MAKING TRANSPARENCY TRANSPARENT:

AN AUSTRALIAN ASSESSMENT

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PREFACE

Analyses of the international financial crises of recent years have highlighted the need for improvements in many aspects of the way in which economies operate. One of the key improvements identified is that of enhanced 'transparency and accountability'.

By enhanced 'transparency and accountability', we mean improving the range, relevance, reliability, comparability and understandability of information — information generated by governments and all market participants — and how that information is used by the various players in pursuing their individual objectives.

The better the information available to government and market participants, the more soundly based can be their policies and decisions, helping make economies less vulnerable to shocks, panics or imbalances. Experience has shown that transparency is needed across all areas of government and the private economy.

The issues involved here range from the way in which information is created, how it is collated and published and the many codes and standards that guide both public and private use of the information.

This paper is a progress report on how well Australia measures up in being transparent and accountable about its performance in respect of a wide range of such 'best practice' codes.

INTRODUCTION

In April 1998, the G22[1] formed three working groups to examine issues relating to the stability of the international financial system. One group considered the contribution transparency and accountability could make to improving economic performance.

Improved transparency contributes to a more efficient allocation of resources by: ensuring market participants have sufficient information to identify risks; informing market expectations; contributing to the effectiveness of announced policies; and ultimately enhancing the stability of financial markets by assisting in the prevention of a build up of financial and economic imbalances.

The Working Group's October 1998 report noted that improvements in transparency depend on the implementation of internationally recognised disclosure standards, for which the economic benefits of transparency provided the strongest incentive. The incentive for compliance would be strengthened through monitoring or independent assessment of an economy's observance of recognised disclosure standards, including through publication of a transparency report.

The Working Group recommended that the International Monetary Fund (IMF), in the context of its Article IV consultations, prepare transparency reports for economies summarising the degree to which the economy meets internationally recognised disclosure standards.

In their communiqué of 30 October 1998, the G7 Finance Ministers and Central Bank Governors called upon all countries which participate in global capital markets to commit to comply with a set of

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1 In response to the crisis in Asia, Finance Ministers and Central Bank Governors from 22 systemically significant economies met in Washington D.C. to examine issues related to strengthening the international financial architecture. Members at the first meeting were: Australia, the G7, Argentina, Brazil, China, Hong Kong-SAR, India, Indonesia, Korea, Malaysia, Mexico, Poland, Russia, Singapore, South Africa, and Thailand. Officials from the International Monetary Fund, World Bank, Bank for International Settlements and the Organisation for Economic Co-operation and Development also participated.

A second meeting was held in Washington on 5 October 1998. The Netherlands, Belgium, Switzerland and Sweden also participated in the second meeting.

internationally agreed codes and standards, including for example, the IMF's *Code of Good Practices on Fiscal Transparency*. The G7 also called upon the IMF to monitor the implementation of these codes and standards as part of Article IV surveillance and to publish the results of its surveillance of compliance with these codes and standards in transparency reports.

Impetus for an Australian transparency report

In October 1998, the Australian Prime Minister commissioned a task force to advise on how Australia could contribute to international financial reform. The Task Force, chaired by the Treasurer, endorsed the G22 recommendation that the IMF prepare transparency reports, and recommended that, in addition, Australia take the lead in preparing a self-assessment transparency report, providing a format and methodology that other countries may choose to follow.

Scope

Both the report of the G22 Working Group and the G7 communiqué recommended that economies comply with various international disclosure standards, including:

- The IMF *Code of Good Practices on Fiscal Transparency*;
- The IMF *Code of Good Practices on Transparency in Monetary and Financial Policies* (currently in draft form); and
- International Accounting Standard Committee accounting standards.

This report is aimed at increasing Australia's 'transparency about transparency'. It goes beyond discussing Australia's adherence to disclosure standards such as those above, to discuss also Australia's adherence to various other sound practice principles (legal and voluntary) that relate to the efficiency of financial markets. The body of the report provides contextual information on Australia's institutional framework and a brief discussion of Australia's adherence to various standards and generally accepted practices. A detailed

discussion of Australia's transparency record is provided in attachments.

The report is divided into three sections:

- Transparency in government policies;
- Transparency in the private sector; and
- Transparency in economic and financial data.

Page viii provides a more detailed explanation of the layout of the Report.

Status of report

This is a self-assessment report. It was prepared by senior officials from the Department of the Treasury. The views expressed are not necessarily those of the Australian Government. The report has benefited from contributions from the Department of Finance and Administration, the Australian Bureau of Statistics, the Australian Taxation Office and the Australian National Audit Office. The Reserve Bank of Australia, the Australian Securities and Investments Commission and the Australian Prudential Regulation Authority also provided assistance.

To enhance the integrity of the report, a panel of senior Treasury officials reviewed its content and production process. The review panel was assisted by IMF staff. The IMF does not, however, share responsibility for the content of the report.

The report presents a stock take of current Australian performance against a number of standards, some of which are still being developed. Furthermore, the methodology adopted for this report is somewhat experimental. It is anticipated that, as Australia and other countries develop expertise in preparing these reports, refined methodologies will be developed.

There are, then, three senses in which this report should be viewed as a 'work-in-progress': (i) Australia's transparency practices will continue to evolve; (ii) so too will the standards against which country performance might be assessed; and (iii) methodologies for making transparency assessments will also continue to evolve.

STRUCTURE OF THE REPORT

Part I: Transparency in government policy

Part II: Transparency in the private sector

PART I

TRANSPARENCY IN GOVERNMENT POLICY

Part I of the report discusses Australia's disclosure record in:

- Fiscal policy, against the *International Monetary Fund (IMF) Code of Good Practices on Fiscal Transparency*;
- Monetary policy, against the draft *IMF Code of Good Practices on Transparency in Monetary and Financial Policies*; and
- Foreign investment policy, against the *Organisation for Economic Co-operation and Development (OECD) Code of Liberalisation of Capital Movements* and the *National Treatment Instrument for Foreign Controlled Enterprises*.

FISCAL POLICY FRAMEWORK

Institutional framework

The current fiscal policy framework in Australia (comprising the Commonwealth government and six States and two Territories) reflects a process of continual evolution dating from the creation of the Australian federation and the commencement of the Australian Constitution in 1901.

Constitutional basis for taxation and expenditure

The *Commonwealth of Australia Constitution Act 1900* contains a number of provisions that form the basis of the Commonwealth's taxation and expenditure powers, including:

- the (Commonwealth) Parliament has the power to make laws for taxation and borrowing money on public credit (section 51);
- all revenue raised or money received by the Executive Government (of the Commonwealth) has to form one Consolidated Revenue Fund to be appropriated for the Commonwealth's purposes (section 81);
- no money can be drawn from the Treasury of the Commonwealth except under appropriation made by law (section 83);
- the Executive has the sole right to present expenditure proposals to Parliament (section 56); and
- other sections of the Constitution outline the relative taxation and expenditure responsibilities of the Commonwealth and the States (see the next section).

Fiscal policy roles and responsibilities

Responsibilities for Commonwealth fiscal policy and budget management are shared between the Treasurer and the Minister for Finance and Administration (MFA). The Administrative Arrangements Order defines the responsibilities of each Minister.

As well as each Minister having general responsibilities for fiscal policy and budget management, the Treasurer is responsible for the taxation system while the MFA monitors government expenditure.

The Commonwealth's legislative powers (including over fiscal matters) are limited to those prescribed in the Constitution. In some cases these powers are exclusive to the Commonwealth. In other cases legislative power may be levied by either the Commonwealth or States and Territories (in cases of conflict, the Constitution provides that the Commonwealth's laws prevail). In some areas the sharing of responsibilities is the subject of intergovernmental agreement (e.g. health and education).

Both the Commonwealth and the States have the Constitutional power to collect income taxes. However, under Commonwealth Government legislation enacted in 1942 only the Commonwealth does so. In addition, the Constitution prohibits the States from imposing customs or excise duties. Partly because of the above, federal fiscal arrangements are characterised by a high degree of vertical fiscal imbalance: the Commonwealth raises considerably more revenue than is required to finance its own-purpose outlays while the States raise insufficient revenue to meet their expenditure responsibilities.

This fiscal imbalance is addressed through payment by the Commonwealth of general purpose and specific purpose financial grants to the States. Formal agreement on the allocation of general purpose payments is reached at an annual meeting of the Heads of the Commonwealth and State Governments, having regard to the recommendations of the Commonwealth Grants Commission (a Commonwealth body that advises the Commonwealth Government on the distribution of general purpose assistance to the States). Specific purpose payments are payments for policy purposes related to particular activities. In most cases, these are subject to conditions reflecting Commonwealth policy objectives or national policy objectives agreed between the Commonwealth and the States.

The current allocation of revenue responsibilities and the system of financial assistance grants has confirmed the Commonwealth's responsibility for national fiscal management.

Fiscal accountability

The legal requirements on Executive Government for proper financial management are set out in the *Auditor-General Act 1997*, the *Financial Management and Accountability Act 1997* and the *Commonwealth Authorities and Companies Act 1997* (these three acts replaced the *Audit Act 1901*). This legislation outlines: the appointment, powers and duties of the Auditor-General; the specific financial responsibilities of Secretaries (Chief Executive Officers) of government departments and heads of Commonwealth statutory authorities and Commonwealth-owned companies; the duties of accounting officers; and auditing and inspecting.

The *Charter of Budget Honesty Act 1998* (the Charter) aims to improve the Commonwealth Government's accountability for fiscal policy formulation. The Charter requires that governments release annual fiscal strategy statements (usually with each budget) based on the principles of sound fiscal management. In fiscal strategy statements governments must:

- specify the government's long-term fiscal objectives within which shorter-term fiscal policy will be framed;
- explain the broad strategic priorities on which the budget is or will be based; and
- specify the key fiscal measures against which fiscal policy will be set and assessed.

Fiscal reporting

The Charter also sets out the Commonwealth government's fiscal reporting requirements. The Charter provides for comprehensive economic and fiscal outlook reports at the time of each budget, at mid-year, and prior to elections. Among other things, each economic and fiscal outlook report must contain: fiscal estimates for the budget year and the following three financial years; the economic and other assumptions used in preparing those fiscal estimates; and a statement of risks that may have a material effect on the fiscal outlook. The Charter also requires that a final budget outcome report be released after the end of each financial year.

In 1997, the Commonwealth Government announced its intention to implement a fully integrated accrual accounting financial management framework, including audited consolidated financial statements of the Commonwealth from 1996-97, and a full accrual framework, including an accrual budget from 1999-2000.

In the early 1990s, a *Uniform Presentation Framework* was agreed among the Commonwealth and all States, requiring that each jurisdiction produce a uniform set of fiscal reporting tables. In addition, the Commonwealth and States have agreed to *Uniform Public Sector Accounting Standards* that will, from reporting periods ending on or after 30 June 1999, require all jurisdictions to compile a standard set of financial statements using recognised accounting standards.

Transparency

The current fiscal framework, including the Charter, aims to improve fiscal outcomes by enhancing the transparency of, and accountability for, fiscal policy.

Disclosure standard: International Monetary Fund Code of Good Practices on Fiscal Transparency

The International Monetary Fund (IMF) Code covers four broad areas of the fiscal framework and policy: clarity of roles and responsibilities; public availability of information; open budget preparation, execution and reporting; and independent assurances of integrity.

In April 1998, the Board of Governors of the IMF adopted the *Code of Good Practices on Fiscal Transparency — Declaration on Principles*. It did so in response to a clear consensus that good governance is of central importance to achieving macroeconomic stability and high-quality growth, and that fiscal transparency is a key aspect of good governance.

In October 1998, the G22 Working Group on Transparency and Accountability, in identifying steps to strengthen the international financial system, recommended that 'fiscal authorities observe the IMF Code'.

Australia's fiscal framework is consistent with the principal features of the IMF Code. However, there are a number of minor inconsistencies.

A detailed assessment of Australia's conformity with the IMF Code is provided at Attachment A.

MONETARY POLICY FRAMEWORK

Institutional and operational framework

Monetary policy objectives and instruments

The objectives of monetary policy specified in the *Reserve Bank Act 1959* concern the stability of the currency of Australia (that is, prices), the maintenance of full employment in Australia, and the economic prosperity and welfare of the people of Australia. Price stability is a crucial precondition for sustained growth in economic activity and employment. Since 1993, the Reserve Bank of Australia (henceforth, the Reserve Bank) has pursued the objective of keeping inflation *between 2 and 3 per cent, on average, over the cycle*. This objective was formalised in the August 1996 *Statement on the Conduct of Monetary Policy* between the Treasurer and the Governor of the Reserve Bank.

Australia's inflation targeting framework incorporates some limited flexibility in contrast to the 'hard-edged' targets that have been adopted by some central banks. This flexibility allows the Reserve Bank to respond to unforeseen shocks while accommodating the inherent variability of the inflation rate over the cycle.

The stance of monetary policy is expressed in terms of an operating target for the cash rate (the interest rate on overnight loans made in the money market). The cash rate is used as an operational target for monetary policy because it underpins all other interest rates in the money market and, through its effects on banks' costs of funds, also underpins banks' lending interest rates.

Independence

The *Reserve Bank Act 1959* provides for the independence of the Reserve Bank. This is restated in the *Statement on the Conduct of Monetary Policy* of August 1996.

Section 11 of the *Reserve Bank Act 1959* (*Differences of opinion with Government on questions of policy*) prescribes procedures for the resolution

of policy differences between the Reserve Bank and the Government. In the event of a material difference in opinion, these provisions allow the Government to determine policy. However, the procedures underlying such provisions are politically demanding and their nature is designed to reinforce the Reserve Bank's independence. These provisions have never been used.

In addressing the Reserve Bank's responsibility for monetary policy, the *Reserve Bank Act 1959* also provides that the Reserve Bank Board shall, from time to time, inform the Government of the Bank's policy. Such arrangements are a common and valuable feature of institutional systems in other industrial countries with independent central banks and recognise the importance of macroeconomic policy coordination.

Reporting and accountability

The legislated reporting and accountability obligations of the Reserve Bank are set out in the *Commonwealth Authorities and Companies Act 1997*. These provide for an annual report, including financial statements, and an auditors' report to be provided to the Treasurer (due within a set time period) and tabled in Parliament as soon as practicable.

For a number of years, the Reserve Bank has published regular reports on the state of the economy, in addition to its annual report, and the Governor and other senior Reserve Bank officers have made public speeches on the operation of monetary policy. As agreed in the *Statement on the Conduct of Monetary Policy* the Governor, the Deputy Governor and other senior Bank officials appear before a Parliamentary Committee every six months, and a *Semi-Annual Statement on Monetary Policy* is concurrently issued. In the intervening quarters, the Bank publishes *The Economy and Financial Markets*, which assesses current economic conditions and the prospects for inflation and output growth.

In addition, when the Reserve Bank Board decides that a change in monetary policy should occur, it specifies a new target for the cash rate. The Board's decision is announced in a media release, which states the new target for the cash rate, together with the reasons for the decision. This media release is distributed through electronic news services on the day on which the change is to take effect, usually at 9.30 am, the time when the Reserve Bank normally announces its daily dealing intentions.

Transparency

Disclosure standard: International Monetary Fund (IMF) draft Code of Good Practices on Transparency in Monetary and Financial Policies

Australia has undertaken a comparison of its monetary and financial policy framework against a working draft of the proposed IMF's *Code of Good Practices on Transparency in Monetary and Financial Policies — Declaration of Principles*. These principles provide a comprehensive 'benchmark' for assessing the degree of transparency of the institutional and operational frameworks for monetary and financial policies. For the purpose of the draft Code, transparency refers to an environment in which the objectives of policy, its legal, institutional, and economic framework, and policy decisions and their rationale are provided on a comprehensive and timely basis to the public. The draft Code is in two parts. The first, *Good Transparency Practices for Monetary Policy by Central Banks*, identifies desirable transparency practices for central banks in the conduct of monetary policy. That part of the Code is the subject of this section of the report. The second section of the Code, *Good Transparency Practices for Financial Policies by Financial Agencies*, is the subject of the section on financial sector supervision in Part II of this report.

Australia's monetary policy arrangements are generally consistent with the principles underlying the IMF's draft Code. (A detailed discussion of how Australia's arrangements compare against each of the principles is provided in Attachment B.) While Australia's compliance with the letter of the Code is very close, there remains one primary issue of substance where compliance diverges. Australia's 'modalities for accountability' of the central bank are not defined in legislation (section 1.1.5 of the draft Code). Rather, good practice has been built up through convention.

FOREIGN DIRECT INVESTMENT POLICY

Institutional framework

Australia welcomes foreign direct investment and maintains a foreign investment screening process to ensure that foreign investments in Australia are not contrary to the national interest.

Australia's foreign investment policy framework encompasses the *Foreign Acquisitions and Takeovers Act 1975*, regulations made under that Act, and other requirements set down by way of Ministerial statement. Particular restrictions, including limits on equity participation, are maintained in a few sensitive areas where foreign investment generates community concern. The sensitive sectors are real estate, the media, civil aviation, airports and shipping. In regard to non-sensitive sectors, smaller proposals do not require screening and larger proposals are generally approved unless judged contrary to the national interest.

The Treasurer is responsible for Australia's foreign investment policy and is assisted in the administration of the policy by the Foreign Investment Review Board (FIRB). The Government established the FIRB as a non-statutory advisory body, whose functions include fostering an awareness, both in Australia and abroad, of the Government's foreign investment policy and providing guidance, where necessary, to foreign investors so that their proposals conform with the policy.

Since Australia first introduced foreign investment screening procedures in the early 1970s, Australia has gradually relaxed, and is continuing to relax, its foreign investment policy in response to the increasing depth and breadth of the economy and the implementation of other supportive policy measures (e.g. the resource rent tax and stronger environment protection measures).

Transparency

The Government's approach to transparency concerning the national interest test is to publish information about the operation of the policy, to provide guidance to investors and, in the case of major proposals, to publish reasons for rejection of applications. Although the existence

of a national interest test may appear to be non-transparent, it is a negative test rather than a prescriptive test to a list of criteria. The onus is on the Australian authorities to have reason to reject a proposal, rather than on the investor to show benefits to Australia, and the reasons for rejection are always made known to the investor.

Australia makes available to the public information about its foreign investment policy through the Treasury's web site (www.treasury.gov.au) and on request. FIRB publishes annual reports to the Parliament, which give results of the screening process, including reasons proposals are rejected. Reasons for rejecting substantial commercial cases are made public, at the time of rejection, in press releases of the Treasurer.

The 1996-97 FIRB Annual Report noted that some 105 (ie 2.5 per cent) of the 4,200 foreign investment proposals received in that year were rejected. All but 7 of these were for real estate. A list of reasons such real estate rejections occurred was published in the same report.

Disclosure Standard: Organisation for Economic Co-operation and Development (OECD) Code of Liberalisation of Capital Movements and the National Treatment Instrument for Foreign Controlled Enterprises.

The OECD has agreed standards for disclosure in relation to member governments' measures that impact on international capital flows and foreign direct investment. These standards are set out as provisions in the *Code of Liberalisation of Capital Movements* and the *National Treatment Instrument for Foreign Controlled Enterprises*. As a member of the OECD, Australia has agreed to these standards which cover such matters as notification and transparency (notably these two provisions are binding); national treatment; consultation and complaints; non-discrimination between member countries; convertibility of currencies and transfers of funds. The OECD codes include provisions for member country representatives to review compliance with the standards by individual countries. These peer review processes play a crucial role in countries' awareness of their obligations to meet the provisions. They also provide an opportunity for an OECD member to measure its level of adherence to the codes against that of other members where there has been a general trend toward liberalisation of relevant policies over an extended period.

Australia observes the notification and transparency provisions of the OECD codes. Where Australia is unable to comply with a provision of the codes, the departure is notified to the relevant OECD committee and is reported in the publications of the OECD codes. (Details of key provisions and comments on Australia's adherence to them are shown in Attachment C.) Australia participates in the peer review processes of the OECD. It was, for example, subject to a periodic country review under the *Code of Liberalisation of Capital Movements* in 1991. In 1997 Australia participated in an ad hoc review with regard to the admission of foreign securities on domestic capital markets of all OECD member countries.

PART II

TRANSPARENCY IN THE PRIVATE SECTOR

This Part discusses transparency issues relating to private companies in both the financial and non-financial sectors — a key element of Australia's corporate governance arrangements.

Corporate governance covers a wide range of matters involving the superintendence of the relationships between the owners, stakeholders, managers and auditors of a company. In its widest sense, it encompasses the rights of shareholders, the duties of directors and managers, and disclosure and transparency about the operations of a company. Corporate governance practices develop in response to competitive economic, commercial and international pressures, including the policy imperative to ensure a stable and predictable investment climate.

The following issues are considered in this Part.

- Consistent with the focus of this report, the first section discusses those aspects of Australia's corporate governance regime which relate to transparency and the efficient and effective dissemination of information to the market. The discussion is in terms of Australia's adherence to draft International Principles on Corporate Governance being developed by the Organisation for Economic Co-operation and Development (OECD). (A detailed discussion of Australia's adherence to the Principles is at Attachment D.)

- A key element of corporate transparency — the timely provision of relevant, accurate financial statements audited in accordance with agreed standards — is considered in greater detail in the second section. The section considers the compliance of the Australian private sector with national accounting standards independently set by the Australian Accounting Standards Board and with international audit standards issued by the International Auditing

Practices Committee of the International Federation of Accountants. (A detailed discussion of Australia's compliance with these standards is at Attachments E and F.)

- The third section discusses the consistency of Australia's corporate insolvency regime with key features and principles identified by the G22 Working Group on International Financial Crises as important to an effective insolvency regime. Although not strictly a transparency matter, an effective corporate insolvency regime is a key element of a country's corporate governance framework which can have an important bearing on investor confidence and financial stability. (A detailed discussion of Australia's adherence to the G22 key features and principles is at Attachment G.)

- The final section of this Part considers Australia's financial sector regulatory framework which requires financial sector participants to meet certain additional regulatory requirements, including disclosure standards, in order to ensure financial sector stability and protect investors. (A detailed discussion of Australia's adherence to the Basle Committee's *Core Principles for Effective Banking Supervision*, and the *Statement of Objectives and Principles of Securities Regulation* developed by the International Organization of Securities Commissions are at Attachments H and I respectively. As well as discussing monetary policy, Attachment B compares Australia's financial policy framework with the relevant principles contained in the draft of the proposed IMF *Code of Good Practices on Transparency in Monetary and Financial Policies*.)

While the emphasis of this report is on transparency and the dissemination of information to the market, it is important to acknowledge that transparency is only one aspect of good corporate governance, albeit a key one, and cannot be wholly effective unless other aspects of corporate governance are properly catered for in the legal, institutional and regulatory infrastructure of an economy.

CORPORATE GOVERNANCE FRAMEWORK

The Organisation for Economic Co-operation and Development (OECD) is well advanced in the development of a set of draft *Principles of Corporate Governance*. The proposed OECD Principles are intended to be a non-binding statement of the key elements which underlie good corporate governance. Australia is involved in the development of the Principles at both the public and private sector level.

This section and Attachment D discuss, in terms of the OECD draft Principles, those aspects of Australia's corporate governance regime which relate to transparency and the efficient and effective dissemination of information to the market.

Institutional framework

Australia's corporate governance framework essentially consists of a 'matrix' of legislation, accounting standards which have the force of law, Australian Stock Exchange (ASX) Listing Rules, and voluntary self-regulatory codes of practice.

- For example, the basic rights of shareholders and duties of directors are contained both in legislation (the Corporations Law) and in the common law. Financial reporting requirements are contained in the Corporations Law, in accounting standards, and in the ASX Listing Rules. Non-financial reporting requirements are contained in the Corporations Law and in the ASX Listing Rules. Self-regulatory codes of practice also cover aspects of the internal management of companies (for example, the structure and make up of boards).

Overseeing this matrix of regulation is an independent statutory authority, the Australian Securities and Investments Commission (ASIC) which has wide-ranging enforcement powers. Enforcement of the Corporations Law may also be undertaken by private action.

ASIC undertakes a range of activities in order to facilitate improved corporate governance. In addition to enforcing relevant provisions of the Corporations Law, ASIC sets standards, issues best practice guides,

and (together with the ASX) has a key role in disseminating information to the market. For example, ASIC:

- sets and enforces standards for investment advice and managed investments, prospectuses, takeover documents and financial reporting;
- sets standards and applies the law to business problems, explaining how the law works and contributing to law reform;
- provides policy guidance on the interface between legal requirements and corporate practice; and
- where possible, publishes reports on specific instances where there has been a failure to meet best practice, so that lessons can be learnt.

The ASX imposes a wide range of disclosure requirements on listed companies. Disciplinary action may be taken by the ASX against companies in breach of its Listing Rules, including suspension of an entity's securities from quotation or, ultimately, de-listing. The ASX also requires each listed company to disclose the main corporate governance practices it has had in place during the year. Under this rule, the ASX does not require that particular practices be adopted or that companies report against prescribed checklists. Rather, it aims to promote disclosure of the corporate governance practices a particular company already has in place.

Various private sector organisations have produced documents providing guidance on corporate governance (for example, the Australian Investment Managers' Association's *Guide for Investment Managers and Corporations* and best practice guidelines produced by the Australian Institute of Company Directors). Such guidelines are generally provided as samples of 'best practice' having regard to the globalisation of capital markets and the emergence of international best practice. They are available to assist companies in determining the best corporate governance model for their own circumstances.

The Government's Corporate Law Economic Reform Program seeks to ensure that Australia's business regulation is consistent with international best practice and provides an appropriately secure environment for investment in Australia. The program aims to enhance the transparency of financial information and the accountability of market participants by modernising the regulation of fundraising, takeovers, directors' duties, corporate governance, financial reporting and financial markets and investment products.

In the area of corporate governance three major issues have been examined by the Program:

- whether the current rules regulating company directors' conduct inhibit sound business judgements;
- whether shareholders have sufficient opportunity for redress against a corporation; and
- whether the private sector is adequately addressing the issue of corporate governance in light of the importance of international and domestic confidence in Australia's securities markets.

In light of this examination, the Government is proceeding with the introduction of a statutory business judgement rule providing directors with a safe harbour in relation to honest, informed and rational business judgements, and a statutory derivative action enabling shareholders or directors of a company to bring an action on behalf of the company in certain circumstances. However, apart from those reforms in the corporate governance area, the Government has taken a policy position that it will not impose additional mandatory legislative requirements unless there is a clear failure of the current requirements or the existing regulatory mechanisms. In this regard, the Government considers that corporate governance practices should be continuously monitored by ASIC, the ASX, relevant industry and professional bodies who promote best practice, investors and government.

Transparency

There has been some academic questioning whether mandatory disclosure requirements are necessary for the fair and efficient operation of capital markets on the basis that market forces will induce competing firms to disclose, in order to attract investment. However, the Australian philosophy is that full market information prescribed by law and enforced through an independent regulator is an essential prerequisite of competitive, efficient markets.

Full public disclosure of information about a corporation's business and affairs is necessary to both attract investors and maintain the confidence of investors in the integrity of the market. The disclosure philosophy is consistent with the OECD draft corporate governance principle that the corporate governance framework should ensure timely and accurate disclosure of information on all material matters

regarding the financial situation, performance, ownership and governance of companies.

Accordingly, a theme of amendments to the Corporations Law over the last five to seven years has been to improve disclosure of relevant matters, rather than to directly adjust the substantive rights of the various stakeholders. A few examples of the wide range of matters covered in the Corporations Law are the requirement to provide annual and half-yearly reports to shareholders, mandatory prompt and continuous disclosure to the market of events which might influence the price of a company's shares, notification to investors of specific information in relation to obtaining shareholder approval for related party transactions, and a range of matters involving the exposure of directors' remuneration and the disclosure of the number of board meetings attended by directors.

Disclosure Standard: The corporate governance framework should ensure that timely and accurate information is disclosed on all material matters regarding the financial situation, performance, ownership and governance of companies (OECD Draft Corporate Governance Principles).

Australia substantially adheres to the OECD draft Principles, although their general nature does not lend itself to a clear-cut 'checklist' assessment. Australia meets, and in some cases exceeds, international accounting and auditing standards. Disclosure of matters not covered by accounting and auditing standards are met through legislative requirements or Stock Exchange Listing Rules backed by enforcement mechanisms, or in some cases through the encouragement of best practice.

Attachment D discusses the disclosure aspects of Australia's corporate governance framework in the context of the relevant OECD draft Principles.

FINANCIAL REPORTING REQUIREMENTS AND ACCOUNTING STANDARDS

Institutional framework

Australia has a differential disclosure regime under which financial reporting requirements are set according to the type of entity, principally on the basis of the level of public interest in the entity. The types of entities can be classified as:

(a) disclosing entities (mainly listed corporations and registered managed investment schemes/prescribed interest undertakings) that have listed securities or have issued shares and other securities as a result of the circulation of a prospectus;

(b) unlisted public companies and large proprietary companies (that is, a proprietary company that meets at least two of the following criteria: gross operating revenue of $10 million or more, gross assets of $5 million or more and 50 or more employees); and

(c) small proprietary companies.

Under the Corporations Law, all disclosing entities, companies and registered managed investment schemes are required to maintain records which accurately record their financial transactions and which would enable the preparation of financial statements and the audit of those financial statements.

Annual financial statements must be prepared by all entities except small proprietary companies. The annual financial statements consist of a balance sheet, a profit and loss statement and a cash flow statement. The matters to be disclosed in the financial statements are contained in accounting standards, which are made by the Australian Accounting Standards Board (AASB) and which have the force of law under the Corporations Law. The Corporations Law also provides that consolidated financial statements must be prepared where the preparation of such statements is required by an accounting standard. This normally occurs in circumstances where an entity controls one or more other entities. Annual financial statements must be circulated to members of the entity (for consideration at the annual general meeting

of the disclosing entity or company) and must be lodged with the Australian Securities and Investments Commission (ASIC).

In addition to meeting annual disclosure requirements, disclosing entities are required to prepare half-yearly financial statements. These are generally an abridged version of the annual financial statements. Half-yearly financial statements must be lodged with ASIC but do not have to be circulated to members.

Both the annual and half-yearly financial statements must be:

(a) accompanied by a directors' report about the operations of the entity;

(b) accompanied by a directors' declaration as to whether the accounts comply with the requirements of the accounting standards and give a true and fair view of the entity's financial position and whether the entity is solvent; and

(c) audited (audited or reviewed in the case of half-yearly financial statements) by a registered company auditor who is independent of the entity.

Three important elements underpin Australia's financial reporting framework:

(a) accounting standards that must be used by all entities that are required to prepare financial statements;

(b) auditing standards that must be used for the purpose of auditing financial statements; and

(c) appropriate levels of surveillance and enforcement to ensure that entities prepare their financial statements in accordance with the requirements of the Corporations Law and applicable accounting standards, and that those financial statements are audited in accordance with auditing standards issued by the accounting profession.

Accounting standards

The accounting standards used by entities for preparing financial reports under the Corporations Law (commonly referred to as AASB-series standards) are made by the AASB, a body established under Part 12 of the *Australian Securities and Investments Commission Act 1989*. A list of these standards is at Attachment E.

The development of Australia's AASB-series standards is a multi-step process which includes a public consultation process and, where appropriate, supplementary discussions with key business groups. The public consultation process takes the form of the draft accounting standard (usually known as an exposure draft or ED) being released for comment, normally for a period of three months. At the end of the exposure period, the AASB considers public comments and decides upon any changes that it considers should be made to the document before it is issued as a final standard. A standard can be made by a majority vote of AASB members. Once a standard has been made, notice of the decision must be published in the *Commonwealth of Australia Gazette* and a copy of the standard must be tabled in each House of the Australian Parliament.

Each standard made by the AASB contains an application clause which specifies the entities to which the standard applies. The standard listing the basic information that must be included in a financial report (AASB 1034) applies to all companies and other entities that are required by the Corporations Law to prepare financial reports. However, other standards are more restricted in their application with the majority of standards being expressed to apply to reporting entities, a term defined to include listed corporations and borrowing corporations. Application of accounting standards in this manner ensures that listed corporations and other economically significant entities are subject to extensive disclosure requirements. At the same time, it minimises the regulatory burden imposed on other entities.

The AASB is currently undertaking a program to harmonise the requirements of Australian accounting standards with the requirements of accounting standards made by the International Accounting Standards Committee (IASC) (details of the standards that have been harmonised are contained in Attachment E). The differences between Australian standards and international accounting standards are generally ones of detail, the nature of which may differ from standard to standard. However, one important difference is that some international standards allow alternative accounting treatments or

disclosure methods, while Australian standards generally permit only one treatment or method.

One of the objectives of the harmonisation program is to ensure that compliance with Australian accounting standards will also ensure compliance with the equivalent requirement in the international standards. However, because many Australian standards contain requirements that go beyond the equivalent requirements in international standards, compliance with the international standards will not always result in compliance with Australian standards.

The Australian Government's Corporate Law Economic Reform Program (CLERP) envisages the continuation of the harmonisation program. However, the program also envisages that there could ultimately be a move by Australia to full adoption of international standards made by the IASC. A decision on the adoption of international standards would only be made by the Government following a report from the Financial Reporting Council (a new body to oversee the standard setting process) on the acceptance of international standards in overseas markets, on the progress in obtaining the International Organisation of Securities Commissions' (IOSCO's) acceptance of 20 core standards developed by the IASC for the purpose of cross-border listings and fundraising, and on whether such adoption would be in Australia's best interests.

