

STATEMENT 8: STATEMENT OF RISKS

A range of factors may influence the actual budget outcome in future years. The *Charter of Budget Honesty Act 1998* requires these factors to be disclosed in a Statement of Risks in each budget and Mid-Year Economic and Fiscal Outlook. This statement outlines general fiscal risks and specific contingent liabilities that may affect the budget balances.

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The forward estimates of revenue and expenses in the 2009-10 Budget incorporate assumptions and judgments based on the best information available at the time of publication. A range of factors may influence the actual budget outcome in future years. The disclosure of these factors in this statement increases the transparency of the fiscal projections.

Events that could affect fiscal outcomes include:

- changes in economic and other parameters;
- matters not included in the fiscal forecasts because of uncertainty about their timing, magnitude or likelihood; and
- the realisation of contingent liabilities or assets.

RISKS TO THE BUDGET — OVERVIEW

The revenue and expense estimates and projections are based on a range of economic and other parameters. If the economic outlook were to differ from that presented in the Budget, the revenue and expense estimates and projections would also change. The sensitivity of budget estimates to changes in economic assumptions is discussed in Appendix A of Statement 3.

It is important to note that the Budget revenue forecasts have been prepared during a period of substantial financial and economic uncertainty. As the global recession hits economies around the world, the ultimate severity and duration of overseas and Australian downturns is still uncertain. Budget Statement 2 includes a detailed discussion of uncertainties around the economic outlook. To the extent that further risks to the economic forecasts materialise or the economic outlook turns out to be different for other reasons, their impact will flow through to the forecasts.

In the view of heightened economic risks, there is an increased degree of uncertainty surrounding the revenue forecasts in the Budget. Specifically, it should be noted that revenue forecasting necessarily relies heavily on the historical relationships between the economy, tax bases and tax revenues. However, such relationships may shift in the current circumstances, requiring a more than usual degree of caution in their use in predicting future revenues.

In recent years, capital gains tax (CGT) has become an important, though volatile, component of individuals', companies' and superannuation funds' income taxes. The large declines on equity markets during 2008 and early 2009 make for particular difficulties in forecasting CGT at this time. As there is limited information about

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investor behaviour in the current environment, it is more difficult than usual to predict when any gains and losses (even in relation to the movement in equity prices observed to date) may be realised.

Other fiscal risks comprise general developments or specific events that may affect the fiscal outlook. Some developments or events raise the possibility of some fiscal impact. In other cases, the likelihood of a fiscal impact may be reasonably certain, but will not be included in the forward estimates because their timing or magnitude is not known.

Information on fiscal risks takes account of Parliament's decisions and other developments until the close of parliamentary business on 30 April 2009. In general, information on contingent liabilities and assets is based on information provided by Australian Government departments and agencies and is current to 31 March 2009. However, in some cases other dates are used and are noted in the relevant section.

Contingent liabilities and assets are a specific category of fiscal risks. Broadly, they represent possible costs or gains to the Australian Government arising from past events or decisions which will be confirmed or otherwise by the outcome of future events that are not within the Government's ability to control.

Contingent liabilities include loan guarantees, non-loan guarantees, warranties, indemnities, uncalled capital and letters of comfort. These possible costs are in addition to those recognised as liabilities in the consolidated financial statements of the Australian Government general government sector.

Contingent liabilities, contingent assets and other fiscal risks with a possible impact on the forward estimates greater than \$20 million in any one year, or \$40 million over the forward estimates period are listed in this statement. Information on contingent liabilities and contingent assets is also provided in the annual financial statements of departments and non-budget entities.

The main changes to quantifiable contingent liabilities since the *Mid-Year Economic and Fiscal Outlook 2008-09* (MYEFO) are the New Arrangements to Borrow with the International Monetary Fund, the increased uncalled capital subscription in the Asian Development Bank and the new standby loan facility for Indonesia. The main changes to unquantifiable contingent liabilities since the MYEFO are the Australian Business Investment Partnership and the Australian Government guarantee of state and territory borrowing. Table 1 provides a full list of recent changes in fiscal risks.

Table 1: Summary of material changes to Statement of Risks since the 2008-09 Budget and *Mid-Year Economic and Fiscal Outlook 2008-09*^(a)

CONTINGENT LIABILITIES — QUANTIFIABLE	
Defence and Defence Materiel Organisation	
Indemnities	Modified
Environment, Heritage and the Arts	
Potential claims relating to the Great Barrier Reef Marine Park Structural Adjustment Package	Deleted
Finance and Deregulation	
Australian Industry Development Corporation	Modified
Litigation	Modified
Sale of Sydney Airports Corporation Ltd	Modified
Foreign Affairs and Trade	
Export Finance and Insurance Corporation	Modified
Immigration and Citizenship	
Immigration detention services	Modified
Treasury	
Guarantees under the <i>Commonwealth Bank Sale Act 1995</i>	Modified
International financial institutions	Modified
Reserve Bank of Australia — guarantee	Modified
Standby loan facility for the Government of Indonesia	New
CONTINGENT ASSETS — QUANTIFIABLE	
Treasury	
International Monetary Fund allocations of Special Drawing Rights	New
CONTINGENT LIABILITIES — UNQUANTIFIABLE	
Agriculture, Fisheries and Forestry	
Compensation claims arising from equine influenza outbreak	Modified
Exceptional Circumstances assistance for drought-affected farmers	Modified
Attorney-General's	
Native title costs	Modified
Northern Patrol and Response — <i>Ashmore Guardian</i> and <i>Triton</i>	New
Southern Ocean Maritime Patrol and Response Program	Modified
Broadband, Communications and the Digital Economy	
National Broadband Network — Australian Government contribution	New
National Broadband Network Request for Proposals process — panel of experts and strategic adviser indemnities	Modified
New company to roll out and operate the National Broadband Network — interim board members' indemnity	New
Climate Change	
Carbon Pollution Reduction Scheme	Deleted
Defence and Defence Materiel Organisation	
HMAS <i>Melbourne</i> and HMAS <i>Voyager</i> damages claims	Modified
Environment, Heritage and the Arts	
Art Indemnity Australia	Modified
Finance and Deregulation	
Googong Dam	Modified
Telstra 3 BPAY Biller Agreement — indemnities	Deleted
Telstra Sale Company Ltd — indemnities	Deleted
<i>Sharjade v Darwinia</i> — breach of Heads of Agreement between the parties	Modified

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Table 1: Summary of material changes to Statement of Risks since the 2008-09 Budget and *Mid-Year Economic and Fiscal Outlook 2008-09*^(a) (continued)

CONTINGENT LIABILITIES — UNQUANTIFIABLE (continued)	
Health and Ageing	
Guarantee Scheme for aged care accommodation bonds	Modified
Human Services	
Medicare Australia	New
Infrastructure, Transport, Regional Development and Local Government	
Airservices Australia	New
Assumed residual liabilities of the Australian National Railways Commission	Modified
Australian Maritime Safety Authority incident costs	New
Tripartite deed relating to the sale of federal leased airports	Modified
Innovation, Industry, Science and Research	
Liability for damages caused by Kistler space activities	Modified
Treasury	
Australian Business Investment Partnership	New
Car dealer financing — Australian Government guarantee of the OzCar Special Purpose Vehicle	New
Financial Claims Scheme	Modified
Guarantee of deposits in authorised deposit-taking institutions	Modified
Guarantee of wholesale funding of authorised deposit-taking institutions	Modified
Guarantee of state and territory borrowing	New
CONTINGENT ASSETS — UNQUANTIFIABLE	
Finance and Deregulation	
Tidbinbilla	Deleted
Innovation, Industry, Science and Research	
Wireless Local Area Network	Modified

(a) Risks appearing in this Statement but not listed in the table above are substantially unchanged since disclosed in Budget Paper No. 1, *Budget Strategy and Outlook 2008-09*, Statement 8 or in *Mid-Year Economic and Fiscal Outlook 2008-09*, Appendix C.

