

## **APPENDIX D: STATEMENT OF RISKS**

### **OVERVIEW**

Full details and explanations of fiscal risks and contingent liabilities are provided in Statement 11 of Budget Paper No. 1, *Budget Strategy and Outlook 2004-05*. The following statement updates, where necessary, those fiscal risks and contingent liabilities that have arisen or changed since the 2004-05 Budget.

The forward estimates of revenue and expenses in the PEFO 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 2004-05 Budget are listed below.

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

### **FISCAL RISKS — REVENUE**

There have been no significant changes to the revenue risks disclosed at page 11-4 of Budget Paper No. 1.

### **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 and that the timing of the sale could be adjusted if market levels are considered unlikely to provide an appropriate return to taxpayers. The sale is conditional on the Government being satisfied that arrangements are in place to deliver adequate telecommunications services, particularly in rural and regional Australia. With the response to the Regional Telecommunications Inquiry, the Government has indicated that it considers that this condition is met. The sale is also dependent on the passage of legislation through the Parliament.

## **Health and Ageing**

### **Medicare Benefits Schedule and Pharmaceutical Benefits Scheme**

From time to time items are added to or removed from the Medicare Benefits Schedule and Pharmaceutical Benefits Scheme schedules following independent assessments of cost effectiveness. Major new developments in and increasing costs of medicines or medical procedures could result in increases in expenses that exceed the provision in the forward estimates. Similarly, significant shifts in usage patterns for medical services, particular drugs or groups of drugs could increase or decrease expenses relative to the provision in the forward estimates. It is not possible to quantify the fiscal risk arising from such potential developments.

## **Transport and Regional Services**

### **Airservices Australia**

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

## **CONTINGENT LIABILITIES — QUANTIFIABLE**

### **Defence**

#### **Other guarantees**

Defence carries 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 activities. Indemnities issued cover potential losses or damages for which the Australian Government would be liable.

There are 78 instances of contingencies that are either unquantifiable or uncapped, and 79 instances of quantifiable contingencies to the value of \$2.286 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 2004, 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 \$994 million as at the most current valuation of 30 June 2004. 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 (EFIC)**

The Australian Government guarantees the due payments by 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 31 July 2004, the Australian Government's total contingent liability was \$3.7 billion, comprising EFIC's liabilities to third parties (\$3.1 billion) and EFIC's contracts of insurance and guarantees (\$598 million). The National Interest Account accounted for \$2.1 billion of these liabilities.

## **Treasury**

### **Guarantees under the *Commonwealth Bank Sale Act 1995***

Under the terms of the *Commonwealth Bank Sale Act 1995*, the Australian Government has guaranteed various liabilities of the Commonwealth Bank of Australia (CBA), the Commonwealth Bank Officers' Superannuation Corporation (CBOSC) and the Commonwealth Development Bank.

The guarantee for the CBA relates to both on- and off-balance sheet liabilities. Of the existing contingent liability, 32 per cent involves off-balance sheet liabilities. As at 30 June 2004, the balance of the guarantee was \$9.3 billion, an increase of \$221 million from 31 December 2003. This increase reflects exchange rate movements, as a proportion of the liability is denominated in foreign currency.

The guarantee for CBOSC covers the due payments of any amount that is payable to or from the CBA Officers' Superannuation Fund ('the Fund'), by CBOSC or by the CBA,

in respect of a person who was a member, retired member or beneficiary of the Fund immediately before 19 July 1996. Total accrued benefits at 31 March 2004 have been valued at \$3.5 billion. The outstanding value subject to the guarantee is estimated to be \$3.5 billion.

As of 1 July 1996, the Commonwealth Development Bank ceased to write new business and no additional liabilities are being incurred. The contingent liability has now been extinguished with the retirement of all loans and exposures. As at 31 December 2003 the balance of the guarantee had been \$18.3 million.

#### **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. As at 31 August 2004, notes on issue totalled \$34.3 billion. In total, the guarantee was \$42.7 billion as at 31 August 2004.

#### **Uncalled capital subscriptions — international financial institutions**

This contingent liability relates to the value of the uncalled portion of the Australian Government's shares as at 31 August 2004 in the International Bank for Reconstruction and Development (US\$2.8 billion — estimated value A\$4.0 billion), the Asian Development Bank (US\$2.4 billion — estimated value A\$3.5 billion), the European Bank for Reconstruction and Development (US\$81.7 million plus EUR77.5 million — estimated value A\$250.0 million), and the Multilateral Investment Guarantee Agency (US\$26.5 million — estimated value A\$37.7 million).

### **CONTINGENT LIABILITIES — UNQUANTIFIABLE**

#### **Attorney-General's**

##### **Southern Ocean Surveillance**

The Australian Government will enter into new contractual arrangements for the provision of maritime charter services until June 2006 to facilitate the Australian Customs Service and the Department of Agriculture, Fisheries and Forestry armed patrols of Australia's exclusive economic zone in the Southern Ocean.

In relation to these patrols the Australian Government will indemnify the charter provider against certain claims arising from the discharge of firearms or munitions, or where a steaming party is deployed to crew a seized vessel back to an Australian port.

## **Finance and Administration**

### **ComLand Limited — site contamination**

Footscray Land Limited is indemnified until 31 December 2019 in respect of certain contamination claims exceeding \$7.5 million in aggregate at its Edgewater (Maribyrnong) site. St Marys Land Limited is indemnified until 31 December 2024 in respect of certain contamination claims and costs exceeding \$25.0 million in aggregate at its St Marys (western Sydney) site.

### **ComLand Limited — directors' indemnities**

An indemnity has been provided to the former directors of ComLand Ltd and to ComLand's General Manager and DBYB Pty Ltd, to indemnify them against liabilities incurred in respect of assistance provided to the Australian Government during the ComLand scoping study and subsequent sale process. The indemnity, relating to the assistance provided in the period between 1 July 2002 and the completion of the ComLand sale process, is ongoing.

### **Members of Parliament Staff Employee Entitlements**

Following a decision in July 2004 by the NSW Chief Magistrate, the Department of Finance and Administration has an unquantifiable contingent liability relating to Members of Parliament Staff employed under *The Members of Parliament Staff Act 1984* in relation to payment in lieu of notice and payment in lieu of long service leave, where such an entitlement exists. The Department is reviewing the impact of legal advice on individual circumstances.

## **Health and Ageing**

### **Medical Indemnity Exceptional Claims Scheme**

In May 2003 the Prime Minister announced the Medical Indemnity Exceptional Claims Scheme 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 (MII), currently \$20 million. These arrangements will apply to payouts related to either a single large claim or to multiple claims that in aggregate exceed the cover provided by the doctor's MII, and will apply to claims notified under contracts-based cover since 1 January 2003.

## **Immigration and Multicultural and Indigenous Affairs**

### **Claim of unlawful detention on Nauru**

On 16 December 2003, 325 plaintiffs claiming to be detained on Nauru commenced an action in the Supreme Court of Victoria. The claim alleges that the plaintiffs have been detained at the request of, or by agents of, the Australian Government, and that the detention amounts to false imprisonment. The plaintiffs seek a declaration that they have been falsely imprisoned by the Australian Government, an injunction to restrain

the Australian Government or its agents from continuing to detain the plaintiffs, and damages. The case has not yet been listed for hearing.