

## EXPLANATORY MEMORANDUM TO

### THE MARKETS IN FINANCIAL INSTRUMENTS, BENCHMARKS AND FINANCIAL PROMOTIONS (AMENDMENT) (EU EXIT) REGULATIONS 2021

2021 No. 1074

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Treasury 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 This instrument is being made to address deficiencies in retained EU law in relation to the non-discriminatory access regime for exchange-traded derivatives (ETDs), which requires trading venues and central counterparties to grant each other non-discriminatory access. In addition, this instrument amends the low carbon benchmarks regime, which sets out requirements and voluntary standards for firms that administer benchmarks under the Benchmarks Regulation. Finally, this instrument makes technical amendments to certain exemptions to the financial promotions regime for relevant markets to ensure that they apply to UK markets following the UK's departure from the EU.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments.*

- 3.1 This SI was laid for the sifting by the European Statutory Instruments Committee and the Secondary Legislation Scrutiny Committee under Schedule 7 of the European Union (Withdrawal) Act 2018 (c.16). It was considered on 14 September 2021 by the European Statutory Instruments Committee and the Secondary Legislation Scrutiny Committee. No recommendation to upgrade to the affirmative procedure was made.

#### 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 Economic Secretary to the Treasury (John Glen) has made the following statement regarding Human Rights:

“In my view the provisions of the Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 are compatible with the Convention rights.”

#### 6. Legislative Context

- 6.1 The European Union (Withdrawal) Act 2018 converted EU law as it stood at IP completion day into domestic law. It also confers temporary powers on the

Government to make secondary legislation, to enable corrections to be made to the laws that do not operate appropriately in a UK only context, now that we have left the EU. This instrument relies upon those correcting powers to make changes to Regulation (EU) No 600/2014 on markets in financial instruments (MiFIR), Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (the Benchmarks Regulation), and to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 on references to relevant markets.

Amendments relating to MiFIR

- 6.2 MiFIR forms part of retained EU law, and was amended with effect from IP completion day by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403). However, the 2018 Regulations did not deal with deficiencies in relation to the non-discriminatory access regime for exchange-traded derivatives. This instrument therefore makes amendments to MiFIR Articles 35 and 36.
- 6.3 This instrument also makes consequential changes to Commission Delegated Regulation (EU) 2017/581 supplementing Regulation (EU) No 600/2014 with regard to regulatory technical standards on clearing access in respect of trading venues and central counterparties (the Delegated Regulation), which was made under MiFIR. The Delegated Regulation was amended with effect from IP completion day by the Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No. 2) Instrument 2019, using powers conferred by the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115).

Amendments relating to the Benchmarks Regulation

- 6.4 The Benchmarks Regulation forms part of retained EU law. The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019 amended the EU Benchmarks Regulation and related EU tertiary legislation to make sure that the UK continued to have an effective regulatory framework for benchmarks after EU exit.
- 6.5 Regulation 2019/2089 amended the EU Benchmarks Regulation (2016/1011) as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks, introducing the low carbon benchmarks regime. The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020 addressed deficiencies in this regime, to ensure that the UK can continue to have an effective regime to enhance the transparency and comparability of low carbon benchmarks, now that the EU Exit Transition Period has finished.
- 6.6 On 23 December 2020, three European Commission Delegated Acts for Regulation (EU) 2019/2089 on EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks came into force:
- 6.7 Commission Delegated Regulation (2020/1816) supplementing regulation (EU) 2016/1011 as regards the explanation in the benchmark statement of how environmental, social and governance factors are reflected in each benchmark provided and published.

- 6.8 Commission Delegated Regulation (2020/1817) supplementing regulation (EU) 2016/1011 as regards the minimum content of the explanation on how environmental, social and governance factors are reflected in the benchmark methodology.
- 6.9 Commission Delegated Regulation (2020/1818) supplementing regulation (EU) 2016/1011 as regards minimum standards for EU Climate Transition Benchmarks and EU-Paris aligned Benchmarks. These three delegated regulations form part of retained EU Law. This instrument makes consequential changes to the Commission Delegated Regulation (2020/1816) and Commission Delegated Regulation (2020/1818) to remedy deficiencies and provide for the effective operation of these regulations after EU Exit. No such consequential changes are required for Commission Delegated Regulation (2020/1817).

*Amendments relating to exemptions in the Financial Promotion Order*

- 6.10 The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 specifies exemptions to the financial promotion restriction set out in section 21 of the Financial Services and Markets Act 2000. This includes a number of exemptions (Articles 37, 41, 67, 68 and 69) which concern communications relating to relevant markets (specified in Part 1 of Schedule 3 of the Order). This instrument makes amendments to ensure that the UK is also included in the definition of relevant markets.

