

February 2016

***[Letter sent to signatories of the Lords' Amendment on the GIB Special Share]***

Dear xxx

I am writing in my capacity as chair of the UK Green Investment Bank (GIB) to each of the signatories of the amendment to the Enterprise Bill, regarding the creation of a special share in GIB. I am also copying this letter to the leaders of the Labour and Liberal Democrat parties in the Lords, the leader of the cross-bench Peers and Baroness Neville-Rolfe.

On Tuesday 2 February the Business Secretary made a statement in the House of Commons in which he announced that GIB would create a special share in the bank as part of the process of introducing private capital. This special share will help protect the bank's green mission.

He also announced the UK Government's plan to remove the opposition amendment to the current Enterprise Bill passed in the House of Lords ('the Lords' amendment') which recommended the creation of the special share. The UK Government plans to remove this amendment from the Bill to minimise the risk that its inclusion in legislation would cause GIB to remain classified as a public sector body.

In this letter I would like to set out the steps GIB plans to take to deliver the full spirit and intent of the Lords' amendment. The only substantive difference between this plan and the Lords' amendment is that the establishment of a special share would not be required by statute. Requiring the special share by statute is a key indicator of public control preventing the company's re-classification to the private sector. GIB instead will create a special share in the bank on a non-legislative basis, to enable the company's re-classification to the private sector. This is essential to give GIB the freedom to borrow without this impacting on public sector net debt and more importantly to allow GIB to raise equity.

GIB intends to have in place a clear process detailing how a special share will be created and will set out that process, and show our progress in delivering it, before the Enterprise Bill returns to the Lords. It is my intention to share our progress as transparently as we can, as a means of building confidence that the special share can be put in place without the requirement to do so in law. I would also note that the current statutory protections over the green purposes will remain in place until the point that the special share is implemented. There will be no gap.

Prior to the sale of any shares in GIB the following actions will have been undertaken to meet the spirit and intent of the Lords amendment:

1. **Green purposes:** The existing GIB Object's clause will remain in place up until the special share is in place. This means that the special share will control the GIB Objects as they are now, as they were set out in the Enterprise and Regulatory Reform Act 2013 (ERRA 2013) and as they are listed in the Lords amendment. Any attempt to change them in the run up to a sale would require a vote in Parliament.

This will ensure that Clauses 1.a. and 1.b. of the Lords' amendment are met.

2. **The special share:** At an EGM, GIB's Articles will be amended to provide for the creation and issue of a special share in GIB. The effect of the special share will be to ensure that GIB will not be able to make changes to its green purposes unless the holder of the special share gives its consent. The rights of the special share will not be alterable without the consent of the special shareholder.

This will ensure that Clauses 1.c., 3.a.b. and 4. of the Lords' amendment are met. We will publish the EGM resolution once it has been passed along with the updated Articles.

3. **The special shareholder:** GIB will establish an independent not-for-profit organisation to hold the special share. It will be established in a way that will ensure that the UK Government cannot prescribe or limit its independence, and that it is also independent of GIB at the conclusion of a transaction.

The special shareholder will be a private company limited by guarantee. Its Articles of Association will lay out its governance arrangements and establish its purpose as approving amendments to GIB Articles only if such amendments are not inconsistent with the green Objects. We expect these Articles of Association to allow for its registration as a charity. The Trustees may choose to register the company as a charity (although any such application would have to be accepted by the Charity Commission or Scottish equivalent).

This is intended to satisfy the charitable company requirement in Clause 1.d of the Lords' amendment.

4. **Independent Trustees:** The independence of the special shareholder will be achieved by giving its independent trustees freedom to amend its Articles of Association and to determine the terms of its registration as a charitable company and the scope of its activities. There will be no UK Government or GIB involvement in the ultimate appointment of the Trustees of the special shareholder, who will all be selected through an independent process. The first stage of that process will see GIB ask three reputable and well-established professional membership bodies, with no perceived conflict with GIB, to form an independent Nominations Committee. That Committee will then independently undertake a search for and appointment of three independent Trustees.

This is intended to ensure that Clause 5.a.b.c. and d. of the Lords' amendment are met. This approach was designed specifically to meet the intent of the Lords' amendment while at the same time minimising the classification risk of control by the public sector. The Nominations Committee will undertake the role which the Lords' amendment envisaged would be undertaken by the Committee on Climate Change (which is classified to the public sector and is not therefore sufficiently distanced from Government).

Once in place, the permanent Trustees will have independent control over the special shareholder company's Articles of Association and over whether it applies for charitable status and if so, on what terms.

We will publish the initial Articles of Association of the new special shareholder company; the names of the three nominating professional membership organisations; and ultimately, the names of the three permanent Trustees.

5. **Effective date:** The provisions in ERRA 2013 are still in force and will remain so until the repeal is brought into effect. That can only be done once the UK Government has reported to Parliament. The Government will ensure that these provisions remain in force up to and including the date on which the special share is issued. This will ensure that there is no gap in independent control over GIB's green mission as it passes from the UK Government to the new special shareholder. For the avoidance of doubt, the UK Government will not commence the repeal of the ERRA 2013 until the Special Share is implemented.

I hope this letter gives you confidence that we are committed to delivering the full intent of the amendment passed in the Lords. Our hope is that by committing to implement this plan, and doing so transparently, we can secure the necessary confidence of stakeholders, and members of the House of Lords specifically, that a special share solution can be delivered without the need for it to be mandated in legislation.

You will be hearing from us throughout the process but please do get in touch if we can be of any assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lord Smith of Kelvin', written in a cursive style.

**Lord Smith of Kelvin KT**  
**Chairman**