per consignee are either (i) in the same condition as imported or (ii) in a condition in which the essential character of the imported item has been retained or (iii) identifiable as the same goods described in the import documents plus a completed DA 66 and supporting documents.

The second most drawback claim lodged was an item: 522.02 (33.3% of total responses) – which refer to goods returned to the supplier, abandoned, or destroyed; motor vehicles imported by Bona Fide Tourists for their use. Following in third place is item 536.00 – referring to Motor vehicle parts and accessories. The Fourth most drawback claim item is 521.00 (16.7% of total responses), referring to general items to be used in the manufacture, processing, finishing, equipping, or packing of any goods exported like wooden packing cases, boxes, crates, drums, etc. Coming in fifth place (8.3% of total responses) is item 551.02, referring to new motor vehicles exported to a BLNS country. CR1 refund applications were at a minimum of 4.2% of total responses, together with general claims and item 538.02.

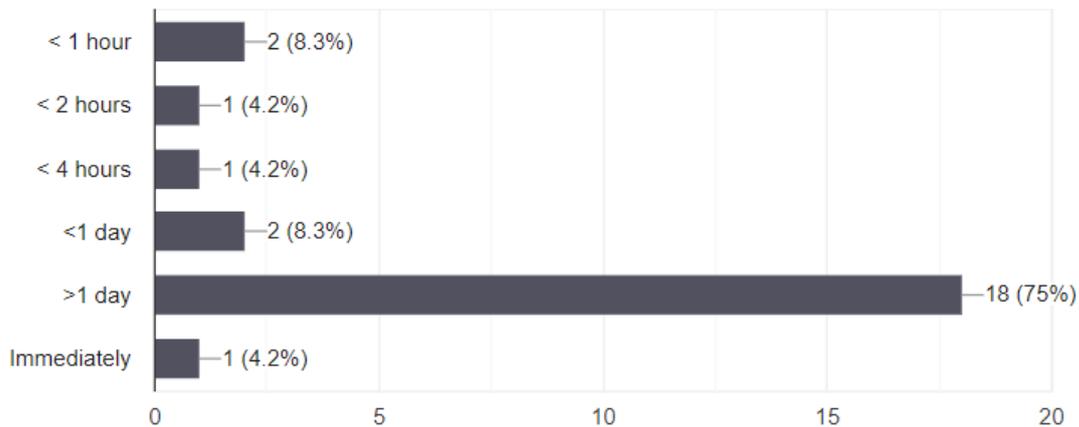
## Drawbacks and Refunds - survey analysis

### Question 2: Specify the number of claims (DA66/DA64/DA63) outstanding?



41.7% of respondents indicated less than five outstanding claims (ranging from DA66/DA64/DA63). In contrast, 16.7% of respondents indicated that more than 30 of their claims are still outstanding. On the other hand, 12.5% of respondents indicated that none of their claims was outstanding, and similarly, 12.5% of respondents indicated that less than 25 of their claims were still outstanding.

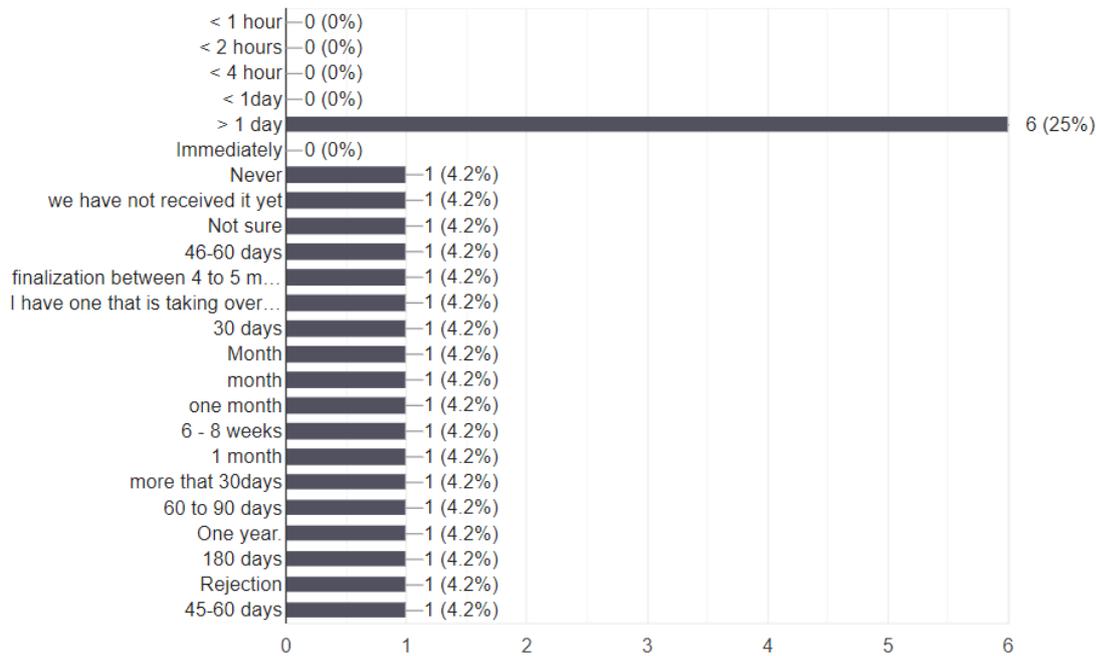
#### a) What is the average amount of time before you get a reply?



Most participants indicated that they usually get a response on their claim after one day or more. Following, participants indicated that they usually receive a reply within one day (8.3%) and less than 1 hour (8.3%). Furthermore, participants indicated that 4.2% of the time, they receive a reply in less than 2 hours/ less than 4 hours or immediately.