ECONOMIC AND OTHER PARAMETERS

Changes in economic parameters represent a risk to the expenditure and revenue estimates included in the Budget. As noted earlier, the considerable uncertainty currently surrounding the global economic outlook implies that the degree of risk to the fiscal outlook remains elevated. Appendix A of Statement 3 examines the impact on revenue and expenses of altering some of the key economic assumptions underlying the budget estimates.

FISCAL RISKS

The estimates and projections of revenue are subject to a number of general risks that can affect taxation collections. These general pressures include tax avoidance, court decisions and Australian Taxation Office rulings. These pressures may result in a shift

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in the composition of taxation collected from the various tax bases and/or a change in the size of the tax base.

There are also specific risks to revenue estimates and projections. For example the Australian Government is renegotiating its double tax treaties with several countries. Depending on the negotiated outcomes, changes to these treaties could have positive or negative revenue effects.

There are specific risks to expense estimates and projections. For example, major technological advances in medicines and medical practices may lead to changes to the Medical Benefits Schedule and the Pharmaceutical Benefits Scheme which have in the past resulted in unexpected increases in expenses and may do so again. Also, if the current swine influenza outbreak were to worsen, any Australian Government response to it may result in increased expenses.

Other fiscal risks that may affect expenditure include natural disasters, emergency foreign aid and contingent liabilities and contingent assets.

Contingent liabilities and contingent assets for the Australian Government are listed below. These contingent liabilities include those which arise from legislation guaranteeing certain liabilities of Australian Government controlled financial institutions (the Reserve Bank of Australia and the Export Finance and Insurance Corporation). To help manage these exposures, strategies are in place which aim to ensure the underlying strength and viability of the entities, so that the guarantees are not triggered.

Another class of contingent liability is uncalled capital, which reflects a financial commitment to an institution where no promissory note is issued by the Australian Government. Uncalled capital is primarily associated with international financial institutions such as the International Bank for Reconstruction and Development, the Asian Development Bank, the European Bank for Reconstruction and Development and the Multilateral Investment Guarantee Agency. When promissory notes are issued, such as in the case of the International Monetary Fund, the amounts are recorded in the general government balance sheet, so contingent liabilities (or assets) are not shown for those amounts.

Contingent assets include claims that the Australian Government is pursuing through legal processes, where the outcome is uncertain.

CONTINGENT LIABILITIES — QUANTIFIABLE

Defence and Defence Materiel Organisation

Indemnities

The Department of Defence (Defence) and the Defence Materiel Organisation (DMO) carry an extensive range of indemnities and undertakings, normally of a short-term nature, relating to business, training activities and other activities involving contracts, agreements and other Defence and DMO arrangements. Indemnities issued cover potential losses or damages for which the Australian Government would be liable.

Defence carries one contingency that is unquantifiable and remote and 129 instances of quantifiable contingencies to the value of \$180 million. DMO carries 469 instances of contingencies (including Foreign Military Sales) that are unquantifiable and 57 contingencies that are quantifiable to the value of \$3.0 billion. While these contingencies are considered remote, they have been reported in aggregate for completeness.

Finance and Deregulation

Australian Industry Development Corporation

Under the *Australian Industry Development Corporation Act 1970* certain obligations of the Australian Industry Development Corporation (AIDC) are guaranteed by the Australian Government. As at 30 June 2008 (the latest available estimate), AIDC's contingent liabilities, subject to government guarantee, were approximately \$90 million in respect of the Fairfax Paper Bond Guarantee and credit risk facilities.

Litigation

The Department of Finance and Deregulation is involved in litigation in which a counter-claim for damages has been lodged against the Australian Government. The litigation relates to the Davis Samuel case where Finance is engaged in legal action seeking recovery of funds misappropriated during 1998. The counter-claim is from the parties to whom Finance believes the misappropriated funds were channelled.

It is counsel's advice that the counter-claim is without merit. The counter-claim, which is being vigorously defended by the Government, seeks damages of \$4.3 billion. Hearing of the Government's claim, and the counter-claim, concluded in the ACT Supreme Court in September 2008. Judgment is expected to be delivered in the second half of 2009.

Sale of Sydney Airports Corporation Limited

An indemnity has been provided to Southern Cross Airports Corporation as purchaser of Sydney Airports Corporation Ltd in the event of a liability arising under Chapter 3 of the *Duties Act 1997* (New South Wales) by reason of the sale of shares in Sydney

Airports Corporation Ltd constituting a relevant acquisition in a land-rich private corporation.

The New South Wales Office of State Revenue issued a notice of assessment on 17 November 2006. The Australian Government maintains that there are no grounds for the assessment. Action has been initiated in the NSW Supreme Court to overturn the assessment. The amount disputed is estimated at \$491.6 million as at 31 March 2009.

Foreign Affairs and Trade

Export Finance and Insurance Corporation

The Australian Government guarantees the due payment by the Export Finance and Insurance Corporation (EFIC) of money that is, or may at any time become, payable by EFIC to any body other than the Government. The Government also has in place a \$200 million callable capital facility available to EFIC on request to cover liabilities, losses and claims. As at 31 March 2009, the Government's total contingent liability was \$3.0 billion, comprising EFIC's liabilities to third parties (\$2.1 billion) and EFIC's overseas investments, insurance, contracts of insurance and guarantees (\$0.9 billion).

Immigration and Citizenship

Immigration detention services

A contract with G4S Australia Pty Ltd, previously GSL (Australia) Pty Ltd, commenced on 1 September 2003 to deliver immigration detention services in Australia on behalf of the Australian Government. At that time, the Government agreed to limit G4S' exposure under the liability regime of the contract. While the general contract requires G4S to indemnify the Government for certain claims of losses, the Government has agreed to share the risk. Subject to certain conditions, G4S has been indemnified against claims of losses above a fixed amount to a capped amount. Where claims exceed the cap in any financial year, responsibility for the excess reverts to G4S.

A further limitation of liability has been provided in the contract in relation to loss or damage to Government property or equipment as a result of the actions of detainees. Under the contract, G4S' liability for detainee damage is subject to an annual limit, unless claims of losses exceed an agreed cap.

