

ANNEX B

REASONS FOR NOT PROVIDING INFORMATION

Exemptions apply

Section 33(2)(b) – financial interests of a UK Administration

An exemption under section 33(2)(b) of FOISA (financial interests) applies to some of the information requested. This exemption applies because disclosure of this particular information would, or would be likely to, prejudice substantially the financial interests of the Scottish Government and options about future borrowing or bond issuance.

This exemption is subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open and transparent government, and to help account for the expenditure of public money. However, there is a greater public interest in protecting the financial interests of the Scottish Government, to ensure that we are always able to obtain the best value for public money.

Section 30(b)(ii) the free and frank exchange of views for the purposes of deliberation

Some of the information you requested falls under the exemptions under Section 30(b)(ii) of FOISA (the free and frank exchange of views for the purposes of deliberation) apply. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. The exemption recognises the need for officials to have the ability to exchange views freely and frankly. Disclosing the content of the free and frank views on credit ratings or Scottish Government issued bonds could substantially inhibit the provision of such advice in the future, particularly because these discussions relate to a sensitive issue.

These exemptions are subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemptions. We have found that, on balance, the public interest lies in favour of upholding the exemptions. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing a private space within which officials can provide free and frank advice and views to Ministers. It is clearly in the public interest that Ministers can properly provide sound information to Parliament (to which they are accountable), and robustly defend the Government’s policies and decisions. They need full and candid advice from officials to enable them to do so. Disclosure of this type of information could lead to a reduction in the comprehensiveness and frankness of such advice and views in the future, which would not be in the public interest.

Section 30(c) – the effective conduct of public affairs

An exemption under section 30(c) of FOISA (prejudice to effective conduct of public affairs) applies to some of the information requested. Disclosing this information would substantially prejudice future discussions on the topic of SG borrowing and bonds as well as prejudice future advice from external stakeholders regarding the costs of obtaining a credit rating. This would constitute substantial prejudice to the effective conduct of public affairs in terms of the exemption.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government. However, there is a greater public interest in protecting the process of SG borrowing and credit ratings options and ensuring that the Scottish Government is able to conduct this aspect of its business effectively.

Section 38(1)(b) - personal data of a third party

An exemption under section 38(1)(b) of FOISA (personal information) applies to [a small amount of the information requested because it is personal data of a third party, ie some names of junior grade civil servants and stakeholders attending meetings and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption