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, specific contingent liabilities and specific contingent assets that may affect the budget balances.

STATEMENT 8: STATEMENT OF RISKS

The forward estimates of revenue and expenses in the 2012-13 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; particularly global economic developments;
- 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 published in the 2012-13 Budget Papers 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.

Although the Australian economy is forecast to grow at around its trend rate over the forward estimates, a degree of uncertainty continues in global financial markets and will continue to present risks to the forecasts. Moreover, the effects of the earlier economic downturn continue to weigh on tax collections.

To the extent that unanticipated changes in economic circumstances occur, their impact will flow through to government payments and revenue forecasts in particular. For example, over the past year the outlook for economic growth and tax revenue in 2011-12 has weakened due to volatile financial markets, weaker employment and wages growth and softer asset prices.

In addition, revenue forecasting relies heavily on the observed historical relationships between the economy, tax bases and tax revenues. Such relationships may shift as economic conditions change and present a further risk to the estimates. For example, the real and financial dimensions of the deterioration in the global economy and uneven domestic conditions have posed particular challenges in estimating both the quantum and timing of loss utilisation. Losses incurred during the downturn can be carried forward to offset gains or profits as the economy recovers, such that to the extent tax revenue improves it does so with some lag. Further, the structural changes in the economy driven by the mining boom are leading to structural changes in tax bases.

As in previous years, the Budget is subject to a number of contingent liabilities. A large number of these contingent liabilities reflect indemnities, including those relating to the Department of Defence, the Defence Materiel Organisation, the Future Fund Management Agency and Future Fund Board of Guardians, and the Reserve Bank of Australia.

The Government has also issued a number of guarantees, such as those relating to guarantee schemes for the banking and financial sector, payments by the Export Finance and Insurance Corporation and the superannuation liabilities of the Commonwealth Bank prior to its sale to the private sector.

Other significant contingent liabilities relate to uncalled capital subscriptions and credit facilities to international financial institutions and legal cases concerning the Australian Government. The Government continues to have robust and conservative strategies in place to reduce its potential exposure to these contingent liabilities.

There have been several changes to both the quantifiable and unquantifiable risks since the *Mid-Year Economic and Fiscal Outlook 2011-12* (MYEFO). General revaluations of securities and deposits have led to certain risks such as the Guarantee of State and Territory Borrowings and the Financial Claims Scheme being modified. Some new risk items have also arisen since the MYEFO.

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 $50 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.

ECONOMIC AND OTHER PARAMETERS

Changes in economic parameters represent a risk to the expenses and revenue estimates included in the Budget. As noted earlier, the 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

Fiscal risks comprise general developments or specific events that may affect the fiscal outlook. Some developments or events raise the possibility of a 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 the timing or magnitude is not known.

Major taxes such as company and individuals' income taxes 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 may vary quite significantly, particularly with movements in commodity prices and the level of the Australian dollar. Revenue from carbon permit sales for the flexible price period may also vary owing to changes in the world price of carbon permits.

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, Australian Taxation Office rulings and the outcome of compliance programs. 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.

There are also a number of fiscal risks that may affect the expense estimates and projections. For example, major technological advances in medicines and medical practices may lead to changes to the Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme. Other examples of fiscal risks include emergency foreign aid and potential natural disasters. Such occurrences have in the past resulted in unexpected increases in expenses and may do so again. Specific fiscal risks identified for the Budget and forward estimates are detailed below.

The estimates for the Department of Defence include the cost of major overseas operations of the Australian Defence Force in Afghanistan and the Middle East and the Solomon Islands for 2012-13. They also include the cost of the Timor-Leste operation for the period July to December 2012. The forward estimates of expenses do not provide for extensions of currently approved operations beyond 2012-13. Such funding is considered on a year-by-year basis and is subject to future decisions of the Government. This is consistent with past practice.

The Australian Government has supported the Gold Coast's bid to host the 2018 Commonwealth Games through the provision of commitments in areas such as immigration, customs, work permits, taxation, security, protection of commercial rights, and communications and information technology. Costs and timing associated with implementing the commitments are not available at this time.

The Energy Security Council was established as part of the Clean Energy Future package to advise on support measures to address energy security risks. The Council assesses applications for financial assistance in the form of loans for generator owners who need to refinance their debt if finance on reasonable commercial terms is not otherwise available. The Council will also consider applications for loans or other assistance to address systemic risk to energy security in the event of financial distress on the part of an energy market participant. Factors relevant to the realisation of this risk include the circumstances of the generator owners and their ability to access finance from the commercial market.

The Social Security Amendment (Supporting Australian Victims of Terrorism Overseas) Bill 2011 was introduced into Parliament on 24 March 2011. If passed, this legislation would establish a framework for the provision of financial assistance for Australians who are injured overseas as a result of terrorist acts and for close family members of Australians who are killed overseas as a result of terrorist acts. The legislation would enable the Prime Minister to declare that a relevant overseas terrorist incident is one to which the scheme applies. As acts of terrorism are unpredictable, the cost of the scheme is unquantifiable.