The original contract was signed with Group 4 Falck Global Solutions Pty Ltd. The company's current name, G4S Australia Pty Ltd, is effective from 5 January 2009.

Infrastructure, Transport, Regional Development and Local Government

Code Management Company — indemnity for the Code of Practice for the Defined Interstate Rail Network

The Code Management Company (CMC) is a company owned by the Australasian Railway Association, whose members include all of Australia's major rail operators and track owners and representatives from smaller companies. The Australian Government has provided an indemnity to CMC against any loss or expense that occurred prior to the transfer of ownership from the Government in relation to the correct use or application of the Code of Practice for the Defined Interstate Rail Network. The Code sets out a national approach to operational and engineering practices, including uniform standards for safe working, train operations and freight loading specifications. The indemnity is limited to an aggregate of \$50 million for a period of six years from the date of transfer of ownership and expires on 15 July 2009.

Treasury

Guarantees under the *Commonwealth Bank Sale Act 1995*

Under the terms of the *Commonwealth Bank Sale Act 1995*, the Australian Government has guaranteed various superannuation and other liabilities amounting to around \$5.3 billion. Of this amount, \$1.8 billion is attributable to liabilities of the Commonwealth Bank of Australia at 31 March 2009 and \$3.6 billion is attributable to liabilities of the Commonwealth Bank Officers' Superannuation Corporation at 31 December 2008.

International financial institutions

As at 30 March 2009 the Australian Government had uncalled capital subscriptions in the International Bank for Reconstruction and Development (US\$2.8 billion – estimated value A\$4.1 billion), the European Bank for Reconstruction and Development (US\$81.7 million plus €77.5 million – estimated value A\$268.2 million), and the Multilateral Investment Guarantee Agency (US\$26.5 million – estimated value A\$38.6 million).

The Government has also had uncalled capital subscriptions in the Asian Development Bank (ADB) since 1966. Australia will contribute additional resources to the ADB as part of its recently announced general capital increase, to assist in supporting countries in the Asia-Pacific region during the global recession and meet the region's ongoing development needs. The paid-in component of Australia's contribution is a measure in this Budget. Australia will also increase its uncalled capital subscription so that it totals US\$8.0 billion (estimated value A\$11.6 billion), which would only be drawn down in the unlikely event that the ADB is unable to meet its financial obligations.

None of these international financial institutions has ever drawn on Australia's uncalled capital subscriptions.

Australia has made a line of credit available to the International Monetary Fund (IMF) under its New Arrangements to Borrow (NAB) since 1998. In line with G-20 Leaders' commitments, Australia will join with other countries to increase its credit line under an expanded NAB. Australia's contribution to the expanded NAB will be by way of a US\$7.0 billion (estimated value A\$10.2 billion) contingent loan. This will help ensure that the IMF has the resources available to maintain stability and support recovery in the global economy. The funds would be drawn upon by the IMF only if needed and would be repaid in full with interest.

Reserve Bank of Australia — guarantee

This contingent liability relates to the Australian Government's guarantee of the liabilities of the Reserve Bank of Australia. It is measured as the Bank's total liabilities excluding capital, reserves and Australian Government deposits. The major component of the Bank's liabilities is notes (that is, currency) on issue. Notes on issue amount to \$48.96 billion as at 18 March 2009 and the total guarantee is \$76.97 billion.

Standby loan facility for the Government of Indonesia

Australia will make up to US\$1 billion (estimated value A\$1.5 billion) available to the Government of Indonesia in the form of a standby loan facility, to be drawn down should Indonesia be unable to raise sufficient funds on global capital markets due to the impact of the global recession. Contributions to the standby loan facility will also be provided by the World Bank, the Asian Development Bank and the Government of Japan. A drawdown from the facility will be dependent on a request from the Indonesian Government and subject to certain criteria being met. Any funds provided will be repaid in full with interest.

CONTINGENT ASSETS — QUANTIFIABLE

Treasury

International Monetary Fund allocations of Special Drawing Rights

G-20 Leaders have agreed to support a general allocation of Special Drawing Rights (SDR) by the International Monetary Fund (IMF) equivalent to US\$250 billion and have called for urgent ratification of an amendment to the IMF's Articles of Agreement to allow a special one-off SDR allocation equivalent to US\$32 billion. Ratification by the United States would bring this amendment into effect. Australia ratified in 2001.

The SDR is an international reserve asset created by the IMF in 1969 to supplement the existing official reserves of member countries. Its value is based on a basket of key international currencies (the US dollar, euro, pound sterling and yen).

Implementation of these measures would inject the equivalent of US\$282 billion into the world economy and increase global liquidity. General SDR allocations are distributed to IMF members in proportion to their quotas in the Fund. Australia's

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share of the allocations would be equivalent to either US\$3.7 billion (estimated value A\$5.4 billion) or US\$4.0 billion (estimated value A\$5.9 billion), depending on timing and the quota distribution used by the IMF.

CONTINGENT LIABILITIES — UNQUANTIFIABLE

Agriculture, Fisheries and Forestry

Compensation claims arising from equine influenza outbreak

The Australian Government may become liable for compensation should the Department of Agriculture, Fisheries and Forestry be found negligent in relation to the recent outbreak of equine influenza.

On 12 June 2008, the Minister for Agriculture, Fisheries and Forestry released the Equine Influenza Inquiry report. Subsequently, a significant number of organisations have indicated their intention to proceed with legal action against the Government. To date 17 claims have been received. The Department of Finance and Administration assumed responsibility for claims under its insurance arrangements with the Department of Agriculture, Fisheries and Forestry.

Exceptional Circumstances assistance for drought-affected farmers

Exceptional Circumstances assistance is available, subject to eligibility criteria, to drought-affected farmers and agriculture-dependent small businesses primarily by way of interest rate subsidies and income support. The estimates assume that there will be no new drought declarations. Further reviews of declarations will occur in 2009-10. A continuation of adverse seasonal conditions or a return to severe drought conditions could result in higher than expected expenses for these forms of assistance. It is not possible to quantify the cost arising from such potential developments as this depends on the intensity, duration and scale of future drought conditions.

Attorney-General's

Indemnities relating to the Air Security Officer program

The Australian Government has entered into indemnity agreements with Australian airlines that agree to allow their aircraft to fly with Air Security Officers on board. The indemnity agreements limit the Government's exposure to a maximum of \$2 billion per incident. The indemnity applies to the extent that any loss is not covered by existing relevant insurance policies held by the airline and only applies where the airline(s) can prove that an action on the part of an Air Security Officer under or in connection with the Air Security Officer program caused a loss.

Native title agreements — access to geospatial data

The Australian Government has entered into agreements with state and territory government bodies and/or their agents to access their geospatial land tenure data. The

data is essential to support the National Native Title Tribunal in achieving its outcome. Under these agreements, the Australian Government provides indemnities against third party claims arising from errors in the data.

Native title costs

The Australian Government has previously offered to assist the States and Territories in meeting certain native title costs pursuant to the *Native Title Act 1993*, including compensation costs. No agreements under this offer have been entered into to date.

Discussions have commenced with the States and Territories on a Native Title National Partnership Agreement as an alternative to the previous offer. Any amounts potentially payable by the Australian Government under this National Partnership Agreement remain subject to negotiation.

The Australian Government's liability under the offer cannot be quantified due to uncertainty about the number and effect of compensable acts, both in the past and in the future, and the value of native title affected by those acts. Similarly, it is not possible to quantify the liability for compensable acts for which the Australian Government may be directly liable.

Northern Patrol and Response — Ashmore Guardian and Triton

The Australian Government has entered into contractual arrangements with Gardline Australia Pty Ltd for the provision of two vessels to strengthen enforcement activities in Australia's northern waters and to patrol and respond to incursions in the Ashmore Reef National Nature Reserve and the Cartier Island Marine Reserve.

The contracts with Gardline Australia contain unquantifiable indemnities relating to the use or other operations of armaments or the presence of the armaments on the vessel. They also contain unquantifiable indemnities relating to damage to any property or injury to any person caused by the apprehended or escorted persons or their vessels.

Southern Ocean Maritime Patrol and Response Program

P&O Maritime Services provides a Civil Charter Vessel to conduct patrols in the Southern Ocean to enable the enforcement of Australian law and the execution of law enforcement action against illegal, unregulated and unreported fishing. This agreement will remain in force until 30 June 2010 with new contractual arrangements for the Southern Ocean Maritime Patrol and Response Program to be negotiated.

The Australian Government's contract with P&O Maritime Services contains unquantifiable indemnities relating to the use or other operations of armaments or the presence of the armaments on the vessel. It also contains unquantifiable indemnities relating to damage to any property or injury to any person caused by the apprehended or escorted persons or their vessels.

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This risk was previously reported as 'Ocean surveillance'.

Broadband, Communications and the Digital Economy

National Broadband Network — Australian Government contribution

The Australian Government will be the majority shareholder in the company established to build and operate the National Broadband Network. The Government expects significant private sector investment in the company, however, the level of this investment is not yet known. An implementation study will examine, among other matters, ways to attract private sector investment in the company. The study will report to the Government in early 2010.

National Broadband Network Request for Proposals process — panel of experts and strategic adviser indemnities

The Australian Government has provided indemnities to the non-Australian Government members of the National Broadband Network (NBN) Panel of Experts, and the Strategic Adviser to the NBN Request for Proposals process, to protect them against civil claims that may arise in the course of performing their duties.

New company to roll out and operate the National Broadband Network — interim board members' indemnity

The Australian Government has provided indemnities to the interim directors of the company established to roll out and operate the National Broadband Network. The indemnity is to protect the interim directors against civil claims that may arise in their capacity as directors of the company.

Climate Change

Kyoto Protocol — emissions target

As a party to the Kyoto Protocol, Australia is required to meet its target level for emissions over the first Commitment Period, 2008-2012. At this stage the best available estimates suggest that Australia is broadly on track to meet the 2008-2012 target. However, given the early stage of the commitment period, it is unclear whether Australia will ultimately report an asset or a liability. Once this information can be more reliably estimated, the Department of Climate Change will account for it accordingly.

Defence and Defence Materiel Organisation

ADI Ltd — officers' and directors' indemnities

Under the sale agreements for ADI Ltd, the Australian Government agreed to indemnify the directors, officers and employees for claims and legal costs associated with assistance related to the sale of the Government's shares in the company. The Government has provided an indemnity to ADI Ltd for uninsured losses relating to specific heads of claims.

ASC Pty Ltd — Australian Government indemnities provided to Electric Boat Corporation under the services agreement

The Department of Defence has entered into a services agreement with Electric Boat Corporation (EBC) and its subsidiary Electric Boat Australia (EBA) to provide technical and commercial support to ASC Pty Ltd as it transitions from being a producer of submarines to an agency for through-life submarine support. EBC/EBA staff commenced at ASC Pty Ltd on 14 October 2002. The initial services agreement ran for three years and the Australian Government has taken up the option to extend the agreement by a further three years. The extension has been incorporated into the Strategic Agreement for Through-Life Support of the Collins Class submarines with ASC Pty Ltd.

Under this agreement, EBC and EBA are provided with a warranty by the Government and ASC Pty Ltd that the Government and ASC Pty Ltd have the right to provide EBC/EBA with confidential and other information. The Government provides an indemnity to EBC and EBA against claims arising from a breach of that warranty.

The Government also indemnifies EBC and EBA against claims exceeding the greater of US\$1 million (estimated value A\$1.5 million) or profit earned by EBC under the agreement that arises from property loss or personal injury resulting from a defect in the operation or performance of a Collins Class submarine, other than caused by unlawful conduct, gross negligence or wilful misconduct of EBC or EBA.

Decontamination of Defence sites

The Department of Defence is currently undertaking a detailed large multi-year project to systematically identify and quantify known decontamination obligations across the Defence estate, in accordance with the Australian Accounting Standards. Of the sites assessed to date only a minimal number require a provision to be recognised, as in most cases the conditions for legal or constructive obligations are not met.

HMAS Melbourne and HMAS Voyager claims

Former crew members of HMAS *Melbourne* instituted legal proceedings against the Australian Government claiming damages for injuries allegedly caused by the HMAS *Voyager* / HMAS *Melbourne* collision on 10 February 1964. Two potential claims remain current. It is not known whether further claims will be made in connection with the collision.

Litigation cases

The Department of Defence is involved in a wide range of litigation and other claims for compensation and/or damages that may result in litigation where the matters have yet to be finalised by negotiation or, where required, litigation. Various claims, the subject of cases that have yet to be heard, are part-heard or are subject to an appeal, await a decision on what (if any) damages and/or costs should be paid to the claimant. The litigated and non-litigated claims include common law liability claims and claims arising from complaints to the Human Rights and Equal Opportunity Commission.

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The litigation includes asbestos claims and claims from injury resulting from the F-111 Deseal/Reseal programs. Claims have been received for damage caused by the use of Defence Practice Areas. At any given point, there are about 400 claims. Presently, they have an estimated value in excess of \$145 million.

Military Superannuation and Benefits Scheme — indemnity

The Military Superannuation and Benefits Scheme (MSBS) provides occupational superannuation benefits for members of the Australian Defence Force. Much of the day-to-day administration associated with the MSBS is conducted by ComSuper. Under the *Military Superannuation and Benefits Act 1991* the actions of ComSuper and its Commissioner are deemed to be those of the Military Superannuation and Benefits Board (MSB Board). The Department of Defence has indemnified the MSB Board for certain specified claims that are made in relation to acts of ComSuper and/or its Commissioner that are not recoverable elsewhere.

Environment, Heritage and the Arts

Art Indemnity Australia

Art Indemnity Australia is a program through which the Australian Government indemnifies cultural objects loaned to exhibitions displayed in Australian museums and galleries. The exact amounts involved will vary with the exchange rate applying at the time any claim is paid for loss or damage to an artwork or heritage object loaned from overseas, and with the extent of any loss or damage.

