

# **SCOTTISH NATIONAL INVESTMENT BANK BILL**

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## **POLICY MEMORANDUM**

### **INTRODUCTION**

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Scottish National Investment Bank Bill introduced in the Scottish Parliament on 27 February 2019.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 43–EN);
  - a Financial Memorandum (SP Bill 43–FM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP 43–LC).
3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### **POLICY OBJECTIVES OF THE BILL**

#### **General Overview**

4. The Scottish Government's 2017-18 Programme for Government included a commitment to establish a Scottish National Investment Bank (the Bank), with the aim of boosting Scotland's economic performance and realising the Scottish Government's ambitions for the economy by providing patient capital to finance growth.
5. Further to this, the Scottish Government's 2018-2019 Programme for Government made a commitment to introduce the legislation that will support the establishment and capitalisation of the Bank.
6. The Scottish National Investment Bank has the potential to help transform Scotland's economy. It will focus on long-term patient capital and be shaped by a mission-orientated approach to investment. The plans for the Bank are about being more ambitious for Scotland, supporting

positive outcomes for Scotland's population now, and for generations to come. The Bank will create and shape future markets and help to define how our economy develops.

7. The Bank will serve businesses who wish to innovate and grow but find the traditional routes to finance challenging. By providing a single point of access to investment, and adopting a patient, strategic focus and risk appetite (that is to say the Bank's approach to risk and reward in terms of the level of return which is generated from its investments and how this is managed) that is different, the Bank can fuel the economy and catalyse additional private sector investment.

8. The Bank will work for the benefit of the people of Scotland. The Scottish Government wants Scotland to be a nation with an enviable place in the world. This means Scotland inventing, designing and manufacturing the innovations that will shape the future – not just being a consumer of other people's ideas – and this is at the heart of the role for this Bank.

9. The Scottish Government will provide £2 billion over 10 years to initially capitalise the Bank which is both ambitious and achievable. It will make a material difference to the supply of capital to the Scottish economy by leveraging in additional private investment, supporting ambitious firms to flourish and enabling the transformational change that is essential for sustaining Scotland's position as a vibrant economy.

## **Policy Background**

10. In September 2017, the First Minister announced plans to establish a Scottish National Investment Bank, with the aim of boosting Scotland's economic performance and realising the Scottish Government's ambitions for the economy by providing patient capital to finance growth.

11. The Scottish Government commissioned Benny Higgins, former Chief Executive of Tesco Bank, to provide recommendations on the role, remit, governance and capitalisation of the Bank. Alongside the work commissioned from Mr Higgins, a [Consultation Paper](#)<sup>1</sup> was issued on 20 October 2017 which invited comments and suggestions from stakeholders on a series of key issues on the creation of a Bank.

12. An [Implementation Plan](#)<sup>2</sup> was launched on 28 February 2018 by the First Minister and Mr Higgins. It set out a high level, strategic blueprint for Scotland's investment bank as a unique new public institution and cornerstone body in Scotland's economic architecture. The Scottish Government accepted all 21 of the recommendations in the Implementation Plan. Subsequent

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<sup>1</sup> [https://consult.gov.scot/economic-policy-unit/scottish-national-investment-bank/supporting\\_documents/national%20investment%20bank.pdf](https://consult.gov.scot/economic-policy-unit/scottish-national-investment-bank/supporting_documents/national%20investment%20bank.pdf)

<sup>2</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2018/02/scottish-national-investment-bank-implementation-plan/documents/00532119-pdf/00532119-pdf/govscot%3Adocument?forceDownload=true>

parliamentary consideration of this approach<sup>3</sup> confirmed the need for a Bank with ambition and vision to address Scotland's economic priorities in a sustainable, inclusive and ethical way.

13. The Bill sets out both the purpose and the objects of the Bank. These objects have been identified to align the Bank with the Scottish Government's ambition to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. The Bank's purpose and objects, as set out in section 2 of the Bill, support the two pillars of Scotland's Economic Strategy which are: increasing competitiveness and tackling inequality.