## Drawbacks and Refunds - survey analysis

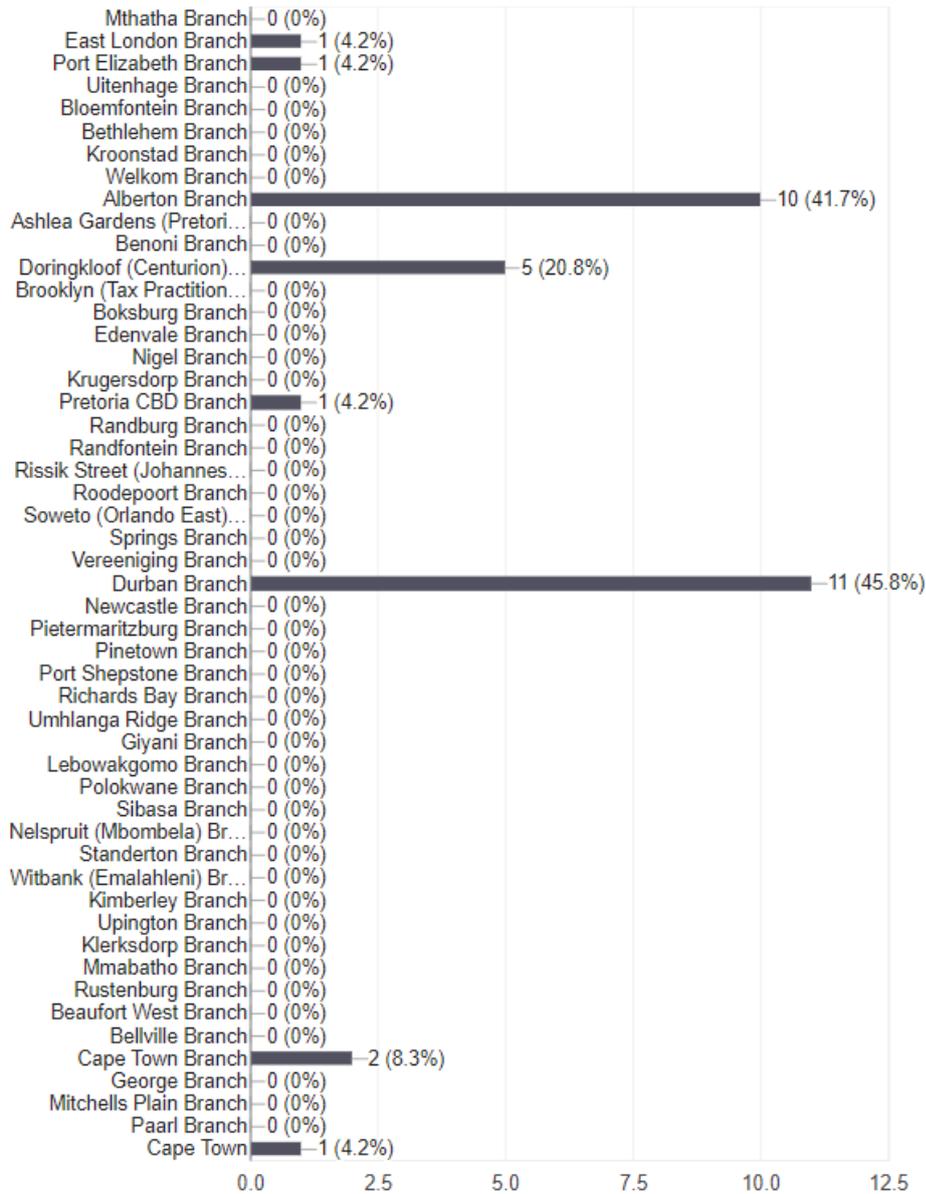
### b) What is the average amount of time before you get an EFT?



Six participants (25% of total respondents) indicated that they usually receive an EFT after more than one day of submitting a claim. Concerningly when analysing the feedback, participants stated the following: never receiving the EFT for a claim, still waiting to receive the EFT, expecting the EFT in 46-60 days, EFT to be finalised within 4 to 5 months, still waiting for an EFT on a CR1 online application for over a year, 30 days, 1 month, 6-8 weeks, more than 30 days, 60 to 90 days, 1 year, 180 days, rejected, 45-60 days. From the above feedback, it is clear that there is no clear indication as to when a customer can expect an EFT payment for a refund claim and that the payment process fails to be transparent and reliable.

## Drawbacks and Refunds - survey analysis

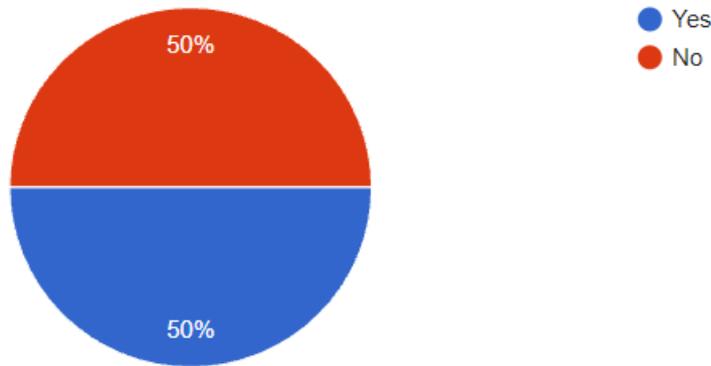
### Question 3: Specify the branch where the claim was lodged:



Most claims were lodged at the Durban branch from the question above. 11 out of the 24 participants indicated that their claim was lodged at the Durban branch. Out of the 24 participants, ten claims were lodged at the Alberton branch, five at the Centurion branch, three at the Cape Town branch, and one each at East London and Port Elizabeth branches.

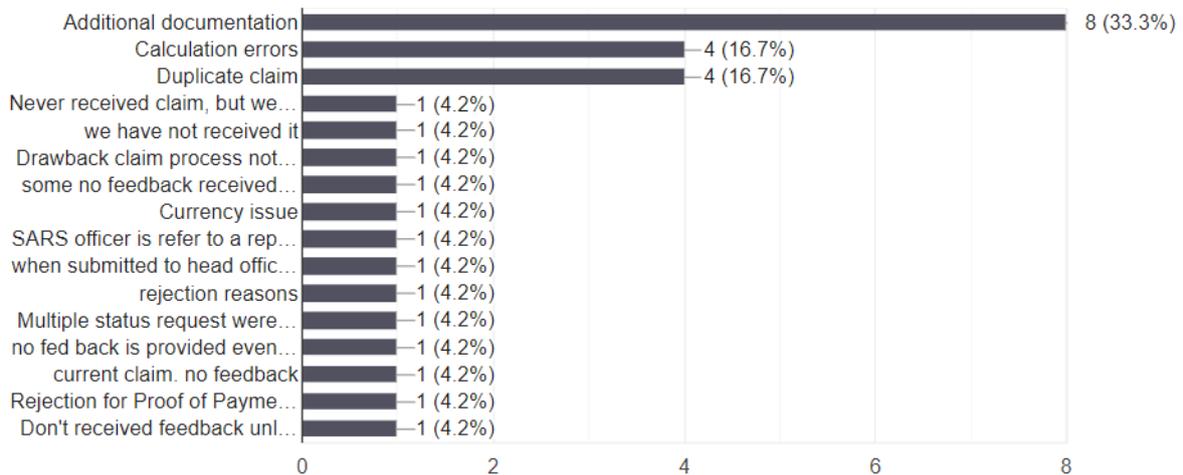
## Drawbacks and Refunds - survey analysis

**Question 4: Was feedback received after the claim was submitted? If yes, provide:**



Half of the participants indicated that they received feedback after submitting their claim, and the half indicated they received no feedback.