Most of the Government risk in indemnifying exhibitions is insured through Comcover though uninsurable risk continues to be borne solely by the Government. Planned changes to the program will eliminate the uninsurable risk borne by the Government from 1 July 2010.

Risk assignment under the National Water Initiative

At the 26 March 2008 Council of Australian Governments (COAG) meeting, the Australian Government agreed to take on the States' liabilities under the National Water Initiative risk assignment arrangements for reductions in allocations of water in the Murray-Darling Basin arising from the application of new knowledge. The agreement increases the Australian Government's liability in relation to these reductions in the Murray-Darling Basin.

The Australian Government also has other liabilities under the *Water Act 2007*, which are unchanged as a result of the 26 March 2008 COAG decision.

The Australian Government's liabilities will be mitigated by investment in water efficiency measures and the purchase of water entitlements under the Water for the Future initiatives.

Finance and Deregulation

ASC Pty Ltd (ASC) — directors' indemnities

The Australian Government has indemnified the ASC directors for any claim made against them as a result of complying with ASC's obligations under the Process Agreement between the Electric Boat Corporation (EBC), the Australian Government and ASC.

The Government has indemnified board members of the ASC for any claim against them as a result of complying with ASC's obligations under the Service Agreement between ASC, the Department of Defence, EBC and Electric Boat Australia.

The Government has indemnified board members of ASC for any claim and legal costs arising from the result of the directors' acting in accordance with the Board's Tasks and Responsibilities, as defined under the indemnity.

Australian Government domestic property

The Australian Government domestic property portfolio managed by the Department of Finance and Deregulation has approximately 100 properties. A small number of these have had potential remediation issues identified which are currently the subject of further investigation.

To date none of these properties have had a provision recognised as neither the conditions for legal or constructive obligations have been met, nor is a reliable estimate of the obligation currently possible.

Australian Reward Investment Alliance — immunity and indemnity

The *Superannuation Act 1976*, the *Superannuation Act 1990* and the *Superannuation Act 2005* provide for specific immunities for activities undertaken in good faith by the trustees of the Australian Reward Investment Alliance (ARIA), the Commissioner for Superannuation and staff, delegates of the trustee Board, and members of a Reconsideration Advisory Committee, provided these activities relate to the performance of their functions.

These immunities do not prevent the trustee Board from being subject to any action, liability, claim or demand. Under the Superannuation Acts, other than in cases where the *Superannuation Industry (Supervision) Act 1993* does not so permit, any money that becomes payable by the trustee Board in respect of such actions is to be paid out of the relevant fund. Where such payments are made, an equivalent amount is paid to the fund from the Consolidated Revenue Fund.

Future Fund Board of Guardians — indemnity

The Australian Government has provided the members of the Future Fund Board of Guardians with a Deed of Indemnity. The indemnity is intended to cover liabilities in excess of the Future Fund Board's insurance policies.

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Members of the Future Fund Board are indemnified, to the maximum extent permitted by law, in relation to all official actions. However, similar to members of boards that operate under the *Commonwealth Authorities and Companies Act 1997* (the CAC Act), a member of the Future Fund Board is not indemnified:

- for conduct he or she engages in other than in good faith;
- in respect of any liability owed to the Board; or
- in respect of any act or omission that contravenes one of the civil penalty provisions of the *Future Fund Act 2006*.

Also similar to members of CAC Boards, a member of the Future Fund Board is not indemnified for legal costs incurred by the member in unsuccessfully defending or resisting criminal proceedings, or proceedings against a declaration that the member has breached a civil penalty provision of the Future Fund Act.

The indemnity is financially limited, in broad terms, to the value of the funds under management by the Future Fund Board.

Googong Dam

On 4 September 2008 a 150-year lease for Googong Dam was signed between the Australian Government and the Australian Capital Territory Government. The Australian Government is liable to pay just terms compensation if the terms of the lease are breached by introducing new legislation or changing the *Canberra Water Supply (Googong Dam) Act 1974* in a way that impacts on the rights of the Australian Capital Territory.

The lease includes a requirement for the Australian Government to undertake rectification of easements or any defects in title in relation to Googong Dam. It also gives an indemnity in relation to acts or omissions by the Australian Government. The Australian Government is also responsible for remediation of any contamination it may have caused to the site.

Indemnities relating to other former asset sales, privatisations and IT outsourcing projects

Ongoing indemnities have been given in respect of a range of asset sales, privatisations and IT outsourcing projects that have been conducted by the Department of Finance and Deregulation, and the former Office of Asset Sales and Commercial Support and its predecessors. The probability of an action being made under one of these indemnities diminishes over time. Details of indemnities in respect of the other asset sales and privatisations have been provided in previous budget and Mid-Year Economic and Fiscal Outlook papers, and previous annual reports for Finance and the Office of Asset Sales and Commercial Support.

Indemnities (including the year they were raised) are still current for: ADI Ltd (1998), Australian Airlines (1991), Australian Industry Development Corporation (1996), Australian Multimedia Enterprise (1997), Australian National Rail Commission and National Rail Corporation Ltd (1997 and 2000), Australian River Co Ltd (1999), Australian Submarine Corporation Pty Ltd (2000), Australian Technology Group (1986), ComLand Ltd (2004), Bankstown Airport Limited (2002), Camden Airport Ltd (2002), Commonwealth Accommodation and Catering Services (1988), Commonwealth Bank of Australia (1993 to 1996), Commonwealth Funds Management and Total Risk Management (1996 to 1997), Employment National Ltd (2003), Essendon Airport Ltd (2001), Federal Airports Corporation's Airports (1995 to 1997), Home Loans Insurance Commission Ltd (1996), Health Insurance Commission (2000), Hoxton Park Airport Limited (2002), National Transmission Network (1999), Sydney Airports Corporation Ltd (2001), Telstra (1996, 1999 and 2006), and Wool International (1999). Finance does not currently expect any action to be taken in respect of these indemnities.

Indemnities for the Reserve Bank of Australia and private sector banks

Under agencies' contracts for transactional banking services, the Australian Government has indemnified the Reserve Bank of Australia and contracted private sector banks. These banks are indemnified against loss and damage arising from error or fraud by the agency, or transactions made by the bank with the authority of the agency.

Industrial Waste Commission (IWC) Cleanaway

Following an unsuccessful appeal by the Australian Government against Brambles Holdings Limited seeking declarative relief in relation to a deed of licence between the parties for the IWC Cleanaway site at Lucas Heights, New South Wales, the Government is seeking to resolve a dispute concerning remediation responsibility for the site. The Government's goal is to have the site remediated as soon as practicable with minimal ongoing maintenance costs. Investigations into the nature and extent of contamination, as well as remediation options, are continuing.

Pan Pharmaceuticals

On 14 August 2008, the Australian Government settled a suit brought by Mr Selim against the Therapeutic Goods Administration for the negligent suspension of Pan Pharmaceuticals' registration and the resulting liquidation of the company. Subsequently, other shareholders and creditors of Pan Pharmaceuticals have indicated their intention to bring claims against the Government. The Department of Finance and Deregulation has assumed responsibility for the claims under its insurance arrangements with the Therapeutic Goods Administration.