CONTINGENT LIABILITIES AND ASSETS

Contingent liabilities and contingent assets of the Australian Government are listed below by portfolio. These 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 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.

In general, information on contingent liabilities and assets is based on information provided by Australian Government departments and entities and is current to 31 March 2012. In some cases, other dates are used and those are noted in the relevant section.

Table 1: Summary of material changes to contingent liabilities and contingent assets in the Statement of Risks since the 2011-12 Budget and the 2011-12 MYEFO(a)

Contingent liabilities — quantifiable	
Broadband, Communications and the Digital Economy	
NBN Co Limited — Equity Agreement	Modified
Telstra Financial Guarantee	Modified
Defence and Defence Materiel Organisation	
Indemnities and remote contingencies	Modified
Finance and Deregulation	
Sale of Sydney Airports Corporation Limited	Modified
Foreign Affairs and Trade	
Export Finance and Insurance Corporation	Modified
Health and Ageing	
Guarantee Scheme for aged care accommodation bonds	Modified
Immigration and Citizenship	
Education Services to Minors in Alternative Places of Detention(b)	Removed
Treasury	
Australian Taxation Office — tax disputes	Modified
International financial institutions — uncalled capital subscriptions	Modified
International Monetary Fund	Modified
Reserve Bank of Australia — guarantee	Modified
Contingent liabilities — unquantifiable	
Agriculture, Fisheries and Forestry	
National Environmental Biosecurity Response Agreement(c)	Removed
Compensation claims arising from suspension of livestock exports to Indonesia	New
Defence and Defence Materiel Organisation	
Indemnities and remote contingencies	Modified
Finance and Deregulation	
Comcover — insurance claims and reinsurance recoveries	Modified
Future Fund Management Agency and Future Fund Board of Guardians — indemnity	Modified
Litigation — Davis Samuel case	Modified
Superannuation(d)	Removed
Health and Ageing	
Legal proceedings against the Professional Services Review impacting on the validity of past Committees	New
Immigration and Citizenship	
Education Services to Minors in Alternative Places of Detention — South Australia	New
Regional Australia, Local Government, Arts and Sport	
National Aboriginal Islander Skills Dance College (NAISDA) — construction works(c)	Removed
Whole-of-Government — 2015 Asian Football Confederation (AFC) Asian Cup — Government Guarantees(e)	Removed
Sustainability, Environment, Water, Population and Communities	
Murray-Darling Basin Reform — risk assignment	Modified

Table 1: Summary of material changes to contingent liabilities and contingent assets in the Statement of Risks since the 2011-12 Budget and the 2011-12 MYEFO[(a)] (continued)

Contingent liabilities — unquantifiable (continued)	
Treasury	
Financial Claims Scheme	Modified
Guarantee of State and Territory Borrowing	Modified
Guarantee Scheme for Large Deposits and Wholesale Funding	Modified
Contingent assets — unquantifiable	
Health and Ageing	
Legal action seeking compensation from Sanofi-Aventis	New

(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 2011-12*, Statement 8 or in the *Mid-Year Economic and Fiscal Outlook 2011-12*, Appendix C.
(b) Memorandum of Understanding surrounding this item expired at the end of the 2011 school year.
(c) This item has fallen below the reporting threshold for the 2012-13 Budget.
(d) This item is now disclosed under Comcover — insurance claims and reinsurance recoveries.
(e) The Government has made a decision in relation to this item and it is no longer classified as a contingent liability.

CONTINGENT LIABILITIES — QUANTIFIABLE

Broadband, Communications and the Digital Economy

NBN Co Limited — Equity Agreement

The Australian Government has entered into an Equity Funding Agreement with NBN Co. The Agreement formalises the Australian Government's intention to provide equity to fund the roll out of the National Broadband Network (NBN), with such funding being conditional on the annual appropriation processes. It also commits the Australian Government, in the event of a termination of the NBN roll out, to provide sufficient funds to NBN Co to meet its direct costs arising from the termination. The NBN Co Equity Agreement terminates in 2021. As at 31 March 2012, NBN Co's termination liabilities were estimated at $1.8 billion.

Telstra Financial Guarantee

The Australian Government has provided a guarantee to Telstra in respect of NBN Co's financial obligations to Telstra under the Definitive Agreements. The Definitive Agreements are long term contracts and, in the case of the infrastructure component, involve terms of at least 35 years. The liabilities under the Definitive Agreements arise progressively during the roll out of the network as infrastructure is accessed and subscribers to Telstra's existing network are disconnected. As at 31 March 2012, NBN Co had generated liabilities covered by the Guarantee estimated at $209 million. The Guarantee will terminate when NBN Co achieves specified credit ratings for a period of two continuous years and either:

- the company is fully capitalised; or

- the Minister for Communications declares, under the *National Broadband Network Companies Act 2011*, that, in his or her opinion, the National Broadband Network should be treated as built and fully operational.

Defence and Defence Materiel Organisation

Indemnities and remote contingencies

As at 31 March 2012, Defence had quantifiable significant remote contingent liabilities with a nominal value of $2.5 billion. These significant remote contingent liabilities are restricted in nature and details are not published because of commercial-in-confidence and/or national security reasons. The Defence Materiel Organisation carries 92 contingencies that are quantifiable, to the value of $3.15 billion. 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 decision number 27.