Further information about the 20 core standards developed by the IASC can be obtained from its web site (www.iasc.org.uk), while further information about the Australian harmonisation program can be obtained from the website of the Australian Accounting Research Foundation (AARF) (www.aarf.asn.au).

Another feature of CLERP is the establishment of revised institutional arrangements for accounting standard setting. Under the legislation introduced into the Australian Parliament in December 1998, a Financial Reporting Council will be established with, among other things, overall responsibility for the accounting standard setting process while the AASB will be reconstituted as a body corporate. The proposals also envisage that the standard setting functions of the Public Sector Accounting Standards Board will be transferred to the AASB.

Auditing standards

The Auditing and Assurance Standards Board (AuASB) of AARF is responsible for developing standards and other authoritative guidance on audits and audit-related services. The development and maintenance of these standards and guidelines establish the benchmarks for appropriate professional conduct by members of the Institute of Chartered Accountants in Australia (ICAA) and the Australian Society of Certified Practising Accountants (ASCPA).

As with accounting standards, the development of auditing standards and guidance statements is a multi-step process which includes a public consultation process. This process takes the form of an exposure draft being released for comment. At the end of the exposure period, the AuASB considers public comments and decides upon any changes that it considers should be made to the document before it is finalised. When the text of an auditing standard or guidance statement has been approved by the members of the AuASB, the document is submitted to the ICAA and the ASCPA for approval and is then issued by AARF on behalf of the two accounting bodies.

In 1995, the AuASB (then known as the Auditing Standards Board) completed a program to codify the Statement of Auditing Standards and the Statements of Auditing Practice then on issue. The new standards issued as a result of the codification program are listed in Attachment F.

The AuASB seeks, as a matter of policy, to implement statements issued by the International Auditing Practices Committee (IPAC) and the decision to undertake the codification program was prompted by a decision of IPAC to redesignate all International Auditing Guidelines as International Standards on Auditing (ISA) to more appropriately describe their authority.

Material published by the AuASB indicates that there are few differences between Australian Auditing Standards and ISA. Most of the differences that do exist reflect the consistent application by the AuASB of a high level/general principles approach to standard setting, and an 'audit risk' rather than the 'procedural' approach adopted in some ISA. This essentially means that the AuASB establishes a basic principle as the black letter requirement, provides guidance on relevant procedures, and requires the application of the auditor's judgement as to whether these or additional procedures may be necessary to gather sufficient, appropriate audit evidence. The ISA, on the other hand,

may prescribe, in black letter form, all the detailed procedures to be applied in certain situations.

Auditing standards made by the AuASB do not have the force of law. While both the accounting profession and regulatory agencies have, from time to time, called for auditing standards to be given legislative backing, successive Governments have not acceded to those requests. Auditing standards tend to be more qualitative than accounting standards in that (among other things) they require auditors to form judgements on a wide range of matters and, as a consequence, it is considered that it would be inappropriate to give such requirements force of law.

Nevertheless, the ethical rules of the ICAA and the ASCPA both require members to comply with standards issued by the AuASB when undertaking audit assignments. It is believed that most auditing work in Australia is carried out in accordance with auditing standards.

Where an auditor fails to comply with applicable auditing standards in performing an audit, the auditor could be subject to:

(a) disciplinary action by his or her professional body; and/or

(b) a damages action by a party that claims to have suffered loss as a result of the auditor's actions.

In the case of an auditor who is registered under the Corporations Law as a company auditor, the matter could also be referred to the Companies Auditors and Liquidators Disciplinary Board (CALDB) for appropriate disciplinary action.

ASIC surveillance and enforcement

ASIC is responsible for the day-to-day administration of the Corporations Law, including ensuring compliance with the disclosure requirements. Where ASIC finds examples of non-compliance with accounting standards it seeks to have financial statements revised, either by negotiation with the company involved, or if necessary by use of its powers to enforce the law. ASIC registers company auditors and, where it becomes aware of registered company auditors who do not carry out their duties adequately and properly, may refer the matter to the CALDB for appropriate action.

ASIC also conducts a surveillance program on company financial reports. Surveillance targets are chosen using intelligence, complaints received by ASIC and matters noted by ASIC staff during other activities. Surveillance focuses on specific issues which past practice has indicated are areas of particular weakness. In 1998 ASIC conducted surveillance on 180 public companies. The level of compliance was generally high. Issues of concern arising from the surveillance were publicly reported. In addition ASIC conducted follow-up interviews with several companies and requested further information and explanation from others.

Transparency

Financial statements are one of the principal sources of information used by investors, analysts, creditors and the entities themselves to make informed decisions about the allocation of resources. Consequently, a key objective of Australia's financial reporting requirements is the provision of relevant and reliable financial information for the users of financial statements.

The financial reporting requirements include a number of measures that have been taken over the last decade to ensure that deficiencies in financial reporting requirements that emerged during the corporate excesses of the late 1980s do not recur. These measures include:

(a) removal of the true and fair override, which some companies used to avoid the use of otherwise applicable accounting standards, from the Corporations Law;

(b) the introduction of enhanced disclosure requirements for economically important entities (usually listed corporations) (further information about these reforms is contained in the Corporate Governance section of this document); and

(c) the transfer of detailed disclosure requirements from the Corporations Law and the Corporations Regulations to accounting standards, thus providing a more flexible environment for dealing with trends necessitating changes to disclosure and reporting requirements.

Disclosure standard: Private sector compliance with independently established and high quality national accounting standards.

This standard is in keeping with a recommendation of the G22 Working Group on Transparency and Accountability that "private firms adhere to national accounting standards and that national authorities remedy any deficiencies in their enforcement". A list of accounting standards issued by the AASB is at Attachment E, along with a summary of the extent to which each standard is compatible with the equivalent international accounting standard.

Disclosure standard: Compliance with international audit standards issued by the International Auditing Practices Committee of the International Federation of Accountants

Attachment F lists auditing standards and auditing guidance releases issued by the AuASB, along with details of the equivalent ISA and a summary of any differences between the Australian standard and the ISA.

CORPORATE INSOLVENCY

Corporate governance is complemented by an effective treatment of insolvency. The G22 Working Group on International Financial Crises noted that, in addition to contributing to crisis prevention, strong and predictable insolvency regimes are an important element of crisis mitigation and orderly crisis resolution.

Institutional framework

The law dealing with corporate insolvency is contained in the Corporations Law. The relevant provisions are primarily concerned with procedures for the winding up of companies, the orderly realisation of the available assets of those companies and the equitable distribution of the proceeds to creditors (including employees) and shareholders. There are also provisions governing the appointment of receivers or other persons who are entitled to assume control over particular assets of the company, the reconstruction of companies, arrangements and compromises with creditors and the voluntary winding up of solvent companies.

Corporate insolvency administrations are generally conducted by specialised accounting professionals who are licensed to conduct corporate external administrations by the Australian Securities and Investments Commission (ASIC). Some types of administrations involve a significant supervisory role for the court while others, notably voluntary administration, have the court play a lesser role. However, ASIC has an overall supervisory jurisdiction.

Under Australian law there are generally four types of external administration of insolvent companies:

- liquidation;
- receivership;
- voluntary administration; and
- schemes of arrangement.

Directors of insolvent companies have to consider the options for external administration because they are under a legal obligation to

cause an insolvent company to cease trading. If they fail to do so they may be held personally liable for the company's debts.

Liquidation

Liquidation, or winding up, is a procedure by which a corporation is ultimately dissolved. Generally, upon a liquidation, the liquidator takes complete control of the corporation from the directors. The objective of a winding up is to bring about an end to the corporation in an orderly and equitable manner which obtains the maximum return possible for creditors and members.

Liquidation can commence at the instigation of the company, or in some circumstances by a court on the application of a creditor or some other interested party. It can also be entered into following a voluntary administration (discussed below).

A liquidator is required to report not only to the creditors and members of the corporation, but also to ASIC. In some circumstances there is a particular responsibility to report suspected breaches of the law by company officers.

Receivers and other controllers

Receivership is usually instituted by a secured creditor appointing an insolvency practitioner as receiver to enforce the security. The receiver acts primarily for that creditor's benefit. A receivership may be general — where the property constituting the security is the company's business and the whole, or substantially the whole, of its property. A receivership may be particular — where the receiver is appointed to take control of a particular piece of property and there is no reason for the directors to relinquish direction of the company's affairs.

A receiver is also a manager (that is, a receiver and manager) if he/she has power to manage the affairs of the corporation as well as take possession of particular items of property.

Australian law also allows other 'controllers' to enforce a security. Controllers are subject to some of the duties imposed by the law on receivers. A controller may be the secured creditor itself enforcing the security for itself or an agent for the secured creditor.

The activities of receivers of corporate property are regulated under the Corporations Law, which contains a number of statutory powers and obligations. Some of the relevant provisions deal exclusively with receivers, while others apply to controllers generally.

Voluntary administration

The voluntary administration provisions in the Corporations Law give legislative backing to a procedure in which a company may reach an agreement with its creditors to compromise or defer debts. If an arrangement can be successfully negotiated between a company and its creditors, the arrangement will be set out in a deed of company arrangement, which binds the company and the creditors. If these attempts fail, the legislation facilitates the transition from voluntary administration to winding up.

The objective of the voluntary administration scheme is to allow the business, property and affairs of an insolvent company to be administered in a way that maximises the chances of the company, or as much as possible of its business, continuing in existence; or — if it is not possible for the company or its business to continue in existence — results in a better return for the company's creditors and members than would result from an immediate winding up of the company.

The voluntary administration scheme is now the most common means of dealing with companies in financial difficulty.

Scheme of arrangement or reconstruction

The Corporations Law provides for a mechanism by which a corporation may enter into a legally enforceable scheme of arrangement or compromise with its creditors. The usual aim of a scheme of arrangement is to allow a company to reach an agreement with its creditors (and possibly its members) to bring about a more beneficial situation for the company's creditors (and, more usually, the company) than would otherwise be the case. It may avoid an impending insolvency administration or set aside an existing administration. This arrangement or compromise must be approved by creditors at meetings duly convened in accordance with the Corporations Law and sanctioned by order of a court. An application to the court to order the necessary meetings to consider a scheme of

arrangement or compromise may be made by the corporation, a creditor, a member or a liquidator.

Since the introduction of the voluntary administration scheme, schemes of arrangement are used rarely, if ever, for the sole purpose of effecting compromises with creditors. However, as the scheme of arrangement provisions may also be used for other purposes involving members' rights such as reconstructions which involve varying share structure or amalgamations, a scheme of arrangement may be more suitable than other forms of external administration in those particular circumstances.

Transparency

There are currently no recognised detailed standards for domestic laws governing insolvency. However, in its October 1998 report the G22 Working Group on International Financial Crises identified some key features and principles important to an effective insolvency regime.

Australia has a national insolvency regime that is substantially consistent with the key features and principles identified by that Working Group. Further detail is in Attachment G.

FINANCIAL SECTOR SUPERVISION

Institutional framework

The financial sector legal framework in Australia covers banks, other deposit-taking institutions, investment banks, collective investment managers, securities and futures exchanges, clearing houses, securities and futures dealers and brokers, and insurance and superannuation entities. It relies on a range of legislation that is in the process of convergence. Australia has moved from an industry-based legal framework to one which is divided between prudential regulation of financial sector institutions on one side, and financial market integrity and investor protection on the other. Much of the existing legislation still reflects its industry focused heritage. As a result, separate legislation continues to exist dealing with areas such as life insurance and the securities markets. Australia's Constitution also requires that the States be involved in various aspects of the financial sector legal framework. In some areas, the States have referred their responsibility to the national government.

Prudential regulation, administered by the Australian Prudential Regulation Authority (APRA), is applied where financial risks cannot be adequately priced or managed in the market, and where concerns about financial safety are highest. For example, deposit-taking warrants prudential regulation because of the information asymmetry between depositors and institutions, and the fact that institutional failure has the potential to cause systemic instability. Stage one of the Government's financial system reforms, introduced on 1 July 1998, aims to apply prudential regulation (where it is considered necessary) to all financial institutions offering similar products.

The market integrity and investor protection aspects of the financial sector legal framework are intended to be brought fully under a single piece of comprehensive legislation that deals with both corporate regulation and financial markets, the Corporations Law. This process is occurring through the Corporate Law Economic Reform Program (CLERP) which, along with the role of the Australian Securities and Investments Commission (ASIC), is discussed above in 'Corporate governance framework'.

The Government's legislative framework provides scope for self-regulation by the main securities and derivatives markets — the Australian Stock Exchange (ASX) and the Sydney Futures Exchange (SFE) — subject to oversight by ASIC. These exchanges have Memoranda of Understanding with ASIC which elaborate on their respective roles as set out in the Corporations Law. The exchanges' internal business rules are subject to Ministerial disallowance.

Australia's financial sector regulatory framework is based around three central agencies:

- the Reserve Bank of Australia (RBA) is responsible for the objectives of monetary policy (as discussed in Part I of the report), overall financial system stability, and the regulation of the payments system.
  - payments system policy is carried out by the Payments System Board (PSB) within the RBA;
- APRA is responsible for the prudential supervision of deposit-taking institutions, life and general insurance companies, and superannuation funds; and
- ASIC is responsible for corporate regulation, market integrity, disclosure and other consumer protection issues.

Each agency has objectives specified in legislation and substantial operational autonomy, and is accountable to the Treasurer and Parliament. Coordination between the three agencies is facilitated by cross membership of the Boards, published Memoranda of Understanding, tripartite membership of the Council of Financial Regulators (a body established to enhance cooperation and collaboration between the three agencies), and finally, by close bilateral relations generally. Information-sharing arrangements are also in place.

Each agency produces annual reports containing information about the agency and its policies, and independently audited financial statements. The agencies also publish other information, for example, the RBA's monthly *Bulletin*, or APRA's quarterly *Bulletin* (which contain industry and other statistics, and copies of recent speeches and statements), research papers, consultative documents, and press releases on a range of matters of public interest.

Ongoing reform

There is a continuing legislative reform program to converge disparate elements of the financial markets provisions in the Corporations Law. While the recent financial system reforms have brought under a single framework a number of regulatory regimes organised along institutional lines, the purpose of CLERP is to implement an integrated framework for financial products that would provide consistent regulation of functionally similar markets and products.

The transfer of the currently State-regulated entities, such as credit unions, building societies and friendly societies, to Commonwealth jurisdiction (they will be prudentially regulated by APRA) is expected to be achieved by 1 July 1999.

A more extensive discussion of the developments in the financial system and its regulation can be found in the *Financial System Inquiry Final Report* (available at www.treasury.gov.au).

Transparency

Disclosure standard: IMF draft Code of Good Practices on Transparency in Monetary and Financial Policies

The second part of this draft Code, *Good Transparency Practices for Financial Policies by Financial Agencies*, identifies desirable transparency practices for financial agencies in the conduct of financial policies. Australia broadly conforms with these practices.

The roles, responsibilities and objectives of the financial agencies (APRA, ASIC, RBA and PSB) responsible for financial policies are clear and are specified in relevant legislation. Each agency has an open process for formulating and reporting financial policies and ensures the public availability of information on its policies. Mechanisms such as the provisions of the *Commonwealth Authorities and Companies Act 1997* help ensure the accountability and assurances of integrity of the financial agencies. Further details on Australia's observance of the individual aspects of the Code are contained in the second part of Attachment B to this report.

Disclosure standard: Core Principles for Effective Banking Supervision.

The Basle Committee on Banking Supervision released its *Core Principles for Effective Banking Supervision* in September 1997. These 25 principles have widespread acceptance as a basic reference tool for supervisory and other public authorities. The principles were designed to assist countries in developing adequate and robust prudential supervision of their financial sectors and to strengthen existing arrangements.

Australia has implemented the *Core Principles for Effective Banking Supervision* with the exceptions of principles 3 and 25 which relate to a formal 'fit and proper' test and the supervision of the local operations of foreign banks respectively, where Australia is only partly compliant.

Further details on Australia's adherence to these Principles are found in Attachment H to this report.

Disclosure standard: Collection and reporting of international banking statistics to the Bank for International Settlements (BIS)

The Report of the G22 Working Group on Transparency and Accountability recommended the reporting of international banking statistics to the BIS, as the BIS regularly collects and publishes cross-border banking statistics. Australia does not currently provide these statistics to the BIS. Some international investment and other relevant data are collected from banks by the Australian Bureau of Statistics (ABS), but confidentiality constraints prevent the ABS from releasing these data in a useable form. APRA has approached the relevant banks to get this data copied to it with the intention of contributing to the BIS collection. The banks have agreed to do this, and Australia will be providing some data to the BIS shortly.

Disclosure standard: Regulatory principles developed by the International Association of Insurance Supervisors (IAIS).

In September 1997, IAIS adopted two sets of supervisory principles: the *Insurance Supervisory Principles*; and the *Principles Applicable to the*

Supervision of International Insurers and Insurance Groups and their Cross-Border Establishments.

As a member of IAIS, Australia undertook the first self-assessment of its supervisory framework for insurers authorised to write insurance business in Australia, against the *IAIS Insurance Supervisory Principles*, in February 1998. It was found that Australia's supervisory regime for insurers was largely in conformance with these Principles, although there were some areas where Australia's supervisory framework did not fully conform. These were mainly with regard to general (non-life) insurers (e.g. APRA's limited powers to set standards with respect to the assets or liabilities of authorised general (non-life) insurers, and solvency requirements for general (non-life) insurers which only partially reflected the size, complexity and business risk of individual companies). These issues are currently being examined to determine what needs to be done to bring Australia's regulatory framework into line with IAIS Principles.

IAIS has set up a variety of committees to develop more detailed standards for areas covered by the *Insurance Supervisory Principles*. APRA is represented on both the Technical Committee and Solvency Sub-Committee.

Disclosure Standard: International Disclosure Standards for Cross-border Offerings and Initial Listings by Foreign Issuers developed by the IOSCO.

The International Organization of Securities Commissions (IOSCO) is an international forum for securities regulators. Its membership includes ASIC, Australia's relevant regulator. In September 1998, IOSCO issued disclosure standards for cross-border offerings and initial listings by foreign issuers and recommended that its members accept the standards. Australia supports and was involved in the development of these standards.

The purpose of the IOSCO disclosure standards is to facilitate cross-border offerings and listings by multinational issuers, by enhancing comparability of information, while ensuring a high level of investor protection.

An important factor in achieving this goal is the development of a generally accepted body of non-financial statement disclosure standards that could be addressed in a single disclosure document.

This document could then be used by foreign issuers in cross-border offerings and initial listings, subject to the host country granting approval through its disclosure document approval process. IOSCO has developed such a body of non-financial disclosure standards.

The standards apply to listings and public offers of securities, as well as sales of equity securities for cash. Therefore unless otherwise indicated, the standards are intended to be used for prospectuses and registration statements as well as offering and initial listing documents.

Foreign issuers must be given relief from strict compliance with Australian prospectus laws if they are to use a foreign prospectus. The forum of relief is set out in an ASIC policy statement, which provides views on how it will interpret and enforce parts of the law. ASIC enforces and interprets the law in a way which gives effect to the IOSCO standards in respect of certain foreign issuers. Such issuers are those making particular rights issues; issues pursuant to options and convertible notes; and foreign takeovers and schemes of arrangement. The policy statement only provides limited relief in the case of initial offerings, which are restricted to 20 or fewer offers per year.

The IOSCO standards cater for two acceptable approaches to disclosure standards. The first is a checklist approach and the second is a 'materiality' test approach.

The checklist approach identifies specific line items in the following areas:

- the offer and listing;
- key information concerning the company;
- offer statistics and expected timetable;
- identity of directors, senior management, advisers and employees;
- financial information;
- operating and financial review prospects;
- major shareholders and related party transactions; and
- additional information.

The 'materiality' test, on the other hand, takes into account that there may be matters known to an issuer that could have a material effect on a decision to invest, but may be missed by specific line item disclosure requirements. The materiality requirement places the onus on an issuer

to make a decision as to the relevance and necessity of certain information and bear the responsibility for making full disclosure.

Australian law requires the issuer of a prospectus to provide all the information that would be material to an investor's needs to make an informed investment decision. Information that investors require for an informed assessment may include:

(a) assets and liabilities, financial position, profits and losses, and the prospects of the corporation; and

(b) the rights attaching to the securities.

Where a country adopts a materiality approach, this principle overrides the country's specific line item disclosure for non-financial statement information in documents used for listings or public offerings of securities. Some countries may even choose to use a hybrid approach, with some specific line items combined with the requirement of materially informed investors. The Australian view is that the adequate supply of material information to investors is the preferred approach, because it leads to fuller disclosure.

Because the disclosure test under Australian law is similar to the test used in many overseas jurisdictions, issuers making an international offering should not find it cumbersome to consider at the outset what additional disclosures are necessary for Australia. They can then include those disclosures in the foreign offer document, yielding compliance if the document is to be lodged and circulated in Australia.

Disclosure Standard: IOSCO Statement of Objectives and Principles of Securities Regulation.

The IOSCO document relating to the objectives and principles of securities regulation sets out 30 principles of securities regulation that give effect to three objectives upon which effective securities regulation is based: the protection of investors; ensuring that markets are fair, efficient, and transparent; and the reduction of systemic risk.

Australia is a member of IOSCO and was involved in the development of the statement. Further details on Australia's adherence to this standard are at Attachment I.

PART III

TRANSPARENCY IN ECONOMIC AND FINANCIAL DATA

The publication of comprehensive, timely and accurate macroeconomic data covering the activities of both the government and private sectors is a key element in the process of transparency and a necessary adjunct to many elements and processes described in Parts I and II of this report. This Part briefly describes the institutional framework supporting the production of macroeconomic statistics in Australia, before discussing Australia's compliance with the relevant international standard in this area.

MACROECONOMIC DATA

Institutional framework

The Australian Bureau of Statistics (ABS) is Australia's official statistical agency. Its mission is to assist and encourage informed decision-making, research and discussion within governments and the community by providing a high quality, objective and responsive national statistical service.

The functions and responsibilities of the ABS are principally determined by the *Australian Bureau of Statistics Act 1975* and the *Census and Statistics Act 1905*. The Census and Statistics Act provides the Australian Statistician with the authority to conduct statistical collections and, when necessary, to direct a person to provide statistical information. The Act imposes on the ABS obligations to publish and disseminate compilations and analyses of statistical information and to maintain the confidentiality of information collected under the Act.

The Australian Statistician determines which statistics are to be collected, after full discussion with users, clients and the Australian Statistics Advisory Council,[1] and makes the results widely available. The independent status of the Australian Statistician is specified in law.

Certain specific macroeconomic data are published by agencies other than the ABS. The Reserve Bank of Australia, which is an independent statutory agency established under the *Reserve Bank Act 1959*, produces a variety of financial sector data. The Department of the Treasury is responsible for the publication of central government debt data and the Department of Finance and Administration is responsible for the publication of data on central government operations and debt guaranteed by the central government. In addition, a number of other government agencies and private sector

1 The Council is established under the *Australian Bureau of Statistics Act 1975*. It reports to Parliament annually on matters connected with the operation of the Act. The Council advises the responsible Minister and the Australian Statistician on improvements to statistical services, priorities and work programs, and other matters relating generally to those statistical services. Its part-time membership comprises nominees of the State governments and other individuals.

organisations produce statistics that contribute to an understanding of macroeconomic conditions and developments.

Transparency

The principal standard for disclosure of macroeconomic data is the International Monetary Fund's (IMF) Special Data Dissemination Standard (SDDS or the Standard).

The SDDS was established by the IMF to guide members that have, or that might seek, access to international capital markets, in the provision of their economic and financial data to the public. The objectives of the SDDS are to contribute to the pursuit of sound macroeconomic policies and to the improved functioning of financial markets through enhancing the availability to the public of comprehensive, timely, accessible and reliable economic and financial statistics. The Standard was launched in April 1996, and Australia was one of the early subscribers.

A subscribing country undertakes to observe the Standard and to provide certain information to the IMF about its practices in disseminating economic and financial statistics, for inclusion on a Dissemination Standards Bulletin Board (DSBB). The information to be provided is reported under four dimensions:

- coverage, periodicity and timeliness of the data;
- access by the public;
- integrity of the disseminated data; and
- quality of the disseminated data.

Seventeen categories of statistical data are prescribed for dissemination, across the real, fiscal,[2] financial and external sectors. A period of transition, up to December 1998, was permitted so that subscribers could upgrade their procedures to meet the Standard. The Standard recognises that, after the transition period, not every category of data will be available with the periodicity and timeliness expected or

2 See also Part I of this report for a description of institutional arrangements applying to the conduct of fiscal policy.

recommended, and permits subscribing countries to take a maximum of two (a third is possible until end-1999) 'flexibility options' for these aspects for most of the data categories. The Standard permits a maximum of two further flexibility options with respect to the dissemination of advance release calendars — that is, for a maximum of two data categories, a subscribing country may not meet the requirement for publication of a release calendar in advance, but would still be considered as adhering to the Standard.

Countries that voluntarily sign up for the SDDS undertake to make the necessary changes to statistical practices to meet the data coverage, periodicity, and timeliness requirements of the SDDS and to follow good practices with regard to public access to the data covered by the Standard and to the integrity and quality of the data. Countries that subscribe to the SDDS provide descriptions (metadata) of their data and data dissemination practices, and these metadata are displayed on the Internet on the IMF's DSBB.

Disclosure standard: IMF Special Data Dissemination Standard

In meeting the Standard, Australia has taken two flexibility options in respect of the periodicity and/or timeliness for the dissemination of Production Indexes and Price Indexes. The Standard prescribes monthly dissemination for Production Indexes with timeliness of no later than six weeks after the reference period (whereas Australia's Production Indexes are disseminated quarterly and with a timeliness of no later than one quarter after the end of the reference quarter). For Price Indexes the Standard prescribes monthly dissemination and timeliness of no later than one month after the reference period (whereas Australia's price indexes are disseminated quarterly, within one month of the reference period).

In these areas where flexibility in regard to periodicity and timeliness has been exercised, Australia does not believe that an understanding of its current economic circumstances is jeopardised.

In addition, Australia has taken permitted calendar flexibility options for the dissemination of the precise release dates of both data on central government operations and data on central government debt. The flexibility options are required for these data categories because the data are approved by the Minister for Finance and Administration prior to release and so the precise release dates cannot be guaranteed in

advance.

The monthly *Commonwealth Government Statement of Financial Transactions* (CFT) advised users, from the January issue (released in March 1999), that the data on central government operations and the data on debt guaranteed by the central government can be found on the Department of Finance and Administration website. It also advised that the quarter-ahead approximate release dates for the data on debt guaranteed by the central government are disseminated on the IMF's DSBB.

The Treasury's quarterly *Economic Roundup* publication advised users, from the Summer 1999 edition (released in February 1999), that the data on total gross outstanding debt of the central government can be found on the Treasury website. The next edition will also advise that the quarter-ahead approximate release dates for the data on total gross outstanding debt of the central government are disseminated on the IMF's DSBB.

Transition plans

Australia is in a position to meet the Standard for data releases from the beginning of 1999. That is, Australia expects to meet the SDDS requirements for the coverage, periodicity and timeliness of the data for the first reference period in 1999. In the following cases, where the Standard was not met for data releases in 1998, the arrangements for conforming to the Standard are:

General government operations

General government operations data meet the periodicity and timeliness requirements, but do not meet the coverage requirements in that a financing breakdown of general government operations is not disseminated. Australia will disseminate data on the financing of general government operations, broken down by debt instrument, in the next release of annual data expected to be in November 1999.

Central government operations

As indicated earlier, while the central government operations data are in full observance of the coverage, periodicity and timeliness requirements of the Standard, a calendar flexibility option for the dissemination of the precise release date of the data has been taken. Statements are published advising users where the data can be found, and that the quarter-ahead approximate release dates for the data are disseminated on the IMF's DSBB. This was achieved on 3 March 1999.

Central government debt

Central government debt data disseminated to date do not meet the coverage, periodicity or timeliness requirements of the Standard. The SDDS prescribes a maturity breakdown of central government debt and a further breakdown of the subscriber's choice (e.g. by residency, instrument, currency or 'indexing'). There is also a requirement to disseminate quarterly data on debt guaranteed by the Commonwealth.

Australia will disseminate data in respect of the first quarter of 1999 on total gross outstanding debt, sufficient to meet the minimum coverage requirements (i.e. quarterly data on total gross outstanding debt of the Commonwealth (central) government, broken down by currency and by maturity on an original maturity basis). This will be achieved within one quarter of the reference period (i.e. by 30 June 1999), as will the data on guaranteed debt.

As also noted above, a calendar flexibility option for the dissemination of the precise release date of central government debt data has been taken. Arrangements are in place for the publication of the required statements by 30 June 1999, to advise users where the data can be found, and that the quarter-ahead approximate release dates for the data are disseminated on the IMF's DSBB.

Summary methodology statements

The SDDS prescribes that subscribing members provide a summary description of methodology for selected data categories on the DSBB, including statements of major differences from international guidelines. The term 'methodology' is used in the SDDS in a broad sense to cover the aspects of analytical framework, concepts, definitions, classifications, accounting conventions, sources of data and compilation practices. The purpose of the summary methodologies is

to make available to the users of the DSBB a substantive description to enable them to assess the suitability of the data for their purposes and the quality of the data.

The summary methodologies are not intended to provide extensive descriptions of all aspects of methodology governing compilation of a particular data category, but rather to outline the key features and relate these to international guidelines, which exist for most of the SDDS data categories.

Draft summary methodology statements are currently required for all data categories with the exception of Labour market indicators, Population and International investment position, and all but two have been submitted. The statement for National Accounts is currently being revised, subsequent to Australia's adoption of the new System of National Accounts statistical standards late in 1998. A revised methodology statement for this data category will be submitted in March 1999. The statement for the Consumer Price Index will also be submitted in March 1999.

The IMF has advised that summary methodology statements, according to templates yet to be provided, will soon be required for Labour market, Population and International investment position data categories.

CODE OF GOOD PRACTICES ON FISCAL TRANSPARENCY

The Code is based on four general principles of fiscal transparency (which are set out below). The Code also proposes specific principles and good practices corresponding to each of the general principles. The International Monetary Fund (IMF) *Draft Manual on Fiscal Transparency* (the Manual) sets out in more detail the principles and practices in the Code and provides guidance on their implementation — in effect, the Manual is a 'User's Guide to the Code'.

- Given that much of the detail relating to the Code is contained in the Manual, it would be beneficial to read the following assessment against the Code in conjunction with the Manual.
- The Manual used to assist this assessment was dated 19 October 1998.

I Clarity of roles and responsibilities

General Principle I reflects the importance of clear boundaries within government between fiscal, monetary, and public enterprise activities, and between the public and private sectors.

1.1 The government sector should be clearly distinguished from the rest of the economy, and policy and management roles within government should be well defined.

1.1.1 The boundary between the government sector and the rest of the economy should be clearly defined and widely understood. The government sector should correspond to the general government, which comprises the central government and lower levels of government, including extrabudgetary operations.

The Commonwealth Government observes the minimum standard specified in the Manual.

The definition of general government used by the Australian Bureau of Statistics (ABS)[1] is outlined in the *Standard Economic Sector Classifications of Australia (SESCA)* (Cat. No. 1218.0). SESCA is based on the principles contained in *A System of National Accounts (SNA93)* and defines the general government sector as comprising all government units of the Commonwealth Government, each State and Territory Government, each local government authority, and all resident non-market non-profit institutions that are controlled and mainly financed by those governments. Government units are considered to be those units that are described in the SNA93 as "unique kinds of legal entities established by political processes which have legislative, judicial or executive authority over other institutional units within a given area". The general government sector includes government controlled unincorporated enterprises that engage in market production but do not qualify as quasi-corporations because their operations are too closely integrated with the operations of other government units and are not the subject of a separate full set of accounts.

As recommended in the Manual, the ABS regularly provides the IMF with information to update the institutional tables currently included in the *Government Finance Statistics Yearbook*.

1.1.2 Government involvement in the rest of the economy (e.g. through regulation and equity ownership) should be conducted in an open and public manner on the basis of clear rules and procedures, which are applied in a nondiscriminatory manner.

Regulation of the nonbank private sector

Recent competition policy reforms in Australia (see Box 1) are relevant to this standard.

1 The ABS is Australia's national statistical agency. Its roles and responsibilities are outlined in section 4.1.3.

Box 1: Competition policy in Australia

As part of its competition policy, Australia has laid down principles and processes for reviewing legislation (including subordinate legislation and quasi-regulation) which restricts competition. The guiding principle in reviewing legislation is that it should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Australia's Commonwealth, State and Territory governments have developed timetables for the review and, where appropriate, reform of all existing legislation that restricts competition by the year 2000, and have developed procedures for the review of new legislation.

Proposals for new legislation that restrict competition must be accompanied by evidence that the legislation is consistent with the guiding principle outlined above. For the Commonwealth, this is done through the Regulation Impact Statement (RIS) process, under which a RIS must be prepared for new regulatory proposals and treaties involving regulation that directly affect business, or which have a substantial indirect effect on business, or which restrict competition. A RIS sets out the relevant policy objective along with all the viable alternatives for achieving that objective. The purpose of RISs is to ensure that government departments and agencies fully consider the costs and benefits of all viable alternatives, with a view to choosing the alternative with the maximum positive impact. A consultation statement is incorporated into the RIS. A government agency, the Office of Regulation Review (ORR), has the function of training officers from departments and agencies in the preparation of RISs.