14. Broadly speaking, the Bank will take a mission-based approach to investment. This means that the Scottish Ministers set the strategic direction of the Bank by identifying a set of medium term outcomes and focus for the Bank which will be set out as described in section 11 of the Bill. This mission-based approach provides a unique opportunity to channel public finance to support transformational change across a number of socio-economic challenges. The Bank will respond to these missions through a mission report as set out in section 12.

15. It is intended that the majority of the Bank's products will be issued under commercial terms. However, in some circumstances the Bank may choose to offer products at sub-commercial rates, which may be deemed to be allowable state aid.<sup>4</sup>

16. The Bank will not offer a retail function, meaning it will not take deposits.

17. Further to this, the Bank will not issue bonds or public shares. As set out in section 4 of the Bill, the Bank can only borrow from the Scottish Ministers. The Bank will lend solely to the private sector. It will not lend to public institutions including local authorities, government agencies or arms-length bodies.

## **What the Bill does**

18. The Scottish National Investment Bank Bill will place a duty on the Scottish Ministers to create the Scottish National Investment Bank as a public limited company and to provide it with its articles of association. The Scottish Government intends the Bank to be operational in 2020, subject to Parliamentary approval of our proposals. This is pursuant to recommendations 1, 11, 12 and 15 of the Scottish National Investment Bank [Implementation Plan](#).<sup>5</sup>

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<sup>3</sup> Motion S5M-12076. Lodged 03/05/2018. Taken in the Chamber 08/05/2018. *Official Report* available here: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11514&i=104477>

<sup>4</sup> State aid is a European Commission (EC) term which refers to forms of public assistance given on a discretionary basis which have the potential to distort competition and affect trade between Member States of the European Union. The state aid rules are set by the EC and comprise various articles of the Treaty on the Functioning of the European Union (TFEU), as well as regulations, frameworks and guidelines, which set out what aid can be given and under which circumstances. ([Scottish Government, 'State Aid: guidance'](#))

<sup>5</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2018/02/scottish-national-investment-bank-implementation-plan/documents/00532119-pdf/00532119-pdf/govscot%3Adocument?forceDownload=true>

19. As set out in section 16 of the Bill, before fully capitalising the Bank, the Scottish Ministers must first secure the relevant permissions from the European Commission to comply with State aid rules.

20. In establishing the Bank, the Scottish Ministers will be required to prepare the Bank's articles of association (effectively, the constitution of the Bank). The Bill mandates in sections 2 to 9 what is to be included in the articles. The Bank will be free thereafter to amend its articles, just like any other public limited company with the exception of those articles which are entrenched under section 10. Where an article is entrenched the Scottish Ministers, as a member of the Bank, will need the approval of the Parliament (via a Scottish Statutory Instrument) to amend the article. It is the Scottish Government's intention to publish updated versions of the draft articles throughout the Bill process as required. The Bank, when established as a public limited company, will adopt the final version of the articles and these will be published on its website.

21. Chapter 2 of the Bill sets out in detail what the Bank's articles of association must include. To safeguard certain aspects of the Bank's character, the Bill makes provision for these articles to be entrenched, as set out in section 10 of the Bill. These entrenched articles include the Bank's objects and purpose, its ownership, borrowing powers, the appointment processes for its board and the relevant tenure and remuneration principles for these positions and how its committees will be established. This ensures that if the Bank's board wishes to change or repeal any of the Bank's operations which fall within the remit of these articles, parliamentary approval will need to be secured. In particular, the article which outlines the Bank's ownership is entrenched (section 5) so that the Scottish Ministers cannot sell their shares to another party, ensuring the Bank remains within the public sector unless parliamentary agreement is reached to permit otherwise.

22. Section 6 of the Bill sets out the composition of the Bank's board. The Bank's board will consist of a chair and between 9 and 13 directors including the chair. The chair and non-executive directors will be appointed by the Scottish Ministers. The Bill also makes provision for the appointment of at least two executive directors, namely a chief executive and a chief financial officer, to be appointed by the board.