Finance and Deregulation

Sale of Sydney Airports Corporation Limited

An indemnity was provided to Southern Cross Airports Corporation as the purchaser of the Sydney Airports Corporation Limited (SACL) in the event of a liability arising under Chapter 3 of the *Duties Act 1997* (NSW) by reason of the sale of shares in SACL constituting a relevant acquisition in a land-rich private corporation. The New South Wales (NSW) 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 and action has been initiated in the NSW Supreme Court to overturn the assessment. The amount disputed is estimated at $590.2 million as at 31 March 2012.

Foreign Affairs and Trade

Export Finance and Insurance Corporation

The Australian Government guarantees the due payment of money that is, or may at any time become, payable by the Export Finance and Insurance Corporation (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 31 March 2012, the Government's total contingent liability with EFIC was $3.4 billion, unchanged from the 2011-12 MYEFO. This liability comprises EFIC's liabilities to third parties ($2.7 billion) and EFIC's overseas investment insurance, contracts of insurance and guarantees ($0.7 billion). Of the total $3.4 billion liability, $2.8 billion relates to EFIC's Commercial Account and $0.6 billion relates to the National Interest Account.

Health and Ageing

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 repay the bond balances owing to each resident. In return, the resident's rights to pursue the defaulting provider to recover the accommodation bond money transfers to the Government. 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. On 30 June 2011, the maximum contingent liability, in the very unlikely event that all providers defaulted, was $12.1 billion.

Aged care providers will be required to insure any accommodation bonds that they will hold in respect of care recipients who enter care on or after 1 July 2014.

Treasury

Australian Taxation Office — tax disputes

At any point in time the Australian Taxation Office is involved in a range of dispute resolution processes, including litigation, relating to tax disputes.

Outcomes of dispute resolution processes, including objections, settlements and court and tribunal decisions, are set out in the Commissioner of Taxation's Annual Report each year. In addition, amounts owed by taxpayers that are subject to dispute, including objections and appeals, are also disclosed in the Commissioner of Taxation's Annual Report each year. The estimated aggregate value of tax in dispute is $8.8 billion as at 20 April 2012.

Details of the outcome of dispute resolution processes are uncertain until a court ruling is made and/or an agreement is reached with the taxpayer at some future date. As a result, it is not possible to estimate with any reliability the likely financial impact of current disputes.

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 $4.5 billion as of 31 December 2011. Of this amount, $0.8 billion is attributable to liabilities of the

Commonwealth Bank of Australia and $3.7 billion is attributable to liabilities of the Commonwealth Bank Officers' Superannuation Corporation.

International financial institutions — uncalled capital subscriptions

The Australian Government has held 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 the general capital increase agreed during 2010. The paid-in component of Australia's contribution was a measure in the 2010-11 Budget. As part of this process, Australia will increase its uncalled capital subscription to US$3.6 billion (estimated value A$3.4 billion as at 30 March 2012).

Australia has also held uncalled capital subscriptions in the European Bank for Reconstruction and Development (EBRD) since 1991. The Government increased its uncalled capital subscription (effective 20 April 2011) to the EBRD as part of its 2010 general capital increase so that it totals EUR237.5 million (estimated value A$305.0 million as at 30 March 2012). The financial implications of the paid-in component were reported as a measure in the 2010-11 MYEFO.

The Australian Government also holds uncalled capital subscriptions in the Asian Development Bank of US$7.0 billion (estimated value A$6.8 billion as at 30 March 2012), and the Multilateral Investment Guarantee Agency of US$26.5 million (estimated value A$25.4 million as at 30 March 2012).

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

International Monetary Fund

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 joined with other countries to increase its credit line under an expanded NAB. When the expanded NAB came into effect on 11 March 2011, Australia's NAB credit arrangement increased from SDR801.3 million (an estimated value of A$1.2 billion as at 30 March 2012) to SDR4.4 billion (an estimated value of A$6.5 billion). This is a contingent loan to help ensure that the IMF has the resources available to maintain stability and support recovery in the global economy. As agreed by G20 Finance Ministers and IMF Governors in late 2010, the credit arrangements of all NAB participants, including Australia, will be reduced when the increase in IMF quotas comes into effect. This is likely to occur in 2012-13.

On 20 April 2012, as part of a broad international effort to increase the resources available to the IMF, Australia committed to provide a US$7.0 billion (estimated value A$6.7 billion) contingent bilateral loan to the IMF, subject to domestic legislative processes. The contingent loan would be on terms consistent with separate bilateral loan and note purchase agreements to be concluded between the IMF and all contributing countries. It would be drawn upon by the IMF only if needed to supplement the IMF's quota and NAB resources and would be repaid in full with interest. The increase in the IMF's resources will help ensure that it has the capability to address any potential vulnerability facing the global economy.

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 $53.1 billion as at 28 March 2012, and the total guarantee is $62.0 billion, up from $56.7 billion at the 2011-12 MYEFO.