The ORR also reviews and reports on compliance with RIS requirements. The Commonwealth reports annually on progress with its legislation review program. Further, the National Competition Council reports annually on progress by all governments in meeting their national competition policy commitments.

Once existing legislation has been reviewed, each government is committed to systematically reviewing the legislation at least once every ten years. This review exercise requires governments to identify and justify restrictions on competition, thus greatly improving the transparency of Australia's regulatory regime.

Box 1: Competition policy in Australia (continued)

Under the competitive neutrality component of the national competition policy, governments committed to the principle that government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. Specifically, significant Commonwealth businesses are required to operate in the same regulatory environment as private sector competitors. Where this poses difficulties, government businesses take steps to offset any resulting competitive advantage; e.g. by paying exempted charges on an *ex gratia* basis, or by raising prices to notionally include the value of any benefits from regulatory exemption.

As part of its fulfillment of commitments made under national competition policy, the Commonwealth publishes an annual report on its implementation of competitive neutrality principles. Also, an independent Commonwealth Competitive Neutrality Complaints Office (CCNCO) investigates complaints (from any source). The CCNCO publishes an annual report on the details of complaints and its findings, and the Commonwealth reports on its responses to the CCNCO's recommendations in its annual report.

Government intervention in the banking sector

There is ongoing prudential regulation of deposit-taking institutions at both the Commonwealth and State level, and direct government intervention in the banking sector, including quasi-fiscal activities, is limited at both the Commonwealth and State level.

During 1998, the Commonwealth Government implemented the first stage of its financial system reforms. The Australian Prudential Regulation Authority (APRA) was established to provide prudential regulation for deposit-taking institutions, life and general insurance companies and superannuation funds. In carrying out this role, APRA has substantial operational autonomy and is accountable to the Treasurer and Parliament.

- APRA's functions and objectives are specified in the *Australian Prudential Regulation Authority Act 1998*. APRA's policies are publicly available, for example, the prudential statements that govern APRA's supervisory framework are available on APRA's internet site (www.apra.gov.au). APRA also publishes its quarterly Bulletin (which contains industry and other statistics, copies of recent speeches and statements) and will produce an annual report that will outline the activities it undertakes to achieve its objectives. (There

is more discussion on banking under *Financial Sector Supervision* in Part II of the report.)

Direct equity investment

At both the Commonwealth and State level, only the Queensland Government owns a significant shareholding in a commercial bank. The Commonwealth Government has recently sold the Australian Industries Development Corporation and the Housing Loans Insurance Corporation.

1.1.3 The allocation of responsibilities between different levels of government, and between the executive branch, the legislative branch, and the judiciary, should be clearly defined.

National and subnational governments

The Australian federal system is based on three tiers of government — Commonwealth, State and local. The Australian Constitution provides the framework for the relationship between the Commonwealth and the States. It defines the scope of the Commonwealth's legislative powers, which in some cases are exclusive to the Commonwealth but otherwise are concurrent with the States. In the areas of concurrent responsibility, sometimes negotiations between the Commonwealth and the States decide where the responsibilities of each level of government lie. In case of a conflict between Commonwealth and State law, Commonwealth law prevails. Local government falls under State jurisdiction but is recognised formally by the Commonwealth.

Box 2: Intergovernmental financial relations in Australia

While both the Commonwealth and the States have the Constitutional power to collect income taxes, only the Commonwealth does so. In addition, the Constitution prohibits the States from imposing customs or excise duties, which has been interpreted judicially as precluding the States from imposing general taxes on goods (but not services). Partly because of the above, federal fiscal arrangements are characterised by a high degree of vertical fiscal imbalance. The amount of revenue raised by the Commonwealth is considerably larger than its own-purpose outlays. In contrast, the amounts that the States raise in revenue are insufficient to meet their expenditure responsibilities.

Box 2: Intergovernmental financial relations in Australia (continued)

This fiscal imbalance is addressed through the payment by the Commonwealth of general purpose and specific purpose financial grants to the States. Formal agreement on the allocation of general purpose payments (untied grants) is reached at an annual meeting of the Heads of the Commonwealth and State Governments (the Premiers' Conference), having regard to the recommendations of the Commonwealth Grants Commission, a Commonwealth body that advises the Commonwealth Government on the distribution of general purpose assistance to the States. Specific purpose payments are payments for policy purposes related to particular functional activities. In most cases, these are subject to conditions reflecting Commonwealth policy objectives or national policy objectives agreed between the Commonwealth and the States.

The Commonwealth is proposing to reform the financial relationship with the States in conjunction with its proposed reforms of the Australian taxation system. As part of this process, on 13 November 1998 Heads of Government endorsed an 'Agreement on Principles' for the reform of Commonwealth-State financial relations. Key features of the agreement are that, subject to the implementation of the Commonwealth's tax plan, the Commonwealth will provide to the States all the revenue raised from the proposed goods and services tax, in place of most general purpose payments, and the States will remove or reduce a range of inefficient, narrowly-based indirect State taxes.

Roles of the executive, legislative and judicial branches

The Commonwealth Government observes the framework outlined in the Manual that the role of each branch of government in fiscal management be clearly defined. The Australian Constitution defines these roles and responsibilities. Key provisions of the Constitution include:

- the Parliament has power to make laws for taxation and borrowing money on public credit (section 51). It also has the exclusive right to impose customs and excise duties (section 90);
- all revenue raised or money received by the Executive Government (that is, the Executive Council, consisting of all Ministers, acting through the Governor-General) has to form one Consolidated Revenue Fund to be appropriated for the Commonwealth's purposes (section 81);

- no money can be drawn from the Treasury of the Commonwealth except under appropriation made by law (section 83);
- the Executive has the sole right to present expenditure proposals to Parliament (section 56); and
- the judicial power of the Commonwealth (including in relation to the points above) shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates and in such other courts as it invests with federal jurisdiction (section 71).

1.1.4 Clear mechanisms for the coordination and management of budgetary and extrabudgetary activities should be established, and well defined arrangements vis-a-vis other government entities (e.g. the central bank, and state-controlled financial and nonfinancial enterprises) should be specified.

Coordination of the fiscal management process

The Commonwealth Government observes the framework set out in the Manual that fiscal responsibilities among its ministries should be clearly defined.

Pursuant to section 64 of the Constitution, the Governor-General in Council, on the advice of the Prime Minister, issues after each election an order outlining the administrative arrangements, detailing each Minister's responsibilities and the legislation for which the Minister is responsible. The Administrative Arrangements Order (AAO) is published in the *Commonwealth Gazette*.

Responsibilities for fiscal policy and budget management are shared between the Treasurer and the Minister for Finance and Administration. The AAO clearly defines the responsibilities of each Minister. As both Ministers' responsibilities are linked, they often work together in Cabinet.

The Expenditure Review Committee (ERC), a committee of Cabinet, reviews Government priorities and objectives during the annual budget processes.

As part of budget reporting of the ERC decisions, each Minister is required to submit to the Parliament a Portfolio Budget Statement (PBS) covering all departments and agencies within the Minister's Portfolio. With the move to accrual budgeting for the 1999-2000

Budget, the PBS will focus at the agency level and detail planned performance by agencies against outcomes, outputs and budgeted financial statements (see Box 10, section 3.2.2). Actual performance will be reported against planned performance in the agency's annual report, which is also required to be submitted to Parliament.

Issues raised in the Manual under this heading regarding the coverage of the Commonwealth budget reporting (reporting on a gross basis, presentation of aid-in-kind and extrabudgetary transactions) are outlined in Box 4 (section 1.2.1), Box 5 (section 2.1.1) and Box 6 (section 2.1.4).

Box 3: Coordination of fiscal management between levels of government

Coordination between the Commonwealth and the States of the fiscal management of the economy is undertaken principally through the forum of the Australian Loan Council. The Loan Council is a Commonwealth-State Ministerial Council that meets annually, usually in conjunction with the annual Premiers' Conference (see Box 2, section 1.1.3), and comprises the Commonwealth Treasurer, as Chairman, and his State counterparts.

The Loan Council process is undertaken to ensure that State and Commonwealth fiscal strategies are consistent with national macroeconomic objectives and that borrowings by each government are sustainable. The arrangements emphasise transparency of public sector finances rather than adherence to strict borrowing limits, and are designed to enhance the role of financial market scrutiny as a discipline on borrowings by the public sector. (That is, Loan Council acts more as a national fiscal reporting mechanism than as a forum to set national fiscal outcomes.)

Each jurisdiction submits to the Loan Council a Loan Council Allocation nomination that represents the jurisdiction's call on financial markets over the forthcoming financial year. These nominations are considered by Loan Council having regard to each jurisdiction's fiscal position and reasonable infrastructure requirements, as well as to the macroeconomic implications of the aggregate figure.

The Loan Council process is supported by uniform, comprehensive reporting of public sector finances to assist Parliaments, financial markets and the public to make their own judgements about each government's financial performance. Loan Council reporting arrangements form part of the *Uniform Presentation Framework* for government financial information that was agreed by Loan Council in 1997.

Separation of fiscal, monetary and public enterprise management

General government and the central bank

Issues raised under this heading are addressed in the response to *Good transparency practices for monetary policies by central banks* at Attachment B.

General government and public financial institutions

The issues raised in this heading are addressed under the heading *Direct equity investment* in section 1.1.2.

General government and non-financial public enterprises (NFPEs)

The Manual suggests that transparency concerns can arise over the manner in which NFPEs are privatised, which can have negative fiscal impacts. National competition policy includes principles for the structural reform of public monopolies. In particular, when privatising a public monopoly the Government must undertake a review that includes clarification of appropriate commercial objectives; consideration of separating natural monopoly elements and potentially competitive elements; separation of regulatory from commercial functions; merits of any community service obligations and how they might be funded; and price and service regulations.

Major non-commercial activities of non-financial public enterprises and the policy rationale for their continuation are reported in the enterprises' annual reports.

1.2 There should be a clear legal and administrative framework for fiscal management.

1.2.1 Fiscal management should be governed by comprehensive laws and administrative rules applying to budgetary and extrabudgetary activities. Any commitment or expenditure of government funds should have a legal authority.

The Australian Constitution ensures that the authority for collection of taxation, appropriations for government expenditure and government borrowing rests with legislation enacted by the Commonwealth Parliament. Key provisions of the Constitution are outlined under the heading *Roles of the executive, legislative and judicial branches* in section 1.1.3.

As outlined in section 1.1.4, the responsibilities of Ministers in the Commonwealth Government are outlined in the AAO. In addition, the *Financial Management and Accountability Act 1997* specifies those responsibilities and powers of the Minister for Finance and Administration that underpin, and give context and meaning to the traditional role of custodian of the 'Treasury of the Commonwealth' referred to in section 83 of the Constitution.

Budget supplementation throughout the budget year is accommodated through the Additional Estimates process. Where amounts appropriated at budget time are insufficient, Parliament may appropriate more funds to portfolios through the Additional Estimates Acts.

The accountability for appropriations for Additional Estimates is similar to that for the budget. Each Minister is required to submit to the Parliament for scrutiny *Portfolio Additional Estimates Statements*, a supplementation to the PBS (described in Box 10, section 3.2.2). Additional funds appropriated under the Additional Estimates process will generally be reflected in the mid-year economic and fiscal outlook report, which under the *Charter of Budget Honesty Act 1998* (CBH) must be released by the end of January or 6 months after the budget, whichever is later (see Box 7, section 2.2.1).

The Contingency Reserve is a separate functional classification in the Commonwealth budget documents. The budget documents give a description of the role of the Reserve and its components.

Issues raised in the Manual under this section regarding the responsibility of individual agencies to be held accountable for the collection and use of resources are addressed under the heading *Internal control systems* in section 3.3.1. Reporting of budget transactions on a gross basis is outlined in Box 4.

Box 4: Reporting of budget transactions on a gross basis

Prior to the 1999-2000 financial year, Commonwealth budgets were based on ABS Government Finance Statistics (GFS) standards, whereby fees and charges were classified as offsets to outlays. However, between 1994-95 and 1999-2000, the Commonwealth produced ex-post reports (separately from the budget documents) using an accounting standard under which fees and charges are separately identified as a revenue item. From 1999-2000, the Commonwealth budget will be produced on an accrual basis, which will identify fees and charges separately as a revenue item.

1.2.2 Taxes, duties, fees, and charges should have an explicit legal basis. Tax laws and regulations should be easily accessible and understandable, and clear criteria should guide any administrative discretion in their application.

Explicit legal basis for taxes

The Australian Constitution gives the Commonwealth Parliament power to enact laws with respect to taxation (section 51 (ii)). The Constitution (over a number of other sections) also defines the extent of the Commonwealth's tax powers. The legal basis (i.e. constitutionality) of tax laws, regulations and taxes and fees can be challenged by taxpayers through the Courts. Exercise of discretions and other administrative decisions/actions may be challenged before the Administrative Appeals Tribunal (AAT). All Commonwealth regulations must be published in the *Commonwealth Gazette* and tabled in the Commonwealth Parliament. The Parliament can disallow regulations.

Accessibility and understandability

Australia's tax laws, explanatory memoranda and regulations are accessible to the general public. They are available from Commonwealth Government bookshops (by purchase), on the Australian Taxation Office's (ATO) internet home page (www.ato.gov.au) and in libraries. ATO Public Rulings, Determinations and other administrative interpretation documents are accessible to the general public through a number of avenues — the ATO's internet home page, through tax agents and by requesting a copy from the ATO. Explanatory material such as pamphlets explaining the tax laws are kept up to date and are available from ATO branches, ATO shopfronts and on the ATO internet home page. The

ATO recently made its law database available to the general public through its internet home page, free of charge. This allows tax practitioners and the public to have access to the material (internal ATO decisions on issues as well as legislation, rulings and Court decisions) that the ATO uses in making its decisions.

New budget revenue measure announcements are also accessible. Budget papers can also be purchased from Government bookshops and are available on the Department of Treasury's internet home page (www.treasury.gov.au). Budget revenue measures generally receive wide media coverage.

Since 1 July 1994 the Tax Law Improvement Project has been rewriting Australia's tax laws with the objective of clarifying and developing legislation to make it more understandable and certain for taxpayers. The project has rewritten large amounts of the law (including capital gains tax) and is well advanced. Techniques used by the Project include core provisions for each Act, Chapter, Part and Division and a coherent structure and plain language. The Government announced in 1998 that an integrated tax code will be established which will integrate all the tax rules, using consistent terminology and definitions and use general principles in preference to long and detailed provisions.

Clear criteria for administrative application

Australia's tax laws give the Commissioner of Taxation a variety of discretions in making an assessment. Publicly available guidelines are in place to support the exercise of discretions which may also be challenged by taxpayers before the AAT.

The ATO has established guidelines for the settlement of taxation debts and negotiated settlement of tax liabilities. The *Debt Collection Policy Manual* and *Negotiated Settlement guidelines* provide ATO staff with the appropriate principles and guidance to manage the collection of tax liabilities. Both guidelines are public documents.

Australia's tax laws give the Commissioner and his officers powers to gain access to buildings, books and documents for the purposes of the tax law. He also has powers to require information to be furnished to him and to require persons to give evidence and produce documents and books, including information held offshore. These powers are also subject to stringent guidelines, and are subject to review by the Courts.

The ATO is also empowered by law to exchange and datamatch specific information with other government agencies including social security to achieve welfare outlay savings and to request information from employers, investment bodies and others to ensure that income is declared.

The ATO has an Internal Assurance Branch that provides independent and impartial audit and fraud prevention control services to the ATO. It carries out fraud control planning and conducts criminal investigation of staff suspected of criminal behaviour including bribery and corruption. The Australian National Audit Office also conducts external audits of the ATO's programs.

The ATO's major taxation processing systems contain audit trail functionality allowing transactions processed to be cross referenced to initiating staff and hardcopy or electronic source data. Taxpayers are uniquely identified within these systems by the use of the Tax File Number. The integrity of the Australian tax system will be further enhanced with the introduction of the Australian Business Number, announced by the Government in 1998, which will eventually provide a common identifier for businesses across all government agencies.

Taxpayer rights and openness of administrative decisions to independent review

The ATO established a *Taxpayers' Charter* in July 1997 that explains taxpayer legal rights, including rights of review if they are dissatisfied with the ATO's decisions or actions, and main obligations. In support of the *Taxpayers' Charter*, the ATO publishes information about the service standards that the community can expect from the ATO. In 1997-98, the service standard that a decision on an objection be given within 56 days of receiving the necessary information was achieved in 62 per cent of cases. The Commissioner of Taxation's annual report, which is tabled in the Commonwealth Parliament, reports on the operation of the Charter.

Australian taxpayers have numerous avenues for review of administrative decisions. The ATO has established a complaints handling mechanism within the office, the Problem Resolution Service (PRS) which conducts independent reviews of complaints. In 1997-98, 54 per cent of complaints received by the PRS were resolved in favour of the taxpayer, while another 15 per cent were resolved partially in favour of the taxpayer. The tax law gives taxpayers the right to lodge an objection with the Commissioner. All objection decisions by the

ATO must be accompanied by an explanation of the reasons for the decision. Taxpayers have the right of review of an objection decision to the AAT or by appeal to the Federal Court. The AAT includes the Small Tax Claims Tribunal (STCT), a low cost, informal avenue set up to expedite small taxation matters. In 1997-98 the Commissioner's decision was upheld in 54 per cent of cases in the AAT and 53 per cent of cases in the STCT. Decisions that do not relate to the assessment or calculation of tax may be reviewed under the *Administrative Decisions (Judicial Review) Act 1977*. Taxpayers can also make representations to elected Parliamentary representatives or the Commonwealth Ombudsman and complain to the Privacy Commissioner if they believe the ATO has breached the *Privacy Act 1988* in dealing with the taxpayer's personal information.

The ATO has consultative forums with tax practitioners such as the National Tax Liaison Group and utilises private sector consultants, for example, on its Public Rulings Panel and Litigation Panel. It also conducts external consultation with stakeholders in relation to a number of legislative measures.

1.2.3 Ethical standards of behaviour for public servants should be clear and well-publicised.

Public servants are expected to adhere to formal standards contained in the *Public Service Act 1922*, *Public Service Regulations* and other legislation, such as that dealing with the privacy of information and employment discrimination. Agencies also have their own legislation that may impose a further set of obligations on staff working in these agencies. The publication *Guidelines on Official Conduct of Commonwealth Public Servants*, which was revised by the former Public Service Commission in 1995, provides a reference guide to the standards referred to above. Agencies are able to promulgate their own guidelines regarding the standards of official conduct expected of their own staff.

II Public availability of information

General Principle II is concerned with the need for both comprehensive fiscal information and for governments to commit themselves to publish fiscal information at clearly specified times. The concept of comprehensiveness goes beyond that typically covered in government budget and accounts statements. In particular, the Code emphasises the need to report on any quasi-fiscal activities that have been assigned or otherwise undertaken by non-government agencies.

2.1 The public should be provided with full information on the past, current, and projected fiscal activity of government.

2.1.1 The annual budget should cover all central government operations in detail, and should also provide information on central government extrabudgetary operations. In addition, sufficient information should be provided on the revenue and expenditure of lower levels of government to allow a consolidated financial position for the general government to be presented.

Central Government budget and extrabudgetary funds

Box 5: Coverage of Commonwealth Government budget reporting

Prior to the 1999-2000 financial year, Commonwealth budgets were mainly presented to focus on the activities of the budget sector (those departments and agencies controlled by the Commonwealth whose day-to-day transactions are recorded in the Official Commonwealth Public Account via the Consolidated Revenue Fund, Loan Fund, Commercial Activities Fund or the Reserved Money Fund).

Supplementary presentations were included which presented data on a GFS consistent basis for the general government, public trading enterprise and consolidated non-financial public sectors.

From 1999-2000, the Commonwealth budget will be presented to mainly focus on the Commonwealth general government sector. Data for the general government, public trading enterprise and consolidated non-financial public sector on a GFS basis will continue to be included as a supplementary presentation. Any differences from external reporting standards (such as the System of National Accounts and GFS standards) are reported (as required in the CBH, see section 3.2.4) to allow analysis consistent with those standards.

Issues regarding the reporting of budget transactions on a gross basis are outlined in Box 4, section 1.2.1.

Consolidated position of general government

The annual Commonwealth budget has coverage of the consolidated fiscal position of general government. The budget analyses recent and historical trends in general government and public trading enterprise sector fiscal balances and net debt. *Budget Paper No. 3* presents information on recent developments in Commonwealth-State financial relations, fiscal developments in each of the States, the composition of Commonwealth payments to and from the States and local government, and the outcome of Premiers' Conference and Loan Council meetings.

Information on the consolidated general government sector is available from the ABS, which compiles data on general government finances at the local, State and Commonwealth levels. The ABS releases three annual publications on these data: *Government Finance Statistics*, *Government Financial Estimates*, and *Public Sector Financial Assets and Liabilities*.

Each State budget also contains estimates and forecasts of general government fiscal activity. In each case, these estimates conform to the *Uniform Presentation Framework* (UPF), an agreement which aims to ensure that a common core of financial information is provided in each jurisdiction's budget papers, and that all are consistent with the ABS GFS. From 1998-99, each jurisdiction will also provide updated UPF tables (containing revised estimates and forecasts) for the general government sectors in mid-year review publications.

While the Commonwealth Government budget documents prior to the 1999-2000 financial year have included an analysis of trends in general government information, the focus of the Commonwealth's budget reporting in its annual budget documents has been on the Commonwealth budget sector. This focus will change to general government reporting in the 1999-2000 Budget, as outlined in Box 5.

2.1.2 Information comparable to that in the annual budget should be provided for the outturns of the two preceding fiscal years, together with forecasts of key budget aggregates for the two years following the budget.

Commonwealth budget documents include the original budget estimates and the estimated outcome (describe as an outturn in the Code) for the preceding year's budget and the actual outcome for the year prior to that. Summary tables included in the budget documents

show trends in outlays and receipts and budget outcomes for more than ten years preceding the budget. The Commonwealth budget documents only include revised estimates for the previous year's outcome (final outcome data has not been included in recent years due to the timing of the budget, which has been brought down prior to the completion of the fiscal year). Final outcomes are published in the final budget outcome (FBO) report (see section 3.4.1).

While Australia does not meet the suggested reporting requirement in the Manual of comparisons of estimates and outcomes for the two years prior to the budget year, there is detailed information published during the budget year on variations to the budget estimates for the previous budget year, the current budget year and the forward estimates.

The Commonwealth Government's legislative framework for the conduct and reporting of fiscal policy, the CBH, requires the Treasurer to publicly release and table a mid-year economic and fiscal outlook (MYEFO) report by the end of January in each year, or within 6 months after the last budget, whichever is later (CBH clause 14).

The MYEFO provides a reconciliation table of variations in budget aggregates for the current budget year and the three forward estimates year. The table disaggregates differences in the revised MYEFO estimates of the budget aggregates into:

- reclassifications;
- policy decisions; and
- changes arising from revised economic parameters and other variations.

In the annual budget documents, a reconciliation is provided for changes to budget estimates for the preceding financial year, the current budget year and the next two forward estimates years since the last budget, showing:

- changes between the original budget estimates and the MYEFO; and
- changes between the MYEFO and the budget, disaggregated into the three elements above.

All budget classification changes are reported in the annual budget documents.

The CBH requires that the budget documents and the MYEFO contain Commonwealth budget sector and Commonwealth general government sector fiscal estimates for the budget year and the following three financial years.

In the event of a general election being called for the federal House of Representatives, the CBH (clause 22) also requires a pre-election fiscal and economic outlook (PEFO) report to be publicly released by the Secretary to the Department of the Treasury and the Secretary to the Department of Finance and Administration within 10 days of the issue of the writ for a general election.

2.1.3 Statements should be published with the annual budget giving a description of the nature and fiscal significance of contingent liabilities, tax expenditures, and quasi-fiscal activities.

Contingent liabilities

The Commonwealth Government observes the minimum standard in the Manual that a statement be published of the outstanding stock of contingent liabilities of the central government.

The CBH (clause 12) requires that the Treasurer publicly release an economic and fiscal outlook report at the time of each budget, MYEFO and PEFO which contains a statement of the risks, quantified where feasible, that may have a material effect on the fiscal outlook, including:

(i) contingent liabilities;

(ii) publicly announced Government commitments that are not yet included in the estimates of the Commonwealth budget sector and Commonwealth general government sector fiscal estimates for the budget year and following 3 financial years; and

(iii) Government negotiations that have yet to be finalised.

Tax expenditures

The Commonwealth Government observes the minimum standard in the Manual that a statement be published with the annual budget of tax expenditures, together with a brief explanation of the nature of each program to enable at least some assessment of their justification and fiscal significance.

The CBH requires the Treasurer to publish:

- an overview of the estimated tax expenditures for the budget year and the following 3 financial years as part of the budget economic and fiscal outlook (clause 12); and
- a detailed statement of tax expenditures (presenting disaggregated information on tax expenditures) as part of the MYEFO (clause 16).

Actual tax expenditures for a number of years prior to the budget year and quantitative estimates of tax expenditures for the budget year and the 3 following years are included in the budget documents and the MYEFO. The budget documents also include information on tax expenditures broken down by functional category.

In addition, a separate *Tax Expenditure Statement* (TES) is published annually by the Department of the Treasury.

The TES provides the following information on Commonwealth tax expenditures:

- the estimated cost of tax expenditures on a functional basis covering the 2 years prior to the budget year, the budget year and the 3 forward estimate years;
- a comparison on a functional basis of the cost of tax expenditures with direct budget expenditures;
- a brief description of each identified tax expenditure, including estimated cost where possible, for the 3 years prior to the budget year, the budget year and 3 forward estimate years; and
- explanations of the tax expenditure benchmarks.

Quasi-fiscal activities

The Commonwealth Government-owned Export Finance & Insurance Corporation (EFIC) operates a separate 'national interest account' for non-commercial undertakings that are requested by the Government. For the remainder of its business, EFIC is presently moving towards accounting separation between fully commercial and non-commercial activities.

The annual budget does not provide a statement of quasi-fiscal activities conducted by non-government agencies as quasi-fiscal activities are not considered significant.

2.1.4 The central government should regularly publish information on the level and composition of its debt and financial assets.

Reporting of debt

Issues raised under this heading, including Australia's observance of the IMF's Special Data Dissemination Standard (SDDS) debt reporting standards, are addressed under the heading *Macroeconomic Data* in Part III of the report.

The Treasury's annual *Commonwealth Debt Management* publication, which is also released on Treasury's website, provides more detailed material, including discussion on Commonwealth debt management.

Reporting of financial assets

Adoption of accrual based accounts by the Commonwealth and most States will ensure coverage of both debt and assets in a comprehensive reporting framework (see Box 6).

As part of its accrual financial management framework, the Commonwealth Government has released *Consolidated Financial Statements* for the year ended 30 June 1997 and unaudited statements have been released for the previous 2 years. The statement of assets and liabilities includes valuations of all financial assets and debt. In the notes to the accounts, both financial assets and debt are broken down to a disaggregated level. (For example, investments are broken down into gold holdings, deposits, government securities, debentures, shares, IMF quota, associated entities, and other investments.) All of the major accounting policies used in preparing the Financial Statements are disclosed.

A full balance sheet presentation of the Commonwealth Government budget and accounts (including financial assets and debt) is proposed for the 1999-2000 Budget. This format will be adopted for the budget documents, the MYEFO and the FBO report.

While these documents will provide the information on financial assets required by the Manual, they will be released at longer time intervals than each quarter. Consequently, reporting of financial assets will not meet the timing standard suggested in the Manual of reporting on a quarterly basis within one quarter of the end of the reference period.

Box 6: Accrual accounting by Australian governments

On 7 May 1997, the Commonwealth Minister for Finance and Administration announced that the Commonwealth Government would implement a fully integrated accrual financial management framework. This will move the Commonwealth into line with most State governments, which have either already adopted or have decided to adopt accrual financial management.

Prior to the implementation of the framework, Commonwealth financial accounting was largely conducted on a *cash* basis, which records when a cash transaction occurs. *Accrual* accounting records when an actual economic transaction takes place, independent of whether the related cash payment is made at that time.

Audited consolidated financial statements

In February 1998, the Commonwealth Government released the first ever audited *Consolidated Financial Statements* for the year ended 30 June 1997 and unaudited statements have been released for the previous 2 years.

The financial statements involve the presentation of primary financial statements that focus on revenues and expenses (to show financial performance); assets and liabilities or balance sheet (to show financial position); and cash flows (to show how activities are financed).

The primary statements are supplemented by schedules of commitments and contingencies that provide information about obligations, undertakings and uncertainties that could, on the happening of future events, impact on performance, financial position and cash flows.

Accrual Commonwealth Budget

From the 1999-2000 fiscal year, the Commonwealth budget and forward estimates will be produced on a similar basis to the consolidated financial statements, together with a capital budget. This approach will assist planning and will facilitate comparison of planned and actual outcomes. Accrual information will provide a more comprehensive measure of the sustainability of government activities and their impact on future generations.

The new financial framework will also include a requirement that agencies specify and cost their outputs against planned outcomes and identify meaningful performance indicators against targets. Outputs and their links to outcomes will therefore form the basis of agency operating budgets (see Box 10, section 3.2.2).

Box 6: Accrual accounting by Australian governments (continued)

The Accrual Information Management System will be the central accrual budgeting system for the Commonwealth Government covering the general government sector. It will provide strategic financial information, budget and forward estimates data and input for the whole of government financial statements, as well as monthly accrual reports.

Accrual Government finance statistics

The ABS announced in 1997 that it will change its recording of GFS from a cash accounting to an accrual accounting basis. Published GFS will consist of a main accrual presentation and a cash based supplement, using derived cash data. The first publication of accrual based GFS is expected during 1999. The accrual GFS will show three new summary measures: net lending, increase in net worth and the net operating result (increase in net worth less revaluations).

2.2 A public commitment should be made to the timely publication of fiscal information.

2.2.1 Specific commitments should be made to the publication of fiscal information (e.g. in a budget law).

Box 7: The Charter of Budget Honesty Act 1998

The *Charter of Budget Honesty Act 1998* (CBH) sets out the fiscal reporting standards required to be followed in preparing fiscal reports and requires the Commonwealth Government to publicly release and table regular fiscal reports as follows:

- the first fiscal strategy statement for a particular Government at or before the time of the Government's first budget and thereafter at the time of the Government's subsequent budgets (clause 4);
- a budget economic and fiscal outlook report with each budget (clause 10);
- a mid-year economic and fiscal outlook report by the end of January in each year or within 6 months after the last budget, whichever is later (clause 14);
- a final budget outcome report within 3 months after the end of the financial year (clause 18);
- an intergenerational report every five years (clause 20); and
- a pre-election economic and fiscal outlook report within 10 days of the issue of the writ for a general election (clause 22).

Australia observes the requirements of the SDDS as regards release of fiscal sector information.

- As stated above, the CBH requires a FBO report within 3 months of the end of each financial year that provides information on the Commonwealth general government outcome. The UPF also requires that the States and Territories produce comparable outcome information on their general government sectors. There are two different requirements as to the timing of this information:
  - Jurisdictions producing late budgets (i.e. post June) should present outcome information in their budget documents. All jurisdictions producing late budgets do so less than 6 months after the end of each financial year.
  - Jurisdictions producing early budgets, and other jurisdictions unable to present outcome information in their budget documentation, should publish a separate outcome report within 4 months of the end of each financial year.
- A *Commonwealth Government Statement of Financial Transactions* (CFT) is released each month containing actual Commonwealth government transactions for that month and the total financial year to date. Information provided includes revenues, expenditures, the budget balance (both underlying and headline) and domestic and overseas financing transactions. The CFT is generally released around the last Friday of each month, giving details of the previous month's outcome.
  - From July 1999 the coverage will expand to the Commonwealth general government sector with the aggregate data produced on an accrual basis.
- Australia releases information on central government debt as detailed in section 2.1.4.

Further information on Australia's observance of SDDS reporting standards, are addressed under the heading *Macroeconomic Data* in Part III of the Report.

Box 8: Commonwealth Freedom of Information Legislation

Information held by the Commonwealth may be accessed by the public under the *Freedom of Information Act 1982*, subject to some exceptions. The object of the legislation, as outlined in section 3 of the Act is to:

"…extend as far as possible the right of the Australian community to access to information in the possession of the Government of the Commonwealth by:

(a) making available to the public information about the operations of departments and public authorities and, in particular, ensuring that rules and practices affecting members of the public in their dealings with departments and public authorities are readily available to persons affected by those rules and practices; and

(b) creating a general right of access to information in documentary form in the possession of Ministers, departments and public authorities, limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities."

2.2.2 Advance release date calendars for fiscal reporting to the public should be announced.

The CBH contains requirements (which are publicly available) for no-later-than release times for fiscal reports, as listed in section 2.2.1. Arrangements are in place for the publication of the statements required by the SDDS to advise users where the data can be found, and that month-ahead approximate release dates for the data are disseminated on the IMF's Dissemination Standards Bulletin Board.

Australia does not require an office or contact officer to be made available to provide up to date information on the time of release of fiscal reports. The Manual suggests that countries should make such an office or contact officer available.

