EXPLANATORY MEMORANDUM TO

THE COMMONWEALTH DEVELOPMENT CORPORATION (LIMIT ON GOVERNMENT ASSISTANCE) REGULATIONS 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office (FCDO) and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 The Commonwealth Development Corporation (Limit on Government Assistance) Regulations 2023 ('the Regulations') permit His Majesty's Government (the 'Government') to increase the assistance available to British International Investment plc (formerly CDC Group plc) ("BII") and its associated companies from £6,000 million to £9,500 million.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 Andrew Mitchell, Minister of State (Minister for Development and Africa) has made the following statement regarding Human Rights:

"In my view the provisions of the Commonwealth Development Corporation (Limit on Government Assistance) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 The Regulations are being made to increase the limit on Government assistance to British International Investment plc (BII) from the current cap of £6,000 million to £9,500 million, to enable FCDO to increase financial support to BII in line with its new 5-year technical strategy (the "2022-26 Technical Strategy"). The Commonwealth Development Corporation Act 2017 (the "2017 Act") amended the Commonwealth Development Corporation Act 1999 (the "1999 Act") to increase the limit on Government assistance to BII from £1,500 million to £6,000 million, with a further power to increase Government assistance to an amount not exceeding £12,000 million by way of statutory instrument.

6.2 BII was formerly known as CDC Group plc. Under section 5(3) of the 1999 Act, the company is to be known by the name contained in its memorandum of association,

subject to section 28 of the Companies Act 1985 (now section 77 of the Companies Act 2006). This section provides for a company changing its name, including by special resolution. On 29 March 2022 CDC Group plc changed its name by special resolution to British International Investment plc.

7. Policy background

What is being done and why?

7.1 The UK's Development Finance Institution, BII invests long-term patient capital in private companies in developing countries to deliver lasting development benefits. BII's mission is to help solve the biggest global development challenges by investing patient, long term, flexible capital to support private sector growth and innovation, while not losing money. It has a dual mandate of development impact and financial sustainability. BII's investments are largely self-financing and increases in support by the Government enable it to accelerate the speed at which it can make new investments and increase the size of its portfolio.

7.2 The aggregate amount of assistance provided by FCDO to BII to date under the 1999 Act is £5.2 billion. FCDO launched BII's 2022-26 Technical Strategy in November 2021. In support of this, a new share subscription agreement was approved by His Majesty's Treasury on 7 December 2022. Based on the current spending profile as agreed in this share subscription agreement, FCDO will reach the current £6.0 billion maximum limit for support of BII by June 2024, with support for BII up to 2027 totalling £8.4 billion

7.3 The funding profile agreed under the share subscription agreement in December 2022 is required to enable BII to deliver on its 2022-2026 Technical Strategy ambitions. This is underpinned by three objectives that direct the use of capital for maximum impact:

- productivity: to raise the productivity of an economy to support higher incomes and a decent standard of living for all;
- sustainability: to address the climate emergency by helping to transform economies to reduce greenhouse gas emissions, protect the environment, increase climate resilience, and contribute to a greener, cleaner planet; and
- inclusivity: to ensure the benefits of higher productivity and greater sustainability are shared with the poorer and more-marginalised sections of society.

7.4 BII is in a strong position to deliver to this purpose and inject the development capital needed to support the development and resilience of regions with the greatest need. Key achievements up to 2021 include:

- supporting almost 200,000 new jobs, generating over US$13.5 billion, and producing over 250,000 gigawatt hours of electricity through its investments over its 2017-2021 strategy period;
- over that same period, mobilising over US$4.7 billion of private sector capital through its investments;[1]

[1] Organisation for Economic Co-operation and Development Method, accessed on 9th May 2023.

- continuing to focus on investing in the most challenging places – with its mandate allowing it to take on higher risk and help companies through tough times;
- exceeding the expected financial return on BII's primary investing activities on a 10-year rolling average. BII's growth portfolio generated an average return of 6.6% in pound sterling between 2013 and 2021, well above BII's 3.5% target.

7.5 The 2022-26 Technical Strategy commits BII to greater ambition on geographic spread, climate and gender impact. The provision of increased support is critical for BII to continue implementing this strategy, which is a cornerstone of wider publicly announced ambitions under the Government's British Investment Partnerships (BIP) as set out in the International Development Strategy 2022 (IDS), and the UK's commitment to provide at least £11.6 billion of International Climate Finance between 2021 and 2026. Raising the cap will allow BII to deliver on this strategy, meet its investment targets and continue to achieve high development impact in the hardest to reach markets, supporting the UK in building its reputation abroad based on partnerships and high integrity finance. Expanding BII's reach into new markets of strategic importance to the UK, as set out in the IDS and the 2022-26 Technical Strategy will enable it to continue to act as a key vehicle in delivering FCDO's economic development objectives, helping to build greener and more prosperous economies.

7.6 Planned Government support for BII up to 2027 totals £8.4 billion. It would be prudent to increase the limit on Government assistance modestly above this figure as total Government assistance for BII may increase beyond planned support over this period. Potential reasons include, but are not limited, to (a) a scaling up of strategy ambitions and related increase in activities in advance of the next 2027-2032 strategy, and (b) unforeseen events necessitating prompt countercyclical responses from the Government via an expansion of BII activities. The value of such flexibility was similarly recognised in the 2017 Act, which itself went beyond the maximum limit of support required at the time to deliver on CDC Group plc's ambitions over its then strategy period. In line with this, the Regulations include additional headroom beyond current planned support to 2027.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Not relevant in the context of this instrument.

10. Consultation outcome

10.1 Not relevant in the context of this instrument.

11. Guidance

11.1 Not relevant in the context of this instrument.

12. Impact

12.1 There is no significant impact on business, charities, or voluntary bodies in the UK.

12.2 There is no significant impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because no significant direct impact on businesses in the UK is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This instrument will be monitored in line with existing corporate governance arrangements between FCDO and BII. These are included in BII's Investment Policy covering its 2022-26 Technical Strategy and will be reported to FCDO via BII's corporate governance oversight arrangements including quarterly and annual shareholder meetings. Key performance indicators (KPIs) cover the development impact and financial performance of BII's portfolio. Together they allow FCDO to track BII's financial and operational health, the structure of BII's portfolio and the development impact of investment activities. These KPIs are aligned with FCDO-wide reporting metrics including those for International Climate Finance (ICF) and FCDO Economic Cooperation and Growth Division campaign goals.

14.2 In addition to ongoing monitoring, effective evaluation of BII's portfolio and lesson learning is critical for FCDO to continue measuring the impact of BII and making further improvements based upon this learning. An enhanced and systematic focus on evaluations and learning was launched in late 2017, to provide accountability to the taxpayer and deepen FCDO and BII's knowledge of the best ways to support long-term positive change through development finance. This has produced publications evaluating the entirety of BII's infrastructure and financial institutions portfolios. Once the existing programme of evaluations has been completed under this programme, further evaluations will be developed to better inform FCDO and BII of the latter's development impact under its new strategy and garner further lessons from its portfolio.

14.3 Other sources of information include internal and independent evaluations and reports by organisations, such as the Overseas Development Institute (ODI) and the Independent Commission on Aid Impact (ICAI).

14.4 The instrument does not include a statutory review clause because it has no regulatory effect on UK business.

15. Contact

15.1 Daniel Wilcox at the Foreign, Commonwealth and Development Office (Daniel.Wilcox@fcdo.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Richard Teuten, Deputy Director and Head of the Economic Growth Department at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister Mitchell at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.