POLICY NOTE

THE PUBLIC APPOINTMENTS AND PUBLIC BODIES ETC. (SCOTLAND) ACT 2003 (TREATMENT OF NON-EXECUTIVE DIRECTORS OF THE SCOTTISH NATIONAL INVESTMENT BANK P.L.C. AS SPECIFIED AUTHORITIES) ORDER 2020

SSI 2020/XXX

1. The above instrument was made in exercise of the powers conferred by section 3(3) of the Public Appointments and Bodies etc (Scotland) Act 2003 ("the 2003 Act").

2. The instrument is subject to affirmative procedure.

The instrument will enable the appointments of members to the Scottish National Investment Bank to be regulated by the Commissioner for Ethical Standards in Public Life.

Policy Objectives

3. The Scottish National Investment Bank Bill is awaiting Royal Assent after passing Stage 1 of the parliamentary process on 26 September 2019, Stage 2 on 19 November 2019, and Stage 3 on 21 January 2020. The highest level policy aim behind the Bill is to establish a public body, the Scottish National Investment Bank, to create a new cornerstone institution in Scotland's economic architecture to invest in inclusive and sustainable growth, and promote and develop the activities of small and medium sized enterprises following a missions-based approach. The Bill therefore makes provisions for the creation of the Scottish National Investment Bank and for the appointments of board members to be regulated by the Commissioner for Ethical Standards in Public Life under the 2003 Act.

4. It is proposed that the Scottish National Investment Bank will take on its functions during the latter period of 2020. In order for this timetable to be met, a section 3(3) order under the 2003 Act will be required so that the Scottish National Investment Bank will be treated as a regulated body ahead of the Bank becoming fully operational.

5. Following the precedent set by a number of other new public bodies, this order is being laid to allow Non-Executive Board members to be recruited and appointed in 2020 ahead of the body taking on its full functions. Furthermore, it is important for the appointments process to be as rigorous and transparent as possible and the involvement of the Commissioner for Ethical Standards in Public Life is desirable in achieving this.

Consultations

6. Two public consultation exercises have been carried out to gather views on the formation of and the intended outcomes for the Scottish National Investment Bank. The first consultation ran in 2017 to gather views to support the creation of an Implementation Plan for the Bank and received 1,108 responses. The second public consultation, which received 1,443 responses, ran in 2018 and gathered views on the Bank's objectives and

purpose, investment activities, operating model, governance structures, and operational arrangements. Overall, results from the consultation on the proposed provisions for the Scottish National Investment Bank Bill were largely supportive of the Bank's proposed objectives and purposes, and the Bank's proposed investment activities, particularly the mission-based approach to investment and ethical commitment.

7. Consultation and engagement with stakeholders has continued through the development of the Bill and has provided a wealth of information that helped to shape legislation. The range of issues raised during the process will also be taken into account operationally by members of the Scottish National Investment Bank following its establishment.

8. As there is general support for the establishment of the Scottish National Investment Bank, and this order merely allows for the appointments to be regulated in line with the provisions of the Bill, specific consultation on this instrument was not felt necessary. The Cabinet Secretary for Finance, Economy and Fair Work has written to the Convenor of the Economy, Energy and Fair Work Committee, who considered the Bill, to inform them of the proposal to lay this order.

Impact Assessments

9. An Equality Impact Assessment is not necessary as the instrument in itself does not have any equalities impacts. A full Equality Impact Assessment was carried out in the development of the Bill and is available at https://www.gov.scot/publications/scottish-national-investment-bank-bill-revised-equality-imapct-assessment/. The Scottish National Investment Bank will be subject to the Fairer Scotland Duty which will require the Bank to consider the impact its activities can have on the reduction of "inequalities of outcome" caused by "socio-economic disadvantage". In addition, the Public Sector Equality Duty, which the Bank will also be subject to, will require the Bank to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different groups when carrying out its activities. The appointment of the Bank's Board will be carried out in line with the Gender Representation on Public Boards (Scotland) Act 2018.

10. A Business and Regulatory Impact Assessment is not considered necessary for this instrument as the order itself does not create any new burdens on business, charities or the voluntary section. A full assessment was carried out in the development of the Bill and is available at https://www.gov.scot/publications/scottish-national-investment-bank-bill-business-regulatory-impact-assessment/.

11. A Child Rights and Wellbeing Impact Assessment is not necessary as the instrument in itself does not have any impact upon children or young people. An assessment was not required to be carried out during the development of the Bill.

Financial Effects

12. The instrument will have no direct financial effect as it merely allows for the regulation of the appointment process. Any costs incurred from the appointment process are covered in the Financial Memorandum to the Bill.

Scottish Government
Scottish National Investment Bank Directorate
March 2020