Release dates for the general government operations data category of the SDDS are set in advance and are publicly available.

III Open budget preparation, execution, and reporting

General Principle III encompasses traditional standards relating to the coverage, accessibility and integrity of fiscal information. Considerable emphasis is placed on the development and harmonisation of international statistical and accounting standards for government reporting.

3.1 Budget documentation should specify fiscal policy objectives, the macroeconomic framework, the policy basis for the budget, and identifiable major fiscal risks.

3.1.1 A statement of fiscal policy objectives and an assessment of sustainable fiscal policy should provide the framework for the annual budget.

Medium-term forecasts and budget frameworks

Fiscal policy in Australia is put together using a medium-term budget framework (MTBF). The major features of Australia's MTBF are:

- the CBH requires the Commonwealth Government to release an annual fiscal strategy statement based on principles of sound fiscal management (clauses 5 and 6);
- an integrated framework to calculate macroeconomic and fiscal estimates for the budget year plus the three following years (CBH, clause 12);
- expenditure estimates for the budget year and the 3 following years are broken down by spending portfolio and functional classification in the budget papers;
- the first out-year forward estimate is the basis of budget negotiations the following year (as revised for economic parameters, policy decisions, reclassifications and other variations); and
- funding for programmes not covered in budget appropriations can be funded through the Additional Estimates process (see section 1.2.1) or specific appropriations. This type of funding would need to be approved by a Committee of Cabinet.

Fiscal sustainability

The Commonwealth Government has commenced implementation of an accrual financial management framework, which will provide a more comprehensive measure of the sustainability of government activities and their impact on future generations (see Box 6, section 2.1.4).

The CBH (clause 4) also requires that the Government's fiscal policy is set in a sustainable medium-term framework and, to meet this objective, its fiscal strategy is to be based on principles of sound fiscal management. One of these principles is to ensure that the Government's policy decisions have regard to their financial effects on future generations (CBH clause 5).

To meet this principle, the CBH requires an intergenerational report to be produced every five years. The goal of the report is to assess the long-term sustainability of current government policies over the next 40 years, including by taking account of the financial implications of demographic change.

The Commonwealth Government does not publish estimates of the primary balance (the overall balance excluding interest payments) or the cyclically adjusted budget balance as suggested by the Manual. However, the following information is published in the Commonwealth's annual budget documents, although it is not specifically required by the Manual:

- estimates of the underlying budget balance and public debt interest, the components of the primary balance; and
- in accordance with the CBH (clause 12), a discussion of the sensitivity of fiscal estimates to changes in economic assumptions. This information is provided in the form of the sensitivity of outlays and revenues to a selected range of economic parameters, covering both activity and prices (but not aggregate economic growth). Sensitivity to GDP growth, particularly for revenue, may vary significantly, depending on the composition of growth.

3.1.2 Any fiscal rules that have been adopted (e.g. a balanced budget requirement and borrowing limits for lower levels of governments) should be clearly specified.

The fiscal strategy statement that is required under the CBH (clause 9) is to include, amongst other things:

- the Government's long-term fiscal objectives within which shorter term fiscal policy will be framed;
- the broad strategic priorities on which the budget is or will be based;
- the key fiscal measures that the Government considers important and against which fiscal policy will be set and assessed; and
- how the fiscal objectives and strategic priorities specified and explained above relate to the principles of sound fiscal management.

In addition, the purpose of budget and mid-year economic and fiscal outlook reports is to present information in such a way as to allow an assessment of the Government's fiscal performance against those objectives and targets.

The fiscal strategy statement in the Commonwealth Government's 1998-99 Budget documents states that the Government has adopted a medium-term fiscal strategy of pursuing, as a guiding principle, the objective of underlying balance on average, over the economic cycle.

Further explanation of the strategy is in Box 9.

Box 9: The medium-term fiscal strategy

The Government's medium-term fiscal objective is to achieve *underlying budget balance on average, over the economic cycle*. The primary objective of the medium-term fiscal strategy is to raise longer-term economic growth by providing for a sustained structural improvement in public sector saving. Adherence to this strategy will ensure that, over time, the Commonwealth Government is saving enough to cover its own investment needs and is, therefore, not directly contributing to the national saving-investment imbalance (that is, the current account deficit).

The '*balance over the cycle'* formulation for the fiscal strategy has two main advantages.

- It provides the flexibility to allow fiscal settings to change in response to economic conditions and external shocks (primarily through the operation of the 'automatic stabilisers' in the budget) while also allowing some scope for discretionary counter-cyclical measures.
- It is consistent with a falling government debt to GDP ratio over time.

Box 9: The medium-term fiscal strategy (continued)

While the 'over the cycle' formulation provides clear policy advantages, assessing progress against it, however, may not be straightforward. This is largely due to the need to make an assessment of the likely duration and profile of the economic cycle (although this issue arises, to some degree, for any medium-term objective).

- For example, in a particularly long cycle, relatively modest surpluses during a prolonged expansion may be more than sufficient to achieve the medium term fiscal target. However, in a shorter cycle, more substantial surpluses may be required in order to build up the necessary buffer to absorb future deficits and remain on track to achieving the fiscal target.
- Cycles are quite variable and past experience may not provide a good guide to the future, given the substantial improvement in the conduct and transparency of macroeconomic management (and other policy settings).

The Government buttressed the medium term fiscal strategy with several clearly defined supplementary fiscal targets. These targets typically have a shorter term focus and help to provide a clearer guide for fiscal policy — that is, they are intended to act as guideposts to the achievement of the medium-term objective. The Government's current supplementary fiscal targets, as outlined in the 1998-99 Budget Statements, include:

- maintaining surpluses over the forward estimates period while economic growth prospects remain sound;
- halving the ratio of Commonwealth general government net debt to GDP from 20 per cent in 1995-96 to 10 per cent by 2000-01; and
- directing sufficient resources to high priority areas, while significantly reducing the ratio of outlays to GDP through to the turn of the century.
- Some of the targets outlined in the 1998-99 Budget have already been achieved. For example, the Government set itself the target of returning the budget to surplus within three years. This was achieved in 1997-98, a year ahead of schedule. This target provided a very clear short-term goal against which progress could be readily assessed. Now that it has been achieved, the Government is targeting the maintenance of budget surpluses while economic growth prospects remain sound.

3.1.3 The annual budget should be presented within a comprehensive and consistent quantitative macroeconomic framework, and the economic assumptions and key parameters (e.g. effective tax rates) underlying budget estimates should be provided.

Macroeconomic forecasts for the coming financial year are presented in the annual budget, along with an explanation of the reasoning underlying the forecasts. The forecasts draw upon information from a variety of sources, particularly estimated historical relationships, survey data and other partial indicators, extensive business liaison and input from Treasury's macroeconomic model. The key macroeconomic parameters underlying budget estimates for the following three years are also presented.

Budget documents clearly explain that these parameters for the forward years are technical projections, rather than forecasts and are prepared solely as a basis for budget figuring. The technical projections for economic growth are consistent with the average growth experienced over the past three decades, while the projections for inflation are consistent with the mid-point of the medium-term inflation target band. Calculations of the sensitivity of budget estimates to changes in macroeconomic parameters are also presented (see section 3.1.1, *Fiscal sustainability*).

3.1.4 Existing commitments should be distinguished from new policies included in the annual budget.

New policies are clearly distinguished from existing commitments in the budget documents. All new policies announced in the budget and all new measures introduced since the last fiscal report (normally the previous MYEFO) are described in a separate budget document (*Budget Paper No. 2 — Budget Measures*).

The detail provided includes the estimated fiscal impact of the measure in the budget year and the three forward estimate years. A summary table of all new policies is also included in the budget documents.

The MYEFO includes information on new policies introduced since the last fiscal report.

3.1.5 Major risks to the annual budget should be identified and quantified where possible, including the variations in economic assumptions and the uncertain costs of specific expenditure commitments (e.g. financial restructuring).

The CBH (clause 12) requires that each economic and fiscal outlook report contain:

- the economic and other assumptions for the budget year and the following 3 financial years that have been used in preparing the fiscal estimates underlying the budget (as outlined in section 3.1.3); and
- a discussion of the sensitivity of the fiscal estimates to changes in economic and other assumptions (see section 3.1.1, *Fiscal sustainability*).

The CBH (clause 12) requires that a statement of fiscal risks be incorporated in each economic and fiscal outlook report in the budget, MYEFO and PEFO, as outlined in section 2.1.3.

3.2 Budget estimates should be classified and presented in a way that facilitates policy analysis and promotes accountability.

3.2.1 Government transactions should be on a gross basis, distinguishing revenue, expenditure and financing, and classifying expenditure on an economic and functional basis. In addition, expenditure should be classified by administrative category. Data on extrabudgetary operations should be similarly classified. Budget data should be presented in a way that allows international comparisons.

Comprehensiveness and compatibility with GFS

The budget documents break expenditure down by economic type, functional (and subfunction) and spending portfolio. More detailed information on each portfolio's expenditure is provided in Portfolio Budget Statements (PBS), as outlined in Box 10, section 3.2.2.

Issues raised under this heading regarding the reporting of budget transactions on a gross basis and the coverage of the Commonwealth

Government budget reporting are outlined in Box 4 (section 1.2.1) and Box 5 (section 2.1.1).

Consistency with administrative accountability

All Commonwealth departments and agencies are classified to their appropriate institutional sectors (general government, public trading enterprises or public financial enterprises).

Departments and agencies in the general government sector are required to provide budget estimates for inclusion in PBS. PBS include both forward estimates for the budget period, and a comparison of the updated estimates versus the budget time estimates for the previous year. Data in the PBS is consistent with the aggregates included in Commonwealth budget papers.

From 1999-2000, the Commonwealth budget will be produced on an accrual basis. Each general government sector department and agency will complete, as part of the budget process, a standard set of financial accounts to include estimates for the budget year and the following three forward years. These estimates will have been produced under a new framework whereby each of these departments and agencies will plan, budget, manage and report using an outcomes and outputs framework (see Box 6, section 2.1.4).

3.2.2 A statement of objectives to be achieved by major budget programs (e.g. improvement in relevant social indicators) should be provided.

Box 10: Portfolio Budget Statements in an accrual framework

The Commonwealth Government is committed to introducing in 1999-2000 a full accrual budget and accounting system, which will have outcome and output based estimates and appropriations.

Portfolio Budget Statements (PBS), which are prepared by each agency in a portfolio as part of the normal budget documentation, will play a key role in reporting and accountability arrangements. The following information will appear in PBS:

- planned outcomes (i.e. the policy objectives to be achieved) for each agency as agreed between the responsible Minister and the agency;
  - these will include the planned outcomes for programs administered by each agency.

Box 10: Portfolio Budget Statements in an accrual framework (continued)

- the outputs that the agency will produce to contribute to achieving the planned outcomes and the cost of those outputs; and
- the means for assessing the achievement of, or contribution to, outcomes (i.e. performance indicators).

Reporting actual outcomes will be achieved through each agency's annual report. The outcome and output structures specified in the PBS should form the basis for reporting agency performance in annual reports. Annual reports will report actual outcomes against the planned outcomes in the PBS and should reflect any unanticipated outcomes or the impact of external factors on achievements.

3.2.3 The overall balance of the general government should be a standard summary indicator of the government's financial position. It should be supplemented by other fiscal indicators (e.g. operational balance, structural balance and primary balance) when economic circumstances make it inappropriate to base judgements about fiscal policy stance on the overall deficit alone.

The current summary indicator of the Commonwealth government's fiscal position is the underlying cash budget balance. The underlying balance is measured as revenue less underlying outlays (defined as outlays excluding net advances). Net advances consist of net policy lending (new policy lending less repayment of past policy lending) and net equity transactions (equity injections/purchases less equity sales).

Information on the financial position of the Commonwealth will be enhanced with the introduction of accrual accounting (see Box 6, section 2.1.4).

The Commonwealth budget papers do not currently include the supplementary fiscal indicators suggested by the Manual (although the primary balance can be derived from the data in the budget papers) as Australia's economic circumstances do not make it inappropriate to base fiscal policy judgements solely on the underlying budget balance. (Also see section 3.1.1, *Fiscal sustainability*.)

3.2.4 The annual budget and final accounts should include a statement of the accounting basis (i.e. cash or accrual) and standards used in the preparation and presentation of budget data.

The CBH requires (clause 12) that each economic and fiscal outlook statement (including that released with the budget) is to:

- be based on external reporting standards; and
- identify, in general terms, the reporting standards on which it is based and any ways in which it departs from those standards.

The CBH (clause 9) also requires the government (in its fiscal strategy statement) to explain broadly the reporting basis on which subsequent fiscal reports will be prepared.

Accrual based recording and reporting is being introduced in most Australian jurisdictions (Box 6, section 2.1.4).

3.3 Procedures for the execution and monitoring of approved expenditures should be clearly specified.

3.3.1 A comprehensive, integrated accounting system should be established. It should provide a reliable basis for assessing payments arrears.

The Manual suggests that an accounting system should be based on well-established internal controls and encompass (i.e. capture and record information on) all of the types of transactions referred to in the last paragraph of this section.

Internal control systems

The Commonwealth's fiscal and financial position is subject to a variety of checks and balances, including:

- Cabinet Committees review and authorise all material expenditure proposals;
- Senate Estimates Committee review of departments' and agencies' expenditure programs; and
- mandated requirements of departments and agencies to maintain accurate and timely financial accounts that meet strict reporting standards. The regulatory financial framework of the

Commonwealth has recently been upgraded through the introduction of the *Financial Management and Accountability Act 1997,* the *Commonwealth Authorities and Companies Act 1997* and the *Auditor-General Act 1997;*

– these Acts mandate fiscal and financial responsibilities at the agency level and place responsibility on agency heads to ensure that their activities are effectively and efficiently managed and monitored. All agencies' financial accounts are independently audited every year.

Accounting for the issues raised under the headings ***assessment of arrears***, ***coverage of domestic and externally financed transactions***, ***aid in kind***, and ***balance sheet operations*** are covered in the accrual framework currently being implemented by the Commonwealth Government (see Box 6, section 2.1.4.).

3.3.2 Procedures for procurement and employment should be standardised and accessible to all interested parties.

Procurement and tendering

Under regulations accompanying the *Financial Management and Accountability Act 1997*, the Minister for Finance and Administration has the power to issue guidelines about matters relating to government procurement. Regulation 7 of the *Finance Management and Accountability Regulations* outlines guidelines relating to, among other things, publication of details of Commonwealth contracts and agency agreements.

Pursuant to these regulations, the Minister for Finance and Administration has issued *Commonwealth Procurement Guidelines*, which outline the standards expected of Commonwealth procurement activity. The standards are based on 6 core principles:

- Value for Money;
- Open and Effective Competition;
- Ethics and Fair Dealing;
- Accountability and Reporting;
- National Competitiveness and Industry Development; and
- Support for Other Commonwealth Policies.

Employment

All governments in Australia have an established framework for employment arrangements. All jurisdictions have introduced reforms to employment regulation, generally involving greater decentralisation of authority to agencies, an emphasis on performance related pay and workplace bargaining, while retaining the concept of common grades and uniformity in base level pay increases.

3.3.3 Budget execution should be internally audited, and audit procedures should be open to review.

The *Financial Management and Accountability Act 1997* provides a framework for the proper management of public money and public property. Part 7 of the Act outlines rules that apply to Chief Executives of Agencies, including the control and management of public money and public property for which Chief Executives have a management responsibility. Section 46 of Part 7 outlines the requirements for managers to establish an Audit committee for their agencies, with the functions and responsibilities required by the Finance Minister's Orders.

Under sub order 2.1 of the Finance Minister's Orders (issued under section 63 of the *Financial Management and Accountability Act 1997*), the terms of reference for an Audit Committee must include particulars of membership, frequency of meetings and functions and responsibilities.

The *Commonwealth Authorities and Companies Act 1997* provides a single set of core reporting and auditing requirements for directors of Commonwealth authorities and sets out standards of conduct for officers. The Act provides a single set of requirements for ensuring that wholly-owned Commonwealth companies keep Ministers and the Parliament informed of their activities.

3.4 Fiscal reporting should be timely, comprehensive, reliable, and identify deviations from the budget.

3.4.1 During the year, there should be regular, timely reporting of budget and extrabudgetary outturns, which should be compared with original estimates. In the absence of detailed information on lower levels of government, available indicators of their financial position (e.g. bank borrowing and bond issues) should be provided.

Reconciliation with budget estimates

Each budget year, a MYEFO and FBO report are required to be publicly released under the CBH (clause 14).

The MYEFO report updates key information contained in the most recent budget economic and fiscal outlook report. The information in the MYEFO report is to take into account, to the fullest extent possible, all Government decisions and all other circumstances that may have a material effect on the fiscal and economic outlook.

The MYEFO provides updated economic and fiscal information (including new estimates of the full budget year outcome) to allow assessment of the Government's fiscal performance against the fiscal strategy set out in its current fiscal strategy statement.

All changes in the fiscal estimates since the budget-time estimates are reconciled and explained in the MYEFO (in the categories of parameter changes, policy decisions, reclassifications and other variations).

The purpose of the FBO report is to report Commonwealth fiscal outcomes for the financial year.

Timeliness

In addition to the annual Commonwealth budget, the Commonwealth also publishes the MYEFO and FBO as outlined in the previous section.

On a monthly basis, the Commonwealth also publicly releases the *Commonwealth Government Statement of Financial Transactions* (see section 2.2.1).

General government coverage

From 1999-2000, the focus of reporting in the Commonwealth budget accounts will be the Commonwealth general government sector, as outlined in Box 5, section 2.1.1.

3.4.2 Timely, comprehensive, audited, final accounts of budget operations, together with full information on extrabudgetary accounts, should be presented to the legislature.

Section 55 of the *Financial Management and Accountability Act 1997* outlines the requirements for the preparation of annual financial statements. The section requires that:

55.(1) As soon as practicable after the end of each financial year, the Finance Minister must prepare the annual financial statements required by the regulations.

55.(2) The Finance Minister must give the statements to the Auditor-General as soon as practicable after they are prepared.

55.(3) If the Finance Minister has not given the statements to the Auditor-General within 5 months after the end of the financial year, the Finance Minister must cause to be tabled in each House of the Parliament a statement of the reasons why the statements were not given to the Auditor-General within that period.

Information on the consolidated general government sector is available from the Australian Bureau of Statistics (ABS), which compiles data on general government finances at the local, State and Commonwealth levels (as outlined under the heading *Consolidated position of general government* in section 2.1.1).

3.4.3 Results achieved relative to the objectives of major budget programs should be reported to the legislature.

Issues raised under this section are addressed in Box 10, section 3.2.2.

IV Independent assurances of integrity

General Principle IV emphasises the usual means of providing assurances of integrity through external audit and statistical independence, but then goes beyond this and calls for openness by governments to allow independent scrutiny.

4.1 The integrity of fiscal information should be subject to public and independent scrutiny.

4.1.1 A national audit body, or equivalent organisation, should be appointed by the legislature, with the responsibility to provide timely reports to the legislature and public on the financial integrity of government accounts.

Office of the Auditor-General

The *Auditor-General Act 1997* which took effect from 1 January 1998, establishes a statutory office of the Auditor General and also establishes the Australian National Audit Office (ANAO) as a statutory body. The Act also:

- outlines the Auditor-General's functions, mandate and powers; and
- provides for the independent audit of the ANAO.

The Auditor-General's mandate encompasses the conduct of financial statement audits and performance audits of Commonwealth agencies, authorities, and owned and controlled companies. Government business enterprises (which are effectively commercial bodies operating in competition with the private sector) are not subject to performance audits. However, the responsible Minister, the Minister for Finance and Administration or the Commonwealth Parliamentary Joint Committee of Public Accounts and Audit (JCPAA) can request the Auditor-General to conduct a performance audit.

Reporting arrangements

The Auditor-General Act provides for the reporting of the results of audits to the Federal Parliament. The Act also allows the Auditor-General to report to the Parliament and Ministers on any matter. Reporting arrangements in respect of financial statement audit reports provide for audit reports to be provided to the responsible Minister and for the responsible agency to include the audit report in its Annual Report, along with its audited financial statements.

All audits undertaken by the ANAO must comply with auditing standards determined by the Auditor-General. The existing auditing standards are based on the auditing standards promulgated by the two peak accounting bodies in Australia: the Institute of Chartered Accountants and the Australian Society of Certified Practising Accountants. These standards comprehensively set out the basis on which performance and financial statements are to be undertaken, including standards relating to the supervision and training of staff.

Independence of the Auditor-General

The Auditor-General's independence is assured in a number of ways. Under the Auditor-General Act, the Auditor-General:

- is an independent officer of the Parliament;
- is appointed by the Governor-General following the approval of the JCPAA;
- is appointed for a 10 year period;
- can only be dismissed by a resolution of both Houses of the Commonwealth Parliament; and
- cannot be directed by any body (including the Parliament and the Executive) in relation to his or her functions.

Review arrangements

The JCPAA is responsible for reviewing all audit reports tabled in the Parliament by the Auditor-General. In addition, reports are often reviewed by other Parliamentary Committees who may have a special interest in a particular report.

Arrangements also exist for the Government to monitor the implementation of all recommendations made by the Auditor-General. The results of this activity are reported to the JCPAA every 6 months.

At the agency level, it is accepted practice for the agency's response to each recommendation to be included in the audit report.

Funding arrangements

As part of the arrangements that took effect from 1 January 1998, the JCPAA is responsible for reviewing the annual draft budget for the ANAO and recommending to the Parliament and the Prime Minister the level of funding considered necessary for the Auditor-General to

meet his or her statutory responsibilities. This arrangement allows for direct Parliamentary involvement in setting the funding arrangements for the ANAO.

Once the level of funding is determined by the Parliament as an integral part of the Commonwealth Government's budget, the Government of the day must make funds available to the Auditor-General. This ensures that the Government of the day cannot withhold funding to the ANAO.

Access to records and information

The Auditor-General Act provides the Auditor-General with the power to obtain access to all records and information, in whatever form necessary, to undertake his or her responsibilities. This includes the records held by third parties who provide services to or on behalf of the Commonwealth Government. The Auditor-General is also able to access any Commonwealth Government premises for the purpose of undertaking audits.

Review mechanisms

The Auditor-General is subject to financial and performance audits by an Independent Auditor appointed by the Governor-General. The Independent Auditor's reports and the result of his or her audits are prescribed to the Parliament.

The ANAO has well established quality assurance and benchmarking arrangements in place as an integral part of its own corporate governance arrangements.

4.1.2 Macroeconomic forecasts (including underlying assumptions) should be available for scrutiny by independent experts.

Official macroeconomic forecasts are published by the Government twice a year, at budget time and in a mid-year review. An abbreviated set of forecasts is also published by the Secretaries of the Departments of Finance and Administration and Treasury immediately before a federal election is held (in the PEFO).

In the budget, forecasts are presented for the economy for the coming financial year, along with an explanation of the reasoning underlying the forecasts. These budget forecasts are reviewed around the middle of the financial year and published in the MYEFO. A comparison of

the budget and updated forecasts is set out in the MYEFO and a preliminary set of key forecasts for the following financial year is also provided.

There are several avenues through which macroeconomic forecasts are subject to scrutiny by independent parties. First, given that the forecasts are publicly available, they are subject to comparison against forecasts provided by the private sector and other agencies (such as the IMF and Organisation for Economic Co-operation and Development (OECD)). This fosters a significant amount of public debate over the credibility of the forecasts. It should be noted, however, that Australia presents the forecasts on a fiscal year basis, whereas agencies such as the OECD and the IMF typically present forecasts on a calendar year basis. Second, the macroeconomic forecasts are scrutinised through parliamentary processes such as regular Senate committees. Finally, the Australian Treasury regularly publishes a review of the macroeconomic forecasts and actual outcomes at the end of the financial year. In 1996, Treasury also published an article on the forecasts which included an evaluation of the budget forecasts for real GDP growth and CPI inflation since the late 1970s ('Macroeconomic Forecasts: Purpose, Methodology and Performance'*, Economic Roundup, Autumn 1996*).

4.1.3 The integrity of fiscal statistics should be enhanced by providing the national statistics office with institutional independence.

The ABS is Australia's official statistical agency. Its mission is to assist and encourage informed decision-making, research and discussion within governments and the community by providing a high quality, objective and responsive national statistical service.

The principal legislation determining the functions and responsibilities of the ABS are the *Australian Bureau of Statistics Act 1975* and the *Census and Statistics Act 1905*. The Census and Statistics Act provides the Statistician with the authority to conduct statistical collections and, when necessary, to direct a person to provide statistical information. The Act imposes on the ABS obligations to publish and disseminate compilations and analyses of statistical information and to maintain the confidentiality of information collected under the Act.

The Australian Statistician determines which statistics are to be collected, after full discussion with users, clients and the Australian Statistics Advisory Council and makes the results widely available.

The independent status of the Australian Statistician is specified in law, and the ABS has always received strong Parliamentary and community support.

In releasing statistics, the ABS follows long established principles that results should be made available as soon as practicable and should be equally available to all users. Statistical publications are released under embargo to ensure equal access to all users.

The ABS strives to produce high quality data with high credibility with users. Credibility is fundamental to the effective use of ABS statistics, and requires both the perception and the fact of ABS objectivity, accuracy and relevance. Credibility is an attribute of the organisation's outputs as a whole, and arises from a system of statistics that is coherent, and relevant to current significant concerns, while providing an objective window on the work and performance of government.

The ABS is open about the methods used in collecting data and any quality concerns about data. It ensures that the information set built is both relevant to current policy concerns, and at the same time provides an objective ongoing base for monitoring government performance and community well being. ABS processes are monitored to ensure collection processes produce high quality statistics and performance is improved. Statistical methodologies, frameworks, processes, and collections are periodically reviewed in terms of the quality of the statistics they produce.

CODE OF GOOD PRACTICES ON TRANSPARENCY IN MONETARY AND FINANCIAL POLICIES — DECLARATION OF PRINCIPLES

Australia's record of monetary and financial policy transparency is assessed against the International Monetary Fund's (IMF) working draft *Code of Good Practices on Transparency in Monetary and Financial Policies — Declaration of Principles*. The principles outlined in the draft Code provide a comprehensive 'benchmark' for assessing the degree of transparency associated with the institutional and operational frameworks of monetary and financial policies.

The IMF Code has two parts: compliance with good transparency practices for monetary policies by central banks (sections one to four); and compliance with good transparency practices for financial policies by financial agencies (sections five to eight). Each of these parts has similar components:

- clarity of roles, responsibilities and objectives of central banks and financial agencies responsible for financial policies;
- the process for formulating and reporting monetary policy decisions/financial policies;
- public availability of information on monetary policy/financial policies; and
- accountability and assurances of integrity by the central bank/financial agencies.

Good transparency practices for monetary policies by central banks

I Clarity of roles, responsibilities and objectives of central banks for monetary policy

1.1 The objective(s) and institutional framework of monetary policy should be clearly defined in relevant legislation or regulations including, where appropriate, a central bank law.

The broad objectives and institutional framework of monetary policy are specified in the *Reserve Bank Act 1959* (hereafter referred to as the Reserve Bank Act).

1.1.1 The objective(s) of monetary policy should be publicly disclosed and explained.

The objectives of monetary policy are specified in section 10 of the Reserve Bank Act. The objectives are:

(a) the stability of the currency;

(b) the maintenance of full employment; and

(c) the economic prosperity and welfare of the people of Australia.

These objectives are further clarified in the *Statement on the Conduct of Monetary Policy*, which is an agreement between the Treasurer and the Governor of the Reserve Bank published in August 1996. In particular, this Statement reaffirms the respective roles and responsibilities of the Government and the Reserve Bank. The Governor reaffirmed the Bank's commitment to, and the Government formally endorsed, the target of keeping inflation between 2 and 3 per cent, on average, over the cycle.

The Reserve Bank Act itself provides for the Reserve Bank's independence in the conduct of monetary policy, and the Statement expresses the Government's recognition of this.

The objectives of monetary policy are also explained in public speeches by the Governor and other senior bank officers. These speeches are published in the monthly Reserve Bank *Bulletin* and are available on the Bank's website.

1.1.2 The role and responsibilities of the central bank should be specified in legislation.

The roles and responsibilities of the Reserve Bank are specified in Part II (which deals with the constitution, general powers, policy and management), Part IV (which gives the Reserve Bank powers to act as a central bank), and Part V (note issue) of the Reserve Bank Act.

1.1.3 The legislation establishing the central bank should specify that the central bank has the authority to utilise monetary policy instruments to attain the policy objective(s).

The authority of the Reserve Bank to use monetary policy instruments to attain the policy objectives is specified in section 8 of the Reserve Bank Act. This section provides for the Reserve Bank to undertake a wide range of transactions, and other actions, to achieve the objectives of the Reserve Bank Act.

1.1.4 Institutional responsibility for foreign exchange policy should be publicly disclosed. If the central bank shares responsibility with the government in foreign exchange policy, the allocation of responsibility between the government and the central bank should be publicly disclosed.

In Australia the Government determines the exchange rate regime. Since 1983, Australia has had a floating exchange rate regime.

Section 8 of the Reserve Bank Act gives the Reserve Bank power to deal in foreign exchange. The Reserve Bank holds Australia's foreign reserves and conducts any foreign exchange intervention. Information on these issues is published on the Reserve Bank's website. The Bank operates in the foreign exchange market, based on its assessment of market conditions, to occasionally influence the exchange rate. Since Australia has a flexible exchange rate regime, the Reserve Bank does not have an exchange rate target. It undertakes foreign exchange market operations in circumstances in which the exchange rate has clearly 'overshot' a level consistent with underlying economic conditions ('the fundamentals') or when the market threatens to

become excessively volatile. These operations are invariably aimed at reducing the potential for further over-shooting or at stabilising market conditions. Discussion of these operations appears in the *Semi-Annual Statement on Monetary Policy* and in the Reserve Bank's annual report. The Reserve Bank's foreign exchange transactions are published monthly (see section 3.2.4).

1.1.5 The modalities of accountability for the conduct of monetary policy and for any other responsibilities assigned to the central bank should be specified in legislation.

Some 'modalities of accountability' are specified in the *Commonwealth Authorities and Companies Act 1997* (hereafter referred to as the CAC Act) which provides the core reporting and auditing requirements for the Reserve Bank. These and associated orders by the Finance Minister (the Minister responsible for the CAC Act) require the Reserve Bank to comply with accounting standards applicable to financial institutions, including relevant disclosure standards. These accounts are independently audited by the Australian National Audit Office.

The Reserve Bank Act requires that unrealised profits on the Bank's assets should be credited to a reserve, implying that they are not available for distribution as profit.

The Bank publishes an annual report, including financial statements, on this basis each year. The CAC Act requires that this is completed and passed to the Treasurer within a set time period, and that the Treasurer table it in Parliament as soon as practicable.

Other disclosure practices have evolved over time. For a number of years, the Reserve Bank has published regular reports on the state of the economy, in addition to its annual report. Since 1997, the Governor, Deputy Governor and other senior Reserve Bank officers have appeared before a parliamentary committee at six-monthly intervals, to report on the conduct of monetary policy. At that time, a supporting document, the *Semi-Annual Statement on the Conduct of Monetary Policy*, is released.

1.1.6 If the government has the authority in exceptional circumstances to override central bank policy decisions, the conditions under which this may be done, as well as specific decisions to invoke this authority, should be specified in legislation.

The circumstances and procedures to be followed should the Government wish to override a policy decision of the Reserve Bank are specified in section 11 of the Reserve Bank Act.

If the Government disagrees with policy, as informed by the Reserve Bank, the legislation requires the Treasurer and the Bank in the first instance to endeavour to reach agreement. In the event that this is not possible, the procedures, in effect, allow the Government to determine policy, but these procedures are politically demanding. They require disclosure of the precise terms of the difference of view in separate statements prepared by the Government and the central bank. The Government and the Reserve Bank recognised, in the *Statement on the Conduct of Monetary Policy*, that the nature of this process reinforces the Reserve Bank's independence.

1.1.7 The procedures for appointment, term of office, and criteria for removal of the members of the governing body of the central bank should be specified in legislation.

The procedures for appointment and the term of office, and the criteria for removal from the Reserve Bank Board, including the Governor and Deputy Governor, are specified in Part III of the Reserve Bank Act. The Board comprises the Governor (chairperson and chief executive), the Deputy Governor (deputy chairperson), the Secretary to the Treasury, and six other ('private') members (usually drawn from the business community and academia), at least five of whom shall be persons who are not officers of the Reserve Bank or the public service. (In practice, there has never been an additional appointment from the Bank or public service.) The Governor and Deputy Governor are appointed for terms of up to seven years. 'Private' members are appointed for terms of up to five years. The Governors and 'private' Board members are appointed by the Governor-General of Australia, on advice of the Government. Individuals who are office bearers or employees of a banking institution are not eligible to be appointed to the Reserve Bank Board. All Board members hold office subject to good behaviour.

1.2 The institutional relationship between monetary and fiscal operations should be clearly defined.

1.2.1 If credits, advances, or overdrafts to the government by the central bank are permitted, the conditions when they are permitted, and any limits thereof, should be publicly disclosed.