CONTINGENT LIABILITIES — UNQUANTIFIABLE

Agriculture, Fisheries and Forestry

Compensation claims arising from equine influenza outbreak

The Australian Government may become liable for compensation should it be found negligent in relation to the outbreak of equine influenza in 2007.

On 12 June 2008, the Minister for Agriculture, Fisheries and Forestry released the Equine Influenza Inquiry report. Subsequently, a number of organisations have indicated their intention to proceed with legal action against the Government. To date, 18 claims have been received. Court proceedings have commenced for two of these. The Department of Finance and Deregulation assumed responsibility for claims under its insurance arrangements with the Department of Agriculture, Fisheries and Forestry.

Compensation claims arising from suspension of livestock exports to Indonesia

The Australian Government may become liable for compensation following the decision by the Minister for Agriculture, Fisheries and Forestry to suspend the export of livestock to Indonesia for a period of 1 month in 2011. A potential class action has been received from a law firm on behalf of 21 clients. The Department of Agriculture, Fisheries and Forestry has also received a claim under the Scheme for Compensation for Detriment caused by Defective Administration (CDDA) from a law firm on behalf of three of its clients. The department is working with the Department of Finance and Deregulation, the Australian Government Solicitor and the Attorney-General's Department to progress the claims.

Emergency Animal Disease Response Agreement and Emergency Plant Pest Response Deed

The Australian, State and Territory governments and some peak agricultural industry bodies are parties to cost sharing agreements that specify how responses to emergency animal diseases and plant pest and disease outbreaks will be funded. Under the terms of the agreements, the Commonwealth is typically liable for 50 per cent of total government funding to respond to a disease or pest outbreak and may also provide financial assistance to industry by funding its share of the response. Any funding of industry contributions would subsequently be recovered from the industry, usually by a levy. Potential costs vary based on circumstances and are dependent on outbreaks of animal diseases or plant pests or diseases, the extent of outbreaks, frequency and location.

Attorney-General's

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, which 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* (the NTA), including compensation costs. Consistent with the policy of considering this issue on a case by case basis, a National Partnership Agreement was executed in 2010 between the Commonwealth and Victoria, under which the Commonwealth will provide a contribution towards the settlement of two native title claims. No other agreement under this offer has been entered into to date.

The Australian Government will also be liable for any compensation found to be payable under the NTA in respect of compensable acts for which the Commonwealth is responsible.

The Australian Government's liability in both scenarios cannot be quantified owing to uncertainty about the number and effect of compensable acts and the value of Native Title affected by those acts.

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 and the presence of 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

The Australian Government has entered into a contract to provide a Civil Charter Vessel to conduct patrols in the Southern Ocean and northern waters to undertake law enforcement activities in relation to illegal, unregulated and unreported fishing as well as people smuggling activities. This agreement will remain in force until 30 June 2014. The Australian Government's contract contains unquantifiable indemnities relating to the use or other operations of armaments and ammunition and the presence of armaments and ammunition 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.

Broadband, Communications and the Digital Economy

NBN Co Limited — Board Members' Insolvency Indemnity

The Australian Government has provided each Director of NBN Co with an indemnity against liability as a result of the Government failing to meet its funding obligations to NBN Co. The liabilities covered by this indemnity would be the same as those covered by the NBN Co Equity Agreement, with the exception of any legal expenses incurred by individual Directors arising from this indemnity. The Directors are also indemnified in relation to claims arising out of their involvement in the negotiation and entry by NBN Co into the Financial Heads of Agreement with Telstra.

Optus Financial Guarantee

The Australian Government has provided a guarantee to Optus in respect of NBN Co's financial obligations to Optus under the NBN Co-Optus Agreement, which is subject to satisfying the conditions precedent to the Agreement. That Agreement covers the period of the NBN roll out in Optus Hybrid Fibre Coaxial areas. As at 31 March 2012, the conditions precedent in the NBN Co-Optus Agreement had not been satisfied and the guarantee had therefore, not come into effect.

Termination of the funding agreement with OPEL

Following the termination of its funding agreement with OPEL Network Pty Ltd (OPEL) under the Broadband Connect Infrastructure program, the Commonwealth made provision towards costs incurred by OPEL in producing its Implementation Plan. OPEL was wound up on 13 March 2009. The liquidators of OPEL have indicated that they consider the Australian Government to have a liability with regard to the termination of the funding agreement. As at 31 March 2012, no legal proceedings have been filed.

Climate Change and Energy Efficiency

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. According to the latest projections of emissions over the Commitment Period, Australia is on track to more than meet its 2008-2012 target. Estimates of the likely net balance and value of these permits will be determined when the final reconciliation of Australia's emissions against its commitments is completed in 2015.

Defence and Defence Materiel Organisation

Indemnities and remote contingencies

As at 31 March 2012, Defence had no unquantifiable significant remote contingent liabilities, revised from the 9,985 instances reported in the 2011-12 MYEFO. Defence has recently reviewed its reporting of contingent liabilities and found previously reported liabilities (such as novated leases, fleet management agreements and minor indemnities) to be insignificant and no longer required to be disclosed in the Statement of Risks. The Defence Materiel Organisation carries 460 instances of contingencies (including Foreign Military Sales) that are unquantifiable. While these contingencies are considered remote, they have been reported in aggregate for completeness.