***Sharjade v Darwinia* — breach of Heads of Agreement between the parties**

The Australian Government has been joined as second defendant in action in the New South Wales Supreme Court that it induced Darwinia to breach a Heads of Agreement in 2000. The agreement relates to land previously owned by the Government at

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Turrumurra, New South Wales, which was sold to Darwinia for construction of a retirement village for former Royal Australian Air Force servicemen.

The case against the Government was dismissed in October 2008. However, the judge found in favour of Sharjade in relation to the first defendant, Darwinia. Sharjade has formally appealed the dismissal and findings against both parties and its appeal submissions were lodged on 17 March 2009. A joint appeal hearing with Darwinia is expected to be heard late in 2009.

Superannuation

On 20 April 2007, the High Court of Australia found against the Australian Government on a claim for negligent misstatement relating to superannuation benefits for a former employee of the Department of the Interior. There is potential for more claims to arise from other former temporary employees who upon their retirement can demonstrate negligent misstatement over their eligibility to join an Australian Government superannuation scheme. The Department of Finance and Deregulation has assumed responsibility for the claims under its insurance arrangements with the relevant agencies or their predecessors.

Foreign Affairs and Trade

Export Finance and Insurance Corporation — board member and senior management indemnities

The Australian Government has provided certain indemnities to the Export Finance and Insurance Corporation (EFIC) board members and senior management to protect against civil claims and legal expenses for unsuccessful criminal claims relating to the implementation of EFIC's alliance/divestment of its short-term export credit insurance business.

Health and Ageing

Australian Red Cross Society — indemnities

The Deed of Agreement between the Australian Red Cross Society (ARCS) and the National Blood Authority (NBA) in relation to the operation of the Australian Red Cross Blood Society (ARCBS) includes certain indemnities and a limit of liability in favour of ARCS. These cover a defined set of potential business, product and employee risks and liabilities arising from the operations of the ARCBS. The indemnities and limitation of liability only operate in the event of the expiry and non-renewal, or the earlier termination, of the Deed of Agreement, and only within a certain scope. They are also subject to appropriate limitations and conditions including in relation to mitigation, contributory fault, and the process of handling relevant claims.

Blood and blood products liability cover

A National Managed Fund (NMF) has been established which pools the liability risks associated with the supply of blood and blood products by the Australian Red Cross

Blood Service (ARCBS) between the Australian Government, the ARCBS and the States and Territories. The NMF is covered by a Memorandum of Understanding (MoU) between the Australian Government, the States and Territories, and the ARCBS. It provides for liabilities incurred by ARCBS where other available mitigation or cover is not available. The MoU provides for the parties to contribute to the NMF taking into account potential claims payments; the level of funds in the NMF and investment earnings; and a prudential allowance for liabilities incurred but not yet the subject of claims. If there are insufficient funds to cover claim costs, the Jurisdictional Blood Committee (JBC) considers a report provided by the National Funds Manager to determine the level of funds required. Each party must contribute funds, as determined by the JBC, in accordance with allocation provisions prevailing at the time. Under the MoU, the blood and blood products liability cover for the ARCBS remains in force until all parties agree to terminate the arrangements from an agreed date.

CSL Ltd

CSL Ltd is indemnified against claims made by individuals who contract specified infections from specified products and against employees contracting asbestos-related injuries. CSL Ltd has unlimited cover for most events that occurred before the sale of CSL Ltd on 1 January 1994, but has more limited cover for a specified range of events that occurred during the operation of the Plasma Fractionation Agreement from 1 January 1994 to 31 December 2004. Where alternative cover was not arranged by CSL Ltd, the Australian Government may have a contingent liability. Given the open-ended nature of some of the indemnities, damages and risk cannot be quantified. No similar indemnities have been given to CSL Ltd in the new Plasma Products Agreement operating from 1 January 2005.

The Government has granted certain indemnities to CSL Ltd against claims made by individuals vaccinated under CSL's clinical trials for the development of a prototype pandemic influenza vaccine.

Guarantee Scheme for aged care accommodation bonds

A Guarantee Scheme has been established through the *Aged Care (Bond Security) Act 2006* and *Aged Care (Bond Security) Levy Act 2006*. Under the Guarantee Scheme, if a provider becomes insolvent or bankrupt and is unable to repay outstanding bond balances to aged care residents, the Australian Government will step in and repay the bond balances owing to each resident. In return, residents will assign their right to the Government to pursue the defaulting provider to recover the accommodation bond money paid out. In the event the Government cannot recover the full amount from the defaulting provider, it may levy all providers holding accommodation bonds to recoup the shortfall. It is not possible to quantify the Australian Government's contingent liability in the event that the Guarantee Scheme is activated. The maximum contingent liability, in the unlikely event that all providers defaulted, is currently \$7.7 billion.

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Indemnity relating to H5N1 vaccine

In December 2006, the Australian Government agreed to grant certain indemnities to manufacturers of H5N1 influenza vaccines to be included in the National Medical Stockpile. These vaccines, to be used in limited situations and only under threat of a pandemic, are considered prototype products which, to date, have not been used more widely than in clinical trials. The Government granted certain indemnities to manufacturers covering possible adverse events that could result from the use of the vaccine.

Indemnity relating to smallpox vaccine

On 12 December 2002, the Australian Government took possession of an initial shipment of 50,000 doses of smallpox vaccine. This vaccine, to be used only in emergency situations, was the only type available for large-scale purchase and was manufactured using older style technology. The Government granted an indemnity to the manufacturer covering possible adverse events that could result from the use of the vaccine.

Medical Indemnity Exceptional Claims Scheme

In May 2003, the Australian Government announced that the Medical Indemnity Exceptional Claims Scheme was to assume liability for 100 per cent of any damages payable against a doctor that exceeds a specified level of cover provided by that doctor's medical indemnity insurer, currently \$20 million. These arrangements will apply to payouts related to either a single large claim or to multiple claims that in aggregate exceed the cover provided by the doctor's medical indemnity insurer, and will apply to claims notified under contracts-based cover since 1 January 2003.

Human Services

Medicare Australia

Proceedings were commenced against Medicare Australia in the Federal Court by Thelma Pty Ltd. Thelma alleges that Medicare Australia is misusing or taking advantage of market power in contravention of section 46 of the *Trade Practices Act 1974*, by offering and enabling health care providers and health insurance providers to use ECLIPSE (Medicare Australia's electronic claiming system) free of charge. Thelma claims to have a substitutable product operating in the same market(s) as ECLIPSE. Thelma has sought relief which, if granted by the Court, would require Medicare Australia to charge a fee for the use of ECLIPSE and to pay damages to Thelma. In its recently amended Statement of Claim, Thelma has estimated its loss and damage (loss of revenue, loss of past opportunity and loss of future opportunity) at in excess of \$65.7 million. Medicare Australia is defending the case.

