



GOVERNMENT WHIPS' OFFICE

HOUSE OF LORDS

LONDON SW1A 0PW

FROM THE BARONESS PENN

GOVERNMENT WHIP DFE DHSC HMT

020-7219 3778

Telephone 020-7219 3131

www.lordswhips.org.uk

holgovernmentwhips@parliament.uk

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My Lords,

UK Infrastructure Bank: Second Reading

Thank you for your thoughtful contributions to Wednesday's debate at Second Reading of the UK Infrastructure Bank Bill ('the Bill'). I am pleased that for the most part, there is agreement that the UK Infrastructure Bank ('the Bank') and its accompanying Bill are beneficial to the Government's infrastructure strategy. I hope that I was able to address most issues raised during the debate in my closing speech, but I am conscious that I was unable to answer everything.

Operational Independence

Before I come to more specific points, I'd like to address the issue of operational independence because it came through as a common theme in several speeches. To be clear, the Bank is operationally independent, and the Bill sets out the limited circumstances in which HM Treasury – as the sole shareholder in the Bank – can exercise more direct control over the Bank. The Companies Act 2006 also confirms this with the duty of the directors of the Bank to act in the best interests of the company. A clause setting out the Bank is operationally independent would therefore be unnecessary as that is already the legal default position, as has been reflected in the Bank's independence over the first year of its existence, and the process by which it has entered into its initial investments. This reflects the position in the Bank's Framework Document, which provides that the Bank has authority to make its own investment decisions within its delegated limits without ministerial approval.

Lord Holmes queried whether the route to privatisation is already seeded in the legislation. As I noted in the debate this Bank will be a long-lasting institution. Should this Bill get Royal Assent, the Government would need new primary legislation to dissolve or sell the Bank, as such there is nothing in the Bill to facilitate any such potential sale.

Devolution

There were also a number of points raised by Peers on devolution. This is designed to be a UK-wide institution. The Government engaged with the Devolved Administrations during the set-up of the Bank and continues to do so as the Bill progresses, including through the legislative consent process. It may also be helpful to note that to date the Bank itself has engaged extensively with the devolved administrations, more detail on which will be set out in the Bank's Strategic Plan next month. This includes meeting with the Scottish Government, Welsh Government and Northern Ireland Executive a number of times, plus local authorities in those nations. The Bank also works closely with the Development Bank of Wales and the Scottish National Investment Bank. This engagement has supported the Bank doing deals that touch upon each of Scotland, Wales, and Northern Ireland in the first year of its existence.

Governance

Lord Vaux, Lord Bourne and Lord Thomas all asked about how the Government would appoint members to the Bank's Board. The Government has already appointed a permanent Chair and Chief Executive of the Bank, both of whom were appointed through a process that adhered to best practice guidance for appointments in being open, fair and transparent. The Government is in the final stages of appointing non-executive directors to the Bank's Board, the outcomes of which will be set out in the coming weeks. These appointments have been made in accordance with the Cabinet Office's governance code on public appointments, and the Government expects that future such appointments will be regulated by the Office of the Commissioner of Public Appointments should the Bill achieve Royal Assent. Through this process, the Government will ensure that the Board has a suitable balance of skills and diversity.

Lord Teverson asked whether we would consider a supervisory board for the Bank. The Government and the Bank are currently finalising the Bank's permanent governance arrangements, with both executive and non-executive director appointments due to be announced in the coming weeks. This will be an important step in further formalising the Bank's operational independence. Once that is established, the Bank will be subject to several reviews by the Treasury in the coming years, including a review to be carried out by Spring 2024 that will review the Bank's progress and financial performance. In order to allow the permanent governance arrangements to bed in before considering further changes, the Government considers that the Spring 2024 review will be the right time to review the Bank's governance arrangements in the context of its progress by that point.

Additionality and Investment Strategy

Lord Holmes asked about the Bank's rate of lending to local authorities. The Bank will offer loans at a rate of gilts + 60 basis points for high value and strategic projects of at least £5 million, which is the same rate as the previously successful Local Infrastructure Rate offered by the Public Works Loans Board.

Lord Holmes and Lord Vaux asked about the evidence of additionality to date. As I noted in the debate, the Bank has already committed to invest around £300m through its first six investments, which could potentially unlock over £500m of private finance across the UK on a broad range of economic infrastructure.