As a matter of principle, the Commonwealth Government funds its financing needs at market interest rates via tenders of government securities. The Commonwealth Treasury and the Reserve Bank have agreed, by an exchange of letters in 1985, that the Reserve Bank will make available an overdraft facility to the Commonwealth Government, to meet unexpected and temporary shortfalls in cash, at a commercial interest rate (a rate significantly higher than that at which the Government would expect to raise cash in the market). The agreement requires that the overdraft must be extinguished within the following week, by the issue of securities to the market, if necessary. These arrangements were explained in detail in 'The Separation of Debt Management and Monetary Policy', Reserve Bank *Bulletin*, November 1993.

1.2.2 The amounts and terms of credits, advances or overdrafts to the Government by the central bank and those of deposits of the Government with the central bank should be publicly disclosed.

The amount of overdrafts to the Commonwealth Government by the Reserve Bank, which are rare, is not explicitly published. The extent of overdrawing by the Commonwealth is almost always zero. In recent years, overdrafts have been relatively small and have not lasted for more than two working days. The amount of deposits of the Government with the Reserve Bank is published weekly as part of the media release on the Bank's balance sheet. The terms of cash deposits are market-related (as set out in the *Bulletin* article of November 1993 cited above). Terms of fixed deposits, an innovation of recent months, have not been disclosed. The appropriate vehicle for doing so would be the forthcoming annual report; the Reserve Bank would intend to do so at that time.

1.2.3 The rules and procedures for direct central bank participation in the primary markets for government securities, where permitted, and in the secondary markets, should be publicly disclosed.

Rules and procedures for direct Reserve Bank participation in the primary markets for government securities, and the amount taken up in such markets, are publicly disclosed in prospectuses for Treasury Note tenders and Treasury Bond tenders. The amount of the proposed Reserve Bank take-up at any (individual) tender is declared at the time of the tender announcement.

The Reserve Bank's operations on behalf of the Commonwealth in secondary markets are also publicly disclosed, in the Bank's annual report.

The Treasurer issues the prospectuses for all Commonwealth Government securities.

The Treasury, in its annual publication *Commonwealth Debt Management*, reports on the Commonwealth's debt management operations, including those undertaken by the Reserve Bank on its behalf.

Each month, the Treasury provides details of the Loan Consolidation and Investment Reserve's holding of Commonwealth Government securities on its Reuters pages.

Each month, Treasury provides the IMF with details of the end-month stock of outstanding net Commonwealth Government securities.

1.2.4 Central bank involvement in the rest of the economy (e.g. through equity ownership, membership on governing boards, procurement, or provision of services for a fee) should be conducted in an open and public manner on the basis of clear principles and procedures.

The Reserve Bank wholly owns Note Printing Australia (NPA); it also owns 50 per cent of Securency, a company which produces polymer substrate for production of currency notes. The Reserve Bank disclosed these relationships in its annual report. Both of these companies comply with disclosure requirements of the Corporations Law.

External governing boards on which the Reserve Bank is represented are either legislatively mandated, for example the Board of the Australian Prudential Regulation Authority (APRA), or are banking industry associations (such as the Board of the Australian Payments Clearing Association (APCA)). APRA publishes its own annual report. In respect of APCA, see section 5.2.

The Reserve Bank, as a matter of course, issues tenders for the supply of a range of outsourced services, for example catering, cleaning, cash distribution, and cheque processing. These tenders are conducted on a competitive basis. Business is re-tendered every few years. In respect of other procurements, the Reserve Bank follows a set of guidelines based on those used by the Australian Government.

For the provision of services, the Reserve Bank complies with these aspects of transparency by complying with the Government's policies on competitive neutrality. In this regard, Commonwealth agency transaction banking will be subject to private sector competition from 1 July 1999. The Reserve Bank's other services are accounted for in its annual report.

These services, such as government banking, registry services, settlement services (and note issue), are seen as discrete businesses which seek to recover full costs, and earn a return on notional capital through fees and charges. Revenues, costs and net earnings are separately reported for each of these activities in the annual report.

1.2.5 The manner in which central bank profits are allocated, how capital is maintained, and whether losses are defrayed by the budget should be publicly disclosed.

The principles by which Reserve Bank profits are allocated, and capital is maintained, are set out in sections 28-30 of the Reserve Bank Act. The Reserve Bank provides a Balance Sheet and a Statement of Profit and Loss, accompanied by detailed notes as well as a discussion of profit allocation in its annual report.

The Government records revenue received from the Reserve Bank in its Budget papers in the year subsequent to that in which these profits are earned.

1.3 Agency roles performed by the central bank on behalf of the government should be clearly defined.

1.3.1 Responsibilities, if any, of the central bank in (i) the management of domestic and external public debt and foreign exchange reserves, (ii) as banker, advisor on economic and financial policies, and (iii) as fiscal agent of the government should be publicly disclosed.

The principle of separation of public debt management from monetary policy has been publicly explained in the Reserve Bank *Bulletin* article of November 1993 (cited above).

The Reserve Bank is responsible for the management of foreign exchange reserves and reports on its operations and results in its annual report. The Bank's role as banker and fiscal agent for the Government is also reported in the annual report. The information provided on these matters has increased in recent years, with the focus of the annual report now very much on these operational issues, rather than on economic and monetary policy issues, as in the past.

1.3.2 The allocation of responsibilities among the central bank, the ministry of finance, or a separate public agency, for the primary debt issues, secondary market arrangements, depository facilities, and clearing and settlement arrangements for trade in government securities should be publicly disclosed.

The allocation of responsibilities among the Reserve Bank and Commonwealth Treasury for the primary debt issue is explained in the November 1993 Reserve Bank *Bulletin* article (cited above). Operations on Treasury's behalf undertaken by the Bank in the secondary bond market are disclosed in annual reports. Given the strict separation of debt management policy from monetary policy, detailed and timely disclosure of such operations is primarily the domain of Treasury.

The rules and regulations for the Reserve Bank Information Transfer System (RITS) — the depository, clearing and settlement system for Commonwealth Government securities — are publicly available in a handbook circulated to RITS members; it is made available more widely on request.

II Open process for formulating and reporting monetary policy decisions

2.1 The analytic framework, instruments, and any targets that are used to pursue the objectives of monetary policy should be described and explained to the public.

The inflation targeting framework for monetary policy is laid out in the *Statement on the Conduct of Monetary Policy*. The framework has been further explained in public speeches by the Governor and other senior Bank officials, see for example, 'Australian Monetary Policy in the Last Quarter of the Twentieth Century', Reserve Bank *Bulletin*, October 1998.

The instrument used is the overnight interest rate which is influenced by the Reserve Bank's market operations. As discussed below, these arrangements have been explained in a number of places and are widely understood.

2.1.1 The procedures and practices governing monetary policy operations should be publicly disclosed and explained.

The procedures and practices governing monetary policy operations have been publicly explained in annual reports and in numerous articles over the years. The most recent explanations are to be found in the article *Daily Dealing Operations, Reserve Bank of Australia Report and Financial Statements 1997*; and in the article *Reserve Bank Dealing Operations under RTGS*, *Reserve Bank of Australia Report and Financial Statements 1998*.

2.1.2 The rules and procedures for the central bank's relationships and transactions with counterparties in its monetary operations and in the markets where it operates should be publicly disclosed.

The rules and procedures of dealing arrangements with counterparties for the Reserve Bank's monetary operations have been publicly disclosed by media release, most recently in: *Changes to RBA's Domestic Market Operations in the Transition Phase to RTGS* (Media Release 96-06) (and accompanying information paper); *Changes to RBA Dealing Arrangements and PAR* (Media Release 97-11); and in annual reports.

Settlement practices relevant for counterparties are contained in RITS' Regulations.

2.2 Where a monetary policy making body meets to assess underlying economic developments, monitor progress toward achieving its monetary policy objective(s), and formulate policy for the period ahead, information on the composition, structure, and functions of that body should be available to the public.

The composition, structure and function of the Reserve Bank Board are specified in Parts II and III of the Reserve Bank Act. On composition and structure of the Board, see section 1.1.7 above. The function of the Board, as set out in Part II 10.(1) of the Reserve Bank Act, is to determine the policy of the Bank in relation to any matter (other than payments system policy) and take such action as is necessary to ensure that effect is given by the Bank to the policy so determined. It is the duty of the Board, as set out in Part II 10.(2), to ensure that its policy will best contribute to the objectives discussed at section 1.1.1.

The appointment of new Board members is announced to the public.

2.2.1 If the policymaking body has regularly scheduled meetings to assess underlying economic developments, monitor progress toward achieving its monetary policy objective(s), and formulate policy for the period ahead, the dates should be publicly disclosed.

The Reserve Bank Board has for many years met on the first Tuesday of every month (usually with the exception of January). This is well known by the public. The Bank's website notes that the Board usually meets once a month.

2.3 Changes in the setting of monetary policy instruments (other than fine-tuning measures) should be publicly announced and explained in a timely manner.

Changes in the setting of the monetary policy instrument have been announced at the time of their implementation since January 1990. The announcement is accompanied by a detailed explanation of the policy change. See, for example, Press Release 9816, 2 December 1998.

2.3.1 The central bank should publish, with a pre-agreed maximum delay, a summary of the considerations for its monetary policy decisions.

As stated above, an explanation for policy changes is published at the time of their announcement. However, there is no announcement of a decision to leave rates unchanged, nor is there any intention of doing so in future. Regular quarterly reports contain the Bank's assessment of the economy and discussion of policy actions.

2.4 The central bank should issue periodic public statements on progress toward achieving its monetary policy objective(s) as well as prospects for achieving them.

For a number of years, the Reserve Bank has published quarterly reports on its assessment of the state of the Australian economy, that document the progress toward achieving its monetary policy objectives. Since 1997, two of these a year have taken the form of the *Semi-Annual Statement on the Conduct of Monetary Policy*, released to coincide with the Governor's testimony before a parliamentary committee. These publications discuss both the current situation with respect to achieving the monetary policy objectives, and prospects for doing so. In particular, the *Statement on the Conduct of Monetary Policy* requires that *Semi-Annual Statements* include information on the outlook for inflation. Each of these documents is published in the Reserve Bank *Bulletin*, are posted on the Bank's website, and receive widespread public attention.

2.4.1 The central bank should periodically present its monetary policy strategy to the public, specifying, inter alia, the rationale for its policy strategy, quantitative targets and instruments where applicable, and the key underlying assumptions.

See section 2.4. In addition, the policy strategy in pursuing the inflation target has been explained in a number of speeches by the Governor.

2.4.2 The central bank should publish on a specified schedule a report on the evolving macroeconomic situation, outlook, and their implications for the central bank's monetary policy objective(s).

See section 2.4

2.5 The public should normally be provided with an appropriate lead time to comment on proposed substantive changes to the structure of monetary regulations.

It is not normal practice to publicly flag possible 'substantive changes to monetary regulations' ahead of their implementation, although banks are usually consulted about changes which impact on them. This issue does not seem important in practice in Australia because monetary policy is not implemented by regulations.

2.6 The regulations on data reporting by financial institutions to the central bank for monetary policy purposes should be publicly disclosed.

Relevant definitions and requirements as to timeliness, etc are published on appropriate reporting forms, which are publicly available.

III Public availability of information on monetary policy

3.1 Presentations and releases of central bank data should meet the standards related to coverage, periodicity, timeliness of data and access by the public that are consistent with the International Monetary Fund's data dissemination standards.

The Bank publishes data in the Reserve Bank *Bulletin*, by press release and on the Bank's website. The data are consistent with the IMF's Special Data Dissemination Standards. With the publication of the January 1999 Financial Aggregates on 1 March 1999, the Bank became fully compliant.

3.2 The central bank should release its balance sheets on a preannounced schedule and provide the public after a predetermined interval with information on its market transactions.

3.2.1 Summary central bank balance sheets should be published on a frequent and preannounced schedule. Detailed central bank balance sheets prepared according to appropriate and publicly documented accounting standards should be published periodically by the central bank.

The Reserve Bank's balance sheet is published weekly by press release each Friday, with a balance date of the preceding Wednesday. The balance sheet is available as a hard copy and electronically. More detail is available each month in Table A.1 of the Reserve Bank *Bulletin*, where definitions are also contained.

As noted, the Reserve Bank provides a full set of financial statements, including a balance sheet, profit and loss statement, cash flow statement, and associated notes to the accounts, in its annual report, published each September with a balance date of 30 June. These accounts are independently audited and comply with accounting standards applicable to financial institutions in Australia, including standards governing disclosure.

3.2.2 Information on the central bank's monetary operations, including aggregate amounts and terms of re-finance or other facilities (subject to the maintenance of commercial confidentiality) should be published regularly on a preannounced schedule.

On domestic operations, the cornerstone of the Reserve Bank's framework is an announced target for the cash rate. The market-determined cash rate is published each day. The market understands that the Reserve Bank operates in the market to stabilise the cash rate at the target (see Box cited above in the *Reserve Bank of Australian Report and Financial Statements 1997*). The accountability of the Bank's operations is visible to the extent that the cash rate target is achieved day-to-day. For this reason, it is unnecessary to provide information about the volume of transactions undertaken each day, although it would be an easy matter to do so.

In addition, the Reserve Bank informs the market each morning about the system liquidity position, and whether the Reserve Bank intends to buy or sell securities.

The Reserve Bank publishes in the *Bulletin* information on its foreign exchange transactions on a pre-determined schedule each month (see below).

3.2.3 Aggregate information on emergency financial support by the central bank should be reported as soon as it is deemed that such information will not be disruptive to financial stability.

The Reserve Bank has in the past reported provision of liquidity in unusual circumstances in the annual report. Refer to section 7.2.1.

3.2.4 Information about foreign exchange market operations by the central bank on behalf of its own account should be disclosed after a predetermined interval following such activities. (Information about foreign exchange market operations by the central bank on behalf of the finance ministry should also be revealed by the finance ministry or, if authorised, by the central bank after a predetermined interval following such activities.)

As noted, information about the Reserve Bank's foreign exchange operations and forward commitments is published each month in Table H.4, Reserve Bank Foreign Exchange Transactions and Holdings of Official Reserve Assets, of the Reserve Bank *Bulletin*. The Reserve Bank *Bulletin* is published with a lag of two weeks or so after the end of the month to which these data refer. These data comply fully with relevant IMF disclosure standards, including reporting of the outstanding forward position.

Reasons for foreign exchange intervention are explained in the *Semi-Annual Statements on the Conduct of Monetary Policy*, other reports and speeches, and in the annual report.

Table H.4 of the Reserve Bank *Bulletin* identifies separately transactions undertaken for the Commonwealth Government.

Australia also publishes a breakdown of contributions for the change in reserves, distinguishing market transactions from all other Government transactions and valuation changes (monthly with a lag of about 17 days). Australia publishes a benchmark split for the currency breakdown of reserves, 40/30/30 between US dollars, yen and euros.

3.3 The central bank should establish and maintain public information services.

3.3.1 The central bank should have a publications program, including an annual report and reports on the policies that it is pursuing as well as relevant data.

The Reserve Bank publishes an annual report. In addition, it publishes a monthly Reserve Bank *Bulletin* which includes its quarterly reports on the economy and financial markets, speeches by senior bank officials, articles on issues related to monetary policy, and an extensive range of economic statistics, including on the Bank's own operations. The Reserve Bank also publishes a regular series of research discussion papers and occasional papers on topics of interest. Finally, the Bank publishes weekly a *Schedule of Expected Release Dates*, detailing forthcoming publications and releases over the next three months. This information is also available on the Bank's website. The Reserve Bank maintains a Media Information Office.

3.3.2 Senior central bank officials should make public appearances to explain their institution's objective(s) and performance and have a presumption in favour of releasing their speeches to the public.

The Governor and senior Reserve Bank officials make public speeches, many of which are published in the subsequent edition of the Reserve Bank *Bulletin* and are also made available on the Reserve Bank's website. These usually receive widespread media coverage.

3.4 Texts of regulations issued by the central bank should be readily available to the public.

Regulations issued by the Reserve Bank are publicly announced at the time of issue, and are published in the Reserve Bank *Bulletin*, and on the website.

IV Accountability and assurances of integrity by the central bank

Australian government agencies are subject to the CAC Act, which outlines the reporting obligations of agencies and includes provisions covering the conduct of officers. In addition, each agency's enabling legislation can include additional requirements for reporting and the conduct of the board and of agency officers.

The *Auditor-General Act 1997* establishes the Office of Auditor-General and sets out the functions of the Auditor-General. The annual reports of Government agencies, including the Reserve Bank and APRA, are subject to an independent audit by the Auditor-General as stipulated in the CAC Act.

The *Financial Management and Accountability Act 1997* establishes a framework for the proper management of public money which is handled by Departments and other Agencies that act on behalf of the Commonwealth.

In general, all Government agencies are subject to the *Freedom of Information Act 1982* (refer to section 2.2.1 in the *Code of Good Practices on Fiscal Transparency*). This includes APRA, ASIC and the Reserve Bank. The object of this Act is to extend as far as possible the right of the Australian community to access information in the possession of the Commonwealth Government. The Act makes available to the public information about the operations of departments and public authorities and creates a general right of access to information in the possession of departments and public authorities.

- The right of access to information is limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities. The Reserve Bank is exempted by Part II of the Act in so far as documents concerning banking operations (including open market operation and foreign exchange dealings) and exchange control matters are concerned.

4.1 Officials of the central bank should be available to appear before a designated public authority to report on the conduct of policy, explaining the policy objective(s) of their institution, reporting on their performance in achieving their objective(s), and, as appropriate, exchanging views on the state of the economy and the financial system.

As mentioned above, the Governor and senior Reserve Bank officials appear before a parliamentary committee every six months to report on the conduct of monetary policy.

4.2 The central bank should prepare and publish audited financial statements of its operations on a pre-announced schedule.

Part 3 of the CAC Act requires the Reserve Bank to be audited on an annual basis.

4.2.1 The financial statements should be audited by an independent outside auditor, and any qualification to the statements should be an integral part of the publicly disclosed financial statements.

The Reserve Bank's financial statements are independently audited by the Auditor-General, as required under Part 3 of the CAC Act. The accounts were qualified by the Auditor-General in a number of recent years, to the extent of noting that the Reserve Bank's conservative policy on measuring profits departed from accounting standards. This approach took unrealised gains to a reserve rather than distributing such gains to the Government. The Reserve Bank Act has been amended to give legislative validity to the method applied to measure profits available for distribution to the Government. Consequently, the Reserve Bank's accounts were not qualified in the latest year.

Accounting requirements are set out in the CAC Act and in Finance Minister's Orders issued in terms of that Act.

4.2.2 Information on accounting policies should be publicly disclosed.

Information on accounting practices is reported in the Reserve Bank annual report.

4.2.3 Internal governance procedures necessary to ensure the integrity of operations, particularly internal audit arrangements, should be publicly disclosed.

The Reserve Bank's internal governance procedures are monitored by an internal Audit Committee, the majority of whose members are not officers of the Reserve Bank. The existence and composition of the Audit Committee are publicly disclosed.

4.3 Information on operating expenses and revenues of the central bank should be made available to the public annually.

Part 3 of the CAC Act requires the Reserve Bank to publish an *Annual Report* and financial statements each financial year, which provide information on operating expenses and revenue. The CAC Act also provides core reporting and auditing requirements.

4.4 Standards for the conduct of personal financial affairs of officials and staff of the central bank and rules to prevent exploitation of conflict of interest, including any general fiduciary obligation, should be publicly disclosed.

Members of the Reserve Bank's Board, including the Governor and Deputy Governor, are required to disclose material personal interests to the Treasurer under the CAC Act (Part 3, Division 4). This Act also sets standards of conduct for Board members and officers of Commonwealth authorities including:

- the general obligations on officers (to act honestly and exercise care and diligence in the discharge of their duties); and
- the improper use of inside information or position. (Officers must not make improper use of inside information or their position to the detriment of the authority or to another person.)

Standards for the conduct of the personal financial affairs of other officials and staff are covered by a Code of Conduct.

4.4.1 Information about legal protections for officials and staff of the central bank in the conduct of their official duties should be publicly disclosed.

This information is not provided to the public.

Good transparency practices for financial policies by financial agencies

V Clarity of roles, responsibilities and objectives of financial agencies responsible for financial policies

5.1 The objective(s) and institutional framework of financial policies should be clearly defined in relevant legislation or regulations.

5.1.1 The objective(s) of financial policies should be publicly disclosed and explained.

The objectives of financial policies are specified in relevant legislation.

- The *Australian Prudential Regulation Authority Act 1998* (the APRA Act) explains APRA's functions and objectives.
- Reserve Bank policy objectives and payments system policy objectives are set out in the Reserve Bank Act, the *Payment Systems (Regulation) Act 1998* (the PSR Act) and the *Payment Systems and Netting Act 1998* (the PSN Act).
- The objectives of the Australian Securities and Investments Commission's (ASIC) activities are set out in section 1(2) of the *Australian Securities and Investments Commission Act 1989* (the ASIC Act).

5.1.2 The roles and responsibilities of the financial agencies should be specified in legislation or regulation.

The roles and responsibilities of financial agencies are specified in legislation. In the case of APRA, this is set out in Part 2 of the APRA Act, as well as in other complementary legislation such as the *Banking Act 1959*.

For the Reserve Bank responsibilities and powers are set out in the Reserve Bank Act. For the Payments System Board that is within the

Reserve Bank, responsibilities and powers are set out in the Reserve Bank Act, the PSR Act and the PSN Act.

The ASIC Act sets out ASIC's functions and powers.

5.1.3 The modalities of accountability for the conduct of financial policies should be specified in legislation or regulation.

The 'modalities of accountability' are contained in establishing legislation for the agency concerned and in complementary legislation such as the CAC Act.

In addition to the above, some additional disclosure requirements for APRA are contained in Part 7 of the APRA Act.

For the Reserve Bank, the 'modalities of accountability' are discussed in section 1.1.5.

The ASIC Act specifies that ASIC is to produce an annual report, that certain decisions are subject to administrative review, and provides for the establishment of a Parliamentary Joint Committee on Corporations and Securities, which is empowered to enquire into the activities of ASIC.

5.1.4 The procedures for appointment, term of office, and criteria for removal of the members of the governing bodies of financial agencies should be publicly disclosed.

The procedures for appointments etc. are specified in legislation. In the case of APRA, these are set out in Parts 3 & 4 of the APRA Act. For the Reserve Bank, these are specified in Part III of the Reserve Bank Act, and for the Payments System Board these are specified in Part IIIA of the Reserve Bank Act. The ASIC Act outlines the procedures for appointment of Commission members, the term of appointment and the grounds for termination.

5.2 The institutional relationship between financial agencies and private self-regulatory bodies should be publicly disclosed.

The Reserve Bank and ASIC make periodic statements on their relationships with private self-regulatory bodies, but there is no formal reporting requirement.

- For example, ASIC has memoranda of understanding (MOUs) with the Australian Stock Exchange and Sydney Futures Exchange that are publicly available.

At this stage, APRA does not have a relationship with any private self-regulatory body.

5.2.1 Guidelines or standards that public oversight agencies issue to private self-regulatory bodies should be publicly disclosed.

In the case of the Reserve Bank, the PSR Act requires that it publish (in the *Commonwealth Gazette*) any standards or access regimes that it imposes on designated payment systems.

ASIC approves the rules of the exchanges, and liaises closely with them. However, it does not issue guidelines and standards as such, so therefore, these are not publicly disclosed.

5.2.2 With regard to payment systems, the legal and regulatory framework and the role of oversight agencies in this regard should be publicly disclosed.

A description of the legal and regulatory framework for the Australian payments system is on the Reserve Bank website at http://www.rba.gov.au and also in last year's annual report. The website also contains a copy of the MOU between the Reserve Bank and Australian Competition and Consumer Commission (ACCC) that sets out their respective roles and responsibilities as well as consultation/cooperation arrangements between them. The relevant Law: the PSR Act, the Reserve Bank Act, the *Trade Practices Act 1974* (TPA), the PSN Act, associated explanatory memoranda and disallowable instruments are available at a variety of places including public libraries, Commonwealth Bookshops and the internet.

5.2.3 The agencies overseeing the payments system should ensure that decisions, policy changes, access criteria, system rules and fees by owners or operators of systemically important payment systems are publicly disclosed in a timely manner.

Payment System operators may seek ACCC authorisation under the TPA. Before making a decision, the ACCC consults widely and publicly to acquire sufficient information to make a determination.

Draft determinations/authorisations are then published and comments sought. The ACCC then determines its final position, which also is published.

The Reserve Bank may designate a payment system and impose an access regime and standards. These powers derive from the PSR Act. The relationship between the powers of the RBA and the ACCC in the payments system is set out in a publicly available MOU. The Act requires that the Reserve Bank consult widely and make publicly available, including in the *Commonwealth Gazette*, its decisions, standards, access criteria and rules.

VI Open process for formulating and reporting of financial policies

6.1 The conduct of policies by the financial agencies should be transparent.

The conduct of policies of financial agencies is regularly published. For example, APRA's prudential statements that govern their supervisory framework are available on the internet. The Reserve Bank is covered in section 2.1, but is required to publicly consult and release relevant information in respect of payments system policy under the PSR Act.

ASIC has a policy consultation process. Proposed policies are published on a website and subject to a consultation process before being finalised. Completed policy is published in the *ASIC Digest* and also in many commercial services.

6.1.1 The financial agencies should publish the requirements for institutions under their jurisdictions to adhere to widely accepted regulatory, accounting and disclosure standards. The agencies should report to the public on adherence to those standards by the institutions under their jurisdictions, consistent with confidentiality requirements.

APRA, as the prudential supervisor, and ASIC, as the agency that provides regulation for the integrity of market conduct, consumer protection and corporations, make the requirements of the institutions under their jurisdictions publicly available. For example, APRA's

prudential policies are generally consistent with widely accepted regulatory, accounting and disclosure standards. The prudential standards for banks are based on those of the Basle Committee on Banking Supervision. Accounting standards are generally based on Australian Accounting Standards, while the Corporations Law requires Australian incorporated entities to maintain proper accounting records. APRA's policies on disclosure sometimes impose standards where none otherwise exist (e.g. in accounting for problem loans). Disclosure standards for financial institutions are also issued by the Australian Accounting Standards Board to ensure that institutions provide relevant and reliable information about their activities.

APRA and ASIC do not, however, publish information about the adherence of individual institutions to these standards. APRA's approach is that it is the responsibility of the board and management of an institution to ensure there is sufficient disclosure so that depositors, investors and other interested parties are able to ascertain whether supervised institutions are meeting APRA's prudential standards. For example, banks regularly publish their capital adequacy ratios in their yearly and half-yearly financial accounts. If an institution failed to meet one of APRA's prudential requirements, APRA would intensify their supervisory efforts until compliance was restored. ASIC publishes policy statements and practice notes which explain its view on the best practice in complying with the requirements of the law.

6.1.2 The regulations for financial reporting by financial institutions to financial agencies should be publicly disclosed.

The requirements to supply ASIC with annual returns from companies and persons holding securities and other licences are set out in the Corporations Law. The ASIC database can be searched for copies of this information.

In carrying out its supervisory role, APRA gets a range of financial data from financial institutions on a regular basis. As outlined in its prudential statements, APRA uses an external auditor arrangement to ensure that its prudential standards are being observed.

Section 26 of the PSR Act details the Reserve Bank's powers to collect data related to the payments system.

6.1.3 The financial agencies should publicly disclose information on the schedule of fees levied on financial institutions.

The costs of supervising institutions and the estimated revenue from levies are disclosed in the Commonwealth Budget papers. The actual schedule of levies to cover the cost of supervision of prudentially regulated institutions is decided by Government after consultation with industry, and is published in the *Commonwealth Gazette*.

It is also publicly known that banks are currently required to hold one per cent of their eligible liabilities with the Reserve Bank as non-callable deposits (NCDs), and that the Reserve Bank pays interest half yearly to each bank based on the daily level of each bank's NCDs at a rate set, currently, around five percentage points below the prevailing market rate.

The Corporations (Fees) Regulations set out the fees charged by ASIC.

6.1.4 The public should be made aware through appropriate publications that the financial agencies have the necessary legal authority and procedures for information sharing and consultation relevant to their respective jurisdictions and have developed procedures for mutual sharing of information and for co-operation with their counterparts in other countries on matters of common concern.

Information sharing arrangements between agencies are matters of public knowledge. The three financial agencies have established MOUs with each other (except between ASIC and the Reserve Bank), which include details on information sharing and consultation, and these documents are publicly available. There are also additional mechanisms for information sharing that are publicly known, such as cross-agency representation on the APRA Board. The APRA Act states that the APRA Board must contain two Reserve Bank representatives and one ASIC representative. The Reserve Bank Act states that the Payments System Board must contain one APRA representative.

Agencies are also allowed to share information with counterparts in other countries on matters of common concern. For example, legislation allows APRA to share information with other overseas supervisors where there are matters of common concern.

ASIC's information sharing powers are set out in section 127 of the ASIC Act. ASIC Policy Statement 103 describes how information sharing powers are exercised. MOUs signed with domestic and foreign agencies are publicised and available publicly.

6.1.5 In those countries where there are explicit deposit insurance guarantees, information on the nature and form of deposit protection, on the operating procedures, on how the guarantee is financed, and on the performance of the arrangement should be publicly disclosed.

Australia does not have explicit deposit insurance guarantees.

6.2 Significant changes in financial policies should be publicly announced and explained.

The Government and regulatory agencies publish and explain significant changes in policies. A recent example of this was on the implementation of the financial system reforms, where the Treasurer made a speech in Parliament, tabled additional documentation to explain the reforms and issued a Press Release.

APRA has not made significant changes to its prudential policies since its establishment, but would make public significant changes through such means as Press Releases and their prudential statements.

- Additionally, any changes in APRA's prudential standards must be published in the Gazette.

In the case of the payments system, the PSR Act requires that the Payments System Board publish any standards (including through the Commonwealth Gazette) or access regimes that it imposes on designated payment systems.

ASIC publishes all of its policy statements and practice notes in the *ASIC Digest*.

6.3 The public should normally be provided with appropriate lead time to comment on proposed substantive changes to the structure of financial regulations.

In developing and implementing Australia's financial system reforms, the Government made use of a public consultation process. For example, the Financial System Inquiry considered many public submissions before making its recommendations in the Final Report.

APRA intends to consult with industry to provide them with sufficient time and opportunity to comment on their proposed changes, but, reflecting its recent establishment, has not had the need to do so to date.

- APRA are also required to consult with the Office of Regulatory Review in implementing policy change.

The PSR Act contains provisions that require the Reserve Bank to undertake a process of public consultation prior to decisions concerning access regimes and standards in the payments system. This process includes public notification of the action, together with a summary of its purpose and effect, and an invitation to the public to make submissions within a specified time.

Financial market law reform is subject to an extensive public consultation process through various forums, including the Business Review Advisory Group and the Ministerial Council for Corporations.

ASIC policy proposals are published on the ASIC website and distributed to interested parties for consultation.

6.4 The financial agencies should provide the public with a periodic report on the major issues of the sector(s) of the financial system for which they carry designated responsibility.

Financial agencies publish annual reports, other periodic publications, press releases, address parliamentary committees, and make official speeches to report on the major issues of the sector(s) of the financial system for which they carry designated responsibility.

For example, APRA's Statistical Bulletin provides information, both quantitative and qualitative, on industry developments, and the Reserve Bank publishes articles in its Bulletin and material in its annual report on issues related to financial stability and the payments system.

ASIC publishes a monthly newsletter; however, it principally outlines ASIC activities. ASIC also publishes statistics on issues such as the numbers of insolvencies and numbers of prospectuses lodged.

6.5 The financial agencies should issue periodic public reports on the extent to which their policy objectives are being achieved.

APRA's annual reports will outline the organisation's objectives, and the activities it undertakes to achieve these objectives (APRA's first report will be released this year).

The Reserve Bank publishes articles in its *Bulletin* and material in its annual report on issues related to financial stability and the payments system.

ASIC does not systematically report on the achievement of its policy objectives. It does produce reports on its performance and report on its surveillance activities but these are not usually framed in terms of an assessment against objectives.

VII Public availability of information on financial policies

7.1 Financial agencies should ensure that, consistent with confidentiality requirements, there is public reporting of institutional and aggregate financial data related to their jurisdictional responsibilities on a timely and regular basis.

The Reserve Bank publishes financial system data and payments system data in its monthly *Bulletin*. Some data are also published on the Reserve Bank's website and by Press Release.

Under the PSR Act, the Reserve Bank has powers to collect information from corporations operating payment systems. It is able to aggregate this information and publish it.

7.1.1 The public reporting of financial data by financial agencies should be consistent with widely accepted data dissemination standards.

Refer to section 3.1 for Reserve Bank reporting.

For APRA, this information is consistent with widely accepted data dissemination standards.

7.2 Where applicable, financial agencies should release their balance sheets on a preannounced schedule and provide the public after a predetermined interval with information on market transactions.

APRA, the Reserve Bank and ASIC release or intend to release annual reports (APRA's first report will be released this year); however, the actual date of release is not preannounced as it is subject to the workings of Parliament and obtaining authority from the Treasurer to table the reports in or out of Session.

The financial statements include (but are not limited to) balance sheets, profit and loss statements and cash flow statements.

The three financial regulatory agencies are Commonwealth authorities for the purposes of the CAC Act.

- Under the CAC Act, the directors of the APRA, the members of the Reserve Bank Board and Payments System Board, and the Commissioners of ASIC are required to prepare an annual report with audited financial statements. They are required to present the report to the Treasurer, and the Treasurer is required to table the report in each House of Parliament as soon as practicable after receiving the report.