Immigration and Citizenship

Systems development — liability limit

The Department of Immigration and Citizenship (DIAC) has entered into a contract with IBM Australia for the provision of systems development services for the department. The arrangement facilitates the delivery of the new departmental program Systems for People. DIAC has agreed to limit IBM's liability to an overall maximum of \$150 million for certain causes of action.

Infrastructure, Transport, Regional Development and Local Government

Airservices Australia

On 31 August 2004, the then Minister for Transport and Regional Services, pursuant to section 16 of the *Airservices Act 1995*, gave a direction to Airservices Australia to provide an operating control tower and approach radar control services in certain volumes of airspace. Subsection 16(4) of the Act provides that Airservices Australia may seek reimbursement from the Australian Government for any financial detriment it suffers as a result of complying with a direction. At this time, the quantum or nature of any financial detriment is uncertain, as is the nature of any consequent fiscal risk to the budget.

Assumed residual liabilities of the Australian National Railways Commission

The Australian Government, under Schedule 3 of the *Australian National Railways Commission Sale Act 1997*, assumed the residual liabilities of the Australian National Railways Commission. A writ of summons was filed in the High Court of Australia on 20 August 2004 by a single plaintiff and a statement of claim on behalf of 24 other plaintiffs was filed in the District Court of South Australia on 22 September 2005. The matters have been joined and are to be heard by the District Court of South Australia. The writ seeks unspecified damages for personal injuries as a result of exposure to lead and other particles from trains carrying lead and zinc. The matter is progressing but no hearing date has yet been set.

Australian Maritime Safety Authority incident costs

The Australian Maritime Safety Authority is responsible for the provision of funds necessary to meet the clean-up costs arising from ship-sourced marine pollution and, in all circumstances, is responsible for making appropriate efforts to recover costs of any such incidents. The Australian Government meets costs arising from such incidents that cannot be recovered.

Maritime Industry Finance Company Ltd — board members' indemnity

Indemnities for Maritime Industry Finance Company Ltd (MIFCo) board members have been provided to protect them against civil claims relating to their employment and conduct as directors. MIFCo was placed into voluntary liquidation in November 2006 and was deregistered on 24 April 2008. The indemnity is not time-limited and continues even though MIFCo has been liquidated. Until the

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indemnity agreements are varied or brought to an end, they will remain as contingent and unquantifiable liabilities.

Tripartite deeds relating to the sale of federal leased airports

Tripartite deeds apply to 12 federal leased airports (Adelaide, Alice Springs, Bankstown, Brisbane, Canberra, Gold Coast, Darwin, Launceston, Melbourne, Perth, Sydney and Townsville). The tripartite deeds between the Australian Government, the airport lessee company (ALC) and financiers amend the airport leases to provide for limited step-in rights for financiers in circumstances where the Government terminates the head lease, to enable the financiers to correct the circumstances that triggered such a termination event. The tripartite deeds may require the Government to pay the ALC and financiers the net residual value of the lease if terminated. The Government's contingent liabilities are considered to be unquantifiable and remote.

Innovation, Industry, Science and Research

Australian Nuclear Science and Technology Organisation — indemnity

The Australian Government has indemnified the Australian Nuclear Science and Technology Organisation and its officers from liability that might be incurred from the conduct of activities authorised under the *Australian Nuclear Science and Technology Organisation Act 1987*. This indemnity is additional to commercial insurance covers obtained from the Comcover Insurance Pool and other insurers.

Liability for damages caused by Kistler space activities

In accordance with the United Nations Convention on International Liability for Damage Caused by Space Objects, an agreement was signed in 1998, amended in 1999, between the Department of Industry, Tourism and Resources, Kistler Woomera Pty Ltd and Spaceport Woomera Pty Ltd to support the launching of the K-1 Aerospace Vehicle and satellites into space from Australia. Under the agreement, the Australian Government provides indemnity support to a maximum of US\$1.5 billion (estimated value A\$2.2 billion), indexed for inflation above the level of insurance cover obtained under the requirements of the agreement.

Liability for damages caused by space activities

Under the United Nations Convention on International Liability for Damage Caused by Space Objects, the Australian Government is liable to pay compensation for damage caused to nationals of other countries by space objects launched from, or by, Australia. The Government requires the responsible party for a space activity approved under the *Space Activities Act 1998* to insure against liability for damage to third parties for an amount not less than the maximum probable loss, up to a maximum of \$750 million. Under the Space Activities Act, the Government also accepts liability for damage suffered by Australian nationals, to a maximum value of \$3.0 billion above the insured level.

Resources, Energy and Tourism

Liability for costs incurred in a national liquid fuel emergency

The Australian Government has responsibility for the *Liquid Fuel Emergency Act 1984* which is administered by the Minister for Resources and Energy. In addition, the State and Territory governments have entered into an intergovernmental agreement (IGA) which coordinates the use of the powers under the Act in a national liquid fuel emergency. The IGA contains three areas where the Australian Government may incur expenses in the unlikely event of a national liquid fuel emergency. These relate to the direct costs of managing a liquid fuel emergency, the possibility for the Australian Government to reimburse the State and Territory governments for costs arising from their response to an emergency, and potential compensation to industry from Australian Government directions under the Act.

Snowy Hydro Ltd — directors' indemnities

The Australian Government has, together with the co-shareholder governments of New South Wales and Victoria, indemnified the members of the Board of Snowy Hydro Ltd for liabilities arising from entering into agreements to implement corporatisation of the Snowy Mountains Hydro-Electric Scheme, and from liabilities to Snowy Hydro Ltd at corporatisation. The indemnity will apply to liabilities arising within five years of corporatisation, and for which a claim is notified to the governments within 11 years of the corporatisation date of 28 June 2002.

Snowy Hydro Ltd — water releases

The Australian, New South Wales and Victorian governments have indemnified Snowy Hydro Ltd for liabilities arising from water releases in the Snowy River below Jindabyne Dam, where these releases are in accordance with the water licence and related regulatory arrangements agreed between the three governments. The indemnity will apply to liabilities for which a claim is notified within 20 years from 28 June 2002.

The Australian, New South Wales and Victorian governments will provide financial support to the company, if this is necessary, to avoid the company breaching its loan covenants to fund the cost of civil works required to address a cold-water pollution offence. The undertaking applies for seven years from 28 June 2002.

Treasury

Australian Business Investment Partnership

The Australian Business Investment Partnership (ABIP) is a temporary contingency measure to provide financing for commercial property assets in Australia in situations where finance relating to those assets is not available from commercial providers (other than ABIP), and the assets would otherwise be financially viable.

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ABIP will be initially financed at \$4 billion, with the Australian Government's contribution of \$2 billion matched by a \$0.5 billion contribution from each of Australia's four major domestic banks. This may be extended via the issuance of government guaranteed debt of up to \$26 billion to create up to \$30 billion in financing. Government guaranteed debt will only be required if there is a need for ABIP to provide refinancing for loans beyond the amount of the initial contributions, and it will only be issued if all the members of ABIP agree.

