APPENDIX C: STATEMENT OF RISKS

OVERVIEW

Full details of fiscal risks and contingent liabilities are provided in Budget Paper No. 1, *Budget Strategy and Outlook 2010-11*. The following statement updates (where necessary) those fiscal risks and contingent liabilities that have changed since the 2010-11 Budget.

The forward estimates of revenue and expense in the *Mid-Year Economic and Fiscal Outlook 2010-11* (MYEFO) incorporate assumptions and judgements based on information available at the time of publication and are based on a range of economic assumptions and other forecasts and projections.

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

The revenue forecasts reflect the latest economic outlook. To the extent that the outlook changes over time so too will the revenue forecasts. Accordingly, risks identified in the economic outlook will translate through to risks to the revenue forecasts. Large exchange rate movements and the continuing uncertainty in global financial markets mean that the risks to the fiscal outlook remain elevated.

Major taxes such as company and personal tax fluctuate significantly with economic activity. Capital gains tax is particularly volatile and is affected by both the level of gains in asset markets and the timing of when those gains are realised. Resource rent taxes can be expected to move with commodity prices.

The *Pre-Election and Fiscal Outlook 2010* (PEFO) contained information on fiscal risks associated with the National Broadband Network. These risks are unchanged since that time.

DETAILS OF FISCAL RISKS AND CONTINGENT LIABILITIES

New or revised fiscal risks and contingent liabilities with a possible impact on the forward estimates greater than $20 million in any year, or $40 million over the forward estimates period, that have arisen or changed since the 2010-11 Budget are described below and summarised in Table C1.

Information on both contingent assets and contingent liabilities is also provided in the annual financial statements of departments, agencies and non-budget entities.

Table C1: Summary of material changes to the Statement of risks since the 2010-11 Budget

Contingent liabilities — quantifiable	
Defence and Defence Materiel Organisation	
Indemnities and remote contingencies	Modified
Education, Employment and Workplace Relations	
Comcare liability for additional workers' compensation payments	Modified
Finance and Deregulation	
Australian Industry Development Corporation	Deleted
Sale of Sydney Airports Corporation Limited	Modified
Foreign Affairs and Trade	
Export Finance and Insurance Corporation	Modified
Treasury	
Australian Taxation Office — tax disputes	New
International financial institutions — uncalled capital subscriptions	Modified
Reserve Bank of Australia — guarantee	Modified
Standby loan facility for the Government of Indonesia	Modified
Financial Claims Scheme	Deleted
Contingent liabilities — unquantifiable	
Agriculture, Fisheries and Forestry	
Exceptional Circumstances assistance for drought-affected farmers	Modified
Litigation	New
Broadband, Communications and the Digital Economy	
NBN Co Limited — board members indemnity	Modified
Health and Ageing	
CSL Ltd	Modified
Sustainability, Environment, Water, Population and Communities	
Murray-Darling Basin Reform — risk assignment	Modified
Treasury	
Car dealer financing — Australian Government guarantee of the OzCar Special Purpose Vehicle	Deleted
Financial Claims Scheme	Modified
Guarantee of state and territory borrowing	Modified
Guarantee Scheme for Large Deposits and Wholesale Funding	Modified
Housing Loans Insurance Corporation — guarantee	Deleted

Risks appearing in Budget Paper No. 1, *Budget Strategy and Outlook 2010-11*, Statement 8, but not listed in the table above are substantially unchanged.

CONTINGENT LIABILITIES — QUANTIFIABLE

Defence and Defence Materiel Organisation

Indemnities and remote contingencies

Defence carries 8,758 instances of unquantifiable remote contingent liabilities and 129 instances of quantifiable remote contingent liabilities, to the value of $2.9 billion, unchanged from the amount reported in the 2010-11 Budget. The Defence Materiel Organisation carries 525 instances of contingencies (including Foreign Military Sales) that are unquantifiable and 78 contingencies that are quantifiable, to the value of $4.4 billion, down from $5.9 billion reported in the 2010-11 Budget. While these contingencies are considered remote, they have been reported in aggregate for completeness.