The annual report of the three financial agencies must include, at a minimum:

- a report of operations, prepared by directors/commissioners in accordance with Orders made by the Finance Minister, and publicly available;

- financial statements prepared by the directors/commissioners that comply with Orders made by the Finance Minister and which give a true and fair view of the matters those Orders require to be included in the statements with additional information as necessary to ensure such a true and fair view. The directors/commissioners must state in writing that the statements provide a true and fair view; and
- a report of the Commonwealth Auditor-General on those financial statements and addressed to the Treasurer.

Section 13 of the CAC Act also provides for the Finance Minister to require the three financial agencies to provide interim reports (in addition to their annual reports) including a report of the bodies' operations and their financial statements.

APRA does not undertake market transactions. Refer to section 3.2 for information on the Reserve Bank.

7.2.1 Where applicable, aggregate information on emergency financial support by financial agencies to financial institutions should be reported, as soon as such information will not be disruptive to financial stability.

While such support has been extremely rare, it is expected that the Reserve Bank would publish this information in their annual report, and where appropriate, in the *Bulletin* (also refer to section 3.2.3).

- APRA will not provide financial support, it will only advise the Reserve Bank.

7.3 Financial agencies should establish and maintain public information services.

7.3.1 Financial agencies should have a publications program, including an Annual Report and reports on the policies and activities they are pursuing and, where applicable, relevant data.

ASIC and APRA both publish or intend to publish annual reports (APRA's first report will be released this year). These contain broad information on their activities over the year, including their policies. In addition, the agencies provide aggregate data on the scope and nature of the institutions/markets that they regulate to further public

knowledge. Senior officers of the agencies regularly give speeches in a variety of forums.

- APRA publishes a quarterly statistical bulletin and the monthly Australian banking statistics.
- ASIC publishes a monthly newsletter reporting on its activities.

Refer to section 3.3.1 for the Reserve Bank.

7.3.2 Financial agency officials should make public appearances to explain their institution's objective(s) and performance, and have a presumption in favour of releasing their speeches to the public.

Officials of the Reserve Bank, APRA and ASIC make regular public appearances, including through speeches and participation in conferences, meetings, seminars and at Parliamentary Committees and use these opportunities to explain their institution's objectives and performance.

If the Parliament so decides, officials of agencies are required — under the *Parliamentary Privileges Act 1987* — to appear and testify regularly before Parliament. See also section 8.1.

The three agencies publish the majority of speeches by their officials, including on the internet.

7.4 Texts of regulations and any other generally applicable directives and guidelines issued by financial agencies should be readily available to the public.

Instruments of subordinate legislation — including regulations — are required to be tabled in Parliament and subject to disallowance within 15 sitting days. Tabled documents are publicly available, including on the internet.

In addition, the Reserve Bank, APRA and ASIC are required to publish non-disallowable instruments, such as standards, including by publishing them in the *Commonwealth Gazette*. The instruments are readily available at public libraries, Commonwealth Bookshops and on the internet.

ASIC policy statements and practice notes are published in the *ASIC Digest*.

VIII Accountability and assurances of integrity by financial agencies

Australian government agencies are subject to the CAC Act, which outlines the reporting obligations of agencies and includes provisions covering the conduct of officers. In addition, each agency's enabling legislation can include additional requirements for reporting and the conduct of the board and of agency officers.

The *Auditor-General Act 1997* establishes the Office of Auditor-General and sets out the functions of the Auditor-General. The annual reports of Government agencies, including the Reserve Bank and APRA, are subject to an independent audit by the Auditor-General as stipulated in the CAC Act.

The *Financial Management and Accountability Act 1997* establishes a framework for the proper management of public money which is handled by departments and other agencies that act on behalf of the Commonwealth.

In general, all Government agencies are subject to the *Freedom of Information Act 1982* (refer to Box 8 of Attachment A to the Report). This includes APRA, ASIC and the Reserve Bank. The object of this Act is to extend as far as possible the right of the Australian community to access information in the possession of the Commonwealth Government. The Act makes available to the public information about the operations of departments and public authorities and creates a general right of access to information in the possession of departments and public authorities.

- This right is limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities. The Reserve Bank is exempted by Part II of the Act in so far as documents concerning banking operations (including open market operations and foreign exchange dealings) and exchange control matters are concerned.

8.1 Officials of financial agencies, where applicable, should be available to appear before a designated public authority to report on the conduct of policy, explaining the policy objective(s) of their institution, reporting on their performance in achieving their objective(s), and as appropriate, exchanging views on the state of the financial system.

Both Houses of the Australian Parliament have the power (under the *Parliamentary Privileges Act 1987*) to conduct inquires and have the power to compel the attendance of witnesses, the giving of evidence and the production of documents.

Senior officers of Federal government departments and statutory bodies are regularly called to testify before Parliamentary Committees. Testifying officers are bound by parliamentary privilege to be truthful and to answer to the best of their knowledge. While public and parliamentary advocacy and defence of government policies and administration is the preserve of the Minister, it is the duty of the public servant to provide full and accurate information to the Parliament about factual and technical background. Guidelines exist for official witnesses appearing before a Parliamentary Committee.

In the *Statement on the Conduct of Monetary Policy* agreed to by the Governor of the Reserve Bank and the Treasurer, the Governor agreed to appear before the House of Representatives Standing Committee on Financial Institutions and Public Administration twice a year. Other senior Bank officers also regularly appear before this and other Parliamentary Committees.

While the APRA Chairman and Chief Executive have no similar commitment to appear before Parliamentary Committees, they are expected to do so on request.

8.2 Where applicable, financial agencies should prepare and publish audited financial statements of their operations on a preannounced schedule.

Refer to section 7.2.

8.2.1 The financial statements should be audited by an independent outside auditor, and any qualification to the statements should be an integral part of the publicly disclosed financial statements.

The CAC Act (section 8) requires that all Commonwealth government agencies be subject to the independent audit of the Auditor-General. These audits are conducted in accordance with the Australian National Audit Office Auditing Standards which incorporate the Australian Auditing Standards. The Auditor-General's audit opinion is published as part of each agency's annual report.

8.2.2 Information on accounting policies should be publicly disclosed.

The annual reports of the Reserve Bank, ASIC and APRA include, or will include, information on accounting policies (in accordance with Australian Accounting Standards), and internal audit arrangements.

8.2.3 Internal governance procedures necessary to ensure the integrity of operations, particularly internal audit arrangements, should be publicly disclosed.

For the Reserve Bank, refer to section 4.2.3.

APRA has yet to publish an annual report. However, it is expected that APRA will disclose internal governance arrangements in accordance with normal disclosure requirements.

8.3 Information on operating expenses and revenues of financial agencies should be made available to the public annually.

This information is included in the financial statements (as described in sections 7.1).

8.4 Standards for the conduct of personal financial affairs of officials and staff of financial agencies and rules to prevent exploitation of conflicts of interest, including any general fiduciary obligation, should be publicly disclosed.

ASIC and APRA have standards of conduct for the personal financial affairs of its officers but at present these are not publicly disclosed.

- The Chairman of ASIC is required to disclose all pecuniary interests to the Minister and other Commission members and senior officers must disclose financial interests to the Chairman.

Refer to section 4.4 for the Reserve Bank.

8.4.1 Information about protection for officials and staff of agencies in the conduct of their official duties should be publicly disclosed.

The APRA Act, the Banking Act and the ASIC Act provide APRA and ASIC staff with an indemnity from liability for any activity done in good faith and without negligence in the performance of their duties.

For the Reserve Bank, this information is not provided to the public.

OECD Code of Liberalisation of Capital Movements and the National Treatment Instrument for Foreign Controlled Enterprises

This attachment describes Australia's observance of two Organisation for Economic Co-operation and Development (OECD) instruments on foreign investment. The *Code of Liberalisation of Capital Movements* is a legally binding agreement between OECD member countries, adopted in 1961. The *National Treatment Instrument for Foreign Controlled Enterprises* is part of the 1976 OECD Declaration on International Investment and Multinational Enterprises ('the Declaration'). The Declaration also includes a set of Guidelines for Multinational Enterprises ('the Guidelines').

The National Treatment Instrument sets out the principle of national treatment — that of according treatment to foreign-controlled enterprises operating in Member countries no less favourable than that accorded to domestic enterprises in like situations — and provides the means to promote and extend the application of this principle. Member countries agreed to notify to the OECD all government measures that constitute exceptions to National Treatment and to subject these measures to periodic review. The Guidelines lay down standards for the activities of multinational enterprises in OECD member countries, including the requirements for the disclosure of information.

The Declaration sets a standard of transparency for governments in two ways. Governments are required, through the National Treatment Instrument, to be transparent about all laws, regulations and policies concerning foreign investment. Governments are also required to promote the Guidelines, thereby encouraging multinationals to provide information on their structures, activities and policies.

This attachment does not cover standards promulgated by the World Bank or Asia-Pacific Economic Cooperation (APEC), or those instruments in the OECD and World Trade Organisation (WTO) that are related more to cross-border trade in services.

Code of Liberalisation of Capital Movements

Provision	Comment
Progressively abolish between one another restrictions on movements of capital.	Australia accepts this obligation, recognising the federal system of government, through the federal government's commitment to encourage the States and Territories to achieve liberalisation of operations covered by the Code. Australia has recorded exceptions for its foreign investment policy and a particular restriction on access to the Australian financial market. Since agreeing to the Code Australia has liberalised the scope of foreign investment policy and all of its reservations on access to the Australian financial market, except that relating to the issue in Australia of bearer securities by foreign governments.
Treat all non-resident owned assets in the same way.	Australia maintains a foreign investment policy that is non-discriminatory as to the source of country of investments.
Permit the liquidation of and transfer for all non-resident assets.	Australia has removed all exchange controls affecting capital outflows associated with foreign investments in Australia.
Preclude the introduction of new restrictions or reinstating abolished restrictions on specified items, including foreign direct investment.	Over the past decade Australia has not sought to tighten its foreign investment policy. All policy changes have been in a liberalising direction.
Extend liberalisation measures to members of the IMF.	The benefits of all liberalisations are made available to all non-resident investors.
Avoid new or more restrictive exchange restrictions on the movements of capital or the use of non-resident owned funds.	Australia has not sought to reintroduce exchange control restrictions since they were dismantled in the 1980s.

National Treatment Instrument for Foreign Controlled Enterprises

Provision	Comment
Recognising certain exceptions, accord to enterprises operating within their territories and owned or controlled directly or indirectly by nationals of another member country, treatment no less favourable than that accorded in like situations to domestic enterprises.	With some exceptions established foreign controlled enterprises are accorded national treatment. Australia has reported as exceptions: provisions of foreign investment policy that impact on investment by foreign controlled enterprises; official aids and subsidies for films; foreign aid; and five exceptions by States that impact on investment by established foreign controlled enterprises.
Notify within a defined period all measures constituting exceptions to national treatment and any subsequent modifications of those measures.	Australia has reported all measures, as published in Annex III of *National Treatment Instrument for Foreign Controlled Enterprises*, OECD, Paris, 1993. It includes for example the authorisation requirement for all acquisitions of real estate unless exempt by regulation.
Scope to refer to the OECD prejudicial measures by another member that are contrary to the undertakings with regard to national treatment.	In addition to periodic country views, countries are often asked to report to the OECD committees on recent changes to measures affecting foreign investment. Australia has participated in this review process.
Agree to examination of exceptions lodged by member countries, with the aim of making suitable proposals to assist members to withdraw their exceptions.	Australia has participated in, and been the subject of, periodic examinations by the OECD of its exceptions. At each review Australia has been able to withdraw a number of exceptions due to liberalisation measures taken during the period between reviews.

CONSISTENCY OF AUSTRALIA'S CORPORATE GOVERNANCE FRAMEWORK WITH OECD DRAFT PRINCIPLES

Disclosure Standard: The corporate governance framework should ensure that timely and accurate information is disclosed on all material matters regarding the financial situation, performance, ownership and governance of companies (OECD Draft Corporate Governance Principles).

In April 1998, the Organisation for Economic Co-operation and Development (OECD) called for the development of a set of international standards and guidelines on corporate governance to be considered at their May 1999 Ministerial Council meeting. To this end, the OECD established the Ad Hoc Task Force on Corporate Governance to develop a set of guidelines. The proposed Guidelines are intended to be a non-binding statement of common elements which member countries consider underlie good corporate governance.

It is envisaged that the Guidelines will assist member countries to evaluate and improve the legal, institutional and regulatory framework for corporate governance and also act as useful guidance for stock exchanges and corporations. Australia is involved in the development of the Guidelines at both the public and private sector level.

This attachment focuses on the disclosure principles of the draft guidelines.

Disclosure Principle: Disclosure should include, but not be limited to, material information on:

1. ***The financial and operating results of the company;***
2. ***Company objectives;***
3. ***Governance structures and policies;***
4. ***Major share ownership and voting rights;***
5. ***Members of the board and key executives, and their remuneration;***

6. Material foreseeable risk factors; and

7. Material issues regarding employees and other stakeholders.

The financial and operating results of the company

Corporate managers have a legal obligation to record and make public disclosure of information about the corporation's business affairs. Proper financial record keeping and public disclosure of financial information are normally justified as the price to be paid for limited liability. It is considered that mandatory disclosure is essential in the interests of both market efficiency and investor protection.

In Australia, compulsory disclosure and financial reporting requirements have evolved both through the Corporations Law and through Australian Stock Exchange (ASX) Listing Rules.

The basic financial reporting requirements of companies under the Corporations Law are to:

- maintain financial records;
- prepare annual financial statements and a directors' report; and
- prepare a half-yearly financial statement.

Companies are required to maintain records which accurately record their financial transactions and which would enable the preparation of financial statements and the audit of those financial statements.

- The matters to be disclosed in the financial statements are contained in accounting standards, which are made by the Australian Accounting Standards Board and which have the force of law under the Corporations Law (see separate section on accounting standards).
  - The financial reporting requirements and accounting standards must be complied with - directors do not have a discretion whether or not to comply, and breaches are enforced by the Australian Securities and Investments Commission (ASIC).

Listed companies must also meet similar financial reporting requirements imposed by the ASX.

Company objectives

The Corporations Law does not require a company to have specific objectives or that objectives be set out in a company's constitution or other publicly available document. In Australia a company's capacity to act is equated with that of a natural person — its capacity is generally not limited by a statement of objectives. A company may set out its objectives in its constitution or other documentation if it wishes, for example in the annual directors' report.

The directors' report (see following items, 'Governance structures and policies' and 'Material foreseeable risk factors') is required to include a review of the company's operations, results, and principal activities during the accounting period. If there are circumstances that may affect the company's future, the report is required to refer to likely developments in the company's operations in future financial years and the expected results of those operations.

Governance structures and policies

The Corporations Law sets out detailed requirements for directors' reports. The types of information that should be incorporated in the reports include:

- a review of the company's operations and results during the accounting period;
- the company's principal activities during the accounting period;
- the net amount of the company's profit or loss during the accounting period;
- a statement of dividends paid or recommended;
- directors' contractual benefits; and
- indemnities given by the company.

In addition to the above Corporations Law requirements, ASX Listing Rule 4.10.3 requires each listed company to disclose in its annual report the main corporate governance practices it has had in place during the year.

The ASX decided not to adopt a prescriptive approach, such as requiring companies to adopt particular practices or report against a prescribed checklist of particular practices, as it was of the view that a less prescriptive approach would result in more information of greater relevance being released to the market. The ASX does, however, provide an indicative list of corporate governance matters that listed companies may wish to disclose in their annual reports. The ASX has released an updated guidance note on the disclosure of corporate governance practices.

The ASX has reviewed the operation of the rule and concluded, on the basis of a review of 791 company annual reports for reporting periods ending on or shortly after 30 June 1996, that:

- there has been a high level of compliance with the Listing Rule; and
- a large proportion of companies have committee structures in place to handle corporate governance issues.

The success of compliance with the requirements of the Listing Rule has not, however, been achieved without debate. In particular, the former Australian Investment Managers' Association (AIMA — now the Investment and Financial Services Association), representing institutional investors, considered that the Listing Rule did not go far enough and should require listed companies to indicate why they have not followed particular corporate governance practices identified in the checklist, along the lines of the requirements of the London Stock Exchange.

ASX listing rules also require listed companies to state in their annual report to shareholders whether they have an audit committee.

In June 1995, AIMA published a statement of 14 guidelines for recommended corporate practice by listed companies. The guidelines included recommendations that:

- there should be a majority of independent directors on the board of directors;
- the chairperson should be an independent director;
- committees of the board of directors should be constituted with a majority of non-executive directors;

- the board should appoint an audit committee, a nomination committee and a remuneration committee;
- non-executive directors should meet on their own at least once annually to review the performance of the board, the company and management and to discuss any other items raised by any of them;
- the board should establish a policy to encourage non-executive directors to own shares in the company;
- the board should at least annually review the allocation of the work of the company between the board and management;
- the board should annually review, and disclose in the annual report, its policies for remuneration, including incentives, of the board and senior executives. The justification for these policies and their relationship to the performance of the company should be similarly reviewed and disclosed. The quantum and components of the remuneration of each director and each of the five highest paid executives should clearly be disclosed in one section of the annual report. This should include the existence and length of any service contracts for the Chief Executive Officer;
- separate issues should not be combined and presented for a single vote by shareholders;
- major corporate changes which in substance or effect may erode share ownership rights should be submitted to a vote of shareholders; and
- every listed company should have a company code of ethics that is adopted by the board and all employees and is available to shareholders on request.

Major share ownership and voting rights

Under the Corporations Law, the voting rights attaching to shares must be set out in the constitution of the company and, if the share forms part of an initial public offering, the rights must be set out in a prospectus.

A company's constitution may only be altered by a special resolution. However, this power is circumscribed under the Corporations Law and at common law which proscribes fraud on the minority.

Under the Corporations Law, every company is required to maintain a share register in which the names and addresses of the holders of its shares are recorded. A substantial shareholder of a listed public company must disclose its interest to the company within two business days after acquiring the interest and serve a copy of the notice on the ASX. A substantial shareholding occurs when a person is entitled to not less than 5 per cent of the relevant class of shares. The concept of 'entitlement' extends to associates and others who the person effectively 'controls'.

Upon reaching the 5 per cent limit, there is a continuing obligation to disclose any variations of 1 per cent or more in that entitlement within two business days. If these provisions are contravened, the court has a wide range of orders which it can make upon application of ASIC or the company.

In addition to the substantial shareholding notification requirements, the Corporations Law enables ASIC or the company to trace the beneficial ownership of that company's shares.

Members of the board and key executives, and their remuneration

Under the Corporations Law, the names of all directors, both executive and non-executive, must be included in the annual report of the company. Any changes in directorships must be notified to ASIC and, in the case of public companies, also to the ASX.

Recent amendments were made to the Corporations Law to enhance disclosure of directors' remuneration, which must also be outlined in the annual reports of companies. In particular, companies are now required to:

- outline the broad policy for determining the nature and amount of remuneration of board members and senior executives of the company;
- outline the relationship between the policy and the company's performance; and

- provide details of the nature and amount of each element of the remuneration of each director and each of the five officers of the company receiving the highest remuneration.

Australian accounting standards also contain detailed requirements on how remuneration should be quantified and disclosed.

Material foreseeable risk factors and material issues regarding employees and other stakeholders

Under the Corporations Law, the directors' report for a financial year, in addition to the matters listed above, must:

- give details of any matter or circumstance that has arisen since the end of the year that has significantly affected, *or may significantly affect*:
  - the company's operations in future financial years; or
  - the results of those operations in future financial years; or
  - the company's state of affairs in future financial years; and
- refer to likely developments in the company's operations in future financial years and the expected results of those operations.

In addition, if the company's operations are subject to any particular and significant environmental regulation under an Australian law, the directors must give details of the entity's performance in relation to environmental regulation.

Apart from the above, there is no specific requirement to report issues regarding employees and other stakeholders. However, in this regard it is noted that if such issues had, or potentially would have, a significant impact on the company's operations, they would need to be disclosed under the general disclosure requirements.

In addition to the annual report requirements contained in the Corporations Law, the ASX Listing Rules require listed companies to immediately disclose certain information to the market. In particular, Listing Rule 3.1 requires that:

3.1 Once an entity is, or becomes, aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities, the entity must immediately tell ASX that information. This rule does not apply to particular information while each of the following applies:

3.1.1 A reasonable person would not expect the information to be disclosed.

3.1.2 The information is confidential.

3.1.3 One or more of the following apply:

(a) It would be a breach of a law to disclose the information.

(b) The information concerns an incomplete proposal or negotiation.

(c) The information comprises matters of supposition or is insufficiently definite to warrant disclosure.

(d) The information is generated for the internal management purposes of the entity.

(e) The information is a trade secret.

The ASX may suspend an entity's securities from quotation or remove an entity from the official list if the entity does not comply with or breaks a listing rule, or if it is necessary to prevent a disorderly or uninformed market. The ASX may also grant a trading halt to a listed entity if information likely to affect the price or value of an entity's securities cannot be immediately released.

The Corporations Law reinforces the Listing Rule by creating criminal and civil penalties for breaches of it. If the ASX considers that a person has committed, or is about to commit a 'serious contravention' of the Listing Rules or the Corporations Law, it is under an obligation to lodge a statement with ASIC providing particulars of the matter.

More generally, where information is provided by a listed company to the ASX and the ASX makes that information available to the market, the ASX is under an obligation to provide that information to ASIC as soon as practicable.

Disclosure Principle: Information should be prepared, audited and disclosed in accordance with high quality standards of financial disclosure, non-financial disclosure and audit.

The Corporations Law contains detailed requirements regarding preparation and audit of information that is required to be disclosed. Independently set accounting and auditing standards must be used. A detailed description of the requirements in this area is contained in Attachments E and F dealing with accounting and auditing standards.

Disclosure Principle: An annual audit should be conducted by an independent auditor in order to provide an external and objective control on the way in which financial statements have been prepared and presented.

Both the Corporations Law and the ASX Listing Rules contain requirements on these matters. See Attachment F on auditing standards for a detailed explanation in this regard.

Disclosure Principle: Channels for disseminating information should provide for fair, timely and cost efficient access to relevant information by users.

The Corporations Law provides various mechanisms for shareholders, and the public, to obtain information about a company's affairs.

A shareholder has a statutory right to obtain a copy of the company's constitution. Shareholders also have a right to inspect minutes of general meetings and to obtain copies.

Companies are required to lodge copies of their constitution with ASIC and any amendments subsequently made to it. Similarly, documents affecting class rights must be lodged and shareholders have access to them.

Companies are also required to allow any person to inspect the register of members, the register of option holders and the register of debenture holders. A copy of a register must be provided within seven days of the request and upon payment of a fee.

Most information lodged with ASIC is available to the public which has the right to search non-confidential registers containing the following information:

- the constitution of the company;
- annual returns;
- return of directors, principal executive officer and secretaries;
- lists of members;
- returns of allotments of shares;
- statements of rights attached to shares where rights are not stated in the constitution;
- agreements that bind a class of shareholders;
- special resolutions;
- court orders approving a scheme of arrangement;
- removals or resignations of auditors;
- notices of appointment of a new trustee for debenture holders.

The public also has a statutory right of access to the following registers maintained by ASIC:

- company auditors;
- liquidators;
- company charges;
- disqualified company directors and officers;
- financial interests of members and staff of ASIC;
- licence-holders in the securities industry.

The Corporations Law requires companies/directors to send to members copies of the annual financial report, the directors' report and the auditors' report 21 days before the next annual general meeting after the end of the financial year or four months after the end of the financial year.

A meeting of members of a company or a class of members must, under the Corporations Law, be convened by notice in writing served on each member entitled to attend and vote at the meeting. At least 28 days' notice must be given of the meeting. A notice may be given by post, fax or electronic address (if any) nominated by the member or by any other means that the company's constitution permits.

As well as the above requirements, the continuous disclosure requirements referred to above ensure that shareholders and the market in general are informed about material matters affecting a company.

ACCOUNTING STANDARDS

The following table lists accounting standards made by the Australian Accounting Standards Board (AASB) and details the extent to which the Australian standards have been harmonised with international accounting standards (IAS). The Australian standards listed in the table have the force of law for the purposes of the Corporations Law and must be used by entities that are required to prepare financial statements in accordance with the requirements of the Corporations Law.

Disclosure standard: Private sector compliance with independently established and high quality national accounting standards.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1001	Accounting Policies	To prescribe the concepts that guide the selection, application and disclosure of accounting policies and to require specific disclosures to be made in relation to the accounting policies adopted in the preparation and presentation of the financial report.	In force; revised for years ending on or after 31 December 1999.	Compliance with AASB 1001 ensures compliance with IAS 1 (Presentation of Financial Statements) to the extent that IAS 1 deals with accounting policies.
1002	Events Occurring After Reporting Date	To prescribe the events occurring after reporting date for which the effects must be reflected in the financial report; to prescribe the events occurring after reporting date for which the effects must not be recognised in the financial report; and to require specific disclosures in respect of events occurring after reporting date.	In force	AASB 1002 covers the scope of IAS 10 (Contingencies and Events Occurring After Balance Sheet Date) to the extent that IAS 10 deals with events occurring after reporting date. Compliance with AASB 1002 ensures compliance with IAS 10 to the extent that IAS 10 deals with events occurring after reporting date, with one exception (details of which are set out in note (a)).
1003	Withdrawn — replaced by AASB 1012			

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1004	Revenue	To prescribe the accounting treatment of revenues arising from various types of transactions or other events; and to require certain disclosures to be made in relation to revenues.	In force; revised for years ending on or after 30 June 1999.	Compliance with AASB 1004 ensures compliance with IAS 18 (Revenue). However, AASB 1004's treatment of contributions as revenues is not in conformity with IAS 20 (Accounting for Government Grants and Disclosure of Government Assistance), which requires grants to be treated as income over the periods necessary to match them with the related costs which they are intended to compensate, on a systematic basis, and specifically requires grants related to assets to be treated as deferred income or as deductions from the carrying amounts of the assets.
1005	Financial Reporting by Segments	To require disclosure of information about the material industry segments and material geographical segments in which a company operates.	In force	ED 90 (Segment Reporting), which proposes amendments to AASB 1005 for the purpose of harmonising it with IAS 14 (Segment Reporting), was issued for comment in March 1998.
1006	Interests in Joint Ventures	To prescribe the accounting treatment for a venturer's interests in joint ventures; and to require a venturer to make specific disclosures about its interests in joint ventures.	In force; revised for years ending on or after 31 December 1999.	Compliance with AASB 1006 ensures compliance with IAS 31 (Financial Reporting of Interests in Joint Ventures).

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1007	Withdrawn — replaced by AASB 1026			
1008	Leases	To prescribe the accounting treatment for leasing transaction; and to require specific disclosures about leasing transactions.	In force; revised for years ending on or after 31 December 1999.	Compliance with AASB 1008 ensures compliance with IAS 17 (Leases).
1009	Construction Contracts	To prescribe the accounting treatment of construction contracts by contractors; and to require specific disclosures to be made about construction contracts by contractors.	In force	Compliance with AASB 1009 ensures compliance with IAS 11 (Construction Contracts).
1010	Accounting for the Revaluation of Non-Current Assets	To prescribe the circumstances in which non-current assets may be revalued and the treatment of such revaluations in the accounting records.	In force	ED 92 (Revaluation of Non-Current Assets), which proposes amendments to AASB 1010 for the purpose of harmonising it with IAS 16 (Property, Plant and Equipment) to the extent that IAS 16 deals with revaluations of, and disclosures relating to, non-current assets, was issued for comment in June 1998.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1011	Accounting for Research and Development Costs	Requires the application of a method of accounting under which research and development costs are matched against related benefits when such benefits are expected beyond any reasonable doubt.	In force	Work on harmonisation of this topic delayed pending completion of IASC project on intangible assets (issued as IAS 38 in September 1998).
1012	Foreign Currency Translation	Ensures that the results of a company's exposure to foreign exchange currency movements are reflected in financial statements.	In force	ED 86 Foreign Currency Translation), which proposes amendments to AASB 1012 for the purpose of harmonising it with IAS 21 (The Effects of Changes in Foreign Exchange Rates), was issued for comment in December 1997.
1013	Accounting for Goodwill	To specify the manner of accounting for goodwill and discount on acquisition on the acquisition of an entity; and to require disclosure of information relating to goodwill.	In force	Work on harmonisation of this topic delayed pending completion of IASC project on intangible asset and the consequential changes needed to IAS 22. The new intangible assets standard (IAS 38) was issued in September 1998.
1014	Set-off and Extinguishment of Debt	To specify when a debt is to be accounted for as having been extinguished; and to prescribe the method of accounting for the extinguishment of debt.	In force	Compliance with AASB 1014 ensures compliance with the set-off criteria contained in IAS 32 (Financial Instruments: Disclosure and Presentation), except as outlined in note (b).

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1015	Accounting for the Acquisition of Assets	To specify the accounting treatment to be applied in respect of all acquisitions of assets by reflecting the economic substance of the exchange transaction that led to the acquisition, so that such acquisitions are accounted for on a consistent basis in the accounts and group accounts.	In force	ED 84 (Acquisition of Assets), which proposes amendments to AASB 1015 for the purpose of harmonising it with IAS 22 (Business Combinations), was issued for comment in October 1997.
1016	Accounting for Investments in Associates	To prescribe the circumstances in which investors must use the equity method of accounting for investments in associates; to prescribe how the equity method is to be applied; and to require certain disclosures in respect of investments in associates.	In force; revised for years ending on or after 30 June 1999.	Compliance with AASB 1016 ensures compliance with IAS 28 (Accounting for Investments in Associates), with the exceptions set out in note (c).
1017	Related Party Disclosures	To require disclosure in the financial report of information relating to relationships, transactions and balances with related parties of the reporting entity, including the remuneration and retirement benefits of directors, loans received by directors and other director-related transactions.	In force	An exposure draft which is expected to propose amendments to AASB 1017 for the purpose of harmonising it with the requirements of IAS 24 (Related Party Disclosures) is still being developed.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1018	Profit and Loss Accounts	To require the inclusion in the determination of the profit or loss of all items of revenue and expense (including adjustments relating to prior financial years); and to require disclosure in the profit and loss account of information about the profit or loss.	In force	ED 93 (Statement of Financial Performance and Ancillary Amendments), which proposes amendments to AASB 1018 for the purpose of harmonising it with IAS 8 (Net Profit or Loss for the Period, Fundamental Errors and Changes in Accounting Policies) to the extent that IAS 8 deals with the matters covered by AASB 1018, was issued for comment in July 1998.
1019	Inventories	To specify the method of measuring inventories, including the manner in which costs are to be assigned to inventories; to specify the recognition of expenses relating to inventories; and to require specific disclosures to be made in respect of inventories.	In force; revised for years ending on or after 30 June 1999.	Compliance with AASB 1019 ensures compliance with IAS 2 (Inventories), with the exception noted in note (d).
1020	Accounting for Income Tax (Tax-effect Accounting)	To specify the method for determining income tax expense, provision for income tax, provision for deferred income tax and future income tax benefit; and to require appropriate disclosure in the accounts and group accounts.	In force	ED 87 (Income Taxes), which proposes amendments to AASB 1020 for the purpose of harmonising it with IAS 12 (Income Taxes), was issued for comment in December 1997.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1021	Depreciation	To require the recognition of assets with physical substance that are expected to be used during more than one financial year and which meet specified criteria; to require the consumption or loss of future economic benefits embodied in non-current assets with limited useful lives to be recognised; and to require disclosure in the financial report of information in relation to depreciable non-current assets and the allocation of the depreciable amount.	In force	Compliance with AASB 1021 ensures compliance with: IAS 4 (Depreciation Accounting); and IAS 16 (Property, Plant and Equipment) to the extent that IAS 16 deals with the recognition and depreciation of physical non-current assets which are expected to be used during more than one financial year.
1022	Accounting for the Extractive Industries	To specify the accounting treatments for particular transactions and events relating to extractive industry operations; and to require disclosure of information relating to extractive industry operations.	In force	No equivalent IAS standard.
1023	Financial Reporting of General Insurance Activities	To specify the manner of accounting for the general insurance activities of an entity and for the investment activities of the entity integral to those general insurance activities; and to require disclosure of information relating to general insurance activities.	In force	No equivalent IAS standard.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1024	Consolidated Accounts	To identify for financial reporting purposes parent entities and subsidiaries; and to prescribe the circumstances in which consolidated accounts are to be prepared and the financial information to be included in those accounts.	In force	An exposure draft which is expected to propose amendments to AASB 1024 for the purpose of harmonising it with the requirements of IAS 27 (Consolidations) is still being developed.
1025	Application of the Reporting Entity Concept and Other Amendments	To amend the citation, interpretation provisions, application provisions and definitions in certain approved accounting standards.	In force	No equivalent IAS standard.
1026	Statement of Cash Flows	To require a statement of cash flows to be included in financial reports; and to specify the manner in which a statement of cash flows is to be prepared.	In force	Compliance with AASB 1026 ensures compliance with IAS 7 (Cash Flow Statements).
1027	Earnings per Share	To prescribe the method of calculation of basic earnings per share and diluted earnings per share; and to require disclosure of basic earnings per share and diluted earnings per share and other related information.	In force	ED 85 (Earnings per Share), which proposes amendments to AASB 1027 for the purpose of harmonising it with the requirements of IAS 33 (Earnings per Share), was issued for comment in October 1997.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1028	Accounting for Employee Entitlements	To prescribe the methods to be used when accounting for employee entitlements in the preparation of the accounts and consolidated accounts; and to establish requirements for the disclosure of information about employee entitlements in the accounts and consolidated accounts.	In force	ED 97 (Employee Benefits), which proposes amendments to AASB 1028 for the purpose of harmonising it with the requirements of IAS 19 (Employee Benefits) other than the recognition and measurement of superannuation and post-employment medical benefits, was issued for comment in October 1998.
1029	Half-year Accounts and Consolidated Accounts	To prescribe reporting requirements for half-yearly accounts or consolidated accounts of disclosing entities.	In force	ED 96 (Interim Financial Reporting), which proposes amendments to AASB 1029 for the purpose of harmonising it with IAS 34 (Interim Financial Reporting) was issued for comment in October 1998.
1030	Application of Accounting Standards to Financial Year Accounts and Consolidated Accounts of Disclosing Entities other than Companies	To prescribe requirements for the preparation and presentation of financial year accounts or consolidated accounts required by the Corporations Law of disclosing entities which are not companies.	In force	No equivalent IAS standard.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1031	Materiality	To define materiality; to explain the role of materiality in making judgements in the preparation and presentation of the financial reports; and to require the standards specified in other accounting standards to be applied where information resulting from their application is material.	In force	No equivalent IAS standard.
1032	Specific Disclosures by Financial Institutions	To require specified disclosures in the financial report of a financial institution.	In force	Compliance with AASB 1032 ensures compliance with IAS 30 (Disclosures in the Financial Statements of Banks and Similar Financial Institutions), with the exceptions detailed in note (e).
1033	Presentation and Disclosure of Financial Instruments	To prescribe certain financial report presentation requirements for financial instruments and to require disclosure in the financial report of information concerning financial instruments.	In force	Compliance with AASB 1033 ensures compliance with IAS 32 (Financial Instruments: Disclosure and Presentation), with the exceptions detailed in note (f).
1034 1035	Information to be Disclosed in Financial Reports	To prescribe the information to be included in profit and loss accounts and balance sheets prepared in accordance with the requirements of the Corporations Law. (Note: 1035 makes a technical amendment to 1034.)	In force	No IAS standard that is directly equivalent.