23. Further to this, the Bank's board will be established in line with the Scottish Government's ["On Board" guidance](#)<sup>6</sup> for public boards and the Gender Representation on Public Boards (Scotland) Act 2018 which sets an objective for public body boards that 50% of their non-executive members are women.

24. Section 9 of the Bill sets out a duty for the board to establish an audit committee and a risk committee, both chaired by a non-executive director. The board will determine which sub-committees are required and which board members will sit on them.

25. As a public body the Bank will be subject to existing public bodies legislation. As the Schedule of the Bill sets out, the Bank will be subject to the Ethical Standards in Public Life etc. (Scotland) Act 2000; the Freedom of Information (Scotland) Act 2002; the Public Appointments

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<sup>6</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/guidance/2017/03/board-guide-members-statutory-boards/documents/00514817-pdf/00514817-pdf/govscot%3Adocument?forceDownload=true>

and Public Bodies (Scotland) Act 2003; the Public Services Reform (Scotland) Act 2010; and the Gender Representation on Public Boards (Scotland) Act 2018 as noted above.

### Capitalisation

26. Section 15 of the Bill provides powers to the Scottish Ministers to capitalise the Bank. The Bank will be initially capitalised by the Scottish Government to the level of £2 billion over the first 10 years. Capitalisation will be achieved in part by passing financial transactions to the Bank. Financial Transactions are a form of capital budget allocated by HM Treasury to the Scottish Government which can only be used for the provision of loans or equity investment beyond the public sector and cannot be used to fund public services. The Bank will be initially capitalised by the Scottish Government to the level of £2 billion over the first 10 years. There are more details on the plans for capitalisation in the Bill's Financial Memorandum. The draft Budget 2018-2019, published in December 2017 set out that, "To give the bank the financial platform and clout it needs to make a transformational impact from the outset, we will provide initial capitalisation of the £340 million over the first two years of its operation". The draft Budget 2018-19 also set out the creation of the Building Scotland Fund, as a precursor to the Bank, to be supported by the £70 million in 2018-19 and £80 million in 2019-21. The draft Budget for 2019-2020 has also committed an additional £120 million into pre-cursors to the Scottish National Investment Bank.

27. The Bank will also, wherever appropriate, integrate into its remit existing public financing activities provided by the Scottish Government and its agencies. Through engagement with stakeholders we understand that the current landscape of public finance initiatives is complex and difficult for businesses to navigate. It is intended that by consolidating into it appropriate public finance schemes, the Bank will act as an access point to apply for a range of public finance initiatives.

28. Work is ongoing to examine the existing landscapes and relationships, and how these need to evolve following creation of the Bank. In particular the Scottish Investment Bank, currently administered by Scottish Enterprise, has been identified to be consolidated into the Bank.

29. The Bank will build on the success of operations and initiatives currently underway. It will align with, and complement activity by, the enterprise agencies which include Scottish Enterprise, Highlands and Islands Enterprise and, pending its establishment, the South of Scotland Enterprise Agency. It is proposed that the enterprise agencies will play a key role in making the market ready to exploit the opportunities the Bank will provide and will help signpost businesses towards the Bank. The Bank will also engage with the Enterprise and Skills Strategic Board.

30. Consideration is being given as to how to make the transition of public finance activities into the Bank as smooth as possible to minimise disruption to both businesses in receipt of these funds and the public agencies who currently deliver them.

### Strategic Missions

31. Section 11 of the Bill gives the Scottish Minister the power to set the direction of the Bank by the setting of strategic missions. These will be set by the sending of a document to the Bank by

the Scottish Ministers setting out the socio-economic challenges that the Bank is to seek to address. Scottish Ministers may set, modify and bring missions to an end by the sending of such a document. The document must also be laid before the Scottish Parliament and made publicly available. The strategic missions set by the Scottish Ministers will complement the Bank's objects.

32. Ministers will not have a role in the Bank's internal governance or the operational decisions made by the Board. It will be for the Bank to decide how it will direct its activities to respond to missions through its Investment Strategy. The Investment Strategy will be periodically revised and updated by the Board, taking account of any adjustments to the target rate of return and missions, as well as market conditions.

### Reporting

33. The Bill sets out the duties of the Bank to report to the Scottish Ministers on how it intends to respond to the missions sets for it, as well as an annual report on investment performance. Section 12 provides that the Bank must provide a report to the Scottish Ministers setting out how it intends to respond to the strategic missions set for it within three months of receiving a document in relation to its strategic missions unless it has done so in the last three months, or is scheduled to do so in the next three months. This report may be issued as part of another document. The Bank will also report on its investment performance each financial year. The Bank must also provide information on the performance of its investments at any other time should it be directed to do so by the Scottish Ministers.

34. Section 14 provides that the Scottish Ministers must, at least every five years, appoint a person to review the performance of the Bank, and the performance of any subsidiaries of the Bank, and prepare a report of that review. The Scottish Ministers must lay a copy of that report before the Scottish Parliament, and make it publicly available.

35. The Bank's accounts will also be subject to audit by the Auditor General for Scotland or an auditor appointed by the Auditor General.

### **Establishing the relationship between the Bank and the Scottish Ministers**

36. The Bank will be operationally and administratively independent from the Scottish Ministers. It will have autonomy to determine its investment strategy and how to manage its portfolio of assets. Scottish Ministers will not have a role in the Bank's internal governance or the operational decisions made by the Board. While the Bank will be operationally and administratively independent, the Scottish Ministers, as the Bank's sole shareholder and sponsor, will set the parameters within which the Bank should work. Scottish Ministers will also set direction for the Bank's investment through setting its strategic missions.

37. A draft Strategic Framework for the Bank will be prepared by the Scottish Government which will set out: how the Bank, as a non-departmental public body, is intended to operate; its relationship with the Scottish Ministers; and the key roles and responsibilities which underpins

this relationship. The final version of the Strategic Framework will be agreed in advance of the establishment of the Bank and made publicly available.

38. The Board will also be responsible and accountable for ensuring that the Bank maintains an appropriate risk profile across its portfolio of investments and that the Bank delivers against the target rate of return set by the Scottish Ministers. The impact on portfolio risk will be considered by the Board when it agrees its Investment Strategy.

39. The Board's responsibilities and accountability will also include compliance with regulatory requirements (to be set by the Financial Conduct Authority where these apply) and State aid requirements (set by the European Commission and any successor arrangements being led by the Competition and Markets Authority) as well as for procurement of investment partners within the appropriate regulations and frameworks.

40. The Bank's board will also publish an Ethical Statement, setting out principles which will guide its investment activity. This will be informed by the Equality Impact Assessment which the Scottish Government has prepared in respect of the Scottish National Investment Bank Bill and the establishment of the Bank and which is now published on the Scottish Government webpages.<sup>7</sup>

41. Avoiding investment in businesses based in tax jurisdictions deemed non-cooperative by the European Union may also form part of the Bank's investment principles. This approach would replicate existing EU regulations,<sup>8</sup> applied by the Scottish Government in respect of its investments, which prohibit the investment of capital derived from EU structural funds in entities incorporated in such jurisdictions.

## **ALTERNATIVE APPROACHES**

42. An alternative approach would be to not establish a national investment bank, maintaining the status quo. This approach would not address the current need to improve Scotland's innovation performance. According to the European Commission's Regional Innovation Scoreboard, Scotland is classed as an innovation 'Follower'. It ranks around the middle of EU countries across a composite of innovation indicators. Establishing a national investment bank would provide an opportunity to transform the Scottish economy. Such an institution would act as a catalyst for innovation, crowding-in investment from the private sector into markets where finance is not currently available.