ADI Limited — Officers' and Directors' indemnities

Under the sale agreements for ADI Limited, 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 Australian Government's shares in the company. The Australian Government has provided an indemnity to ADI Limited for uninsured losses relating to specific heads of claims.

Decontamination of Defence sites

Defence has made financial provision for the possible costs to remediate contamination of Defence sites in Australia where a legal or constructive obligation has arisen. Defence has identified other sites where an obligation may exist; the potential costs of these liabilities are unquantifiable.

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 are not able to be finalised by use of negotiation. The litigation includes common law liability claims, including for injury alleged to have resulted from the F-111 Deseal/Reseal programs. A number of claims have also been received for damage caused by the use of a Defence Practice Area. There is also the potential for a number of claims to arise out of reviews into Australian Defence Force and Defence culture.

Finance and Deregulation

ASC Pty Ltd — Directors' indemnities

The Australian Government has provided former directors and one current director of the ASC Pty Ltd (ASC) with indemnities in relation to three matters: for any claim against them as a result of complying with the ASC's obligations under the Process Agreement between the Electric Boat Corporation (EBC), the Australian Government and the ASC; for any claim against them as a result of complying with the ASC's obligations under the Service Level Agreement between the ASC, the Department of Defence, EBC and Electric Boat Australia; and for any claims and legal costs arising from the directors acting in accordance with the Board's tasks and responsibilities, as defined under the indemnity.

Australian Government domestic property

The Australian Government's domestic property portfolio managed by the Department of Finance and Deregulation has approximately 90 properties. A small number of these have had potential remediation issues identified which are currently the subject of further investigation. None of these properties has had a provision recognised as the conditions for neither legal nor constructive obligations have been met, nor is a reliable estimate of the obligation currently possible.

Comcover — insurance claims and reinsurance recoveries

The Department of Finance and Deregulation (Finance) manages Comcover, the Australian Government's general self-insurance fund, which provides related services to Australian Government departments and agencies. Finance's liability for outstanding claims includes the expected future cost of claims notified to Comcover as well as claims incurred but not reported. The provision for claims is subject to inherent uncertainty in the estimation process.

Following from the settlement of claims associated with Pan Pharmaceuticals, Comcover is now in dispute with its reinsurers regarding the amount recoverable through reinsurance arrangements. Comcover has sought legal advice and is pursuing the amount that is considered recoverable.

On 20 April 2007, the High Court of Australia found against the Australian Government on a claim for negligent mis-statement relating to superannuation benefits for a former employee of the then Department of the Interior. There is potential for more claims to arise from other former temporary employees who upon their retirement can demonstrate negligent mis-statement over their eligibility to join an Australian Government superannuation scheme.

Commonwealth Superannuation Corporation — immunity and indemnity

The Governance of Australian Government Superannuation Schemes Act 2011 (the Governance Act) provides for specific immunities for activities undertaken in good faith by directors and delegates of the board of the Commonwealth Superannuation

Corporation (CSC), provided these activities relate to the performance of their functions. These immunities do not prevent CSC from being subject to any action, liability, claim or demand. Under the Governance Act, other than in cases where the *Superannuation Industry (Supervision) Act 1993* or regulations under that Act do not so permit, any money that becomes payable by CSC in respect of the superannuation schemes or funds for which it is responsible, is to be paid out of the relevant superannuation fund or if there is no fund, the Consolidated Revenue Fund (CRF). Amounts paid from a superannuation fund are reimbursed to the fund from the CRF.

Future Fund Management Agency and Future Fund Board of Guardians — indemnity

The Australian Government has provided certain staff members of the Future Fund Management Agency (FFMA) and the members of the Future Fund Board of Guardians (Board members) with Deeds of Indemnity. The indemnities are intended to cover liabilities in excess of the insurance policies of the Future Fund Board and its subsidiary entities and the Agency. Board members are indemnified in relation to the exercise of their powers and performance of their functions as members of the Future Fund Board of Guardians. Agency staff members are indemnified in connection with the performance of functions or the exercise of powers in their capacity as a director or officer of Future Fund Board of Guardians investee companies and/or subsidiaries. Both staff members of the FFMA and Board members are indemnified, to the maximum extent permitted by law.

Agency staff members are not indemnified to the extent they are indemnified by an investee company or a subsidiary or they are paid under a Directors and Officers policy of the investee company or subsidiary or to the extent that they are granted and receive financial assistance under Appendix E of the Legal Services Directions. Both Board members and Agency staff members are not indemnified for conduct they engage in other than in good faith; or in respect of any liability owed to the Board or the Commonwealth; or in respect of any act or omission that contravenes one of the civil penalty provisions of the *Future Fund Act 2006* (the Future Fund Act). Board members and Agency staff are not indemnified for legal costs incurred by them in unsuccessfully defending or resisting criminal proceedings, or proceedings against a declaration that they have 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 of Guardians.