AASB No.	Title	Purpose	Operative date	Harmonised with IAS?
1036	Borrowing Costs	To prescribe the accounting treatment of borrowing costs; to prescribe the methods to be used to allocate borrowing costs to individual qualifying assets; and to require certain disclosures to be made about borrowing costs.	In force	Compliance with AASB 1036 ensures compliance with IAS 23 (Borrowing Costs).
1037	Self-Generating and Regenerating Assets	To prescribe rules for the valuation of SGARAs; to specify the manner in which changes in valuation are to be treated in the accounts; and to specify the disclosures to be made in respect of SGARAs.	Applies to years ending on or after 30 June 2000.	No equivalent IAS standard.
1038	Life Insurance Business	To prescribe the methods to be used for reporting on life insurance business in the financial report; and to require disclosures about life insurance business in the financial report.	Applies to years ending on or after 31 December 1999.	No equivalent IAS standard.
1039	Concise Financial Reports	To specify the minimum content of a concise financial report.	In force	No equivalent IAS standard.

International accounting standards for which there are no equivalent Australian standards

No.	Title	Issues not covered in an Australian standard	Comments
IAS 15	Information Reflecting the Effects of Changing Prices	Whole topic.	Not listed for harmonisation.
IAS 19	Employment Benefits	The recognition and measurement of superannuation and post-employment medical benefits.	Equivalent requirements to be included in an Australian standard.
IAS 26	Accounting and Reporting by Retirement Benefit Plans	Whole topic.	Falls outside the scope of the Corporations Law and, accordingly, is not currently listed for harmonisation. However, there is an accounting profession standard (AAS 25 — Financial Reporting by Superannuation Plans) which is consistent with IAS 26.
IAS 29	Financial Reporting in Hyperinflationary Economies	All issues except those addressed in ED 86 (Foreign Currency Translations), which proposes amendments to AASB 1012.	Except to the extent that the topic will be covered by AASB 1012, this matter is not listed for harmonisation.
IAS 35	Discontinuing Operations	Whole topic.	ED 95 (Discontinuing Operations) was issued for comment in October 1998.
IAS 36	Impairment of Assets	Whole topic.	An exposure draft proposing harmonisation to be prepared.

No.	Title	Issues not covered in an Australian standard	Comments
IAS 37	Provisions, Contingent Liabilities and Contingent Assets	Whole topic.	ED 88 (Provisions and Contingencies) was issued for comment in December 1997.
IAS 38	Intangible Assets	Whole topic (except to the extent that it is covered by AASB 1011).	Scheduled for harmonisation.
IAS 39	Financial Instruments: Recognition and Measurement	Whole topic.	The AASB has not set a timetable for the harmonisation of this topic.

Notes:

(a) The exception relates to an event occurring after reporting date that provides evidence that the going concern basis is not appropriate after the reporting date. IAS 10 requires the financial effect of the event to be recognised in the financial report, whereas AASB 1002 requires the financial effect of the event to be disclosed. (The different approach in AASB 1002 is to ensure that the requirements of the standard do not conflict with the provisions of the Corporations Law, which require a financial report to provide a true and fair view of the financial position of an entity as at the reporting date and of the results of the entity for the period ending on that date.)

(b) IAS 32 does not allow set-off when financial assets are set aside in a trust by a debtor for the purpose of discharging an obligation if the assets have not been accepted by the creditor in settlement of the obligation. AASB 1014 treats in-substance defeasances as extinguishing the liability when the prescribed conditions are satisfied.

(c) There are two areas of difference between AASB 1016 and IAS 28:

(i) IAS 28 requires the equity method to be applied in the investor's own financial report where the equity method is applied in the consolidated financial report. AASB 1016 requires the cost method to be applied in the investor's own financial report except where a consolidated financial report is not required to be prepared.

(ii) IAS 28 requires the carrying amount of an investment to be written down to its recoverable amount which is determined as the higher of its value in use and net selling value. AASB 1016 provides that the carrying amount of the investment must not exceed its recoverable amount but does not specify how the recoverable amount is to be determined.

(d) IAS 2 requires the disclosure of the cost of inventories recognised as an expense during the reporting period; or the operating costs applicable to revenues, recognised as an expense during the reporting period, classified by their nature. This disclosure requirement will be included in a forthcoming AASB standard that harmonises with the requirements of IAS 1 (Presentation of Financial Statements).

(e) There are two areas of difference between AASB 1032 and IAS 30:

(i) Where there are differences between the requirements of IAS 30 and IAS 32, AASB 1032 and other standards conform with the requirements of IAS 32, rather than with the requirements of IAS 30.

(ii) A parent entity need comply with only the basic profit and loss account and balance sheet disclosure requirements of AASB 1032 when the parent entity's financial report is presented with the economic entity's financial report, and the economic entity applies AASB 1032. In contrast, IAS 30 does not require the preparation of parent entity financial reports or contain any exemption for parent entity reports when they are prepared. There is no difference in the scope of AASB 1032 and IAS 30 in application to economic entity financial reports, which are the focus of the AASB's harmonisation policy.

(f) There are two areas of difference between AASB 1033 and IAS 32:

(i) The requirement to classify component parts of compound instruments separately does not apply to instruments issued prior to 1 January 1998. IAS require retrospective application of component part accounting only when initial adjustments are reasonably determinable. The AASB considers that in many cases it would be difficult to determine the initial adjustments required for retrospective application. Accordingly, AASB 1033 does not require (but does allow) retrospective application. The significance of this exception will diminish over time.

(ii) A parent entity need not comply with the disclosure requirements of AASB 1033 when the parent entity's financial report is presented with the economic entity's financial report, and

the economic entity applies AASB 1033. In contrast, IAS 32 does not require the preparation of parent entity financial reports or contain any exemption for parent entity reports when they are prepared. There is no difference in the scope of AASB 1033 and IAS 32 in application to economic entity financial reports, which are the focus of the AASB's harmonisation policy.

Acknowledgement

This table has been compiled by Treasury staff using information contained in:

(a) AASB-series accounting standards made by the Australian Accounting Standards Board (AASB);

(b) draft accounting standards (referred to as exposure drafts or EDs) prepared by the AASB and the Public Sector Accounting Standards Board;

(c) information on the web site of the Australian Accounting Research Foundation; and

(d) information on the web site of the International Accounting Standards Committee.

AUDITING STANDARDS

The following table lists auditing standards (AUS) and auditing guidance statements (AGS) issued by the Auditing and Assurance Standards Board of the Australian Accounting Research Foundation (AuASB). The table also lists the equivalent international audit standard for each Australian standard and describes the extent to which the Australian document has been harmonised with the international standard. Although Australian AUS and AGS do not have the force of law for the purposes of the Corporations Law, the ethical rules of The Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants require their respective members to use AUS and AGS when undertaking audit engagements.

Disclosure standard: Compliance with international audit standards issued by the International Auditing Practices Committee of the International Federation of Accountants.

Australian Document	Title	International Document	Title	Notes
AUS 102	Foreword to Australian Auditing Standards and Guidance Statements			No equivalent ISA.
AUS 104	Glossary of Terms			No equivalent ISA.
AUS 106	Explanatory Framework for Standards on Audit and Audit Related Services	No number	Framework of International Standards on Auditing	Except as mentioned in note (a), the AUS and the Framework of International Standards on Auditing are consistent in all material respects.
AUS 202	Objective and General Principles Governing an Audit of a Financial Report	ISA 200	Objective and General Principles Governing an Audit of Financial Statements	Except as mentioned in note (b), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 204	Terms of Audit Engagements	ISA 210	Terms of Audit Engagements	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 206	Quality Control for Audit Work	ISA 220	Quality Control for Audit Work	Except as mentioned in note (c), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.

Australian Document	Title	International Document	Title	Notes
AUS 208	Documentation	ISA 230	Documentation	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 210	Irregularities, Including Fraud, Other Illegal Acts and Errors	ISA 240 ISA 250	Fraud and Error Consideration of Laws and Regulations in an Audit of Financial Statements	Except as mentioned in note (d), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 212	Other Information in Documents Containing Audited Financial Reports	ISA 720	Other Information in Documents Containing Audited Financial Statements	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 214	Auditing in a CIS Environment	ISA 401	Auditing in a Computer Information Systems Environment	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 302	Planning	ISA 300	Planning	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 304	Knowledge of the Business	ISA 310	Knowledge of the Business	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.

Australian Document	Title	International Document	Title	Notes
AUS 306	Materiality	ISA 320	Audit Materiality	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 402	Risk Assessments and Internal Controls	ISA 400	Risk Assessments and Internal Control	Except as mentioned in note (e), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 404	Audit Implications Relating to Entities Using a Service Entity	ISA 402	Audit Considerations Relating to Service Entities Using Service Organizations	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 502	Audit Evidence	ISA 500	Audit Evidence	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 504	Confirmation of Receivables	ISA 501	Audit Evidence — Additional Considerations for Specific Items Part B: Confirmation of Accounts Receivable	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 506	Existence and Valuation of Inventory	ISA 501	Audit Evidence — Additional Considerations for Specific Items Part A: Attendance of Physical Inventory Counting	Except as mentioned in note (f), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.

Australian Document	Title	International Document	Title	Notes
AUS 508	Inquiry Regarding Litigation and Claims	ISA 501	Audit Evidence — Additional Considerations for Specific Items Part C: Inquiry Regarding Litigation and Claims	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 510	Initial Engagements — Opening Balances	ISA 510	Initial Engagements — Opening Balances	Except as mentioned in note (g), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 512	Analytical Procedures	ISA 520	Analytical Procedures	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 514	Audit Sampling	ISA 530	Audit Sampling and Other Selective Testing Procedures	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 516	Audit of Accounting Estimates	ISA 540	Audit of Accounting Estimates	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 518	Related Parties	ISA 550	Related Parties	Except as mentioned in note (h), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.

Australian Document	Title	International Document	Title	Notes
AUS 520	Management Representations	ISA 580	Management Representations	Basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 522	Audit Evidence Implications of Externally Managed Assets of Superannuation, Provident or Similar Funds			No corresponding ISA.
AUS 524	The Auditor's Use of the Work of the Actuary and the Actuary's Use of the Work of the Auditor in Connection with the Preparation and Audit of a Financial Report			No corresponding ISA.
AUS 602	Using the Work of Another Auditor	ISA 600	Using the Work of Another Auditor	Except as mentioned in note (i), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 604	Considering the Work of Internal Auditing	ISA 610	Considering the Work of Internal Auditing	Except as mentioned in note (j), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.

Australian Document	Title	International Document	Title	Notes
AUS 606	Using the Work of an Expert	ISA 620	Using the Work of An Expert	Except as mentioned in note (k), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 702	The Audit Report on a General Purpose Financial Report	ISA 700	The Auditor's Report on Financial Statements	Except as mentioned in note (l), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 704	Comparatives			No corresponding ISA.
AUS 706	Subsequent Events	ISA 560	Subsequent Events	Except as mentioned in note (m), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 708	Going Concern	ISA 570	Going Concern	Except as mentioned in note (n), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 710	Communication to Management on Matters Arising from an Audit			No corresponding ISA.

Australian Document	Title	International Document	Title	Notes
AUS 802	The Audit Report on Financial Information Other than a General Purpose Financial Report	ISA 800	The Auditor's Report on Special Purpose Audit Engagements	Except as mentioned in note (o), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 804	The Audit of Prospective Financial Information	ISA 810	The Examination of Prospective Financial Information	Except as mentioned in note (p), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 806	Performance Auditing			No corresponding ISA.
AUS 808	Planning Performance Audits			No corresponding ISA.
AUS 902	Review of Financial Reports	ISA 910	Engagements to Review Financial Statements	Except as mentioned in note (q), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AUS 904	Engagements to Perform Agreed-upon Procedures	ISA 920	Engagements to Perform Agreed-upon Procedures Regarding Financial Information	Except as mentioned in note (r), basic principles and essential procedures in the AUS and ISA are consistent in all material respects.
AGS 1002	Bank Confirmation Requests			No corresponding ISA.

Australian Document	Title	International Document	Title	Notes
AGS 1004	Transitional Arrangements on Changes in Audit Appointments under the Corporations Law			No corresponding ISA.
AGS 1006	Expressions of an Opinion on Internal Control			No corresponding ISA.
AGS 1008	Audit Implications of Reserve Bank Prudential Reporting Requirements			No corresponding ISA.
AGS 1010	Audit Obligations of the Financial Institutions Scheme			No corresponding ISA.
AGS 1012	Share Buy-Backs — Auditor's Report			No corresponding ISA.
AGS 1014	Privity Letter Requests			No corresponding ISA.
AGS 1016	Audit and Review Reports — Half-year Accounts and Consolidated Accounts			No corresponding ISA.
AGS 1018	CIS Environments — Stand-Alone Microcomputers	ISA 1001	EDP Environments — Stand-Alone Microcomputers	AGS is in accordance with ISA in all material respects.
AGS 1020	CIS Environments — On-Line Computer Systems	ISA 1002	EDP Environments — On-Line Computer Systems	AGS is in accordance with ISA in all material respects.
AGS 1022	CIS Environments — Database Systems	ISA 1003	EDP Environments — Database Systems	AGS is in accordance with ISA in all material respects.

Australian Document	Title	International Document	Title	Notes
AGS 1024	Life Insurance Act 1995 — Audit Obligations			No corresponding ISA.
AGS 1026	Superannuation Funds — Auditor Reports on Externally Managed Assets			No corresponding ISA.
AGS 1028	Uncertainty			No corresponding ISA.
AGS 1030	Derivatives in a Corporate Environment: A Guide for Auditors			No corresponding ISA.
AGS 1032	The Audit Implications of Accounting for Investments in Associates			No corresponding ISA.
AGS 1034	Implications for Management and Auditors of the Year 2000 Systems Issue			No corresponding ISA.
AGS 1036	The Consideration of Environmental Matters in the Audit of a Financial Report	No number	Consideration of Environmental Matters in the Audit of Financial Statements.	AGS is in accordance with the International Auditing Practice Statement in all material respects.

Notes:

(a) There are two areas of difference:

(i) The IPAC document does not deal explicitly with the applicability of international auditing pronouncements to audit and audit related services on non-financial information; services provided by external auditors in the public sector; services provided by internal auditors and audits; and reviews involving direct reporting.

(ii) Compilation engagements are dealt with in the Framework of International Standards on Auditing but are excluded from the AUS. The Auditing and Assurance Standards Board is of the view that the performance of such engagements does not require the application of audit based skills.

(b) There are two areas of difference:

(i) Some ISAs identify specified procedures which will, because of the nature of the particular assertions, provide sufficient appropriate audit evidence in the absence of unusual circumstances which increase the risk of material misstatement beyond that which would ordinarily be expected; or any indication that a material misstatement has occurred. This approach is not followed in any AUSs.

(ii) The AUS contains a basic principle/essential procedure which requires the auditor to take responsibility only for forming and expressing an opinion on the financial report, and not for the preparation and presentation of that report. The ISA provides guidance on this matter, but not as a basic principle/essential procedure. The Auditing Standards and Assurance Board is of the view that this matter is a fundamental principle of auditing.

(c) The AUS contains a basic principle/essential procedure which identifies the objectives that should be incorporated in the quality control policies of an audit firm. The ISA provides guidance on this matter, but not as a basic principle/essential procedure. The Auditing and Assurance Standards Board is of the view that these matters are fundamental to effective quality control for audit work.

(d) There are two areas of difference:

(i) ISA 250 adopts a procedural approach and requires the auditor to:

(1) perform prescribed procedures to identify instances of non-compliance with laws and regulations and to be alert for instances of non-compliance when applying procedures for the purpose of forming an opinion on the financial statements;
(2) inquire of management as to any fraud or significant error which has been discovered;
(3) obtain sufficient appropriate audit evidence about the entity's compliance with laws and regulations that are generally recognised by the auditor to have an effect on the determination of material amounts and disclosures in financial statements, and to have a sufficient understanding of those laws and regulations in order to consider them when auditing the assertions related to the determination of the amounts to be recorded and the disclosures to be made; and
(4) obtain written representation that management has disclosed all known actual or possible non-compliance with laws and regulations whose effects should be considered when preparing financial statements.

Although the AUS prescribes essential procedures and deals with the above issues, it does not follow a procedural approach. Instead, it requires the auditor to assess the risk that irregularities may cause the financial report to contain material misstatements, and design audit procedures to provide reasonable assurance of detecting misstatements arising from irregularities.

(ii) ISA 240 and 250 require the existing auditor to advise the successor auditor whether there are any reasons why the successor auditor should not accept the appointment. The AUS does not contain an equivalent requirement as this matter is dealt with in the ethical rules of the accounting bodies.

(e) The ISA contains a basic principle/essential procedure regarding communication of weaknesses in internal control. Although the AUS does not have a corresponding basic principle/essential procedure, the matter is addressed in AUS 710.

(f) The ISA only establishes standards and provides guidance in relation to the attendance at a physical inventory counting. The AUS contains 'black letter' requirements in relation to the valuation of inventory. The Auditing and Assurance Standards Board is of the view that for completeness, it is necessary to provide guidance on valuation of inventory in addition to that provided in the equivalent ISA.

(g) The ISA provides guidance on the impact that a qualified audit report for the prior period may have on the current period's financial statements. In the AUSs, the equivalent guidance is contained in AUS 704.

(h) There are a number of technical and procedural differences between the ISA and AUS. The most significant differences are:

(i) in the absence of unusual circumstances and any indication of a material misstatement, the ISA permits the auditor to limit audit procedures regarding the identification of related parties to certain procedures identified in the ISA. The AUS does not follow that approach. Although the AUS prescribes essential procedures, those procedures should not be presumed to provide, of themselves, sufficient appropriate audit evidence.

(ii) The AUS provides that the auditor should consider the substance of the relationship and/or transaction being tested and not merely the legal form. There is no equivalent requirement in the ISA.

(i) The AUS provides that when expressing an unqualified opinion, the auditor should not refer to the work of another auditor, as this may be misunderstood to indicate a division of responsibility. This is inconsistent with the ISA, which allows such a reference in the audit report.

(j) AUS 402 specifically identifies internal auditing as an element of the internal control structure, whereas ISA 400 is not explicit in identifying whether internal auditing is an element of the internal control structure. As a result, AUS 604 applies the principles in AUS 402 to the use of internal auditing by the external auditor. Accordingly, any reliance that the external auditor intends to place on internal auditing affects the assessment of the control risk component of audit risk. ISA 610, however, infers that any reliance that the external auditor intends to place on internal auditing may be used to reduce the external auditor's assessment of either or both control risk and detection risk.

(k) The ISA includes as an expert a person employed by the auditor. The Auditing and Assurance Standards Board considers that a person employed by the auditor is an assistant within the meaning of AUS 206 and is covered by that AUS.

(l) The differences between the AUS and the ISA include:

(i) The ISA requires quantification of the possible effects of a qualification 'unless impracticable' The Auditing and Assurance Standards Board considers that matters subject to qualification should be quantified unless they are incapable of being measured reliably, in which case a statement to that effect and the reasons should be disclosed in the audit report.

(ii) The ISA permits an 'except for' opinion if a matter that is material and pervasive does not render the financial report as a whole misleading when it is read in conjunction with the audit report. The Auditing and Assurance Standards Board considers that the audit report ought not be used as part of the financial report and, therefore, ought not be used as a means of providing information to overcome deficiencies in the financial report. The AUS requires the auditor's decision on whether to issue an 'except for' or adverse opinion to be made by considering the effect of the matter on the financial report alone, rather than by considering its effect on the financial report when read in conjunction with the audit report.

(m) The ISA provides that 'in cases involving the offering of securities to the public, the auditor should consider any legal and related requirements applicable to the auditor in all jurisdictions in which the securities are being offered'. The AUS does not contain an equivalent requirement because it does not deal with the offering of securities to the public.

(n) There are a number of differences between the AUS and the ISA, including:

(i) The AUS requires the auditor to consider all reasonably foreseeable circumstances facing the entity during the period from the date of the auditor's current report to the expected date of the auditor's report for the succeeding financial reporting period. The ISA is less specific in terms of what the auditor should consider while the period of time that should be covered is shorter than that in the AUS.

(ii) The ISA has less detailed requirements regarding the auditor's consideration of the disclosure of mitigating circumstances.

(iii) The AUS provides that in those situations where the going concern basis is considered inappropriate due to an event which occurs after reporting date, an emphasis of matter section should be included in the audit report in accordance with AUS 702. There is no similar provision in the ISA.

(o) There are a number of technical and procedural differences between the ISA and AUS. One of the more significant differences is that the ISA provides guidance on reports on compliance with contractual agreements. The AUS does not deal with compliance engagements except to the extent the AUS and AUS 702 can be adapted when undertaking such engagements.

(p) There are a number of differences between the AUS and the ISA, including:

(i) The ISA remains silent as to whether the auditor should report that the prospective financial information has, or has not been prepared on a basis consistent with the accounting policies adopted and disclosed by the entity in its audited financial report.

(ii) The AUS requires the auditor to include a scope section in the audit report to explain the nature and extent of the auditor's work and the degree of assurance provided. The ISA does not contain an equivalent requirement.

(iii) The AUS contains a basic principle/essential procedure which requires the auditor to assess the appropriateness of the presentation and disclosure of the prospective financial information and the underlying assumptions. The ISA only provides guidance on the matters to consider when assessing the presentation and disclosure.

(q) The ISA requires the auditor to comply with the ethical requirements of the International Federation of Accountants (IFAC) while the AUS requires compliance with the ethical requirements of the Australian accounting bodies. As the Australian bodies do not have an ethical requirement covering supervision of staff that is equivalent to the requirement in the IFAC ethics, a requirement equivalent to that in the IFAC ethics has been included in the AUS.

(r) There are a number of differences between the AUS and the ISA, including:

(i) The AUS requires the auditor and the entity to agree on the terms of the engagement.

(ii) The ISA requires the auditor to comply with the ethical requirements of the International Federation of Accountants (IFAC) while the AUS requires compliance with the ethical requirements of the Australian accounting bodies. As the Australian bodies do not have an ethical requirement covering supervision of staff that is equivalent to the requirement in the IFAC ethics, a requirement equivalent to that in the IFAC ethics has been included in the AUS.

(iii) The AUS contains additional requirements dealing with the use of the work of another auditor or an expert.

(iv) The AUS requires the auditor to be independent whereas the independence of the auditor is not a requirement of the ISA.

Acknowledgement

This table has been compiled by Treasury staff using information contained in Auditing Standards and Auditing Guidance Statements issued by the Auditing and Assurance Standards Board.

G22 WORKING GROUP ON INTERNATIONAL FINANCIAL CRISES: KEY FEATURES OF INSOLVENCY REGIMES

In its October 1998 report, the G22 Working Group on International Financial Crises identified eight key features and principles considered important for an effective insolvency framework. In the following table, the Australian corporate insolvency framework is compared against each of those key features and principles.

Key Feature	Comments
1. Maximise value of assets	Australia has a facility for reorganisation as well as liquidation. The two reorganisation mechanisms Australia uses are schemes of arrangement (a court supervised process) and a relatively new scheme known as voluntary administration. With respect to *new financing*, the G22 Working Group principle calls for priority in an eventual liquidation to be provided to creditors who advance funds during the liquidation period. Australia's voluntary administration scheme is not consistent with that principle. A 'blanket' statutory priority for post-administration creditors is undesirable in some contexts because: ▪ all unsecured creditors should, in principle, be treated equally, with the categories of priorities kept to a minimum; ▪ pre–administration creditors may be less likely to support an arrangement if their debts rank behind post-administration creditors; and ▪ post–administration creditors may tend to over–extend credit to the company, to the detriment of pre-administration creditors. The Australian Government referred the issue to a private sector advisory committee whose final report (of June 1998) recommended against a statutory priority in the case of voluntary administration, except where the administrator is personally liable for the debts incurred to post–administration creditors. However, pre–administration creditors should be permitted to bestow any other form of priority on post–administration creditors if they wish that to be part of the arrangement. Australia considers that although the G22 principle regarding new financing is likely to be suitable in the context of reorganisation proceedings conducted under close supervision of an authority such as a court, it is not necessarily suitable to apply across the board to all forms of reorganisations and all proceedings conducted in those forms.

Key Feature	Comments
2. Strike a careful balance between liquidation and reorganisation	Australia has a variety of mechanisms for dealing with insolvency, including liquidation and reorganisations through the voluntary administration procedure. It is considered that an appropriate balance has been struck between near–term debt collection and maintenance of the debtor as a going concern.
3. Provide for equitable treatment of similarly situated creditors, including similarly situated foreign and domestic creditors	Australia's insolvency framework does not discriminate between similarly situated creditors (domestic or foreign), except in respect of some penalty and revenue claims by foreign governments.
4. Provide for timely, efficient and impartial resolution of insolvencies	Australia's insolvency system contains statutory deadlines on a number of procedural matters. The voluntary administration scheme, which has little court involvement, was developed with speed and efficiency as a major consideration. Many liquidations could nevertheless be resolved more quickly once commenced.
5. Prevent premature dismemberment of the debtors' assets by creditors	Australia's system is consistent with this principle, through statutory stays and moratoriums which balance the rights of secured creditors.
6. Provide for a procedure that is transparent and contains incentives for gathering and dispensing information	Reports by the administrator to the court (where applicable), the regulator and creditors about the position of the corporation are a statutory requirement, as are directors' reports to the administrator. In a voluntary administration, the administrator is required to provide creditors with a report setting out the position of the company and an opinion on the options (immediate liquidation or compromise/arrangement).

Key Feature	Comments
7. Recognise existing creditor rights/respect priority of claims with a predictable and pre-established process	Australia's system recognises the rights of secured creditors except in very limited circumstances (such as employee priority over the holder of a floating charge in a liquidation). Creditors actively participate in the process through creditors' meetings.
8. Establish a framework for cross-border insolvency	The Australian Government has indicated its support for the United Nations Commission on International Trade Law (UNCITRAL) model law on cross-border insolvency. It is expected the necessary consultative and parliamentary processes required to adopt the model provisions in law will commence later this year.

IMPLEMENTATION OF THE BASLE CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

The Basle Committee on Banking Supervision released its *Core Principles for Effective Banking Supervision* in September 1997. These 25 principles have widespread acceptance as a basic reference tool for supervisory and other public authorities. The principles were designed to assist countries in developing adequate and robust prudential supervision of their financial sector and to strengthen existing arrangements.

The bulk of this material was taken from the Australian response to a Bank for International Settlements (BIS) survey, which was provided to the BIS in July 1998. The BIS released the broad outcomes of the survey at the October 1998 International Conference of Banking Supervisors in Sydney, although it did not reveal individual country details. Since an article on Australia's compliance with the Core Principles had already been published in the Reserve Bank of Australia (RBA) *Bulletin* in December 1997, we have had no reason to withhold our response. Similarly, the Australian Prudential Regulation Authority (APRA) has also supplied copies of our response to the Executives Meeting of East Asia-Pacific Central Banks (EMEAP) and the Asia Pacific Economic Cooperation (APEC) secretariats.

Principle 1 (1): An effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banks.

Implemented

The *Australian Prudential Regulation Authority Act 1998* (APRA Act) specifies that APRA's purpose is the prudential supervision of regulated entities, which includes banks and, later this year, building societies and credit unions. The *Banking Act 1959* (Banking Act) also states that APRA's functions include ensuring that banks carry out sound practices in relation to prudential matters and that APRA should exercise its powers and functions for the protection of the depositors of banks.

APRA's depositor protection responsibility does not confer any guarantee on bank deposits. In the event that a bank becomes unable to meet its obligations or suspending payment, the assets of the bank in Australia are to be available to meet that bank's deposit liabilities in Australia in *priority* to all other liabilities of the bank.

Principle 1 (2): Each such agency should possess operational independence and adequate resources.

Implemented

The APRA Act provides APRA with considerable operational autonomy, including an independent Board and the "power to do anything that is necessary or convenient to be done for or in connection with the performance of its functions".
APRA is responsible for its own budget, which is funded by levies from the industry.

Principle 1 (3): A suitable legal framework for banking supervision is also necessary, including provisions relating to authorisation of banking establishments and their ongoing supervision.

Implemented

The APRA Act and Banking Act provide APRA with considerable powers in respect of the licensing and ongoing supervision of banks. A locally incorporated entity or a foreign bank wishing to operate as a bank in Australia must obtain an authority issued under the Banking Act. To be successful, an applicant for an authority must be able to meet minimum criteria established by APRA. These include criteria with regard to capital, ownership, board composition, management control, information systems and external audit arrangements. Banking authorities are granted on condition that the banks consult with APRA regarding prudential supervisory arrangements and conform with any prudential arrangements laid down by APRA. APRA may determine standards and regulations in relation to prudential matters to be complied with by banks and has powers to issue directions to a bank if it considers that the bank has contravened these standards/regulations or that the direction would be in the interests of depositors. APRA may appoint a statutory manager to take control of the bank's business if it is considered that the bank will become unable to meet its obligations.

Principle 1 (4): A suitable legal framework for banking supervision is also necessary, including powers to address compliance with laws as well as safety and soundness concerns.

Implemented

APRA has a wide range of powers in relation to carrying out its depositor protection and prudential supervision responsibilities. APRA may require a bank to supply information in relation to its activities and, if a bank fails to comply with this requirement, APRA may appoint a person to investigate the affairs of the bank. Where a bank becomes unable to meet its obligations or is about to suspend payment, APRA may assume control of and carry on the business of that bank or appoint a statutory manager to take control of the business of the bank and, if required, to wind up the bank's operations.

The Banking Act includes a range of provisions that may be applied to banks failing to meet prudential standards and regulations. These include monetary penalties; imprisonment; the removal of auditors, directors or management of a bank; powers to direct that certain activities are to cease; and any other directions that are considered to be necessary to ensure compliance with standards/regulations and safety of depositors. At the extreme, APRA may revoke the authority to carry on banking business.

Principle 1 (5): A suitable legal framework for banking supervision is also necessary, including legal protection for supervisors.

Implemented

The APRA Act provides that the Board of APRA, staff members or their agents, are not subject to any liability in respect of anything done in good faith in the performance of their duties. The Banking Act has a similar provision for any person acting in good faith in the discharge of obligations imposed by the Act.

Principle 1 (6): Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.

Implemented

The APRA Act includes comprehensive provisions to facilitate the sharing of information about financial institutions with other

supervisory bodies. Protected information subject to secrecy provisions may be disclosed to another financial sector supervisory agencies to assist the latter to perform its functions. Information so disclosed must be kept confidential by the recipient agency.

Memoranda of Understanding covering exchange of information are in place (or arrangements in train) with other domestic regulators and some offshore supervisors.

Principle 2 (1): The permissible activities of institutions that are licensed and subject to supervision as banks must be clearly defined.

Implemented

Only corporates in possession of an authority under the Banking Act can carry on banking business in Australia. The Banking Act has a broad definition of the activities considered to be banking business, including taking money on deposit and making advances. The Act also provides for banking business to be defined in regulations if this were considered necessary so as to cover types of business not easily captured in a general definition.