Lord Sarfraz asked about the Bank's funding strategy. The Bank does not have a preferred investment type and can invest across the capital structure. The Bank's investment team assesses each proposition on a case-by-case basis, working to identify the financing

structure that fits the deal's needs most appropriately and supports the Bank's mandate. The findings of the extensive consultation the Bank has undertaken have informed the upcoming Strategic Plan which will be published next month.

Lord Davies asked whether there was a particular relationship between the Bank and pension funds. The Bank will co-invest with a number of private partners, some of which may be pension funds.

Lord Vaux asked whether the Bank could borrow from the market. Section 6.4 of the Framework Document between HM Treasury and the Bank published in June 2021 establishes that the Bank can borrow from private markets depending on the best value for money, alongside its ability to borrow from the Debt Management Office through voted loans.

Analysis

Lord Sikka asked what analysis the Government has done ahead of the Bill's publication. The decision to establish the Bank, and its policy design, took account of analysis including the National Infrastructure Assessment of 2018 published by the National Infrastructure Commission, the Government's Infrastructure Finance Review of 2019, and subsequent work undertaken in preparation for and subsequent to the National Infrastructure Strategy of 2020. Further detail is set out in the Impact Fact Sheet published alongside introduction of the Bill. The National Audit Office is also reviewing the creation of the Bank, with the NAO's report likely to be published this summer.

Lord Sarfraz also asked how the Government intends to measure the Bank's impact. The Bank's Strategic Plan will, next month, set out how it intends to meet these objectives, and the KPIs that the Bank will use to hold itself accountable for delivering against them.

Government's infrastructure strategy

Lord Bourne asked about the interaction between the Power of Direction established in Clause 4 of the Bill and the Bank's objectives set out in Clause 2(3). The contents of any Direction must be compatible with the Bank's statutory objectives. The contents of any Direction therefore cannot fall outside the Bank's objectives, nor would HMT wish to use it in such circumstances. As with other statutory Powers of Direction for operationally independent bodies, the Government anticipates that this power will be used sparingly and in extraordinary circumstances.

Baroness Kramer asked why the National Infrastructure Strategy isn't in statute. The National Infrastructure Strategy (NIS) – the first of its type – was published in 2020, following the National Infrastructure Commission's (NIC's) first National Infrastructure Assessment in 2018. The NIS demonstrates the influence the NIC has had in providing expert, impartial advice to government on the UK's long-term economic infrastructure needs, with government adopting more than 80% of the NIC's recommendations. The power in clause 3 of the Bill for HM Treasury, which overall responsibility for infrastructure policy, to set out how the Bank can support the Government's infrastructure priorities within its remit. The first of these Strategic Steers – published in March of this year – reiterates the Government's priorities in this respect, which align with the NIS.

Lord Tunnicliffe asked how the Bank will compete with other Infrastructure initiatives for financing. We expect the bank to be self-financing in future; however, in advance of that happening, the Government will review its capitalisation in 2024, using its KPIs and what impact it has had on the market to date. The Bank plans to work closely with other actors

within the institutional landscape and can be complementary to other sources of government support.

Lord Tunncliffe also raised the matter of the recent Subsidy Control Act and why similar green expectations do not apply to entities seeking taxpayer-funded subsidies from public authorities. There are requirements within the Subsidy Control Act that positive effects outweigh its negative effects. This is known as the "balancing test". The balancing test already requires public authorities to take into account all relevant "negative effects". This includes negative effects in relation to climate change and the environment. However, the "positive effects" of subsidies that support our net zero and environmental targets should also be considered in the balancing test. There is - therefore - no implication that public authorities should set their climate and environmental obligations to one side. The Secretary of State for Business, Energy and Industrial Strategy will issue guidance on the practical application of the subsidy control principles in due course. This guidance will include instructions on how to take into account impacts on the Climate Change Act or the Environment Act.

Finally, you will be aware the Committee Stage for the Bill is on 14 June and that we have a Recess in the interim. I am keen to address your specific concerns and look forward to engaging with you during the passage of the Bill. Should you have any questions please don't hesitate to contact myself or the Bill team at UKIBBill@hmtreasury.gov.uk.

I will place a copy of this letter in the Library of the House.

A handwritten signature in black ink, appearing to be 'Baroness Penn', written in a cursive style.

BARONESS PENN