Googong Dam

On 4 September 2008, a 150-year lease for Googong Dam was signed between the Australian Government and the Australian Capital Territory (ACT) 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 ACT. The lease includes a requirement for the Australian Government to undertake rectification of easements or any defects in title in relation to Googong Dam, and remediation of any contamination it may have caused to the site. It also gives an indemnity in relation to acts or omissions by the Australian Government.

Indemnities for the Reserve Bank of Australia and private sector banks

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

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 (Finance), 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 MYEFO papers, and previous annual reports of 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), 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), Housing Loans Insurance Corporation 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). Apart from instances noted elsewhere, Finance does not currently expect any other action to be taken in respect of these indemnities.

Litigation — Davis Samuel case

The Australian Government is subject to a counter-claim for damages in relation to legal action before the Australian Capital Territory Supreme Court. The Australian Government is seeking to recover funds which were misappropriated from the Department of Finance and Deregulation during 1998. The counter claim is subject to sufficient uncertainty that it is not possible to quantify the amount, if any, of the liability. The Department is vigorously defending this counter claim. The hearing concluded in September 2008 and judgment is yet to be handed down.

Foreign Affairs and Trade

Export Finance Insurance Corporation — board member and senior management indemnities

The Australian Government has provided certain indemnities to Export Finance and Insurance Corporation (EFIC) board members and senior management to protect them 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 Medical Association

An agreement is held between the Australian Medical Association, the Australian Government, the Australian Private Hospitals Association Ltd, the Australian Health Insurance Association and Beyond Blue Ltd for participation in, and support of, the Private Mental Health Alliance and for the collection and analysis of a national minimum data set from private, hospital-based psychiatric services. Each party to the agreement has agreed to indemnify each other in respect of any loss, liability, cost, claim or expense, misuse of confidential information, or breach of the *Privacy Act 1988*. Each party's liability to indemnify the other parties will be reduced proportionally to the extent that any unlawful or negligent act or omission of the other parties or their employees or agents contributed to the loss or damage. The indemnity survives the expiration or termination of the agreement.

Australian Red Cross Society — indemnities

Deeds of Agreement between the Australian Red Cross Society (the Red Cross) and the National Blood Authority in relation to the operation of the Australian Red Cross Blood Service and the development of principal manufacturing sites in Sydney and Melbourne include certain indemnities and a limitation of liability in favour of the Red Cross. These cover defined sets of potential business, product and employee risks and liabilities. 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 relating to the operation of the Red Cross or the cessation of funding for the principal sites, 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 between the Australian Government, the Australian Red Cross Blood Service (the Blood Service) and the State and Territory governments which spreads the liability risks associated with the supply of blood and blood products by the Blood Service. The NMF provides for liabilities incurred by the Blood Service where other available mitigation or cover is not available. Under certain conditions, the Australian Government and the State and

Territory governments jointly provide indemnity for the Blood Service through a cost sharing arrangement for claims, both current and potential, regarding personal injury and loss or damage suffered by a recipient of certain blood products. If there are insufficient funds in the NMF to cover claim costs, the Jurisdictional Blood Committee will consider a report provided by the National Funds Manager to determine the level of additional funds required. The Australian Government's share of any additional liability is limited to 63 per cent of any agreed net cost.

CSL Ltd

CSL Ltd (CSL) is indemnified against claims made by individuals who contract specified infections from specified products and against employees contracting asbestos-related injuries. CSL has unlimited cover for most events that occurred before the sale of CSL 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, the Australian Government may have a contingent liability.

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

Indemnities relating to vaccines

The Australian Government has provided an indemnity to the manufacturer of smallpox vaccine held by the Australian Government, covering possible adverse events that could result from the use of the vaccine in an emergency situation. Further, under certain conditions, certain indemnities have been provided to particular manufacturers of pandemic and pre-pandemic influenza vaccines for the supply or future supply of influenza vaccines (including H1N1 and H5N1).

Legal proceedings against the Professional Services Review impacting on the validity of past Committees

On 28 July 2011 the full Federal Court ruled that five Professional Services Review (PSR) committee matters were invalid as a result of the appointment process used to appoint the members. The finding has the potential to extend to a significant proportion of past committee cases. On 10 February 2012, the High Court granted the Commonwealth special leave to appeal the full Federal Court decision.

In addition to the five matters subject to the High Court appeal there are four further PSR matters currently on hold in the full Federal Court pending the decision of the High Court.

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 would apply to payouts either related to a single large claim or to multiple claims that in aggregate exceed the cover provided by the doctor's medical indemnity insurer, and would apply to claims notified under contracts-based cover since 1 January 2003.

