EXPLANATORY MEMORANDUM TO

THE AFRICAN DEVELOPMENT BANK (FURTHER PAYMENTS TO CAPITAL STOCK) ORDER 2015

2015 No. 1702

1. This explanatory memorandum has been prepared by Department for International Development and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This proposed Order permits the Secretary of State for International Development, in her role as United Kingdom Governor at the African Development Bank, ("the Bank"), to make a payment of *up to* 7,946,866.67 Pounds Sterling towards the increased capital stock of the Bank. This payment will be made pursuant to arrangements that have been made between the Bank and Her Majesty's Government in accordance with Resolution Numbers: B/BG/2010/08 and B/BG/2012/04 of the Bank's Board of Governors dated 27th May 2010 and 31 May 2012 respectively.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The proposed Order is being made to enable the Secretary of State to contribute further to the Ordinary Capital Resources (OCR) of the Bank by subscribing to additional shares. The purpose of this further contribution is to increase the UK's shareholding in the African Development Bank (AfDB).

4.2 Where the Government of the United Kingdom becomes bound to make a payment to a multilateral development bank, Section 11 of the International Development Act 2002 permits the Secretary of State to make a payment to that bank, once she has made an order with the approval of the Treasury, a draft of which has been approved by the House of Commons.

4.3 The Bank is reissuing additional shares that were originally issued for the AfDB's 6th General Capital Increase (GCI VI), but were either forfeited or not taken up by other non-regional donors. The UK is currently half the way through making payments for its subscription under this share issue that was approved by Parliament in May 2011. Further shares have also become available as a Special Capital Increase (SCI) to non-regional shareholders, following the ratification of South Sudan as a member of the Bank. This is required to maintain the approximate shareholding balance between regional and non-regional members of the Bank to 60:40 respectively.

4.4 The UK currently holds 1.684% of the shares in the Bank and the Government wishes to increase its shareholding. For historical reasons, the UK currently has the smallest shareholding of all G7 countries. The UK joined the Bank in the 1983, and at the time elected not to take up the full allocation of shares on offer and it has not since been possible to fully rectify the situation. This small shareholding means that the UK's vote on all AfDB issues carries less weight than many other shareholders, as it represents a smaller percentage of the total. It also means that we are not able to negotiate more time for representation by a British Executive Director (ED) on the Board of Executive Directors - a key influencing tool for the UK. This contrasts with the UK's contribution to the African Development Fund that provides concessional loans and grants to the poorest countries in Africa, where it is the largest donor (14% of the target for the donors' contributions to the most recent replenishment).

4.5 The Executive Board comprises of 20 EDs, who represent the interests of 80 countries/shareholders. The countries that an ED represents are agreed through informal negotiations between shareholders, and are based on the size of a member's shareholding. Hence the USA as a large shareholder does not share its Chair with any other countries. While the UK, due to our smaller shareholding, currently shares a constituency with Italy and the Netherlands and only holds the Executive Director's position for 5 years in every 11 year period. This reduces the UK's influence at the Board for the years that this post is not held.

4.6 The UK has been allocated 3157 shares from the SCI issue and 1453 additional shares from GCI VI. Combined, this equates to an additional 4610 shares out of 32,714 available. The total value of all the shares available to non-regional shareholders is £326,592,040.50. By the terms of these share issues, 6% of the UK's allocation must be paid for at a cost of £2,755,377. This is known as the 'Paid in Capital' and it is the minimum amount that is covered by this Order. The remainder £43,267,406, will be 'callable' (i.e. a contingent liability). Parliamentary approval to incur this liability is obtained by a separate process explained below. The figures are summarised in the following table.

Share issue	Shares available to all non-African shareholders	Total shares allocated to the UK	Paid-in shares	**Paid-in Capital**	Callable capital shares	Contingent liability
GCI VI (share transfer)	10,117	1453	87	£868,542.75	1,366	£13,637,120
SCI (South Sudan balance)	22,597	3157	189	£1,886,834.25	2968	£29,630,286
Total	32,714	4610	276	**£2,755,377**[1]	4334	£43,267,406
UK SCI share allocation + Total GCI share issue	*13,274*	*13,274*	*796*	*£7,946,866.67*	*12,478*	*£124,570,794*

4.7 Under the terms of the GCI VI share issue, the instrument of subscription must be completed and returned to the Bank by 2 October 2015, any member not meeting this date will forfeit the share issue. We expect that some shareholders will not be able to meet this tight deadline, and shares will be reissued again to shareholders. The SCI share issue has a much longer deadline, as the first payment is not required until 4 October **2016**.

4.8 Due to the burdensome deadline, several shareholders may fail to make the first GCI payment by 2 October 2015. The UK Government is therefore seeking approval of a payment *up to* £7,946,866.67. This figure comprises the UK's SCI allocation (3157 shares) and the total GCI share allocation available to all shareholders (10,117 shares). This will allow the Government to react quickly to any further share offers (GCI or SCIs) and increase the likelihood of the UK being able to meet the short deadlines that are part

[1] This figure is derived from the fixed exchange range payment option, i.e. UA1 = GBP 0.998325. The figure could be slightly lower if the UK chooses to make two annual payments for the SCI, rather than the standard 8 annual payments. The GCI VI payments must be made in two annual payments.

of the Bank's rules for share reallocations (Resolution B/BG/2010/09). If fully utilised, then this would increase the UK's contingent liability by £124,570,794.

4.9 It is normal practice, when a government department proposes to undertake a contingent liability in excess of £250,000 for which there is no specific statutory authority, for the department concerned to present to Parliament a Minute giving particulars of the liability created and explaining the circumstances; and to refrain from incurring the liability until fourteen parliamentary sitting days after the issue of the Minute, except in cases of special urgency.