43. It is also understood that SMEs in Scotland currently struggle to secure later stage and longer-term finance to support growth. As noted above, it is intended that a Scottish National Investment Bank would provide whole of lifecycle investment to SMEs, including on a long term and patient basis. By choosing not to establish a national investment bank, the benefits to support and stimulate SME growth would not be realised.

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<sup>7</sup> <https://www.gov.scot/policies/economic-growth/scottish-national-investment-bank/>

<sup>8</sup> [Regulation \(EU\) No 2013/1303 \(the Common Provision Regulations\) and Commission Delegated Regulation \(EU\) No 480/2014 - Article 38.4.c \(Implementation of Financial Instruments\)](#)

44. As noted above, the Bank will be capitalised in part by transfer of financial transactions which can only be used to invest in the private sector through loan and equity arrangements. If the Bank were not established, a different approach would be required of the Scottish Ministers as to how these financial transactions should be invested in the private sector. The Scottish Government could invest financial transactions through existing funding mechanisms however, without a Bank in place, the additional benefits of the Bank's co-ordinated approach to spending Financial Transactions through a mission-oriented approach would not be realised. One option for the Scottish Ministers would be to decide not to invest these transactions at all.

45. Further consideration has also been given to the different functions and operating models the Bank might adopt. Further information on this will be published on the Scottish Government webpages.

46. Section 1 of the Bill places a duty on the Scottish Ministers to establish the Bank as a public limited company. While it was deemed feasible to create the Bank as a private limited company, this operating model was not chosen because if the Bank were to raise finance from wider sources in the future (for example, a public bond or share issue) it would have to change to being a public limited company. The company limited by guarantee model was also rejected as this model would restrict the Bank from issuing dividends to the Scottish Ministers. The Scottish Government would like to retain this option to consider how the surplus funds from the Bank might be utilised in the future. The Community Interest Company<sup>9</sup> model was also considered, however this model introduces an additional layer of regulation as well as a lock on assets.

47. The public limited company model is considered the most appropriate model for the Bank. This model will allow the Bank to raise capital from a range of sources and will allow the Bank to issue dividends to the Scottish Ministers. The adoption of the public limited model also includes additional protections within the Bank's articles. For example, to ensure that share ownership remains with the Scottish Ministers, and that the Bank's borrowing is zero unless the Scottish Ministers or the Scottish Parliament approve a different arrangement in future.

## **CONSULTATION**

48. Two public consultation exercises have been carried out to gather views on the formation of and intended outcomes for the Scottish National Investment Bank. The first, which ran from 20 October to 20 November 2017, gathered views to support the creation of an Implementation Plan for the Bank. The Implementation Plan, led by Benny Higgins, set out a strategic blueprint for the Bank as an institution. The consultation gathered views from the public on the Bank's remit and structure. The consultation received 1,108 responses – 44 responses from organisations, a campaign response from Friends of the Earth Scotland with 753 responses, and 311 responses from

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<sup>9</sup> A Community Interest Company (CIC) is a limited company created for undertaking an activity or business with community benefit. It has an 'asset lock' which can limit the way in which surpluses are distributed and, like charities, the CIC's assets and profits must be permanently retained within the CIC or only transferred to another company with a similar 'asset lock'.



individuals. An analysis of responses for this consultation has been published and can be accessed on the [Scottish Government webpages](#).<sup>10</sup>

49. A second public consultation was carried out on the proposed provisions for a Scottish National Investment Bank Bill from 5 September to 31 October 2018. This consultation gathered views from the public on the Bank's objectives and purpose; its investment activities; operating model; governance structures; and operational arrangements. The consultation received 1,443 responses before it closed on 31 October 2018. This comprised of 40 responses from organisations, 1,383 responses as part of a campaign from Friends of the Earth Scotland and a further 20 responses from individuals. To augment the formal consultation exercise, a series of stakeholder workshops and bilateral meetings were also held to inform to gather views on the proposals for the Bank.