Immigration and Citizenship

Education Services to Minors in Alternative Places of Detention — liability limit

South Australia

The Department of Immigration and Citizenship has entered into a formal arrangement with the Government of South Australia (as represented by the South Australian Department of the Premier and Cabinet) by way of an exchange of letters dated 17 December 2010. The letters represent the Government of South Australia's agreement to provide a range of services (such as education, health, police and emergency services) to people in immigration detention in the State of South Australia in advance of signing a Memorandum of Understanding. This agreement is based on the understanding that the Commonwealth indemnifies the State, and its servants or agents engaged in the provision of the services, to the value of $5 million per claim or event, in relation to any damage or loss incurred by the State, arising out of or incidental to the provision of the services. This effectively represents an uncapped liability.

Immigration detention services — liability limits

The Department of Immigration and Citizenship (DIAC) has entered into a contract which commenced on 14 January 2009 with International Health and Medical Services Pty Ltd (IHMS), to deliver health services to people in detention in Australia on behalf of the Australian Government. Under this contract, DIAC has agreed to limit IHMS's liability to DIAC to a maximum of $20.5 million; however, IHMS's liability is unlimited for specific events defined under the contract.

DIAC has also entered into a contract which commenced on 29 June 2009 with Serco Pty Ltd (Serco), to deliver immigration detention services in Australia on behalf of the Australian Government at immigration detention centres. In this contract, DIAC has agreed to limit Serco's liability to DIAC to a maximum of any insurance proceeds recovered by Serco and $75 million. Serco's liability is unlimited for specific events defined under the contract.

DIAC entered into a separate contract which commenced on 11 December 2009 with Serco, to deliver immigration detention services in Australia on behalf of the Australian Government at immigration residential housing, immigration transit accommodation and alternative places of detention. In this contract, DIAC has agreed to limit Serco's liability to DIAC to a maximum of any insurance proceeds recovered by Serco and $17 million. Serco's liability is unlimited for specific events defined under the contract.

Industry, Innovation, Science, Research and Tertiary Education

Australian Nuclear Science and Technology Organisation — indemnity

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

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* (the Act) 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 indexed for inflation. Under the Act, the Government also accepts liability for damage suffered by Australian nationals, to a maximum value of $3.0 billion above the insured level.

Infrastructure and Transport

Australian Maritime Safety Authority incident costs

In the normal course of operations, 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 the costs of any such incidents. The Australian Government meets costs that cannot be recovered from such incidents. It is not possible to estimate the amounts of any eventual payments that may be required in relation to these incident costs.

Maritime Industry Finance Company Limited — board members' indemnity

Indemnities for Maritime Industry Finance Company Limited (MIFCO) board members were provided to protect them against civil claims relating to their employment and conduct as directors. MIFCO was placed into voluntary liquidation on November 2006 and was deregistered on 24 April 2008. The indemnity is not time limited and continues even though the company has been liquidated. Until the 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 relate to applicable federal leased airports. The tripartite deeds between the Australian Government, the airport lessee company (ALC) and financiers amend the airport (head) leases to provide for limited step-in-rights for financiers in circumstances where the Commonwealth terminates the head lease to enable the financiers to correct the circumstances that triggered such a termination event. The tripartite deeds may require the Commonwealth to pay the ALC and financiers compensation as a result of its termination of the (head) lease. The Commonwealth's contingent liabilities are considered to be unquantifiable and remote.

Resources, Energy and Tourism

British atomic test site at Maralinga

The Australian Government is responsible for 14 unlimited indemnities relating to the Maralinga Rehabilitation Project (1995-2000). In November 2009, the Australian Government agreed to the handback of the former nuclear test site at Maralinga to the Maralinga Tjarutja people. Under the terms of the handback, the Australian Government has indemnified the Maralinga Tjarutja people and the South Australian Government in respect of claims arising from test site contamination.

Gorgon liquefied natural gas and carbon dioxide storage project — long-term liability

The Australian and Western Australian governments have agreed to provide an indemnity to the Gorgon Joint Venture Partners (GJV) to indemnify the GJV against independent third-party claims (relating to stored carbon dioxide) under common law following closure of the carbon dioxide sequestration project, and subject to conditions equivalent to those set out in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*. It is proposed that the Western Australian Government will indemnify the GJV, and that the Australian Government will indemnify the Western Australian Government for 80 per cent of any amount determined to be payable under that indemnity. The formal agreement between the Australian and Western Australian governments in relation to the indemnity is expected to be signed in 2012.

Liability for costs incurred in a national liquid fuel emergency

The Australian Government has responsibility for the *Liquid Fuel Emergency Act 1984* (the Act) which is administered by the Minister for Resources and Energy. In addition, the State and Territory governments have entered into an inter-governmental 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 and include the possibility of the Australian Government reimbursing the State and Territory governments for costs arising from their responses, and potential compensation for industry arising from Australian Government directions under the Act.

Snowy Hydro Limited — directors' indemnities

The Australian Government, together with the co-shareholder governments of New South Wales and Victoria, has indemnified the members of the Board of Snowy

Hydro Limited for liabilities arising from entering into agreements to implement corporatisation of the Snowy Mountains Hydro Electric Scheme, and from liabilities to Snowy Hydro Limited at corporatisation. The indemnity applies 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 Limited — water releases

The Australian, New South Wales and Victorian governments have indemnified Snowy Hydro Limited 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 applies to liabilities for which a claim is notified within 20 years from 28 June 2002.