Education, Employment and Workplace Relations

Comcare liability for additional workers' compensation payments

Comcare has a quantifiable contingency in respect of future statutory workers' compensation claims for asbestos related diseases amounting to $45.6 million. This contingency relates to a decision in the Federal Court, *Comcare v Etheridge* [2006] Federal Court of Australia Full Court (FCAFC) decision number 27.

Finance and Deregulation

Sale of Sydney Airports Corporation Limited

An indemnity has been provided to Southern Cross Airports Corporation as purchaser of the Sydney Airports Corporation Ltd in the event of a liability arising under Chapter 3 of the *Duties Act 1997* (NSW) 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 $531.9 million as at 30 June 2010.

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 anybody 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 30 September 2010, the Government's total contingent liability was $2.7 billion, up from $2.3 billion at the 2010-11 Budget. This comprises EFIC's liabilities to third parties ($2.2 billion) and EFIC's overseas investment insurance, contracts of insurance and guarantees ($0.5 billion). Of the total contingent liability $0.7 billion is held on the National Interest Account.

Treasury

Australian Taxation Office — tax disputes

At any point in time, the ATO is involved in litigation relating to tax disputes. The outcome of these disputes is uncertain and will be confirmed at a future date through a court ruling or when an agreement is reached.

As at 30 June 2010, the estimated aggregate value of tax in dispute was $6.2 billion.

The decisions in relation to the cases may, in some instances, set precedents creating an additional unquantifiable contingent liability.

International financial institutions — uncalled capital subscriptions

Australia has had uncalled capital subscriptions in the International Bank for Reconstruction and Development (IBRD) since 1947. The Government will contribute additional resources to the IBRD as part of its recently announced general capital increase. G20 Leaders have committed to ensure that the IBRD and other multilateral development banks have sufficient resources to address key development challenges and fulfil their development mandate. The paid-in component of Australia's contribution was a measure in the 2010-11 Budget. As part of this process, Australia will also increase its uncalled capital subscription so that it totals US$3.6 billion (estimated value A$3.7 billion as at 30 September 2010).

Australia has also had uncalled capital subscriptions in the European Bank for Reconstruction and Development (EBRD) since 1991. The Government will increase its uncalled capital subscription to the EBRD towards its recently announced general capital increase so that it totals EUR237.5 million (estimated value A$333.6 million as at 30 September 2010). The financial implications of the paid-in shares received free of charge from this general capital increase were reported as a measure in the Government's Economic Statement in July 2010.

Also, as at 30 September 2010 the Australian Government had uncalled capital subscriptions in the Asian Development Bank of SDR5.8 billion (estimated value A$9.4 billion), and the Multilateral Investment Guarantee Agency of US$26.5 million (estimated value A$27.4 million).

None of these international financial institutions have 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 G20 Leaders' commitments, Australia has agreed to 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 SDR4.4 billion contingent loan (estimated value A$7.1 billion as at 30 September 2010), replacing Australia's existing SDR801.3 million commitment. 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 $49.9 billion, as at 7 October 2010, and the total guarantee is $58.1 billion, up from $57.9 billion as reported in the 2010-11 Budget.

Standby loan facility for the Government of Indonesia

Australia has made up to US$1 billion (estimated value A$1.03 billion, as at 30 September 2010) 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 financial crisis. The facility was announced in December 2008 and will continue to be available until the end of 2010. 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. As at 30 September 2010 Indonesia had not requested any drawdown on the facility. Contributions to the standby loan facility have also been provided by the World Bank, the Asian Development Bank and the Government of Japan.

CONTINGENT LIABILITIES — UNQUANTIFIABLE

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 business primarily by way of interest rate subsidies and income support. The estimates assume that there will be no new drought declarations but that some existing declarations will be extended until June 2012. A continuation of adverse seasonal conditions or a return to severe drought conditions could result in higher-than-expected expense 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.

Litigation

The Australian Government is involved in litigation involving a claim by Rail Equipment Leasing Pty Limited for losses arising from a breach of contract and negligence/negligent misstatement in the course of officers undertaking offshore quarantine pre-inspection services in Denmark in 2006. The potential liability is unquantifiable as the plaintiff has not as yet quantified their alleged loss.

