

APPENDIX D: STATEMENT OF RISKS

OVERVIEW

Full details of fiscal risks and contingent liabilities are provided in Budget Paper No. 1, *Budget Strategy and Outlook 2005-06*. The following statement updates (where necessary) those fiscal risks and contingent liabilities that have changed since the 2005-06 Budget.

The forward estimates of revenue and expenses in the *Mid-Year Economic and Fiscal Outlook 2005-06* incorporate assumptions and judgements based on information available at the time of publication.

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 \$40 million over the forward estimates period, that have arisen or changed since the 2005-06 Budget are described below and summarised in Table D1.

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

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Table D1: Summary of changes to Statement of Risks since 2005-06 Budget

FISCAL RISKS — REVENUE	
Treasury	
General interest charge on Australian Taxation Office audit amendments affecting pre-2000 assessments	New
FISCAL RISKS — EXPENSES	
Finance and Administration	
Asset sales — Telstra	Modified
CONTINGENT LIABILITIES — QUANTIFIABLE	
Communications, Information Technology and the Arts	
Litigation	New
Defence	
Guarantees	Modified
Finance and Administration	
Australian Industry Development Corporation	Modified
Foreign Affairs and Trade	
Export Finance and Insurance Corporation	Modified
Immigration and Multicultural and Indigenous Affairs	
Separation of Aboriginal children from their families in the Northern Territory	Deleted
Transport and Regional Services	
Maritime industry reform	Modified
Code Management Company — indemnity for the Code of Practice for the Defined Interstate Rail Network	New
Treasury	
Reserve Bank of Australia guarantee	Modified
CONTINGENT LIABILITIES — UNQUANTIFIABLE	
Attorney-General's	
Integrated Cargo System	New
Defence	
HMAS Westralia indemnity	New
Sale of ADI Ltd	New
ASC Pty Ltd — Australian Government indemnities provided to Electric Boat Corporation under the services agreement	Modified
Decontamination of Defence sites	New
Industry, Tourism and Resources	
Litigation	Deleted
Transport and Regional Services	
Assumed residual liabilities of the Australian National Railways Commission	New
Deep vein thrombosis action	Deleted

Note: Risks not appearing in this Statement are substantially unchanged since disclosed in Budget Paper No. 1, *Budget Strategy and Outlook 2005-06*, Statement 11.

FISCAL RISKS — REVENUE

Treasury

General interest charge on Australian Taxation Office audit amendments affecting pre-2000 assessments

Towards the end of 2004-05, the Australian Taxation Office (ATO) was made aware of an error in the procedure for calculation of General Interest Charge (GIC) in respect of amended assessments relating to periods prior to 2000. The ATO's business systems were designed to apply GIC to the total debt outstanding at the date GIC took effect, which included interest amounts incurred under the previous interest regime. In resolving a taxpayer complaint, the ATO reviewed the basis of the underlying design and concluded that GIC should not apply to the previous interest amounts. As a result, some taxpayers may have been overcharged GIC. The ATO is currently examining the affected taxpayer accounts to determine what adjustments are required in light of subsequent remission and settlement activity which may have affected the accounts.

FISCAL RISKS — EXPENSES

Finance and Administration

Asset sales — Telstra

The forward estimates include the effect of the sale of the Australian Government's shareholding in Telstra, noting that the level of proceeds will depend, inter alia, on the prevailing levels of world equity markets at the time of sale. A decision by the Government on the nature and timing of a sale will not be made until the first quarter of 2006 and will be conditional on achieving an appropriate return to the taxpayer.

CONTINGENT LIABILITIES — QUANTIFIABLE

Communications, Information Technology and the Arts

Litigation

On 28 November 2005, proceedings were commenced in the Western Australia Supreme Court against the Australian Government (as one of two defendants) in which the plaintiff alleges that the Australian Government and the second defendant owe a debt of \$5.4 billion to a third party. The Australian Government is currently obtaining legal advice in relation to this matter. Similar proceedings commenced by the plaintiff in the New South Wales Supreme Court were dismissed by the New South Wales Supreme Court on 3 November 2005.

Defence

Guarantees

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

There are 344 instances of contingencies that are unquantifiable and 184 instances of quantifiable contingencies to the value of \$4.7 billion. While these contingencies are considered remote, they have been reported in aggregate for completeness.

Finance and Administration

Australian Industry Development Corporation

Under the *Australian Industry Development Corporation Act 1970* certain obligations of the Australian Industry Development Corporation (AIDC) are guaranteed by the Australian Government. As at 30 June 2005, AIDC's contingent liabilities, subject to Australian Government guarantee, were approximately \$126 million in respect of guarantees and credit risk facilities.

