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 2012-13*. The following statement updates those fiscal risks and contingent liabilities that have changed since the 2012-13 Budget.

The forward estimates of revenue and expenses in the *Mid-Year Economic and Fiscal Outlook 2012-13* (MYEFO) incorporate assumptions and judgments based on the best information available at the time of publication and are based on a range of economic assumptions and other forecasts and projections.

To the extent that unanticipated changes in economic circumstances occur, their impact will flow through to government payments and revenue forecasts.

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.

In addition, revenue forecasting relies heavily on the observed historical relations between the economy, tax bases and tax revenues. Such relations may shift over time as the economy changes, presenting a further risk to the estimates.

The estimates and projections of revenue are subject to a number of general risks that can affect taxation collections. These general pressures include failure of the tax system to keep pace with changes in the business environment, tax avoidance, court decisions and 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.

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 one year, or $50 million over the forward estimates period, that have arisen or changed since the 2012-13 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 2012-13 Budget(a)

Fiscal risks	
Defence and Defence Materiel Organisation	
Major overseas operations of the Australian Defence Force in Afghanistan and the Middle East and the Solomon Islands	Modified
Treasury	
Standby loan facility for the Government of Indonesia	New
Unclaimed Superannuation Monies	New
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
Education, Employment and Workplace Relations	
Comcare liability for additional workers’ compensation payments	Removed
Indemnity provided to the Administrator of the Health Services Union	New
Finance and Deregulation	
Sale of Sydney Airports Corporation Limited	Removed
Foreign Affairs and Trade	
Export Finance and Insurance Corporation	Modified
Health and Ageing	
Guarantee Scheme for aged care accommodation bonds	Modified
Treasury	
Australian Taxation Office — tax disputes	Modified
Guarantees under the *Commonwealth Bank Sale Act 1995*	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	
Compensation claims arising from equine influenza outbreak	Modified
Compensation claims arising from suspension of livestock exports to Indonesia	Modified
Emergency pest and disease response arrangements	Modified
Broadband, Communications and the Digital Economy	
Optus Financial Guarantee	Modified
Termination of the funding agreement with OPEL	Modified
Defence and Defence Materiel Organisation	
Cockatoo Island Dockyard	New
Decontamination of Defence sites	Modified
Indemnities and remote contingencies	Modified
Finance and Deregulation	
ASC Pty Ltd — Directors’ indemnities	Modified
Legal proceedings against the Professional Services Review impacting on the validity of past Committees (b)	Removed
Infrastructure and Transport	
Tripartite deeds relating to the sale of federal leased airports	Modified

Table C1: Summary of material changes to the Statement of risks since the 2012-13 Budget (continued)(a)

Contingent liabilities — unquantifiable (continued)	
Resources, Energy and Tourism	
Gorgon liquefied natural gas and carbon dioxide storage project — long-term liability	Modified
Treasury	
Australian Taxation Office — Constitutional Challenge to the Minerals Resource Rent Tax	New
Financial Claims Scheme	Modified
Guarantee of State and Territory Borrowing	Modified
Guarantee Scheme for Large Deposits and Wholesale Funding	Modified
Contingent asset — unquantifiable	
Health and Ageing	
Legal action seeking compensation from Sanofi-Aventis	Modified
Industry, Innovation, Science, Research and Tertiary Education	
Wireless Local Area Network	Modified

(a) Risks appearing in Budget Paper No. 1, Budget Strategy and Outlook 2012-13, Statement 8, but not listed in the table above are substantially unchanged.
(b) The High Court challenge was won by the Government and retrospective legislation was put in place.

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.

DEFENCE AND DEFENCE MATERIEL ORGANISATION

Major overseas operations of the Australian Defence Force in Afghanistan and the Middle East and the Solomon Islands

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, the Solomon Islands and Timor Leste for 2012-13. 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.

TREASURY

Standby loan facility for the Government of Indonesia

Australia will make up to A$1 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 at reasonable interest rates on global capital markets due to the impact of global financial market volatility. Contributions to the standby loan facility will also be provided by the World Bank, the Asian Development Bank and the Government of

Japan. This facility will be available to Indonesia when the loan agreement between the two countries is signed (expected to occur within the next two months) up to 30 June 2014. 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.