Should ABIP issue government guaranteed debt, the Government will be liable for claims covered by the government guarantee on that debt up to a maximum of \$26 billion, plus any interest payable in relation to the principal debt issued. Any government guaranteed debt issued by ABIP will attract an appropriate fee.

ABIP may enter into financing arrangements within the two-year period beginning on the day the *Australian Business Investment Partnership Act 2009* commences. The term of the arrangements may not exceed three years unless specified by regulation. ABIP is expected to cease operations by 30 June 2014.

Car dealer financing — Australian Government guarantee of the OzCar Special Purpose Vehicle

The Australian Government will guarantee all non AAA-rated securities issued by the OzCar Special Purpose Vehicle (SPV) to facilitate the purchase of those securities by Australia's four major domestic banks.

The guarantee will result in a call being made on the Government by the OzCar SPV Trustee if the assets underlying the guaranteed securities fail to generate sufficient income for the SPV to cover its outlays and any losses from failed car dealerships.

The overall size of the OzCar SPV is expected to be around \$850 million, of which approximately \$550 million will be funded by securities that will attract the government guarantee. The SPV is expected to cease to operate by 30 June 2010.

Financial Claims Scheme

The Australian Government has established a Financial Claims Scheme to provide depositors of authorised deposit-taking institutions and general insurance policyholders with timely access to their funds in the unlikely event of a financial institution failure.

The Early Access Facility for Depositors established under the *Banking Act 1959* provides a mechanism for making payments to depositors under the Government's guarantee of deposits in authorised deposit-taking institutions. The risks of this guarantee are detailed under 'Guarantee of deposits in authorised deposit-taking institutions' below.

From 12 October 2008 deposits up to \$1 million at eligible authorised deposit-taking institutions are eligible for coverage under the Financial Claims Scheme. These arrangements are a temporary measure in light of the global financial crisis and will be reviewed after three years.

As at 31 March 2009, deposits eligible for coverage under the Financial Claims Scheme were estimated to be approximately \$650 billion.

The Policyholder Compensation Facility established under the *Insurance Act 1973* provides a mechanism for making payments to eligible beneficiaries with a valid claim against a failed general insurer. Amounts available to meet payments and administer this facility, in the event of activation, are capped at \$20.1 billion under the legislation.

The expected liability under the Policyholder Compensation Facility is remote and unquantifiable. The likelihood of a collapse that requires the activation of the scheme is low and the payments made under the scheme would be likely to be recovered through the liquidation of the failed institution. If there were a shortfall, a levy would be applied to industry to recover the difference between the amount expended and the amount recovered in the liquidation.

Guarantee of deposits in authorised deposit-taking institutions

The Australian Government has guaranteed eligible deposits in authorised deposit-taking institutions from 12 October 2008.

Deposits up to \$1 million are eligible for coverage under the Financial Claims Scheme. Deposits over \$1 million, and eligible deposits at foreign bank branches, are eligible for coverage under the Guarantee Scheme for Large Deposits and Wholesale Funding for a fee. These arrangements are a temporary measure in light of the global financial crisis and will be reviewed after three years.

The expected liability for deposits under the guarantee scheme is remote and unquantifiable. Australia's financial system is among the strongest and best regulated in the world. Authorised deposit-taking institutions are subject to prudential regulation by the Australian Prudential Regulation Authority in accordance with international standards, which are designed to ensure that financial institutions have the capacity to meet their financial promises. This framework requires institutions to be adequately capitalised and have appropriate risk management systems in place.

Government expenditure would arise under the guarantee only in the unlikely event that an institution failed to meet its obligations with respect to a commitment that was subject to the guarantee and the guarantee was called upon. In such a case, the Government would likely be able to recover any such expenditure through a claim on the relevant institution. The impact on the Government's budget would depend on the extent of the institution's default and its ability to meet the Government's claim.

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As at 1 May 2009, authorised deposit-taking institutions' deposits covered by this guarantee were estimated at \$19.7 billion.

Guarantee of wholesale funding of authorised deposit-taking institutions

The Australian Government has guaranteed eligible wholesale funding of authorised deposit-taking institutions from 12 October 2008. The guarantee facility will be withdrawn when market conditions normalise.

The expected liability under this guarantee is remote and unquantifiable. Australia's financial system is among the strongest and best regulated in the world. Authorised deposit-taking institutions are subject to prudential regulation by the Australian Prudential Regulation Authority in accordance with international standards, which are designed to ensure that financial institutions have the capacity to meet their financial promises. This framework requires institutions to be adequately capitalised and have appropriate risk management systems in place.

Government expenditure would arise under the guarantee only in the unlikely event that an institution failed to meet its obligations with respect to a commitment that was subject to the guarantee and the guarantee was called upon. In such a case, the Government would likely be able to recover any such expenditure through a claim on the relevant institution. The impact on the Government's budget would depend on the extent of the institution's default and its ability to meet the Government's claim.

As at 1 May 2009, authorised deposit-taking institutions' wholesale funding covered by this guarantee was estimated at \$104.1 billion.

Guarantee of state and territory borrowing

The Australian Government announced on 25 March 2009 that it will guarantee state and territory borrowing. The guarantee facility will be withdrawn when market conditions normalise.

The expected liability under this guarantee is remote and unquantifiable. Government expenditure would arise under the guarantee only in the unlikely event that a State or Territory failed to meet its obligations with respect to a commitment that was subject to the guarantee and the guarantee was called upon. In such a case, the Government would likely be able to recover any such expenditure through a claim on the relevant State or Territory at a future date. The impact on the Government's budget would depend upon the extent of the default and the State or Territory's ability to meet the Government's claim.

The guarantee has not yet commenced and as such no state borrowing is currently covered.

Housing Loans Insurance Corporation — guarantee

The Australian Government sold the Housing Loans Insurance Corporation (HLIC) on 12 December 1997 and has assumed all residual contingencies. The contingent liability relates to the HLIC's contracts of mortgage insurance and any borrowings approved by the Treasurer up to the time of sale. The principal amount covered by the guarantee and the balances outstanding are unable to be reliably measured.

Terrorism insurance — commercial cover

The *Terrorism Insurance Act 2003* established a scheme for replacement terrorism insurance covering damage to commercial property including associated business interruption and public liability. The Australian Reinsurance Pool Corporation (ARPC) uses reinsurance premiums paid by insurers to meet its administrative expenses and to build a fund and purchase reinsurance to help meet future claims. The Australian Government guarantees to pay any liabilities of the ARPC, but the Treasurer must declare a reduced payout rate to insured entities if the Government's liability would otherwise exceed \$10 billion.

CONTINGENT ASSETS — UNQUANTIFIABLE

Innovation, Industry, Science and Research

Wireless Local Area Network

The Commonwealth Scientific and Industrial Research Organisation (CSIRO) has settled out of court the current legal proceedings in the United States of America related to a wireless local area network (WLAN) patent which it owns and wishes to license broadly. At this stage, the revenue and costs arising from the settlement are unquantifiable.