In addition, AIDC had outstanding Australian Government guaranteed borrowings which totalled approximately \$340.8 million as at the most current valuation of 30 June 2005. These borrowing obligations have been matched by AIDC's holdings of Australian Government guaranteed securities of similar value, largely eliminating the Australian Government's guarantee exposure. These securities were purchased on market by UBS Warburg and paid to AIDC as consideration for UBS Warburg's purchase of AIDC Limited's (a subsidiary of AIDC) financial assets. UBS AG, the international parent company that has taken over from UBS Warburg, manages this borrowing portfolio on behalf of AIDC. The UBS AG arrangement also provides a guarantee to cover any cash flow differences between the interest rate and maturity profiles of the matched borrowings and securities, together with any exchange rate movements in the borrowings. The Australian Government's contingent exposure to these borrowings is therefore negligible and is consequently recorded as zero.

Foreign Affairs and Trade

Export Finance and Insurance Corporation

The Australian Government guarantees the due payment by Export Finance and Insurance Corporation (EFIC) of money that is, or may at any time become, payable by EFIC to any body other than the Australian Government. The Australian Government also has in place a \$200 million callable capital facility available to EFIC on request to cover liabilities, losses and claims. As at 30 September 2005, the Australian Government's total contingent liability was \$3.1 billion, comprising EFIC's liabilities to

third parties (\$2.5 billion) and EFIC's overseas investments insurance, contracts of insurance and guarantees (\$609 million).

Transport and Regional Services

Maritime industry reform

On 18 August 1998, the Australian Government provided a guarantee to cover borrowings made by the Maritime Industry Finance Company Limited to finance redundancy-related payments in the stevedoring and maritime industries. Outstanding borrowings covered by the guarantee are \$99.9 million as at 30 September 2005.

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

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

Treasury

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 are notes (that is, currency) on issue. Currently, notes on issue amount to \$36.6 billion and the total guarantee is \$48.9 billion.

CONTINGENT LIABILITIES — UNQUANTIFIABLE

Attorney-General's

Integrated Cargo System

In October 2005 the Australian Customs Service (Customs) implemented a new Integrated Cargo System for imports. Subsequent technical and business issues resulted in the delayed movement of some cargo. Customs have received claims for reimbursement of costs incurred by some importers in relation to the implementation

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of the new system. The extent of any potential liability cannot be quantified at this stage.

Defence

ADI Limited — HMAS Westralia indemnity

The Department of Defence is subject to claims by ADI Ltd for the indemnity for uninsurable losses relating to the fire on *HMAS Westralia*. This claim is under the 1999 deed of indemnity given by the Australian Government to ADI.

Sale of ADI Limited

ADI Group Pty Ltd has initiated litigation in relation to the alleged non-disclosure issues associated with the sale of ADI Ltd by the Australian Government. A claim for damages by the purchasers was lodged in October 2005.

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

In early October 2002, the Department of Defence entered into a services agreement with Electric Boat Corporation (EB) and its subsidiary Electric Boat Australia (EBA) to provide technical and commercial support to ASC Pty Ltd as it transitioned from being a producer of submarines to an agency for through-life support. EB/EBA staff commenced at ASC Pty Ltd on 14 October 2002. The initial services agreement ran for three years and the Australian Government has taken up the option to extend the agreement by a further three years.

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

The Australian Government also indemnified EB and EBA against claims arising from property loss or personal injury resulting from a defect in the operation or performance of the Collins Class submarine, other than caused by unlawful conduct, gross negligence or wilful misconduct of EB or EBA, against claims exceeding the greater of US\$1 million or profit earned by EB under the agreement.

Decontamination of Defence sites

The Department of Defence is currently quantifying its total land, buildings and infrastructure decontamination liabilities. Where a decontamination liability can be reliably quantified, a provision is created in the accounts. However, there are a significant number of contaminated sites where the estimated decontamination costs have not yet been quantified, or cannot be quantified.

Transport and Regional Services

Assumed residual liabilities of the Australian National Railways Commission

The Australian Government under Schedule 3 of the Australian National Railways Commission Sale Act of 1997 assumed the residual liabilities of the Australian National Railways Commission. A writ of summons has been filed in the High Court of Australia and a statement of claim on behalf of 24 other plaintiffs has been filed in the District Court of South Australian seeking unspecified damages for personal injuries as a result of exposure to lead and other particles from trains carrying lead and zinc ore.