Unclaimed Superannuation Monies

Under the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, the Australian Government requires superannuation funds to transfer certain lost member accounts to the ATO. The Government announced changes to the lost member account provisions in the 2012-13 Mid-Year Economic and Fiscal Outlook which will significantly increase the number and value of lost member accounts being transferred to the ATO. At any point an individual can claim back unclaimed money from the ATO. A significant proportion of this unclaimed superannuation money will be transferred to another superannuation account held by the member. Estimates of these transfers are included in the forward estimates. The ATO has a number of initiatives to reunite members with their lost super accounts, but it is difficult to estimate reliably the amount of lost superannuation monies that will be reclaimed or the timing of when that will occur.

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 Commonwealth's intention to provide equity to fund the roll out of the National Broadband Network, with such funding being conditional on the annual appropriation processes. In addition, it commits the Commonwealth, in the event of a termination of the national broadband network roll out, to provide sufficient funds to NBN Co to meet its direct costs arising from that termination. The NBN Co Equity Agreement terminates in 2021. As at 30 September 2012, NBN Co's termination liabilities were estimated at $2.8 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 30 June 2012, NBN Co has generated liabilities covered by the Guarantee estimated at $210 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 Communications Minister 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 August 2012, Defence had quantifiable significant remote contingent liabilities with a nominal value of $3.0 billion. These significant remote contingent liabilities are restricted in nature and details are not given due to reasons of commercial in confidence and / or national security. The Defence Materiel Organisation carries 69 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.

Education, Employment and Workplace Relations

Indemnity provided to the Administrator of the Health Services Union

The Australian Government has provided the administrator of the Health Services Union with an indemnity associated with his performance as an administrator, pursuant to section 323 of the *Fair Work (Registered Organisations) Act 2009 (Cth).*

The Commonwealth will irrevocably indemnify the indemnified party against any and all demands, claims, suits, actions, liabilities, losses, costs and expenses which may be made or brought against or suffered or incurred by the indemnified party in respect of the indemnified event or as a direct or indirect result of any claim made or purported to be made in respect of the indemnified event as evidenced in writing up to $20.0 million.

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 31 August 2012, the Government's total contingent liability was $3.0 billion, down from $3.4 billion at the 2012-13 Budget. The $3.0 billion contingent liability comprises EFIC's liabilities to third parties ($2.3 billion) and EFIC's overseas investment insurance, contracts of insurance and guarantees ($0.7 billion). Of the total contingent liability, $2.4 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 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.

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, in most cases it is not possible to estimate with any reliability the likely financial impact of current 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 as at 30 June 2012, for which a provision has not been made, is $4.7 billion.

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 $4.8 billion as of 31 August 2012. Of this amount, $0.7 billion is attributable to liabilities of the Commonwealth Bank of Australia and $4.1 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 is contributing additional resources to the IBRD as part of the general capital increase agreed in 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 so that it totals US$3.6 billion (estimated value A$3.5 billion as at 31 August 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 the Bank's 2010 general capital increase so that it totals EUR237.5 million (estimated value A$288.3 million as at 31 August 2012). The financial implications of the paid-in component were reported as a measure in the 2010-11 Mid-Year Economic and Fiscal Outlook (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 31 August 2012), and the Multilateral Investment Guarantee Agency of US$26.5 million (estimated value A$25.7 million as at 31 August 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 has 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 SDR 801.3 million (an estimated value of A$1.2 billion as at 31 August 2012) to SDR 4.4 billion (an estimated value of A$6.4 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 billion (calculated as SDR 4.61 billion, approximately A$6.8 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 $54.4 billion as at 12 September 2012, and the total guarantee is $63.1 billion, up from $62.0 billion at the 2012-13 Budget.

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.

A number of organisations have indicated their intention to proceed with legal action against the Government, with two claims filed in court to date. One claim, filed in New South Wales, has been discontinued. The other, which has commenced in Queensland, may become a class action. The number of potential plaintiffs has not been settled, and therefore no final quantum of damages sought can be calculated. 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 has received correspondence from two law firms indicating potential claims for compensation for alleged losses 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. 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 one of those law firms; however, this cannot be progressed until the question of legal liability has been determined. The Department of Agriculture, Fisheries and Forestry is working with the Department of Finance and Deregulation, the Australian Government Solicitor and the Attorney-General's Department to assess the claims.

Emergency pest and disease response arrangements

National emergency response arrangements for animal, plant and environmental pest and disease outbreaks are largely funded through cost sharing agreements between Australian governments and, where relevant, agricultural industry bodies. 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. Limited funds are provided for the Commonwealth's contribution under emergency response agreements; potential costs vary and are dependent on the extent of outbreaks, frequency and location which are impossible to predict.