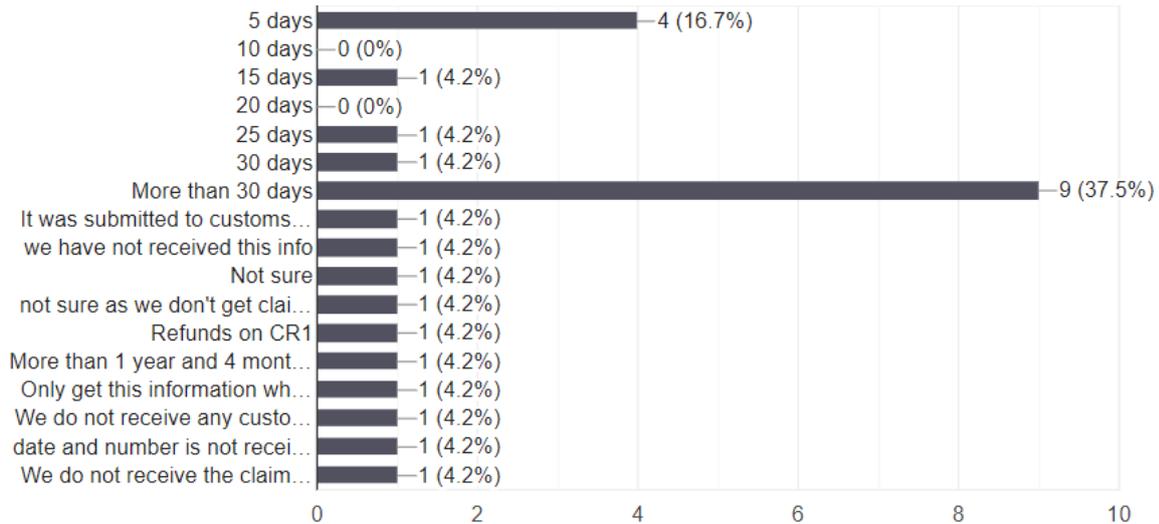
### a) What type of feedback?



Most participants (8 out of 24 respondents) received feedback regarding a request to provide additional documentation. Secondly, 4 participants indicated calculation errors, 4 participants indicated duplicated claims. In addition, various participants indicated that their feedback revolved around SARS, suggesting they never received the claim, albeit having proof of submission. In addition, various participants indicated that they never received any feedback or that their submission and proof of payment were rejected.

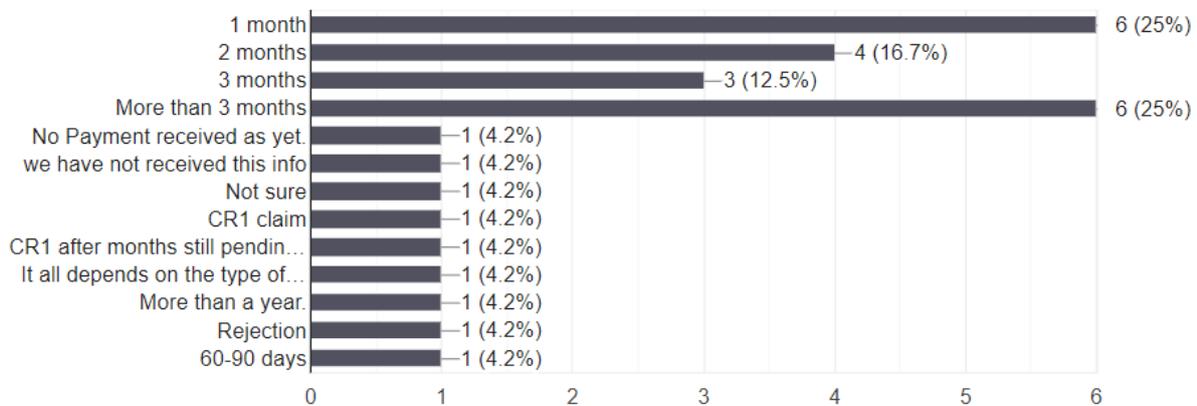
### b) What is the average time between claim submitted to date and number allocated by the SARS Branch office.

### Drawbacks and Refunds - survey analysis



From the above graph, 9 out of 24 respondents indicated that the average time from which the claims have been submitted until they have been allocated to a SARS branch is more than 30 days. 4 participants stated that it takes longer than five days. In addition, most participants indicated that they do not receive a SARS reference number unless the claim has been queried or before the EFT payment is received. As a result, some indicated that it could take longer than a year.

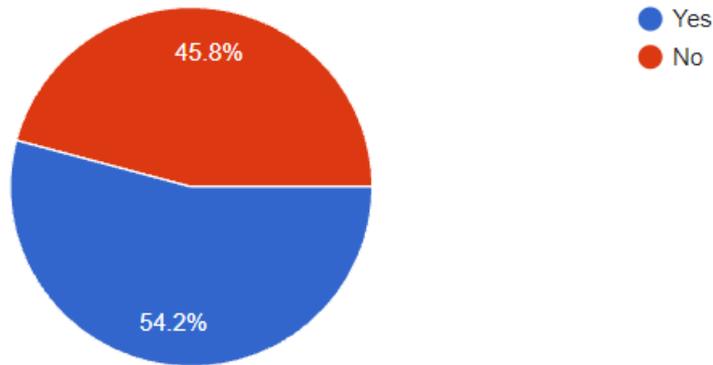
#### c) What is the average time between Date and number allocated to payment received.



