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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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ASIAN DEVELOPMENT BANK (ADDITIONAL SUBSCRIPTION) BILL 2009

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EXPLANATORY MEMORANDUM

(Circulated by the authority of the  
Treasurer, the Hon Wayne Swan MP)



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## ***General outline and financial impact***

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### **Asian Development Bank (Additional Subscription) Bill 2009**

In April 2009, the Board of Governors of the Asian Development Bank adopted Resolution No.336 (Increase in Authorised Capital Stock and Subscriptions Thereto) which increased the Bank's authorised capital stock by 7,092,622 shares and authorised the acceptance of increases in individual members' subscriptions. The capital increase is one in which each member may subscribe to additional shares in proportion to their current subscription. If all members subscribe fully, the capital of the Bank will be tripled, and the relative shareholdings of members will remain unaltered.

This Bill empowers the Treasurer to make the necessary agreement with the Asian Development Bank for the purchase by Australia of its entitlement of 16,379 paid-in shares and 393,101 additional callable shares of the capital stock of the Bank.

This Bill empowers the Treasurer to make this agreement on such terms and conditions as the Treasurer determines and, where appropriate, to issue promissory notes to the Bank in payment. This Bill also appropriates the funds necessary to make payments under such agreement.

***Date of effect:*** The Act will commence on the day the Act receives the Royal Assent.

***Proposal announced:*** The Government announced in the 2009-10 Budget that it will contribute US\$197.6 million of additional paid-in capital toward the Asian Development Bank's general capital increase and will increase its uncalled capital subscription by US\$5.6 billion, to assist in supporting countries in the Asia-Pacific region during the global recession and meet the region's ongoing development needs.

***Financial impact:*** The Charter of the Asian Development Bank provides that shares in the Bank are worth either US\$12,063.50 or, in special drawing rights (SDR), SDR10,000 per share. This Bill provides that Australia will purchase 16,379 paid-in shares at the lower US dollar share price at a total cost of US\$197.6 million (equivalent to A\$241.0 million at the exchange rate of A\$1 = US\$0.82). This amount is payable over a ten year period. The 393,101 callable shares are valued by the Bank at

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around US\$5.6 billion (equivalent to A\$6.8 billion), using the higher share price of SDR10,000 per share. However, Australia will have the option of paying any capital call on these shares using the lower value US dollar price.

Australia's contribution towards the general capital increase at the Asian Development Bank is a capital measure in the 2009-10 Budget and does not impact the underlying cash or fiscal balance. The increase in Australia's uncalled capital subscription appeared in the Statement of Risks as a contingent liability.

*Compliance cost impact:* Nil.

### Summary of regulation impact statement

#### Regulation impact on business

*Impact:* The Bill relates to the relations between the Australian Government and the Asian Development Bank and therefore has no impact on business or individuals.

### Notes on Individual Clauses

#### Clause 1 – Short title

1.1 This clause provides the short title by which the Act may be cited.

#### Clause 2 - Commencement

1.2 This clause provides that the Act commences on the day on which the Act receives Royal Assent.

#### Clause 3 – Definitions

1.3 This clause provides that Agreement means the Agreement establishing the Asian Development Bank, the Bank means the Asian Development Bank established by the Agreement and callable and paid-in shares have the same meaning as in the Agreement.

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### **Clause 4 – Treasurer may make agreement for purchase of additional shares**

1.4 To subscribe to the capital increase, the Treasurer, as Governor for Australia of the Bank, is required to submit, before 31 December 2010, to the Bank, an “Instrument of Subscription” setting out the number of additional paid-in and callable shares to which Australia will subscribe on the terms and conditions laid down in the Resolution.

1.5 Under the Resolution, Australia is entitled to subscribe to 16,379 paid-in shares valued at US\$197.6 million and 393,101 callable shares valued at around US\$5.6 billion by the Bank.

1.6 Payment for the paid-in shares is required to be made in five equal annual instalments, provided that as determined by the subscribing member, the first instalment shall be paid on any of the payment dates of 1 April 2010 or 1 July 2010 or 1 October 2010 or 1 January 2011 or 1 April 2011 that either (i) falls within 90 days after the date on which the member’s subscription becomes effective, or (ii) immediately follows the end of such 90 day period; and the remaining instalments shall be paid not later than the respective anniversaries of the first payment date.

1.7 Of each instalment, the subscribing member shall pay 40 per cent in convertible currency and 60 per cent in the currency of the subscribing member (for the purposes of such payments, the Australian dollar is deemed to be a convertible currency). The 60 per cent portion can be paid in cash or by non-negotiable, non-interest bearing promissory notes. Such notes are liable to be encashed in annual instalments over five years, commencing from 2015.

1.8 Payment of the callable shares of Australia’s subscription may be called on in the unlikely event the Bank is unable to meet its financial obligations in respect to borrowings and guarantees. Since its existence, no calls have been made on this part of the Bank’s capital and if the Bank continues to operate prudently, as it has done in the past, it is unlikely that a call will be made in the future. The callable capital of the Bank serves as security for its borrowing operations on world capital markets.

### **Clause 5 – Issue of promissory notes**

1.9 This clause provides that the Treasurer may, on behalf of Australia, make promissory notes and issue them to the Bank, for the purposes of making any payment that is to be made by Australia to the

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Bank under an agreement made under subsection 4. Further, promissory notes made under subsection 4(1) are to be non-negotiable, non-interest bearing and payable to the Bank at par value upon demand.

1.10 Sub-section 5(3) provides that Section 5 of the Asian Development Bank Act 1966, which relates to authorisation of the issue of securities by the Governor-General, does not apply in relation to payments made under an agreement made under Sub-section 4(1).

### **Clause 6 – Appropriation**

1.11 This clause provides that the money necessary for making a payment for the purposes of an agreement made under subsection 4(1) (including any payment that is to be made under a promissory note made under Sub-section 5(1)) is to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.