### **Summary of consultation responses**

50. The Scottish Government has published a full analysis of responses to the consultation on the proposed provisions for a Scottish National Investment Bank Bill on the [Scottish Government webpages](#).<sup>11</sup> The following section gives the high level, executive summary on responses to questions in the consultation.

51. Respondents to the public consultation on the proposed provisions for a Scottish National Investment Bank Bill were largely supportive of the Bank and its overarching objectives. It was recognised that the Bank has the potential to increase sustainable economic growth in the Scottish economy and in particular could fill a gap within the Scottish lending market for long term patient capital, particularly at the later stage of the lending life-cycle.

52. Respondents were asked to give their views and opinions around the Bank's proposed investment activities. Many respondents were in favour that the overall direction for the Bank should be set by the Scottish Ministers through a Strategic Framework. Many respondents were in favour of the Bank identifying and implementing an Investment Strategy. Some respondents shared the view that investments should be made to either Scottish companies, companies with a substantial presence in Scotland or where an economic impact will be made in Scotland.

53. Respondents were asked to give views and opinions on the proposed operating model, classification and capitalisation of the Bank. Some respondents supported the public limited company model suggested. Some respondents agreed with the method of capitalisation. However, some respondents commented that the capitalisation was inadequate to deliver the transformative impact desired. While these concerns around capitalisation are understood, international comparison indicates public capitalisation of national promotion banks typically ranges between

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<sup>10</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/report/2018/02/scottish-national-investment-bank-consultation-report/documents/00532134-pdf/00532134-pdf/govscot%3Adocument?forceDownload=true>

<sup>11</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-responses/2019/02/scottish-national-investment-bank-consultation-analysis-responses/documents/consultation-scottish-national-investment-bank-bill-analysis-responses/govscot%3Adocument>

0.5% and 1.5% of GDP. In the Scottish context £2 billion broadly equates to 1.3% of GDP, so £2 billion is a realistic and a comparable level. Several respondents agreed that the Bank should be operated and kept within the public domain.

54. Respondents were asked to give views and opinions on the proposed governance arrangements of the Bank. Several respondents agreed with the proposed approach to the Bank's governance and Board arrangements. Generally, the respondents suggested that the Board should be constituted around eight and 12 people. There were a small number of differing views as to the recommended size of the Board with one respondent recommending a limit of nine, and another recommending a maximum of 12, with two thirds of the Board being non-executive directors. Several respondents were supportive of involving a wide range of stakeholders in the governance of the bank; and aware of the importance of a wide representation within the governance structure. Several respondents supported the delegation of powers, generally stating the need to operate commercially and independently from government.

55. Regarding the consolidation of existing finance scheme into the Bank, stakeholders have indicated that this process should cause as little disruption as possible to businesses. Further to this stakeholder agreed that the Bank should ensure the market is ready for the investment opportunities that the Bank will provide.

## **EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.**

### **Equal opportunities**

56. The Scottish Government is committed to ensure that the way the Bank operates – its culture, governance, and approach to businesses and individuals – will define it as a leading financial and investment institution. This will mean that, in particular, the Bank will hold to the following principles: equality; transparency; diversity; and inclusion, and it will be established and run following the spirit and practice of Open Government.

57. An Equality Impact Assessment has been prepared in respect of the Scottish National Investment Bank Bill and the establishment of the Bank, and published on Scottish Government webpages.<sup>12</sup> The EQIA sets out how the commitments regarding the way the Bank operates will be met. The EQIA will be updated throughout 2019. A Fairer Scotland Duty Assessment will also be conducted and published on the Scottish Government webpages. The conclusions of the EQIA and Fairer Scotland Duty Assessment will inform the Bank's development of its Investment Strategy and Ethical Statement. Those documents will set out how the Bank will meet the commitments set out in the EQIA in its practices and working culture. It is expected that further engagement with stakeholders and with the parliamentary process to take place over 2019 and in 2020 until the Bank becomes operational will inform their development.