6 out of 24 participants indicated that the average time between a reference number allocated and payment received is either after one month or more than three months. 4 participants stated that it's about two months and 3 participants indicated that it's three months. A participant pointed out that it depends on the type of claim, and others advised that they are still waiting for the EFT, so hard to indicate the time.

#### Question 5: Was the claim rejected? If yes, provide:

## Drawbacks and Refunds - survey analysis



Thirteen participants indicated that their claims were rejected out of 24 respondents.

### a) Date of the rejection

|          |             |
|----------|-------------|
| Feb 2020 | 7           |
| Aug 2020 | 1           |
| Oct 2020 | 26          |
| Nov 2020 | 23          |
| Jan 2021 | 16          |
| Feb 2021 | 1           |
| Apr 2021 | 16          |
| May 2021 | 11 31       |
| Jun 2021 | 18 23 25    |
| Aug 2021 | 3 7 12 20   |
| Sep 2021 | 16 28 29 30 |
| Oct 2021 | 1 4 6 7     |

Most rejections happened between August and September 2021.

### b) Reason(s) for the rejection:

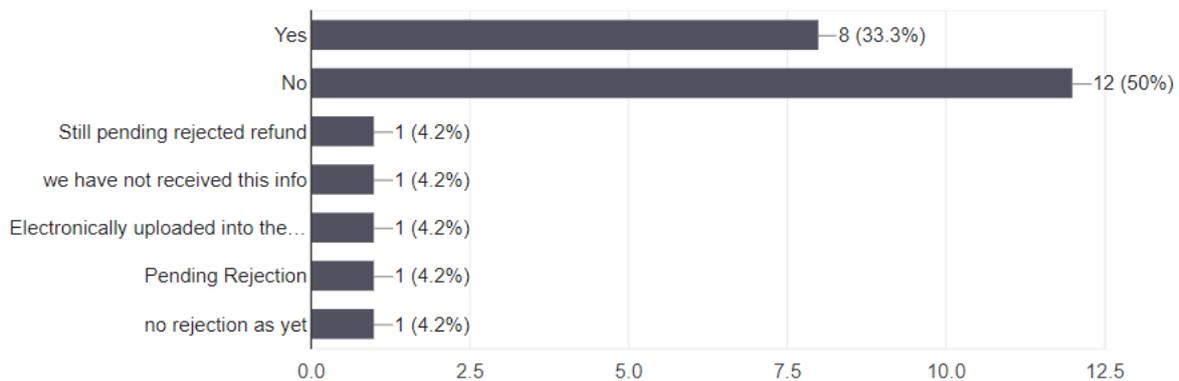
- To be submitted at Alberton and not Durban (Export took place at JSA)
- n/a
- Please properly submit DA66, not lose documents, and follow the drawback process on the refund and drawback policy
- original DA63 requested even though the shipment has DA63A, original was with the SARS officer when then issued the DA63A, they kept the original
- Various
- Claim still pending additional documentation uploaded into the case
- CR1 not rejected - Officer is looking for EWP report when this is a dual clearance

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- Incorrect document number / incorrect documents attached
- transport document number
- Control sheet
- Bill of entry time expired
- The control sheet needs to be attached and it was and the DA63 and refund amount are not the same.
- full MRN number not specified
- multiple
- Change in the letter of Authority Format
- Duplicate
- Correct transport Document Number
- The reason for rejection can be from over claim to incorrect transport documents details reflected on SAD 500 export
- no rejection as yet
- Difference in quantities
- Additional documentation requested
- The claim was submitted to DUR and should be submitted to JSA.
- Proof of payment is mandatory supporting documentation for dual clearances
- Requested original import Bill of Entry although the VOC was in the pack

From the above reasons for rejections, it is clear that there is an overall misunderstanding between the client and SARS. At various times, issues point to the type of documents and information submitted and how it was submitted. In addition, some incidents point out documents requested by SARS after submission that the client submitted. In addition, claims are being submitted in a different jurisdiction than where the goods were exported. Therefore, more needs to be done to make the drawback and refund claiming process transparent and easy to understand and adhere to.

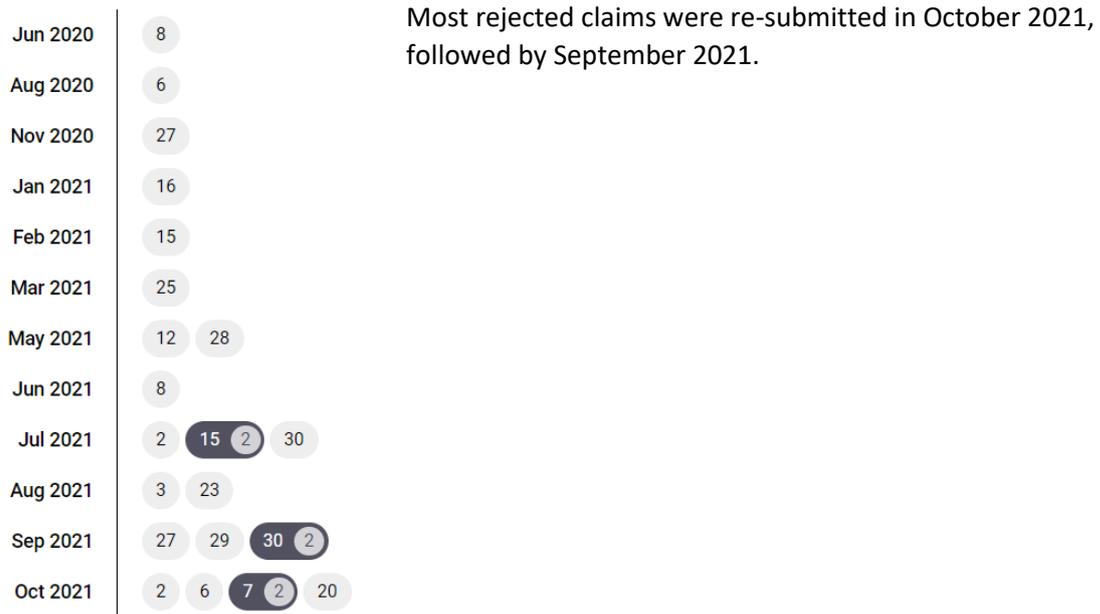
**c) Was the rejected claim and rejection notice received timeously from the district office for amendment a resubmission before any prescriptions?**