Sustainability, Environment, Water, Population and Communities

Murray-Darling Basin Reform — additional net costs

Under the 3 July 2008 *Intergovernmental Agreement on Murray-Darling Basin Reform* (Reform IGA), the Australian Government agreed that the governments of New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory (Basin States) will not bear additional net costs as a consequence of the reforms agreed between the parties and the implementation of the *Water Act 2007* (the Act). This undertaking ceases on 30 June 2015.

A methodology has been developed for agreement with the Basin States that enables the State and Australian governments to agree on the activities undertaken by a State that are relevant to the implementation of the reforms agreed under the Reform IGA and the implementation of the Act, and to monitor increased or decreased costs and/or revenues.

Murray-Darling Basin Reform — risk assignment

The *Water Act 2007* (the Act) provides a risk assignment mechanism for making payments to any affected entitlement holders for reductions in water allocations, or changes in the reliability of water allocations, because of the Murray-Darling Basin Plan (which is anticipated to be finalised in late 2012). The Commonwealth is taking steps to ensure that there is no such reduction in water allocations as a result of reductions in sustainable diversion limits established in the Basin plan. The steps being taken by the Commonwealth to address this risk include the acquisition of environmental water entitlements equivalent to the Commonwealth's share of the reduction in sustainable diversion limits.

The Government will provide funding of $310 million per annum from 2014-15 to bridge any remaining gap between the level of water returned to the Murray-Darling Basin under existing Water for the Future initiatives, and the level required to be returned under the sustainable diversion limits set in the final Basin Plan. The additional funding will be used to continue buying back water entitlements each year beyond 2014, subject to the availability of water for purchase from willing sellers. This funding has been included in the forward estimates.

The total cost (if any) of the operation of the risk assignment mechanism will depend on water recoveries. The total cost is not able to be quantified until the Basin Plan has been finalised and may not be able to be quantified until significantly after this time when the new sustainable diversion limits come into effect.

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 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 Financial Claims Scheme 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 $1.0 million at eligible authorised deposit-taking institutions would be eligible for coverage under the Financial Claims Scheme. The Government confirmed in December 2010 that the Financial Claims Scheme will be a permanent feature of the Australian financial system. The Government announced in September 2011 that a new cap of $250,000 would replace the $1.0 million cap from 1 February 2012.

As at 29 February 2012, deposits eligible for coverage under the Financial Claims Scheme were estimated to be approximately $623.1 billion, compared to $780.8 billion at 30 June 2011, largely reflecting the change in the eligible deposits cap.

The Financial Claims Scheme established under the *Insurance Act 1973* provides a mechanism for making payments to eligible beneficiaries with a valid claim against a failed general insurer.

In the very unlikely event of a failure, any payments made under the Financial Claims Scheme would be recovered through the liquidation of the failed institution. In the even more unlikely event there was a shortfall, a levy would be applied to industry to recover the difference between the amount expended and the amount recovered in the liquidation. Initial amounts available to meet payments and administer the Financial

Claims Scheme, in the event of activation, are $20.1 billion an institution, under the legislation.

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 and closed 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. Australian 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 Australian 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 31 March 2012, the face value of State and Territory borrowings covered by the guarantee was $33.0 billion, down from $36.8 billion at 30 September 2011.

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 that the Guarantee Scheme would close to new liabilities 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 $1.0 million. Existing guaranteed wholesale funding is guaranteed to maturity. Depositors who covered their balances above $1.0 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 30 March 2012, total liabilities covered by the Guarantee Scheme were estimated at $94.8 billion, down from $117.0 billion at 21 October 2011. This is made up of $3.0 billion (down from $3.2 billion) of large deposits and $91.8 billion (down from $113.8 billion) of long-term wholesale funding. All guaranteed short-term wholesale funding matured in March 2011.

As at 29 February 2012, institutions participating in the Guarantee Scheme had paid fees of $3.4 billion since its inception.

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 $10.0 billion.

CONTINGENT ASSETS — UNQUANTIFIABLE

Health and Ageing

Legal action seeking compensation from Sanofi-Aventis

The Department of Health and Ageing has initiated legal action to seek compensation from Sanofi-Aventis, the original patent owner of clopidogrel (Plavix®), for additional costs to the Pharmaceutical Benefits Scheme (PBS) resulting from a delay in listing a generic version of clopidogrel. Listing a generic form of clopidogrel on the Australian market in 2007 would have triggered an automatic reduction to the price paid by the Government for clopidogrel through the PBS. The first generic version of this medicine was listed in 2010.

Industry, Innovation, Science, Research and Tertiary Education

Wireless Local Area Network

The Commonwealth Scientific and Industrial Research Organisation (CSIRO) is currently involved in legal proceedings in the United States related to a wireless local area network patent which CSIRO owns and wishes to license broadly. The proceedings are additional to proceedings settled by agreement in 2009 and 2012 and are at various phases. If successful, CSIRO expects to receive additional revenue which would exceed the associated legal costs. At this stage, the revenue and costs are unquantifiable.