Principle 2 (2): The use of the word 'bank' in names should be controlled as far as possible.

Implemented

The Banking Act prohibits unauthorised institutions from using bank-related words (including foreign language equivalents) in relation to a financial business. There are penalties for breaches.

Principle 3 (1): The licensing authority must have the rights to set criteria and reject applications for establishments that do not meet the standards set.

Implemented

APRA has detailed Prudential Statements setting out minimum criteria for the issue of authorities for both locally incorporated banks and foreign bank branches. APRA has the power to reject unacceptable applications.

Principle 3 (2): The licensing process, at a minimum, should consist of an assessment of the banking organisation's ownership structure, directors and senior management, its operating plan and internal controls, and its projected financial condition, including its capital base.

Partially implemented

The application for an authority to carry on banking business must provide detailed information on the applicant's ownership, board and management; structure of business; management systems and procedures used to control and monitor risks; information and accounting systems; balance sheet and earnings projections out to three years; and capital ratio projections.

In deciding whether to grant an authority to carry on banking business, APRA will consider the quality of directors and senior management. In addition, a bank is required to notify APRA in advance of proposed changes in directors and provide details of the background, qualifications and associations of proposed new directors. Each bank provides APRA with a current list of directors' relevant associations on an annual basis. A prudential statement sets out guidelines for independence and prevention of conflict of interest.

APRA regards the above arrangements as satisfactory, but does not have a formal 'fit and proper' test for the appointment of directors and senior management of banks. While the legislation does not preclude the application of a fit and proper test, APRA has not sought to do this in respect of banks to date. This reflects the fact that all but one of Australia's fourteen local banks are large public companies listed on the Stock Exchange and subject to the scrutiny which comes from a broad range of shareholders (as required by the banking ownership rules; see Principle 4).

Principle 3 (3): Where the proposed owner or parent organisation is a foreign bank, the prior consent of its home country supervisor should be obtained.

Implemented

Each foreign bank applying for an authority to carry on banking business in Australia must provide in its application a statement from the home supervisor confirming the foreign bank's financial standing, and giving consent for the foreign bank to operate in Australia.

Principle 4: Banking supervisors must have the authority to review and reject any proposals to transfer significant ownership or controlling interests in existing banks to other parties.

Implemented

The *Financial Sector (Shareholdings) Act 1998* provides that the shareholding of any one entity (and associated entities) in an Australian bank may not exceed 15 per cent of the aggregate of the bank's voting shares. The Federal Treasurer may approve a higher percentage limit on national interest grounds (such exemptions have been granted in the case of foreign bank-owned subsidiaries). In addition, a person whose stake in a bank does not exceed 15 per cent may be declared by the Treasurer to have 'practical control' of the bank, in which case the person is required to take steps to relinquish practical control.

In the event of an unacceptable shareholding situation, the Federal Court may order the disposal of shares or restrain the exercise of rights attached to the shares.

An authority granted to a foreign bank may be revoked in the event of any sale or disposal of its business by amalgamation; or the carrying on of business in partnership with another bank; or a reconstruction of the bank, unless approved by the Treasurer.

Principle 5 (1): Banking supervisors must have the authority to establish criteria for reviewing major acquisitions or investments by a bank.

Implemented

A prudential statement provides guidance to banks in respect of their equity associations. Banks' equity associations with other institutions should normally be in the field of finance. Such associations, whether direct or indirect, which would involve more than 10 per cent or more interest in an entity are required to be referred to APRA prior to the bank becoming committed in the investment.

Prior reference to APRA is required when a bank's aggregate investment in non-financial businesses would exceed 5 per cent of its Tier 1 capital. Individual investments are generally subject to a limit of 0.25 per cent of Tier 1 capital.

Banks must consult with APRA prior to entering into any firm commitment to merge or restructure. Any significant change in

ownership would trigger *the Financial Sector (Shareholdings) Act 1998* and require approval by the Federal Treasurer (see Principle 4).

Banks are required to obtain APRA's prior approval before setting up or acquiring banking operations in other countries.

Principle 5 (2): Banking supervisors must have the authority to establish criteria for ensuring that corporate affiliations or structures do not expose the bank to undue risks or hinder effective supervision.

Implemented

Banks are not permitted to provide general guarantees to cover the liabilities of subsidiaries and associates. Any support provided must be limited as to time and amount. Subsidiaries and associates are to be managed so as to be viable within their own resources and a bank should scrutinise its financial dealing with an associate as closely as it would dealings with unrelated customers (i.e. on an 'arms-length' basis). There are also restrictions on the size of a bank's non-bank associates relative to the size of the bank.

The new legislation, effective 1 July 1998, provides for bank holding companies which must be authorised. Policies regarding permissible exposures between a bank which is owned by a holding company and sister companies in the structure, will be elaborated by APRA in coming months.

APRA has guidelines covering banks' involvement in funds management and securitisation. These require clear separation of these activities from the banking group as well as prominent disclosure of the bank's role.

Principle 6 (1): Banking supervisors must set minimum capital requirements for banks that reflect the risks that the banks undertake, and must define the components of capital, bearing in mind its ability to absorb losses.

Implemented

APRA attaches great importance to ensuring that the capital resources of individual banks are adequate for the size, quality and type of their business. Each Australian bank is expected to maintain a minimum ratio of total capital to risk-weighted assets, on both a consolidated group and stand-alone basis, of 8 per cent (of which at least 4 per cent

should be Tier 1 capital). APRA may require a higher minimum ratio for new banks or where a bank is judged to have significant risk exposures.

Principle 6 (2): For internationally active banks, these requirements must not be less than those established in the Basle Capital Accord.

Implemented

APRA uses a risk based approach to the measurement of banks' capital adequacy. The definitions of risk weights and components of capital are detailed in a prudential statement and are consistent in all substantial respects with the Basle Capital Accord. APRA has also adopted Basle's Amendment to the Capital Accord to Incorporate Market Risks.

Principle 7 (1): An essential part of any supervisory system is the independent evaluation of a bank's policies, practices and procedures related to the granting of loans and making of investments.

Implemented

APRA conducts regular on-site reviews of authorised banks' credit management systems. The aim of the review is to assess whether banks' systems and controls for the management of risks are prudent, operating effectively, and consistent with good banking industry practice. Each applicant for an authority must provide details of its credit policies in its application. Prior to authorisation, an on-site team visits any existing Australian presence of the applicant to assess whether its systems and controls for the management of credit risks are adequate for the applicant's proposed business activities.

Principle 7 (2): An essential part of any supervisory system is the independent evaluation of a bank's policies, practices and procedures related to the ongoing management of the loan and investment portfolios.

Implemented

Banks are required to provide APRA with up-to-date versions of their credit systems descriptions and compliance is monitored through the regular on-site visits and off-site surveillance using information

provided from regular prudential returns from banks. External auditors are required to verify the banks' compliance with prudential requirements, integrity of the information provided to APRA, and compliance with any conditions on authorities to carry on banking business.

Principle 8 (1): Banking supervisors must be satisfied that banks establish and adhere to adequate policies, practices and procedures for evaluating the quality of assets.

Implemented

In addition to the arrangements outlined in respect of Principle 7, APRA has in place a Prudential Statement covering a number of aspects of banks' asset quality. Banks must have policies and procedures to ensure that they maintain sound asset quality, strong portfolio management, prudent risk controls, effective credit review and classification procedures, and an appropriate methodology for dealing with problem exposures. The Statement also recommends that banks implement risk grading systems which allow them to effectively monitor trends in asset quality. The policies and procedures are reviewed regularly through on-site reviews.

Principle 8 (2): Banking supervisors must be satisfied that banks establish and adhere to adequate policies, practices and procedures for the adequacy of loan loss provisions and reserves.

Implemented

APRA has a Prudential Statement which sets out a methodology for the identification and measurement of banks' impaired assets and establishes minimum standards for valuing security and broad principles for provisioning. Banks are required to submit quarterly returns of impaired assets, with details of security values and provisioning.

A bank whose provisioning appeared inadequate would be asked to explain its approach. Independent opinions may be sought from a bank's external auditor where this is considered appropriate. If considered necessary, a bank may be required to maintain a minimum capital ratio in excess of 8 percent.

Principle 9 (1): Banking supervisors must be satisfied that banks have management information systems that enable management to identify concentrations within the portfolio.

Implemented

Each bank must provide APRA with a statement of its policy in respect of large exposures to individual clients or groups of related clients. Banks are required to keep large exposures under review and to place a limit on their size relative to the capital base of the consolidated group.

Principle 9 (2): Supervisors must set prudential limits to restrict bank exposures to single borrowers or groups of related borrowers.

Implemented

APRA has a Prudential Statement regarding the supervision of banks' large credit exposures. Under this Statement banks must report quarterly all exposures (on- and off-balance sheet) of the consolidated group to individual clients, or groups of related clients, above 10 per cent of the group's capital base. Banks are required to receive approval from APRA before entering into any exposure to an individual client or group of related clients in excess of 30 per cent of the group's capital base.

Principle 10 (1): In order to prevent abuses arising from connected lending, banking supervisors must have in place requirements that banks lend to related companies and individuals on an arm's-length basis.

Implemented

Banks are required to provide APRA with details of their lending policy to shareholders, directors and associated interests. Definitions of related exposures are required to be clearly specified, as well as guidelines for determining when and how parties should be aggregated when determining risk. These details form part of the bank's credit systems descriptions as detailed in the response to Principle 7 (2).

Principle 10 (2): In order to prevent abuses arising from connected lending, banking supervisors must have in place requirements that such extensions of credit are effectively monitored.

Implemented

Lending policies to related parties are reviewed at the on-site visits, off-site surveillance and through the role of external auditors.

Principle 10 (3): In order to prevent abuses arising from connected lending, banking supervisors must have in place requirements that other appropriate steps are taken to control or mitigate the risks.

Implemented

A bank must separately report its exposures to subsidiaries and associates. The prior approval requirement in respect of large exposures noted in 9 (2) above applies to subsidiaries and associates measured against the bank's stand alone capital base.

Principle 11 (1): Banking supervisors must be satisfied that banks have adequate policies and procedures for identifying, monitoring and controlling country risk and transfer risk in their international lending and investment activities.

Implemented

Banks are required to establish limits on exposures to each country. Each bank must submit a quarterly country exposures return detailing its exposures by country.

Principle 11 (2): Banking supervisors must be satisfied that banks have adequate policies and procedures for maintaining adequate reserves against such risks.

Implemented

Provisions for country exposures are captured by APRA's policies in respect of credit risk as outlined in the response to Principle 8. Banks' provisioning levels are monitored by APRA against international practice.

Principle 12 (1): Banking supervisors must be satisfied that banks have in place systems that accurately measure, monitor and adequately control market risks.

Implemented

Banks must provide APRA with details of the management systems and procedures in place to control market risks. An on-site market risk team reviews banks' systems and controls to ensure that they are appropriate for the type of activities undertaken. Banks must keep APRA informed of any changes to their systems.

Principle 12 (2): Supervisors should have powers to impose specific limits and/or a specific capital charge on market risk exposures, if warranted.

Implemented

APRA has a Prudential Statement setting out a framework for determining the level of capital to be held by a bank against its market risk. The approach is broadly consistent with that recommended by the Basle Committee on Banking Supervision.

Banks are permitted to adopt either a standard model or use their own internal model to measure market risk for capital adequacy purposes. The use of an internal model requires the explicit approval of APRA. Model validation visits are undertaken by the market risk team prior to granting approval to ensure that the internal models meet certain qualitative and quantitative standards.

Principle 13: Banking supervisors must be satisfied that banks have in place a comprehensive risk management process (including appropriate board and senior management oversight) to identify, measure, monitor and control all other material risks and, where appropriate, to hold capital against these risks.

Implemented

One of the requirements for an authority to carry on banking business is that the institution maintains appropriate management systems and procedures to monitor and limit risks. At the minimum, they must cover credit risks, market risks, liquidity risks and operational risks, including responsibilities for the identification, measurement, monitoring and control of the respective risks. Banks have an undertaking to provide APRA with updates of its management systems

descriptions, which are also covered by an annual attestation by banks' chief executives that "the board and management have identified the key risks facing the bank, have established systems to monitor and manage those risks including where appropriate, by setting and requiring adherence to a series of prudent limits, and by adequate and timely reporting processes; that these systems are operating effectively and are adequate having regard to the risks they are designed to control; and that the descriptions of systems held by APRA are accurate and current".

Principle 14 (1): Banking supervisors must determine that banks have in place internal controls that are adequate for the nature and scale of their business.

Implemented

As part of the authorisation process, potential applicants must provide details of management systems and procedures used to control and monitor risks. APRA monitors these systems on an ongoing basis through its on-site visits and off-site surveillance of banks.

Principle 14 (2): These should include clear arrangements for delegating authority and responsibility; separation of the functions that involve committing the bank, paying away its funds, and accounting for its assets and liabilities; reconciliation of these processes; safeguarding its assets; and appropriate independent internal or external audit and compliance functions to test adherence to these controls as well as applicable laws and regulations.

Implemented

Banks must satisfy APRA as to the soundness of their operational arrangements. This entails provision of a description of the bank's organisational framework, including names and descriptions of the responsibilities of senior management, details of information and accounting systems and 'back-up' facilities. Compliance with these systems is assessed during on-site visits and by external auditors. Banks are also required to have appropriate internal audit arrangements. APRA may access the work of internal auditors, and hold discussions with them during on-site visits.

Principle 15: Banking supervisors must determine that banks have adequate policies, practices and procedures in place, including strict 'know-your-customer' rules, that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements.

Implemented

Australia fully meets the objectives of the Financial Action Task Force recommendations. The Australian Transaction Reports and Analysis Centre (AUSTRAC) has prime responsibility for intelligence gathering to detect possible money laundering activities. AUSTRAC monitors compliance with the anti-money laundering requirements by financial institutions. Legislation requires banks to have in place processes to identify customers as well as reporting to AUSTRAC cash transactions above A$10 000, all international telegraphic or wire transfers and any suspicious transactions. APRA has arrangements in place to share information with agencies responsible for prosecuting criminal activities.

Principle 16: An effective banking supervisory system should consist of some form of both on-site and off-site supervision.

Implemented

APRA's prudential supervision of banks involves both on-site and off-site supervision.

The financial conditions of banks are monitored through on-going analysis of data collected from banks and other sources. Banks are required to provide regular prudential returns on a number of areas of their operation, including on- and off-balance sheet information, large exposures, country exposures, impaired assets and liquidity mismatches. APRA also monitors banks' annual reports and other published information on banks. Analysis is done on an institutional, peer group as well as system basis.

APRA has asset quality and market risk review teams which visit all authorised banks on a regular basis; at least every two years but more frequently if this is considered necessary. These on-site visits assess whether banks' systems and controls for the management of risks are prudent given the nature and scope of the bank's operations.

Principle 17: Banking supervisors must have regular contact with bank management and thorough understanding of the institution's operations.

Implemented

APRA has a formal meeting with senior management of every authorised bank on an annual basis (or more frequently if considered necessary) to discuss the bank's operations. In addition to specific concerns arising from on-site reviews and other sources, the agenda of these 'consultations' covers banks' strategies, performance, asset quality, and risk management issues. APRA will also meet with banks at any time to discuss/clarify significant developments and matters of prudential concern. APRA staff have an on-going dialogue with banks.

Principle 18 (1): Banking supervisors must have a means of collecting, reviewing and analysing prudential reports and statistical returns from banks on a solo and consolidated basis.

Implemented

APRA has power under the Banking Act to collect information from a bank relating to its banking business, and to specify the form and manner in which accounts and financial statements are to be submitted. APRA requires banks to provide a range of information on both a bank-only and consolidated group basis.

Principle 18 (2): Banking supervisors must have a means of collecting, reviewing and analysing prudential reports and statistical returns from banks on a consolidated basis.

Implemented

Prudential returns related to capital adequacy, large exposures, off-balance sheet business, impaired assets, foreign currency operations and maturity profiles cover banks' global operations, consolidated in accordance with Australian accounting standards. APRA's power to collect and publish information extends to authorised non-operating holding companies of banks and subsidiaries of the non-operating holding companies and banks.

Principle 19: Banking supervisors must have a means of independent validation of supervisory information either through on-site examinations or use of external auditors.

Implemented

APRA has in place arrangements with each bank's external auditor to provide independent confirmation of the reliability of data submitted to APRA and assurance that the bank is complying with prudential requirements. External auditors may also be requested to report on aspects of a bank's system descriptions under 'tripartite' arrangements between APRA, the bank and the bank's external auditors. The Banking Act requires external auditors to provide information about banks to APRA if APRA considers that the provision of information will assist it in performing its functions. Auditors also have a duty to inform APRA if there are reasonable grounds to believe that a bank is insolvent, or will become insolvent, or has failed to comply with any prudential standards or regulations.

Principle 20: An essential element of banking supervision is the ability of the supervisors to supervise the banking organisation on a consolidated basis.

Implemented

APRA undertakes globally consolidated supervision of locally incorporated banks, which includes all subsidiaries in Australia and offshore. Prudential guidelines are applicable to the global operations of a bank and its subsidiaries, consolidated in accordance with Australian accounting standards. Banks' management systems for controlling and limiting risks must cover both domestic and offshore operations.

Principle 21 (1): Banking supervisors must be satisfied that each bank maintains adequate records drawn up in accordance with consistent accounting policies and practices that enable the supervisor to obtain a true and fair view of the financial condition of the bank and the profitability of its business.

Implemented

The Corporations Law requires Australian incorporated entities to maintain proper accounting records from which true and fair accounts of the entities can be prepared from time to time, and which can be

properly audited in accordance with the Law. In recognition of the importance of financial institutions, the Australian Accounting Standards Board issued a standard on disclosures in the financial report of a financial institution, to ensure that it provides relevant and reliable information about the financial institutions' activities. Arrangements are in place with the external auditor of each authorised bank to report to APRA annually the reliability of information supplied.

Principle 21 (2): Banking supervisors must be satisfied that the bank publishes on a regular basis financial statements that fairly reflect its condition.

Implemented

Refer response to 21 (1).

Principle 22: Banking supervisors must have at their disposal adequate supervisory measures to bring about corrective action when banks fail to meet prudential requirements (such as minimum capital adequacy ratios), when there are regulatory violations, or where depositors are threatened in any other way. In extreme circumstances, this should include the ability to revoke the banking licence or recommend its revocation.

Implemented

The Banking Act provides APRA with a range of powers to bring about corrective action. Where a bank fails to meet a prudential regulation or standard, a condition attached to its authority, or where it is felt necessary in the interests of depositors, APRA can issue directions to a bank. The types of direction that may be issued are wide-ranging and include directions as to the way in which the affairs of the bank are to be conducted or not conducted, removal of directors or management, and suspension of dividend payments. Non-compliance with these directions would invoke civil and criminal penalties.

APRA may appoint a statutory manager to investigate the affairs of a bank, take control of the bank's business or appoint an administrator to take control of the bank's business if the bank is unable or likely to become unable to meet its obligations. The statutory manager has the powers and functions of the members of the board of directors of the bank.

APRA may revoke a bank's authority to carry on banking business if it is satisfied that the bank has failed to comply with prudential requirements or regulations, or that it would be contrary to the interests of depositors of the bank for the authority to remain in force, or that the bank is insolvent and is unlikely to return to solvency within a reasonable period of time. An authority to carry on banking business granted to a foreign bank can be revoked if it is contrary to the national interest for the bank to continue carrying on banking business in Australia.

Principle 23: Banking supervisors must practise global consolidated supervision, adequately monitoring and applying appropriate prudential norms to all aspects of the business conducted by banking organisations worldwide, primarily at their foreign branches and subsidiaries.

Implemented

APRA practices globally consolidated supervision of locally incorporated banks, embracing all their subsidiaries and overseas branches. Prudential guidelines are applicable to the global operations of a bank and its subsidiaries, consolidated in accordance with Australian accounting standards. Banks' management systems for controlling and limiting risks must cover both domestic and offshore operations. Information is collected from banks on a global consolidated basis, and subject to verification by banks' external auditors.

A bank wishing to expand abroad is expected to provide a range of information in support of its proposal, including an outline of the nature and scale of the intended operation and an indication of the impact of the investment on the bank's capital position and management resources.

APRA may conduct on-site reviews of some of the more significant overseas operations of Australian banks and senior management of APRA may visit banks' foreign establishments for general discussions on strategy and performance with the local management.

Principle 24: A key component of consolidated supervision is establishing contact and information exchange with the various other supervisors involved, primarily host country supervisory authorities.

Implemented

APRA has well established contacts with supervisors in all the countries in which Australian banks operate — in some cases, Memoranda of Understanding are in place which specify the arrangements for sharing supervisory information.

APRA may object to a bank establishing a presence in a particular country where host supervision is considered inadequate, or where there would be restrictions either on the flow of information from the overseas operation or on APRA's ability to call on and consult with the local senior management of the operation.

Principle 25 (1): Banking supervisors must require the local operations of foreign banks to be conducted to the same high standards as are required of domestic institutions.

Partially implemented

Foreign banks operating as authorised banks in Australia are subject to broadly similar prudential requirements as Australian banks. While branches of foreign banks are not required to hold endowed capital in Australia and are not subject to any capital-based large exposure limits, APRA has to be satisfied that the foreign bank is subject to adequate standards of prudential supervision in its home country, including Basle minimum capital adequacy standards.

However, foreign banks can carry out wholesale banking type operations in Australia as 'merchant banks'. APRA is not in the position to provide home country supervisors with information on these institutions' activities in Australia as it neither authorises nor supervises them. However, in view of the nature of their operations in the wholesale market, they are subject to some requirements under the Corporations Law, which is administered by the Australian Securities and Investments Commission.

Principle 25 (2): Banking supervisors must have powers to share information needed by the home country supervisors of those banks for the purpose of carrying out consolidated supervision.

Partially implemented

As part of its application for an authority to carry on banking business in Australia, a foreign bank must provide a statement from the home supervisor confirming the bank's good standing, and consenting to the foreign bank setting up an operation in Australia. The home country supervisor must confirm that it practises consolidated supervision, and is willing to co-operate in the supervision of the branch or subsidiary in Australia, consistent with the principles of the Basle Concordat.

The APRA Act allows APRA to disclose information related to authorised institutions to another 'financial sector supervisory agency' when such information will assist the agency to perform its functions or exercise its powers. A financial sector supervisory agency includes a foreign supervisor.

Overseas supervisory authorities are permitted to conduct on-site examinations of their banks' subsidiaries or branches in Australia. APRA has entered into Memoranda of Understanding with some overseas supervisory authorities.

As outlined above, APRA is not in a position to provide information to home country supervisors on the activities of foreign bank owned merchant banks for the purposes of carrying out consolidated supervision.

CONFORMANCE WITH THE STATEMENT OF OBJECTIVES AND PRINCIPLES OF SECURITIES REGULATION DEVELOPED BY THE IOSCO

The International Organization of Securities Commissions (IOSCO) Statement of Objectives and Principles of Securities Regulation document sets out 30 principles of securities regulation, which are based upon three objectives of securities regulation. These are:

- The protection of investors;
- Ensuring that markets are fair, efficient and transparent;
- The reduction of systemic risk.

The principles are grouped into eight categories: the regulator; self-regulation; enforcement of securities regulation; cooperation in regulation; issuers; collective investment schemes; market intermediaries; and the secondary market.

Australia meets these IOSCO objectives, through provisions under the Corporations Law which provide investor protection against manipulative and fraudulent practices, while maintaining market integrity by promoting confident and informed participation of investors. Systemic risk is managed through a secure payments and clearance system and the supervision of market participants, directly and indirectly, through the regulator and co-regulatory bodies.

The standards are intended to recognise the need for practices to develop as the markets change and as technology and improved coordination among regulators makes other strategies available. The reference to securities markets is broad, applying to all the various market sectors; in particular, to the derivatives markets.

Full disclosure of information material to investors' decisions is required. Investors are, thereby, better able to assess the potential risks and rewards of their investments and, thus, to protect their own interests. Disclosure is required both at the time of initial offering of securities and on a continuous disclosure basis. Only licensed or

authorised persons are permitted to hold themselves out to the public as providing investment services.

Australia's regulator, the Australian Securities and Investments Commission (ASIC), actively carries out inspection, surveillance and compliance programs. In addition, self-regulatory organisations such as the exchanges, are required to actively carry out their regulatory responsibilities. The regulator has an obligation and the resources to pursue investigations and enforce the law for which it has regulatory responsibility for the benefit of investors. In addition, Australian securities law provides investors with rights to take civil action through the normal court system as a means of redress and compensation for improper behaviour.

Exchanges require authorisation of the Minister for Financial Services and Regulation to alter their trading rules, which are subject to regulatory review by ASIC to ensure fair and orderly markets. Transparency is assisted by information being made publicly available on a real-time basis. Australian law is intended to give investors fair access to reliable market facilities and price information with advanced, efficient electronic clearing and settlement systems.

IOSCO — Statement of objectives and principles of securities regulation

Regulator	
The responsibilities of the regulator should be clearly and objectively stated.	The powers of the Australian markets regulator, the Australian Securities and Investment Commission (ASIC) are clearly set out in its enabling legislation. The responsibilities of the regulator are related to specific legislation and the powers provided to it under these laws. The enabling legislation also includes a set of aims which the regulator must strive to achieve.
The regulator should be operationally independent and accountable in the exercise of its functions and powers.	The regulator is established as an independent, statutory body. It is separate from the executive arm of government, operating under its own budget provided by the Government. In Australia, the regulator is responsible for regulation, meaning how laws are to be applied. The Government is responsible for the development of policy in relation to the law. The regulator is accountable to the responsible Minister of the Government for the exercise of its powers and functions. At present the Minister for Financial Services and Regulation is responsible for the regulator. This role comes under the Treasurer's portfolio.
The regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers.	Australian laws regulating financial services provide a range of tools which are designed to ensure that appropriate compliance mechanisms exist so that information is provided to or can be accessed by the regulator and action can be taken if a breach is detected.

IOSCO — Statement of objectives and principles of securities regulation

Continued from previous page	Under these laws the regulator has powers that allow it, inter alia, to make assessments, reviews, carry out investigations and make orders. Its powers include the ability to initiate civil actions to seek various remedies available under Australian law such as monetary damages. The regulator is also able to carry out criminal investigations in order to gather evidence which can be referred to a relevant criminal enforcement agency or prosecutor. The regulator is provided with significant resourcing that is commensurate with the responsibilities it is required to carry out. The national government auditor (Australian National Audit Office) has the discretionary power to carry out performance audits of the regulator.
The regulator should adopt clear and consistent regulatory processes.	The regulator operates in an open and transparent way. It publicly articulates its views, interpretation of the law and approach to enforcement, through both formal documentation such as policy statements and informal means such as conferences and meetings with industry participants. The regulator also carries out wide-ranging consultation in the policy development process.
The staff of the regulator should observe the highest professional standards including appropriate standards of confidentiality.	Staff are bound by the standards and requirements generally applying to public officials in Australia under national laws set down in the *Public Service Act 1922*.

IOSCO — Statement of objectives and principles of securities regulation

Self-regulation	
The regulatory regime should make appropriate use of Self-Regulatory Organisations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, to the extent appropriate to the size and complexity of the markets.	Authorised exchanges and futures markets have co-regulatory responsibilities with the regulator. The exchanges are required to develop business rules which regulate the conduct of their members and the operation of markets. Any amendments to the business rules require the exchange to lodge with the Australian Securities and Investment Commission written notice of these changes, within 21 days of the amendment being made. The ASIC is required to send a copy to the Minister for Financial Services and Regulation, the current responsible Minister, who within 28 days of receipt of the notice may disallow the whole or a specified part of an amendment.
SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.	The regulator provides regulatory oversight of co-regulatory bodies. Australian law includes requirements for procedural fairness, including natural justice, for bodies carrying out administrative and regulatory functions.
The regulator should have comprehensive inspection, investigation and surveillance powers.	The regulator has a range of compliance and enforcement tools at its disposal. These include powers dealing with inspection and investigation. Some are general in scope and application, while others are specific to particular offences.
The regulator should have comprehensive enforcement powers.	The regulator has the power to enforce laws for which it has regulatory responsibility. These powers enable it to take, as appropriate, civil or administrative action and to refer matters for criminal prosecution.
The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.	The regulator aims to ensure that it carries out its functions in an effective and credible way. In the reporting year 1997-98, 90% of its enforcement actions were successful.

IOSCO — Statement of objectives and principles of securities regulation

Cooperation in regulation	
The regulator should have authority to share both public and non-public information with domestic and foreign counterparts.	Specific provision is contained in the *Mutual Assistance in Business Regulation Act 1992*, which allows the regulator to disclose information to domestic and foreign agencies.
Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.	ASIC has signed Memoranda of understanding (MOUs) with 18 overseas counterparts as well as non-government co-regulators such as the Australian Stock Exchange (ASX) and the Sydney Futures Exchange (SFE). MOUs are statements of intent between agencies, reflecting a willingness to cooperate on mutually agreed terms in respect of information exchange, investigative assistance and regulatory matters generally.
The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.	The *Mutual Assistance in Business Regulation Act 1992*, grants the regulator the medium to exercise compulsory powers for the functions and purposes of foreign regulators. This includes power to obtain books and records and conduct interviews. The foreign regulator is required to give an undertaking to preserve the privilege against self-incrimination. Authorisation from the Attorney-General must be obtained before the regulator exercises these powers.
Principles for issuers	
There should be full, timely and accurate disclosure of financial results and other information that is material to investors' decisions.	Australian law imposes general continuous disclosure obligations. These obligations apply to issuers of securities for both listed and non-listed entities. The Australian Stock Exchange Listing Rules supplement the disclosure obligations with additional reporting requirements

IOSCO — Statement of objectives and principles of securities regulation

Holders of securities in a company should be treated in a fair and equitable manner.	The Australian Stock Exchange Listing Rules include the principle that securities must have rights and obligations attaching to them that are fair to new and existing security holders.
Accounting and auditing standards should be of a high and internationally acceptable quality.	This issue is covered in detail in this Report under the heading of Accounting Standards.
Collective investment schemes	
The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a collective investment scheme.	Collective investment schemes, known as 'managed investment schemes' in Australia, are subject to detailed regulatory requirements under the law. These schemes need to meet eligibility and operational requirements.
The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.	The legal form and structure of managed investment schemes are specified under the law. The provisions provide for the segregation and protection of client assets.
Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.	Managed investment schemes are subject to general prospectus disclosure requirements. Information material to making an investment decision must be disclosed to potential investors.
Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.	Under the general prospectus disclosure requirement this information should be provided.

IOSCO — Statement of objectives and principles of securities regulation

Principles for market intermediaries	
Regulation should provide for minimum entry standards for market intermediaries.	Australian law requires securities dealers, investment advisers, and futures brokers and advisers to hold an appropriate licence. Representatives must hold a proper authority and their principal must be licensed. The granting of a licence is subject to conditions under the law and any further conditions imposed by the regulator. Criteria for granting licences include educational qualifications and relevant experience. The regulator has issued a policy statement outlining the competency standards expected of people applying for a licence to give advice on securities.
There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.	Securities and investment dealers licences and futures brokers and adviser licences are subject to financial conditions and the lodging of security. Capital requirements form part of the business rules and by-laws of the authorised exchanges.
Market intermediaries should be required to comply with standards for internal organization and operational conduct that aim to protect the interests of clients, ensure proper management of risk, and under which management of the intermediary accepts primary responsibility for these matters.	Australian law regulates the conduct of securities and futures businesses, including the issuing of contract notes, the manner in which they are audited, dealings on the dealers or brokers own account, dealers and brokers accounts, and the management of clients money and property.
There should be procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.	Australian law requires authorised exchanges, such as the Australian Stock Exchange to maintain fidelity funds to cover defaults by intermediaries. The business rules and by-laws of the authorised exchanges outline default procedures.

IOSCO — Statement of objectives and principles of securities regulation

Secondary market	
The establishment of trading systems including securities exchanges should be subject to regulatory authorisation and oversight.	The law regulates the manner in which exchanges are granted authorisation and the relationship between exchanges and the regulator in regulating the conduct of the market. Provision is made in the law for approving specialised stock and futures markets subject to specific requirements.
There should be ongoing regulatory supervision of exchanges and trading systems which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.	Amendments to the listing rules, business rules, or by-laws of authorised exchanges are subject to Ministerial disallowance.
Regulation should promote transparency of trading.	The listing, business rules, and by-laws of authorised exchanges outline disclosure obligations that their members are required to adhere to. These obligations include, corporate governance related disclosure, and periodic and continuous disclosure.
Regulation should be designed to detect and deter manipulation and other unfair trading practices.	Australian law regulates conduct in securities and futures markets including market manipulation, insider trading, and false and misleading statements. The authorised exchanges listing and business rules and by-laws are designed to ensure that a fair and orderly market is conducted.
Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.	The authorised exchanges and clearing house listing and business rules and by-laws deal with default procedures, and risk management practices, and trading halts.

IOSCO — Statement of objectives and principles of securities regulation

Systems for clearing and settlement of securities transactions should be subject to regulatory oversight, and designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.	Australia regulates the manner in which clearing houses are authorised. Any amendments to the business rules or by-laws of authorised clearing house are subject to Ministerial disallowance, which provides the opportunity to assess their fairness, efficiency and effect on systemic risk.