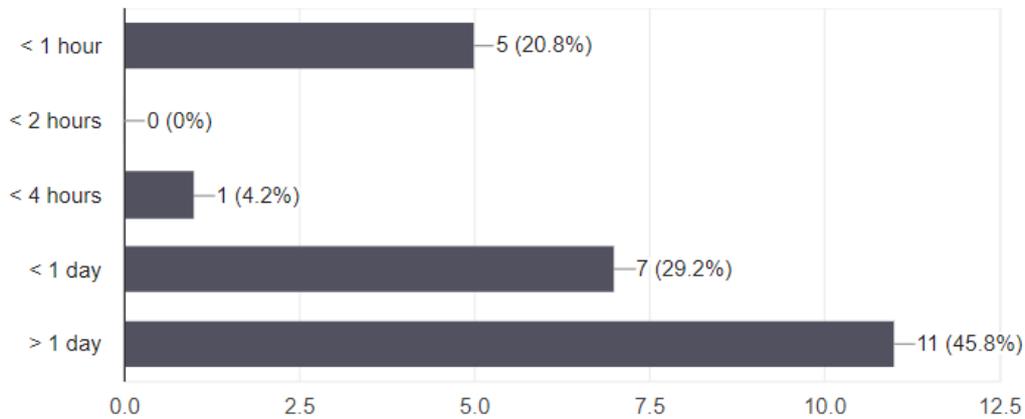
Most participants (12/24) indicated that the rejection notice was not received timeously from the district office for amendment or resubmission. However, 8 out of 24 participants indicated that it was. Most other participants indicated that they are still awaiting feedback on their claims.

## Drawbacks and Refunds - survey analysis

### Question 6: On what date was your rejected claim re-submitted?



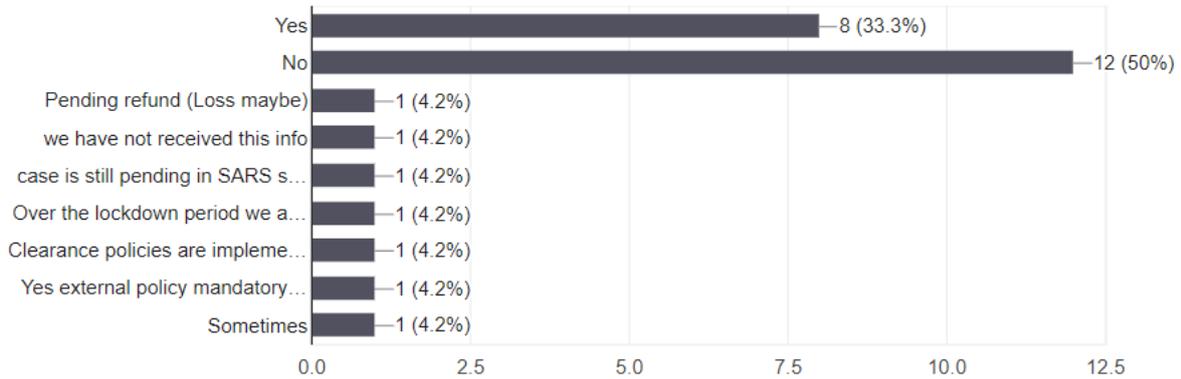
#### a) On average how long does it take trade to correct a rejected claim before it is re-submitted?



Most participants (11/24) indicated that it takes on average more than a day to correct a rejected claim before it is re-submitted. 7 participants indicated within one day, and five indicated within an hour. The time it takes should depend on the type of claim and amendment needed.

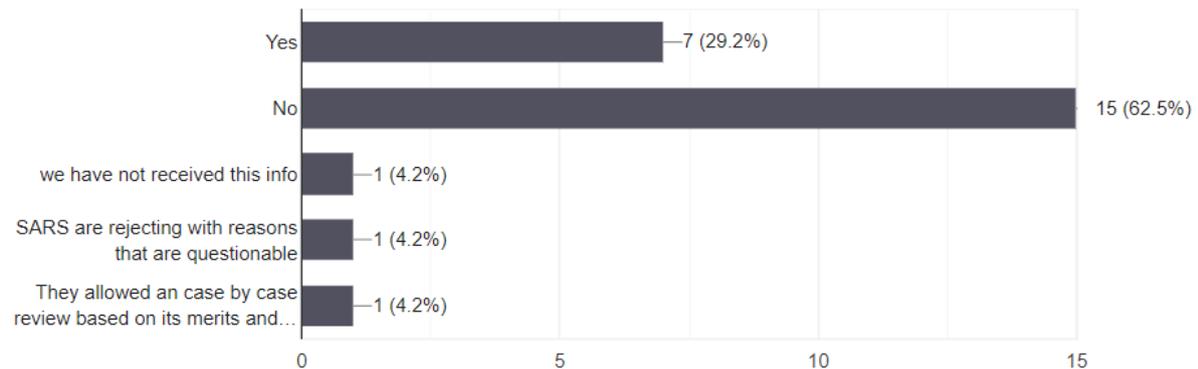
## Drawbacks and Refunds - survey analysis

### Question 7: Did Customs follow the refund policy with regards to rejection?



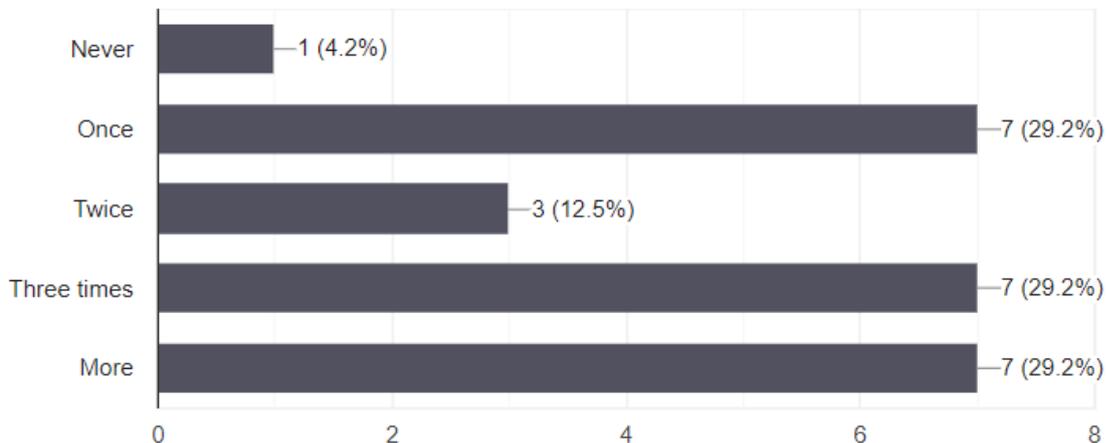
Most participants (12/24) indicated that SARS did not follow the refund policy concerning rejection. In contrast, 8 participants indicated that SARS did follow the refund policy in terms of rejection. Other participants noted that their claims are still pending feedback, especially with delays over the lockdown period.