The Commonwealth may be further liable in situations where an incursion is not covered by a cost sharing agreement or where the relevant industry body is not party to an agreement. The Commonwealth may also provide financial assistance to an industry party by funding its initial share of the response. These contributions may subsequently be recovered from the industry over a ten-year period, usually by a levy.

Broadband, Communications and the Digital Economy

Optus Financial Guarantee

The Commonwealth has provided a guarantee to Optus of NBN Co's financial obligations to Optus under the Optus HFC Subscriber Agreement. That Agreement extends for the period of the national broadband network roll out in Optus Hybrid Fibre Coaxial (HFC) areas.

Termination of the funding agreement with OPEL

Following the termination of its agreement with OPEL Network Pty Ltd (OPEL) under the Broadband Connect 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 August 2012, no legal proceedings have been filed.

Defence and Defence Materiel Organisation

Cockatoo Island Dockyard

On 13 October 2001, Cockatoo Island Dockyard (CODOCK) commenced proceedings against the Commonwealth (Defence) in the NSW Supreme Court seeking full reimbursement from the Commonwealth for personal injury claims costs incurred by CODOCK after 31 October 1995 in relation to asbestos exposure. Following decisions in the NSW Supreme Court on 17 December 2004 and 4 February 2005, and the NSW Court of Appeal on 23 November 2006, CODOCK was awarded a complete indemnity from the Commonwealth for its uninsured exposure to asbestos damages claims, plus profit of 7.5 per cent.

Decontamination of Defence sites

Defence has made financial provision for the possible costs involved in restoring, decontaminating and decommissioning Defence sites in Australia where a legal or constructive obligation has arisen. For those decontaminating and decommissioning Defence sites for which legal or constructive obligations have not been identified, the potential costs have not been assessed and are unquantifiable.

Indemnities and remote contingencies

The Defence Materiel Organisation carries 448 instances of contingencies (including Foreign Military Sales) that are unquantifiable. While these contingencies are considered remote, they have been reported in aggregate for completeness.

Finance and Deregulation

ASC Pty Ltd — Directors' indemnities

The Australian Government has provided former directors 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.

Infrastructure and Transport

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 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 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

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 2012-13.

Treasury

Australian Taxation Office — Constitutional Challenge to the Minerals Resource Rent Tax

On 22 June 2012, Fortescue Metals Group Ltd and related companies filed an action in the High Court challenging the constitutional validity of the Australian Government's Minerals Resource Rent Tax (MRRT). The MRRT, which applies to the extraction of Australian coal and iron ore and which commenced operation on 1 July 2012, is estimated to raise $9.1 billion over the period 2012-13 to 2015-16. The Commonwealth defence was filed on 12 September 2012, and the case is likely to be heard late in the first half of 2013.

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 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 cap of $250,000 would replace the previous $1 million cap from 1 February 2012.

As at 31 August 2012, deposits eligible for coverage under the Financial Claims Scheme were estimated to be approximately $646.5 billion, compared to $623.1 billion at 29 February 2012, reflecting the increase in eligible deposits held. 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 per 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 July 2012, the face value of state and territory borrowings covered by the guarantee was $31.7 billion, down from $33.0 billion at 31 March 2012.

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 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 31 August 2012, total liabilities covered by the Guarantee Scheme were estimated at $86.4 billion, down from $94.8 billion at 30 March 2012. This is made up of $3.0 billion of large deposits and $83.4 billion (down from $91.8 billion) of long-term wholesale funding. All guaranteed short-term wholesale funding matured in March 2011.

As at 31 July 2012, institutions participating in the Guarantee Scheme had paid fees of $3.8 billion since its inception.

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 2008 would have triggered an automatic reduction to the price paid by the Government for clopidogrel through the PBS and is likely to have resulted in a Price Disclosure reduction in 2010. The first generic version of this medicine was listed in 2010 and the first Price Disclosure reduction occurred in 2012.

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 (WLAN) patent which CSIRO owns and wishes to license broadly. The proceedings are additional to proceedings settled by agreement in 2009, 2010 and 2012 and are at various phases. If successful, CSIRO expects to receive additional revenue that would exceed the associated legal costs. At this stage, the revenue and costs are unquantifiable.