4.10 The Treasury has approved the proposal to undertake this contingent liability in principle and the Minute giving particulars of it has been laid in Parliament, together with this Draft Order. If, during the period of fourteen parliamentary sitting days, beginning on the date the Minute was laid, a Member signifies an objection by giving notice of a Parliamentary Question or by otherwise raising the matter in Parliament, final approval to proceed with incurring the liability will be withheld pending an examination of the objection.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Justine Greening, the Secretary of State for International Development, and UK Governor to the African Development Bank Group has made the following statement regarding Human Rights:

In my view the provisions of the African Development Bank (Further Payments to Capital Stock) Order 2015 are compatible with the Convention rights.

7. Policy background

7.1 The Bank is a regional development bank established in 1964. Its main objective is to contribute to the economic and social progress of its regional member countries and to contribute to the acceleration of the process of economic development of its regional members, both collectively and individually. The major regional shareholders are Nigeria, Egypt and South Africa. The major non-regional shareholders are the USA, Japan and, Germany. The UK is currently a relatively small shareholder, with a shareholding of 1.684 percent.

7.2 The Bank has two main lending windows to channel its development assistance: Non-concessional funding through the Bank's Ordinary Capital Resources (OCR) and the concessional African Development Fund (ADF). The OCR is used to lend at near market rates, mainly to Africa's middle-income countries. It also funds private sector operations in both low- and middle-income African countries. The purchase of the additional shares increases the Bank's OCR and will enable it to increase its lending capacity. MDBs have a maximum ceiling on total outstanding loans which can't exceed unimpaired subsidised capital and reserves. The Bank will be able increase lending to its clients approximately equivalent to the same amount of paid-in and callable capital. The approval of the purchase of these additional shares available to the UK will therefore enable the Bank to lend approximately an additional £43m.

7.3 DFID recognises that the Bank makes a significant contribution to tackling poverty in Africa, particularly helping countries to accelerate growth. Despite recent economic growth, about 128 million of Africa's 320 million poor (under USD1.25 a day) live in Middle Income Countries. The AfDB has recently agreed a new Ten-Year Strategy (TYS) for 2013-2022. This is the strategic framework for the Bank's continued engagement in Africa, and how it will develop as an institution. The strategy is the guiding framework for the non-concessional lending window of the Bank, as well as the African Development Fund (AfDF) - the UK is the largest donor to the AfDF (£604m from 2014-16). The Strategy focuses on two objectives to improve the quality of Africa's growth: inclusive growth, and the transition to green growth. It focuses on the five core operational priorities of infrastructure development, regional integration, private sector development, governance and accountability and skills and technology with special emphasis given to fragile states, agriculture and food security and gender.

7.4 DFID has worked with other shareholders to help the Bank improve its focus on the key sectors where it has particular strengths, especially infrastructure, private sector development and regional integration, and has supported internal reforms to improve staff skills and performance and the effectiveness of evaluation systems. The Bank has also improved project management efficiency by tackling problem projects and making various improvements such as; decreasing the length of time between project approval and initial fund disbursement from two years to thirteen months.

7.5 The purchase of the additional shares will enable the UK to marginally increase its shareholding from 1.68% to 1.72%. This would increase further if other shareholders decide to not take up their allocations. If the UK was to decline the shares, then our shareholding would decrease to 1.65% due to other shareholders increasing their shareholdings.

7.6 The risk associated with this investment is that the UK will be asked to pay for the callable shares. The new £43,267,406 liability resulting from this investment will be added to our existing callable shares liability of £1.02 billion, giving a total liability to the Bank of approximately £1.06 billion. If the UK were to utilise the full £7.9m of paid-in capital, then the new liability of £125m resulting from this investment will mean a new total liability to the Bank of approximately £1.14 billion. Although the Bank has the right to call for payment for these callable shares if there is a crisis affecting the Bank's assets or loans, this has not occurred in relation to existing callable shares and given that the Bank has a AAA credit rating, it is very unlikely to occur in practice.

7.7 The Bank's Board of Governors adopted the Resolutions B/BG/2010/08 and B/BG/2012/04 on 27th May 2010 and 31 May 2012 respectively. These authorised GCI VI and the SCI upon South Sudan joining the Bank. A copy of both resolutions has been laid in the House of Commons library together. If this draft Order is approved, then in accordance with the Bank's Share Transfer Rules (Resolution B/BG/2010/09) the United Kingdom's paid-in contribution will be made in cash in two equal annual instalments in 2015 and 2016 for the reissued GCI VI shares, with the first payment due on 2 October 2015. The UK would forfeit its allocation of shares if this deadline is missed. The UK has the option of making between one and eight annual cash payments for the SCI shares. The deadline for the first payment of these shares is 4 October 2016.

8. Consultation Outcome

8.1 Not relevant in the context of this instrument.

9. Guidance

9.1 Not relevant in the context of this instrument.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument because there is no impact on business, charities or voluntary bodies in the United Kingdom.

11. Regulating small business

11.1 The legislation does not apply to small business in the United Kingdom.

12. Monitoring and review

12.1 The Bank has an agreed set of targets and milestones to measure progress and internal reforms. The Bank also produces annual reports as well as regular financial and operational statements.

12.2 The UK is represented on the Bank's Board of Directors and the UK shares its seat with Italy and the Netherlands. This investment will be monitored by the Board of Directors, and will be subject to Annual Performance Reviews. DFID has produced a Logical Framework to monitor progress against a set of performance indicators that is available on DFID's public website.

13. Contact

13.1 Further information concerning the proposed instrument can be obtained from Paula Barrett at the Department for International Development via email: (p-barrett@dfid.gov.uk) or telephone (020 7023 0860).

Department for International Development

22 September 2015