58. As a result of the EQIA process the Scottish Government considers that the Bill's provisions will not negatively impact on protected groups, but does identify a number of areas

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<sup>12</sup> <https://www.gov.scot/policies/economic-growth/scottish-national-investment-bank/>

which should be subject to further consideration during the establishment and operation of the Bank to ensure that equality issues are properly addressed and progress furthered wherever possible. The EQIA process also identified potential positive impacts resulting from the creation of the Bank. For example, action undertaken by the Bank may address specific barriers to finance that inhibit advancement of equal opportunities including access to finance for women-led businesses and for female entrepreneurs, and access to finance for businesses owned by ethnic minorities and for entrepreneurs from an ethnic minority.

59. In particular, the Scottish National Investment Bank Bill makes provision for the Bank to be subject to certain public bodies legislation, namely the:

- Ethical Standards in Public Life etc. (Scotland) Act 2000,
- Gender Representation on Public Boards (Scotland) Act 2018,
- Freedom of Information (Scotland) Act 2002.

60. Secondary legislation will also be brought to make that the Bank subject to the Public Sector Equality Duty and the Fairer Scotland Duty. The Fairer Scotland Duty will require the Bank to consider the impact its activities can have on the reduction of “inequalities of outcome” caused by “socio-economic disadvantage”. The Public Sector Equality Duty 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 Bank may carry out and publish its considerations in regard to both duties in the context of its Investment Strategy and Ethical Statement.

## **Human rights**

61. The Scottish Government is satisfied that the provisions within the Bill are compatible with the European Convention on Human Rights and do not give rise to any issues under it. The new body does not have an adjudicatory role or any powers to interfere with property rights or invade privacy.

62. The development of the EQIA considered the impact of the provisions of the Scottish National Investment Bank Bill on human rights and concluded that they do not impact directly or indirectly on human rights. The EQIA does set out commitments in respect of the Bank once established that can be anticipated to impact positively upon human rights. In particular the Bank will align itself the UN Guiding Principles on Business and Human Rights<sup>13</sup> and become a signatory to the UN Global Compact.<sup>14</sup> These are voluntary initiatives through which businesses commit to respecting international human rights standards.

63. The Bank will set out, particularly in its Investment Strategy and Ethical Statement, how it will realise these commitments in its practices and working culture. As set out above, further

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<sup>13</sup> [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>14</sup> <https://www.unglobalcompact.org/what-is-gc/mission/principles>

engagement with stakeholders and with the parliamentary process to take place over 2019 and in 2020 until the Bank becomes operational will inform this work.

### **Island communities**

64. The provisions of the Scottish National Investment Bank Bill do not impact directly or indirectly specifically on island communities. It is, however, intended that the activities of the Bank work across Scotland to deliver its objectives of growing the economy and addressing inequalities. Island communities in Scotland face particular challenges and conditions. It will be important that island businesses and communities are able to benefit from the creation of the Bank. Necessarily, this will require access to its activities. The Bank will be responsible for supporting their involvement.

65. Once established the Bank will work in partnership with the enterprise agencies, including Highlands and Islands Enterprise, to help make the market ready for the Bank's investment and support businesses in island communities to exploit the opportunities the Bank will provide. It is envisaged that the Bank will support access by co-locating representatives in the enterprise agencies' offices.

### **Local government**

66. The provisions of the Scottish National Investment Bank Bill do not impact directly or indirectly on local government in Scotland.

### **Sustainable development**

67. The potential environmental impact of the Bill has been considered within the terms of the Environmental Assessment (Scotland) Act 2005. That consideration has concluded that the provisions within the Scottish National Investment Bank Bill are likely to have no direct or indirect environmental effects and can therefore be considered exempt, as per section 7 of the 2005 Act. A pre-screening exemption notification has been submitted to the Consultation Authorities as per the requirements of the 2005 Act and consequently there is no need for a full Strategic Environmental Assessment to be undertaken at this stage.



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