### Question 8: In your opinion, is Customs consistent with their reasons for rejection?



15 out of 24 participants (62.5%) indicated that SARS is not consistent when providing rejection reasons and that their reasons are questionable.

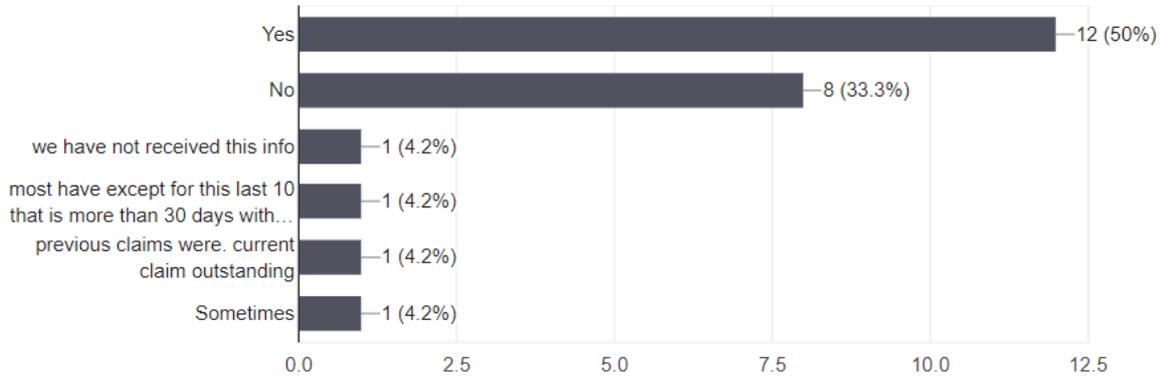
### Question 9: On average, how many times have your claim been rejected?



## Drawbacks and Refunds - survey analysis

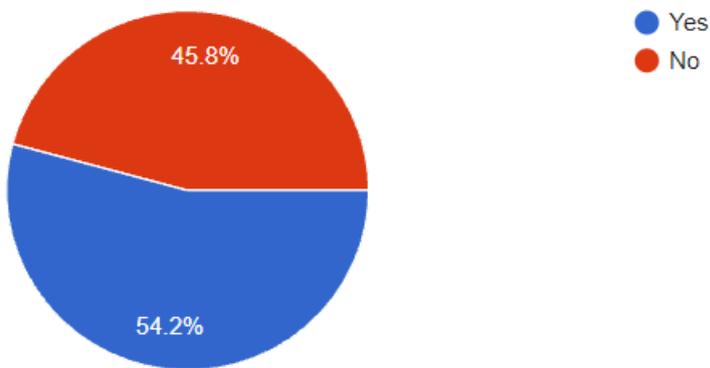
The above question produced various answers. For example, 7 participants indicated that their claims were rejected more than three times, 7 participants indicated their claims were rejected about three times, and 7 participants indicated their claims were rejected once.

### Question 10: Was the claim finalised and paid out?



50% (12/24 participants) indicated that their claim was finalised and paid out. However, a third (or eight) respondents advised that their claims were not paid out. A participant pointed out that most previous claims have been paid out except the last ten submitted, which they still await feedback from customs 30 days after submission. Another participant also indicated that previous claims were finalised and paid out but not the recent ones submitted.

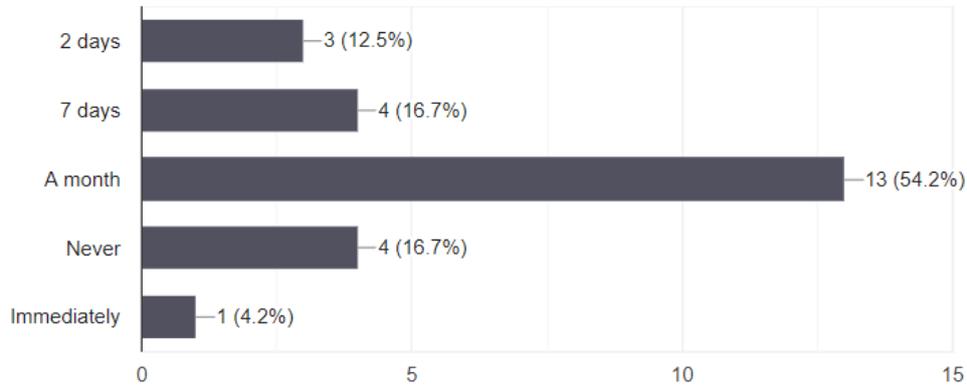
#### a) Was the relevant EFT received for the payment?



13 out of 24 participants (54.2%) indicated that the relevant EFT was received.

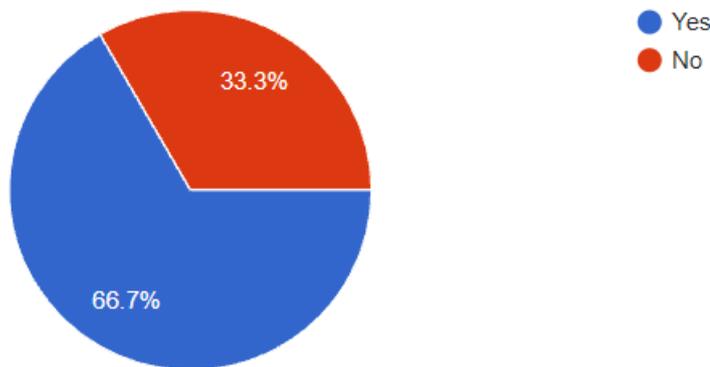
## Drawbacks and Refunds - survey analysis

### b) How long does it take to receive an EFT after the money is reflected in the bank account?<sup>3</sup>



Most participants (13/24 respondents or 54.2%) indicated that it takes about a month for the money to reflect in a bank account once the EFT has been made. 4 participants indicated that the money never reflects into a bank account once the EFT has been made.