Broadband, Communications and the Digital Economy

NBN Co Limited — board members indemnity

The Australian Government has indemnified the directors of NBN Co Limited in relation to claims arising out of the directors' involvement in the negotiation and entry by NBN Co into the Financial Heads of Agreement with Telstra.

Health and Ageing

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.

The new Australian Fractionation Agreement with CSL Ltd, which operates from 1 January 2010, includes a requirement that the National Blood Authority make a defined payment to CSL Ltd, in certain circumstances only, in the event that the volume of plasma supplied annually to CSL Ltd is less than a specified amount.

Sustainability, Environment, Water, Population and Communities

Murray-Darling Basin Reform — risk assignment

The *Water Act 2007* (the Act) provides the mechanism for defining liabilities and making payments to affected entitlement holders for the Australian Government's share of reductions in water allocations, or in the reliability of water allocations, in the Murray-Darling Basin arising from the Basin Plan prepared under the Act. 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.

The Australian Government has committed to bridge any remaining gap, between the level of water returned to the Basin under existing Water for the Future initiatives and the level required to be returned under the Final Basin Plan, by continuing to buy back water entitlements each year beyond 2014. The Government has provided additional funding of $310 million per annum from 2014-15 for water entitlement purchases. Until the Basin Plan is finalised, the total cost of this commitment is not able to be quantified.

The independent Murray-Darling Basin Authority has released a Guide to the proposed Murray-Darling Basin Plan. There are another 12 months of consultation before the Minister is presented with a Final Murray-Darling Basin Plan. The Final Plan requires ministerial sign off and is subject to the scrutiny of both Houses of Parliament.

Treasury

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 Australian Prudential Regulation Authority (APRA) is responsible for the administration of the Financial Claims Scheme. Under the Financial Claims Scheme any payments to eligible depositors or general insurance policyholders will be made out of APRA's Financial Claims Scheme Special Account.

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 Government announced that, from 12 October 2008, deposits up to $1 million at eligible authorised deposit taking institutions would be eligible for coverage under the Financial Claims Scheme. The $1 million cap will continue until at least October 2011, when it will be reviewed by the Government.

As at 31 July 2010, deposits eligible for coverage under the Financial Claims Scheme were estimated to be approximately $700 billion, compared to $670 billion at 31 March 2010.

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 initially at $20.1 billion under the legislation.

Any payments made under the Financial Claims Scheme would 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 state and territory borrowing

The Australian Government announced on 25 March 2009 that a voluntary, temporary guarantee would be put in place over state and territory borrowing. The guarantee of state and territory borrowing commenced on 24 July 2009.

The guarantee will close to new issuance of guaranteed liabilities on 31 December 2010. Securities covered by the guarantee will continue to be guaranteed until these securities either mature or are bought back and extinguished by the issuer.

The expected liability under the 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.

As at 30 September 2010, the face value of state and territory borrowings covered by the guarantee was $62.0 billion, down from $69.1 billion at 30 June 2010.

Guarantee Scheme for Large Deposits and Wholesale Funding

The Australian Government announced the guarantee of eligible deposits and wholesale funding for authorised deposit taking institutions from 12 October 2008 under the Guarantee Scheme for Large Deposits and Wholesale Funding.

On 7 February 2010, the Government announced the closure of the Guarantee Scheme to new applications on 31 March 2010. Since 31 March 2010, Australian authorised deposit taking institutions have been prohibited from issuing any new guaranteed wholesale funding or accepting new guaranteed deposits above $1 million. Existing guaranteed wholesale funding is guaranteed to maturity. Depositors who covered their balances above $1 million under the Guarantee Scheme can have those funds covered to maturity for term deposits up to five years, or until October 2015 for at call deposits.

The expected liability for deposits under the Guarantee Scheme is remote and unquantifiable. 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 15 October 2010, total liabilities covered by the Guarantee Scheme were estimated at $148.7 billion, down from $161.7 billion at 9 July 2010. This is made up of $4.6 billion (down from $6.6 billion) of large deposits and $144.1 billion (down from $155.1 billion) of wholesale funding.