EXPLANATORY MEMORANDUM TO

THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (FURTHER PAYMENTS TO CAPITAL STOCK) ORDER 2024

2024 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Treasury and is laid before the House of Commons by Command of His Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Declaration

2.1 Tulip Siddiq, Economic Secretary to the Treasury and City Minister, confirms that this Explanatory Memorandum meets the required standard.

2.2 Claire Macfarlane, Deputy Director for International Financing and Development at the Treasury, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Neel Ghosh at the Treasury (email: neel.ghosh@hmtreasury.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The European Bank for Reconstruction and Development (Further Payment to Capital Stock) Order 2024 ("the Order") permits the Government to make payments to the European Bank for Reconstruction and Development (the "EBRD") of a sum not exceeding EUR 343,600,000. These payments are pursuant to arrangements made between the Government and the EBRD in accordance with Resolution No 265, entitled "Increase in authorised capital stock and subscriptions thereto", and adopted by the Board of Governors on 15 December 2023. This resolution provides for a general paid-in increase of EUR 4 billion to the authorised capital stock of the EBRD and for subscriptions to such increase by members of the EBRD, including the UK. The UK is entitled to subscribe to paid-in shares up to a value of EUR 343.6 million.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is the United Kingdom.

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

5. Policy Context

What is being done and why?

5.1 The EBRD is a multilateral development bank, established in 1991, with the UK as a founding member. EBRD provides financial, policy and technical assistance to countries in Central and Eastern Europe, Central Asia, Middle East and North Africa mainly focused on the private sector but with the ability to make selective interventions in the public sector. EBRD's objectives include fostering the transition towards open market-oriented economies and promoting private and entrepreneurial initiative in its countries of operation. The UK maintains strong ties to the EBRD and shares its objectives. It is the joint second-largest shareholder (with a shareholding of 8.59%) and hosts the EBRD's headquarters in Canary Wharf, London.

5.2 The UK engages with the EBRD on several UK foreign, development and economic policy priorities across its countries of operation, including assistance for Ukraine, supporting the transition to a green, low-carbon economy, and promoting equality of opportunity for women, young people and other under-served communities.

5.3 The EBRD has been a committed partner of Ukraine. Over the last thirty years, the EBRD has been the largest institutional investor in Ukraine, with cumulative investment of over €20 billion through over 500 projects. The EBRD's activity supports Ukraine's continuing transition to a well-functioning sustainable market economy, integrated with the regional and global trading system. The EBRD's projects have supported investments and policy engagement in areas such as privatisation, energy security and efficiency, the financial sector, trade and infrastructure.

5.4 The World Bank has assessed Ukraine's recovery and reconstruction needs to be around $411 billion, with over half of this falling on sectors in which the EBRD operates.

5.5 Alongside other shareholders, the UK recognises the EBRD's distinctive role in investing in Ukraine's real economy, complementing the support provided by other institutions and bilateral partners of Ukraine. Since February 2022, EBRD has deployed over €4.5 billion in Ukraine across a range of essential priorities, including energy security, finance to the private sector, trade and infrastructure.

5.6 EBRD's Board of Governors acknowledged at the EBRD's 2023 Annual Meeting that shareholders must respond to the financial pressures created by the exceptional circumstances of supporting Ukraine, and that support for the EBRD should be long-term and predictable. Given these two factors, Governors concluded that a capital increase consisting only of paid-in capital is the most efficient, effective and broad-based means of shareholder support.

5.7 The UK, alongside other likeminded shareholders, agreed in December 2023 to increase the EBRD's paid-in capital by EUR 4 billion. This would improve the EBRD's financial capacity to increase lending to support Ukraine's resilience and reconstruction while maintaining activity in all its countries of operation.

5.8 A paid-in capital increase to EBRD is a high value for money way to continue to provide project financing to Ukraine. The EBRD's shareholders will contribute a total of EUR 4 billion, bringing the EBRD's authorised share capital to EUR 34 billion. Each shareholder is provided an opportunity to subscribe to the capital increase at its current shareholding. All likeminded shareholders are expected to participate to maintain their current shareholding at the EBRD.

5.9 The EBRD will leverage the paid-in capital increase at a minimum x4 multiple to continue providing a sustained level of annual investment to Ukraine of around EUR 1.5 billion during wartime, with the means to increase support up to EUR 3 billion annually once reconstruction begins.

What was the previous policy, how is this different?

5.10 The paid-in capital increase is an exceptional response by EBRD shareholders to the unprecedented recovery and reconstruction needs resulting from Russia's invasion of Ukraine. Approved by EBRD Governors, it enables the EBRD to continue to support Ukraine's resilience and recovery during wartime and in reconstruction through the provision of high-quality project financing, while securing EBRD's financial standing and its ability to maintain support to its other countries of operation.

6. Legislative and Legal Context

How has the law changed?

6.1 The Order is being made to enable the Government to participate in the capital increase and make a further contribution to the EBRD. The purpose of this paid-in capital contribution, together with contributions pledged by other shareholders, is to support the EBRD's financial capacity to increase lending to support Ukraine's resilience and reconstruction while maintaining activity in all its countries of operation. Participation in the paid-in capital increase is necessary to maintain the UK's current shareholding in the EBRD.

Why was this approach taken to change the law?

6.2 The Order is made under section 11 of the International Development Act 2002 ("IDA 2002"), which empowers the Government to make relevant payments to multilateral development banks where it is bound to do so. No obligation arises until the Government deposits the Instrument with the EBRD which binds the UK to make the payment foreseen by article 3 of the Order. This raises a technical issue about the Order making power in section 11 of the IDA. The power requires the Order to be approved in draft by the House of Commons, but a Treasury Minister may make the Order only when the Government is bound by the deposit of the Instrument. The draft Order is being laid at this time to secure the approval of the House, but it will not be made until the Instrument is deposited.

7. Consultation

Summary of consultation outcome and methodology

7.1 Not relevant in the context of this instrument.

8. Applicable guidance

8.1 This Order authorises the Treasury to make further payments to the EBRD, so guidance is not needed.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

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

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The EBRD is responsible for ensuring that paid capital subscriptions, including those from the UK, are committed and mobilised appropriately and are in line with the plans agreed by the EBRD's Governors for the paid-in capital increase. Data on financial commitments and disbursements are published as part of the EBRD's Annual Report. The EBRD accounts are subject to an annual external audit by an internationally respected firm of auditors and appear in the EBRD's Annual Report. Implementation of individual EBRD projects includes the periodic monitoring of a project's outcomes and activities.

10.2 The EBRD has well established monitoring systems to track the performance of its activities, with a separate system to assess impact. The systems provide a mechanism to monitor progress against objectives during project implementation and to facilitate remedial actions, and as a basis to assess and report the EBRD's transition performance, results and lessons learned. EBRD will undertake an annual assessment of its progress in achieving its operational and policy commitments. The outcome of this assessment will be reported to the Board of Governors at each Annual Meeting.

10.3 The share purchase will be reported in the Treasury's annual accounts, and the valuation of the shares will be reported each year. The Treasury will also undertake Annual Reviews of the capital increase.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The attention of the Committee is drawn to the legislative context summarised in paragraph 6.2. The Order in the form of the draft will not be made until the Government is bound to make the payment by the deposit of the Instrument of Subscription with the EBRD.

12. European Convention on Human Rights

12.1 Tulip Siddiq, Economic Secretary to the Treasury and City Minister, has made the following statement regarding Human Rights:

"In my view the provisions of the European Bank for Reconstruction and Development (Further Payment to Capital Stock) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").