### c) Were the finalised claim documents received back from the district office?

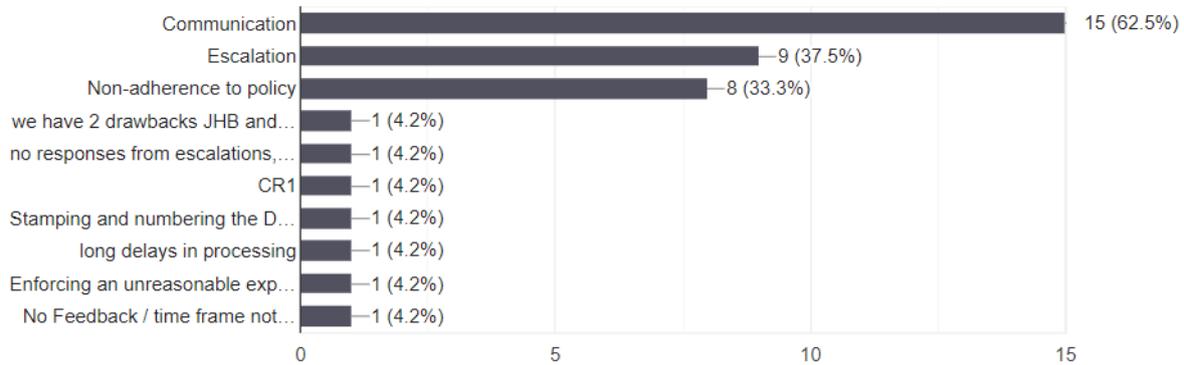


66.7% or 16 participants indicated that the finalised claim documents were received from the district office.

<sup>3</sup> After sending out the questionnaire, it came to our attention that the question is ambiguous and could be interpreted incorrectly. The question should have read: "How long does it take for the money to reflect in your bank account after an EFT was made?"

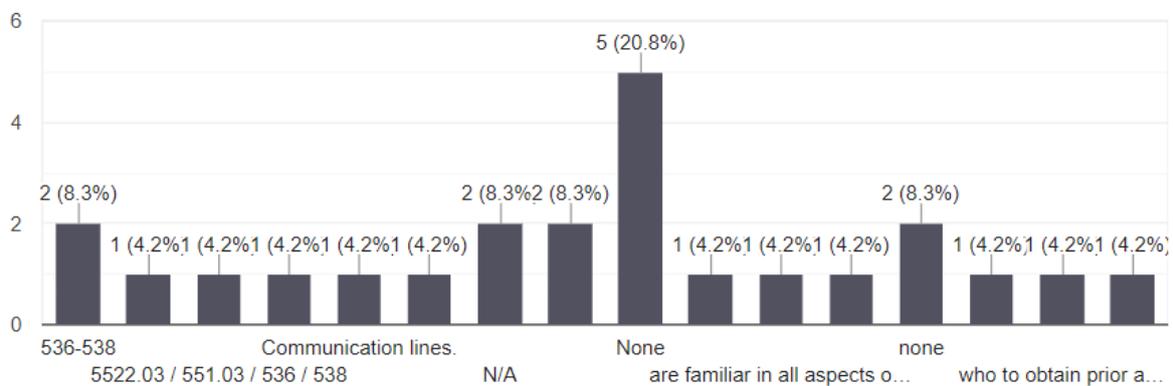
## Drawbacks and Refunds - survey analysis

### Question 11: What challenge(s) (if any) was/were experienced during the drawback claims process?



Most participants (62.5% or 15/24 respondents) indicated that communication was a challenge within their drawback claim process, following the escalation procedures. In addition, 8 participants indicated that non-adherence to the policy was a challenge. In addition, the drawback process in Durban is not the same as in Johannesburg. No responses or feedback received from SARS on claims submitted and long delays in processing are a hindrance. Enforcing unreasonable expectations by requesting documents that have no relevance to the type of claim submitted was also mentioned.

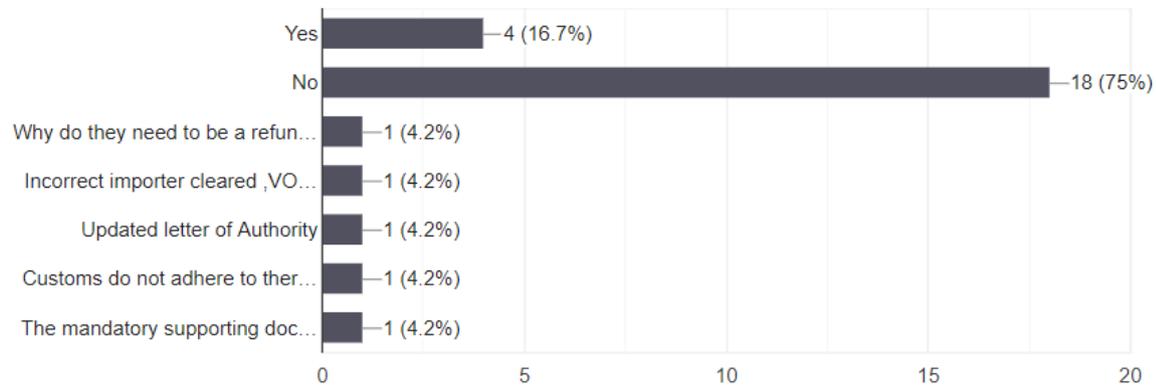
### Question 12: What area of drawback claim processing are you unfamiliar with?



Most candidates indicated that they are familiar with most drawback claim processing areas. 2 candidates indicated that they are unfamiliar with the drawback claim process regarding items 536-538. A respondent indicated unfamiliarity in terms of the communication lines. Another said the whole process from start to finish. One indicated that they are uncertain when to do the export entry and then the EWP. Another participant advised that they are unsure who to obtain prior approval from depending on the scenario. Lastly, a participant asked why an EFT gets paid by head office, and then the products (jackets in this case) come back to the branch to be quality checked?

