EXPLANATORY MEMORANDUM TO

THE INTER-AMERICAN INVESTMENT CORPORATION (IMMUNITIES AND PRIVILEGES) ORDER 2022

2022 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 The Inter-American Investment Corporation (Immunities and Privileges) Order 2022 ("the Order") confers the legal capacity of a body corporate on the Inter-American Investment Corporation ("the IIC") and grants immunities and privileges to the IIC and its officers and employees. The IIC is an international organisation established by the Agreement establishing the Inter-American Investment Corporation ("the Agreement") done in Washington D.C. on 19th November 1984 (Cm. 9659).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The Devolved Administrations in Scotland and Northern Ireland have been consulted on the production of this Order. As subordinate legislation no formal legislative consent is required from the Northern Ireland Assembly.

4.3 Some provisions of the instrument do not extend to, or apply in, Scotland. A separate Scottish Order in Council has been prepared to deal with those provisions within the legislative competence of the Scottish Parliament and has been laid before the Scottish Parliament.

5. European Convention on Human Rights

5.1 Vicky Ford, Minister of State (Minister for Development) at the Foreign Commonwealth and Development Office, has made the following statement regarding Human Rights:

"In my view the provisions of the Inter-American Investment Corporation (Immunities and Privileges) Order 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 1 of the International Organisations Act 1968 ("the 1968 Act") allows His Majesty, by Order in Council, to confer on an international organisation, of which the United Kingdom (and any other sovereign Power) is a member, the legal capacities of

a body corporate and to grant certain immunities and privileges to the international organisation and its officers and employees.

6.2 Section 10(1) of the 1968 Act provides that no recommendation shall be made to His Majesty in Council to make the Order unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

6.3 Article 1 of the Order provides that it will come into force on the day on which the United Kingdom becomes a member of the IIC.

7. Policy background

What is being done and why?

7.1 The Inter-American Development Bank (IDB) is a multilateral development bank which provides development finance to countries across Latin America and the Caribbean. The IIC is the main private sector arm of the Inter-America Development Bank Group ("the Bank"), which comprises the Bank which lends to governments and the IIC. The Agreement establishing it as part of the Bank was signed by 45 countries in the mid-1980s not including the UK. The IIC was officially inaugurated on 23rd March 1986.

7.2 In 2015, the UK was part of a unanimous vote of the Bank's shareholders to merge all the Bank's private sector operations into a single entity, the IIC. This took effect in January 2016, formalised by the Agreement signed by members who were providing new capital at that time. The UK opted to join as part of an agreed capital transfer from the Bank to the IIC which started in 2018 and will span 8 years. The transfer of 431 UK shares valued at US$6.981 million over a period of 8 years will ultimately give the UK a 0.22% shareholding in the IIC. The IIC currently provides around $6bn of annual finance to businesses within Latin America, with a focus on small-and-medium-sized enterprises. Once the UK becomes a member of IIC we will be able to work with other shareholders and the Bank to influence the allocation of this finance to align with UK priorities, with a policy goal of facilitating development finance and bolstering sustainable growth.

7.3 The Agreement was signed by the UK and IIC in April 2018 and presented to Parliament the following July (Cm. 9659) and, once the Scottish Order in Council and this Order have been made, can be ratified.

7.4 The conferral of legal capacity and privileges and immunities, as set out in the Agreement, is necessary to ensure that the IIC can function as an international organisation in the United Kingdom.

7.5 The Order grants the IIC immunity from suit and legal process, inviolability of archives and premises and exemption from taxation. It also grants personal privileges to the IIC's officers and employees - immunity from legal process with respect to official acts and exemption from income tax. The income tax exemption does not apply to British citizens.

7.6 Article VII of the Agreement requires members to take such action as is necessary to make effective in its own territories the principles set out in that Article. This Order is required to ensure that the UK fully complies with its obligations under the Agreement, and the immunities and privileges granted are no greater in extent that those required to fulfil these obligations. It is standard practice for the UK to confer privileges and

immunities on multi-lateral development banks and other international organisations of which it is a member.

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, or no significant, impact on business, charities or voluntary bodies.

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

12.3 An Impact Assessment has not been prepared for this instrument because no impact on business 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 The Order does not include a statutory review clause because it has no regulatory effect on business.

15. Contact

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

15.2 Phil Stevens, Deputy Director for International Financial Institutions Department at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Vicky Ford, Minister of State (Minister for Development) at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.