

Standing Committee on Finance and Public Administration

ANSWER TO QUESTION ON NOTICE

**Finance and Administration Portfolio
Department of Finance and Administration
Budget Estimates Hearing – May 2007**



Question: F18

Outcome 1, Output 1.2.3

Topic: Future Fund — Indemnity

Hansard Page: F&PA 60

Senator Brown asked:

Thank you. The directors of the Future Fund have been making some very important decisions for which the government does not take responsibility. We have heard about that in the last hour or so. Is there any prospect that the Future Fund directors will be indemnified for those decisions which are not an outcome of government policy but for which the directors make their own decision?

Senator Minchin: It is a little tricky answering this before we finalise the indemnity with them. I will take on notice the issue of making public the nature of the indemnity, which is really what you would be seeking us to do. Let me take that on board. Prime facie I am not sure whether there is any difficulty in doing that but I do not want to definitively promise to you that it can be done. At the moment, I do not see why not, but I would like to consider that.

Answer:

The Government is currently in the process of finalising the terms of the indemnity with the Future Fund Board of Guardians. Once the indemnity has been agreed and duly executed, the Government will consider making public the nature of the indemnity.



SENATOR THE HON NICK MINCHIN

Minister for Finance and Administration
Leader of the Government in the Senate

The Committee Secretary
Senate Finance and Public Administration Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

20 SEP 2007

Dear Sir/Madam,

I am writing pursuant to the Budget Estimates Hearing of your committee on 23 May 2007. In response to a request from Senator the Hon Bob Brown, I agreed to consider making public the nature of the Deed of Indemnity for members of the Future Fund Board of Guardians (the Board) after the terms of the indemnity had been finalised.

The Department of Finance and Administration's subsequent response to a Question on Notice (F18) confirmed this undertaking.

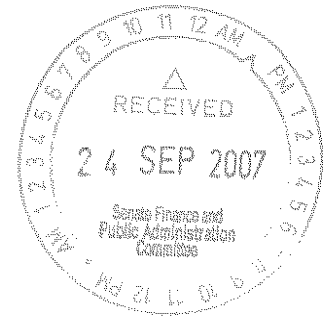
The indemnity has now been finalised. To fulfil the commitment I made to Senator Brown and the members of the Senate Finance and Public Administration Committee, I enclose a description of the indemnity that the Government has provided for members of the Board.

Yours sincerely

Nick Minchin

Future Fund Board of Guardians

Description of the Deed of Indemnity



The Commonwealth has provided the members of the Future Fund Board of Guardians (the Future Fund Board) with a Deed of Indemnity. The indemnity is intended to apply to cover liabilities in excess of the Future Fund Board's insurance policies.

Members of the Future Fund Board are indemnified, to the maximum extent permitted by law, in relation to all official actions. However, similar to members of Boards that operate under the *Commonwealth Authorities and Companies Act 1997* (the CAC Act), a member of the Future Fund Board is not indemnified:

- (i) for conduct he or she engages in other than in good faith;
- (ii) in respect of any liability owed to the Board; or
- (iii) in respect of any act or omission that contravenes one of the civil penalty provisions of the *Future Fund Act 2006* (Future Fund Act).

Also similar to members of CAC Boards, a member of the Future Fund Board is not indemnified for legal costs incurred by the member in unsuccessfully defending or resisting criminal proceedings, or proceedings against a declaration that the member had breached a civil penalty provision of the Future Fund Act.

The indemnity is financially limited, in broad terms, to the value of the Future Fund.