

EXPLANATORY MEMORANDUM TO

THE BANK FOR INTERNATIONAL SETTLEMENTS (IMMUNITIES AND PRIVILEGES) ORDER 2021

2021 No. 533

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The Bank of England has made a successful bid to host a Bank for International Settlements (BIS) Innovation Hub in the UK. In order for the BIS to operate in the UK, it is necessary to grant certain immunities and privileges to the BIS and its officials, employees and experts. The FCDO has negotiated a Host Country Agreement (HCA) with the BIS to grant certain privileges and immunities to the BIS and its officials, employees and experts. The International Development Act 2002 (IDA 2002) contains a power in section 12(1) for Her Majesty to make such provision by Order in Council as She considers reasonably necessary to give effect to “any relevant provision of the agreement establishing an international financial institution”, including provisions related to the status, immunities or privileges of the international financial institution.
- 2.2 The Order therefore confers legal capacity and privileges and immunities on the BIS, and grants certain privileges and immunities to BIS officials, employees and experts in accordance with the HCA.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This Order in Council is the first use of the power in section 12(1) of IDA 2002.
- 3.2 There is an associated negative Order, which adds the BIS to the list of international financial institutions under section 12(3) of the IDA 2002 and grants exemption from immigration control for BIS officials. This associated negative Order must be in force before this affirmative Order in Council can be made.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 The territorial application of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application

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

5. European Convention on Human Rights

5.1 The Minister has made the following statement regarding Human Rights:

“In my view the provisions of the Bank for International Settlements (Immunities and Privileges) Order 2021 are compatible with the Convention rights.”

6. Legislative Context

6.1 Section 12(1) of the IDA 2002 allows Her Majesty by Order in Council to make such provision as She considers reasonably necessary to give effect to any relevant provision of agreement establishing an international financial institution. Section 12(3) of the IDA 2002 lists the international financial institutions for the purpose of section 12(1).

7. Policy background

What is being done and why?

7.1 The Bank of England has made a successful bid to host the Bank for International Settlements (BIS) Innovation Hub in the UK. In order to operate in the UK it is necessary to grant immunities and privileges, which will be reflected in the Host Country Agreement between the UK and the BIS when it is signed. These privileges and immunities have been negotiated between the UK and the BIS in the HCA, and are the most limited, consistent with the functionality of an international financial institution. The HCA will come into force once this Order in Council has been approved. In the HCA the UK has agreed to confer legal personality on the BIS; grant certain immunities to the BIS; and also to grant certain privileges and immunities for BIS officials, employees and experts. In particular, those who will be located at the BIS Innovation Hub in the UK (e.g. immunity from suit and legal process, subject to certain exceptions; exemption from national taxation; immunity from inspection or seizure of official baggage; and inviolability of official papers and documents). Relevant BIS officials and employees and their dependant family members forming part of their household will also be exempt from immigration control under the provisions of the negative Order mentioned in paragraph 3.1.

7.2 The BIS is an international financial institution, headquartered in Basel, serving central banks in pursuit of global monetary and financial stability. Their main activities are fostering discussion between central banks, producing research and supporting central banks financial operations. Its membership currently includes 62 central banks and monetary authorities from both advanced and developing economies.

7.3 The BIS Innovation Hub will support the global central banking and finance community through the development of digital public goods - addressing issues of critical importance for the global financial system and act as a focal point for sharing best practices with regulators in developing countries. The UK is a world leader in innovation and technology in financial services (the Fintech sector is worth nearly £7 billion annually to the UK economy). This success is largely due to the UK's expertise in policy and regulation, and London being selected to host the BIS Hub is an opportunity to reinforce our strengths on a global platform.

7.4 Safeguarding financial stability is an international public good and is an important factor in international economic development. The Hub will support efforts of the UK to share regulatory expertise on Fintech with developing countries, similar to an

existing FCDO-funded scheme with the Bank of England to build financial and monetary stability capacity in central banks in developing countries.

7.5 This Order in Council is required so that the UK is able to comply fully with its obligations under the HCA.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

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 applicable.

10. Consultation outcome

10.1 No external consultation was undertaken as this Order implements provisions of an international agreement to which the United Kingdom will be obliged to give effect as a matter of international law once the agreement enters into force.

11. Guidance

11.1 No guidance will be published.

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 as it has no, or no significant impact on business, charities or voluntary bodies or the public sector.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This instrument is not time limited. Monitoring of the implementation of this instrument is not intended.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Ronald Bohlander (telephone: 07880300201 or email: ronald.bohlander@fcdo.gov.uk), or Gillian Ormiston (telephone: 07785608279 or email gillian.ormiston@fcdo.gov.uk) at the Foreign, Commonwealth & Development Office can be contacted with any queries regarding the instrument.

15.2 Victoria Busby, Director, Protocol Directorate at the Foreign, Commonwealth & Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Parliamentary Under Secretary of State (Minister for Africa), James Duddridge MP, at the Foreign, Commonwealth & Development Office can confirm that this Explanatory Memorandum meets the required standard.