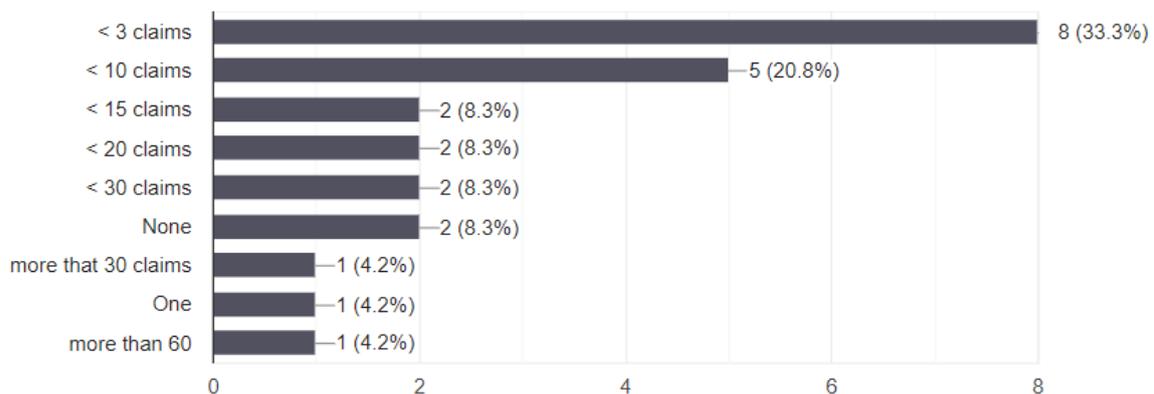
## Drawbacks and Refunds - survey analysis

### Question 13: Are there any other specific policy-related challenges (SC-DT-C-13) experienced?



Most participants (75% or 18/24 respondents) advised that there are no other specific policy-related challenges experienced. 4 participants indicated there are. Some questions were noted relating to the documentation that needs to be submitted, including why the need for a refund control and a schedule 5 worksheet is the same information. Also, why is the original BOE required when there is a VOC on the entry? Does the VOC not make the original entry void? When an incorrect importer name has been used to clear – a VOC must not be processed to rectify the importer. The mandatory supporting documents required by SARS are not always relevant to the type of claim. This situation needs review as escalations to Doornkloof management has not reaped any positive results. Furthermore, a participant indicated that SARS does not adhere to its policies. More information is needed on a requirement relating to an updated letter of authority.

### Question 14: How many drawback claims are still outstanding?



Most participants (33.3% or 8/24 respondents) indicated that less than three claims were still outstanding. However, 5 participants advised that less than ten claims were outstanding. The rest of the participants indicated that less than 15 claims to more than 60 claims were still outstanding.

## **Suggestions:**

### **From the above analysis, certain suggestions are brought forward:**

- ✓ SARS to find ways to build on capacity in terms of knowledge of the Customs and Excise Act plus the subsequent drawback and refund procedures among all regional offices and its appointed officers to eliminate any unnecessary disputes and delays and cultivate transparency.
- ✓ Furthermore, the private sector does not always understand the requirements SARS are seeking for a specific application. Therefore, it would be beneficial to promote capacity building among the private sector representatives and make the guidance more accessible.
- ✓ SARS to enhance and increase communication with applicants regarding feedback on a claim/refund submitted and subsequent rejection and escalation process.
- ✓ SARS to look at finding ways to counteract delays in providing feedback to clients of claims submitted in and after the lockdown period.
- ✓ SARS to review the necessary supporting documents to allow for a refund/drawback claim to be successful, ensuring these documents are relevant and of value to the process.
- ✓ Propose the establishment of a service level agreement or an additional annexure to the policy. For example, SARS can stipulate the specific timeframes an applicant can expect feedback on an application, especially a rejected claim.

In conclusion, a definite misunderstanding between SARS and the private sector, relating to the rebate and drawback processes, is causing unnecessary hurdles for trade facilitation, and can only be alleviated by improved communication. Therefore, the proposal is to take hands and find ways to improve communication and mutual accountability between all parties to promote a more innovative and more compliant trading environment.

## **Annexure 1:**

In terms of rejected or queried claims, the policy document [SC-DT-C-13](#) stipulates:

### **2.1 Qualifying criteria for refunds and drawbacks**

*o) SARS has an obligation to ensure that refunds or drawbacks due **are paid out in the shortest time possible and to the correct person.***

*p) Where the refund/drawback is a result of an error on the part of SARS in assessing the duties and VAT, **the application must receive priority.***

### **2.3.1 Requirements to qualify for Schedule 5 refunds, drawbacks, and manual claims**

*Two (2) copies of the first page of the DA 66 must be produced with each claim.*

*e) The Enquiry Officer date stamps one (1) copy of the applicant's letter or page one (1) of the DA 66 and returns it to the applicant as proof that the claim has been received for processing.*

*f) After the claim has been captured or manually processed in a Branch Office, a copy of the applicant's letter or page one (1) of the DA 66 is endorsed with the claim number and date and returned to the applicant for reference purposes.*

*g) The number allocated to the claim by Customs remains with the claim until it is finalised even if the claim is rejected on several occasions.*

*h) Should a query be issued by SARS, no further claim(s) will be entertained unless the query has been finalised. All queries must be forwarded to the Branch Office.*

*i) If any irregularities are found the claim is queried or rejected with reasons on page four (4) of the DA 66 (SC-DT-C-13-A11), and the applicant must acknowledge receipt thereof by signing the register.*

*j) The applicant must check regularly whether claims were rejected and are on hand for collection at the Branch Office.*

**In support, the document [SE-REF-03-M01](#), 2.3 Field A, stipulates:**

*a) Field A3: Query to applicant*

*i) For official use -*

*A) The full motivation for the rejection of the claim by the Controller / Branch Manager must be completed in this field.*

*B) In cases where the claim is queried, the reasons for the query will be captured on the Electronic Refund Register.*

*b) If the claim is re-submitted, the applicant must use the same refund jacket and lodge it with the Controller / Branch Manager.*

*c) The applicant's attention is drawn to Sections 75(14), 76(4), and 76B of the Act and item 522.03 of Schedule 5 in regard to the prescriptive period in which claims may be lodged.*

**The suggestion is to add the below timeframes and or broad expectations on behalf of SARS to the policy document SC-DT-C-13 document, in event of a query or rejected claim:**

- What is the average turnaround time for a refund/drawback claim application?
- Within what period after an application for a refund/drawback has been queried or rejected may an applicant expect to receive an indication that the claim was in fact queried and rejected?