## **7. Policy background**

*What is being done and why?*

*Amendments relating to MiFIR*

- 7.1 This instrument removes the non-discriminatory access regime for ETDs because the regime, which was originally designed to operate cross-border, is unsuitable in a UK-only context. Although intended to increase competition, the Government has decided that it is ineffective at doing so when only in force domestically.

*Amendments relating to the Benchmarks Regulation*

- 7.2 This instrument also remedies deficiencies in two European Commission Delegated Regulations to ensure that the UK has an effective regulatory framework for the transparency and comparability of low carbon benchmarks. These Delegated Regulations set out technical regulations necessary for the operability of the low carbon benchmarks regime under the Benchmarks Regulation.

*Amendments relating to the Financial Promotion Order*

- 7.3 This instrument also remedies deficiencies in the Financial Promotion Order 2005 to ensure that the definition of relevant markets in several exemptions in that Order includes UK markets. Currently, deficiencies in drafting mean that only markets based in the EU and Gibraltar can rely on exemptions relating to relevant markets.

## *Explanations*

### *Amendments relating to MiFIR*

#### What did any law do before the changes to be made by this instrument?

- 7.4 Articles 35 and 36 of MiFIR contain provisions which enable access on a non-discriminatory and transparent basis between central counterparties (CCPs) and trading venues (TVs) for all financial instruments except over-the-counter (OTC) derivatives. They require CCPs and TVs to accept all requests for access, except where the operational risk and complexity arising from granting access would cause undue risk.
- 7.5 The non-discriminatory access regime for equities entered into force in the EU in 2018. However, a transitional provision was used to postpone the regime for ETDs until July 2020.
- 7.6 Ahead of the transitional provision expiring, in June 2020 the EU announced that they would postpone the implementation of the access regime for ETDs further through an amendment to MiFIR included in Regulation (EU) 2021/23 on a framework for the recovery and resolution of central counterparties (CCP R&R Regulation). This was because there were concerns that CCPs and TVs would not have capacity to deal with access requests because of disruption caused by Covid-19. However, because the CCP R&R Regulation entered into force on 11 February 2021, after IP completion day, it does not form part of retained EU law.

#### Why is it being changed?

- 7.7 The non-discriminatory access regime for ETDs was originally designed to improve cross-border capital markets by increasing competition and facilitating access across the EU's single market; however, it does not work effectively when only in force domestically.
- 7.8 This instrument therefore makes amendments to MiFIR to remove the regime for ETDs to ensure that retained EU law operates effectively.
- 7.9 This instrument also makes consequential amendments to the Delegated Regulation to reflect the removal of the open access regime for ETDs from MiFIR.

#### What will it now do?

- 7.10 This instrument removes the non-discriminatory access provisions in MiFIR for ETDs. It will not impact the non-discriminatory access regime for other instruments, which remains in Articles 35 and 36 of MiFIR; benchmarks, which is contained in Article 37 of MiFIR; or the equivalent regime for OTC derivative contracts, which is contained in Articles 7 and 8 of Regulation (EU) 648/2012 on OTC derivatives, central counterparties and trade repositories. The level of public interest in this policy change is low.

### *Amendments relating to the Benchmark Regulation*

#### What did any law do before the changes to be made by this instrument?

- 7.11 Commission Delegated Regulation (EU) 2020/1816, Commission Delegated Regulation (EU) (2020/1817) and Commission Delegated Regulation (2020/1818) set

out technical standards necessary for the implementation of the low carbon benchmarks regime under the Benchmarks Regulation.

- 7.12 Commission Delegated Regulation (EU) (2020/1816) sets out how Environmental, Social and Governance factors should be reflected in the benchmark statement for each benchmark or family of benchmarks. Under Article 27 of the Benchmarks Regulation, benchmark administrators are required to publish a statement which explains how environmental, social and governance factors are reflected in each benchmark or family of benchmarks it administers.
- 7.13 Commission Delegated Regulation (EU) (2020/1817) sets out how benchmarks administrators should explain the way in which environmental, social and governance factors are reflected in the benchmark methodology. Article 13 of the Benchmarks Regulation requires benchmark administrators to explain how environmental, social and governance factors are reflected in the methodology of each benchmark that it administers.
- 7.14 Commission Delegated Regulation (EU) (2020/1818) sets out minimum standards that a benchmark must comply with in order to be labelled as either an EU Climate-Transition Benchmark or an EU Paris-Aligned Benchmark. These are voluntary standards which aim to support investors who wish to pursue climate-conscious investment strategies.

#### Why is it being changed?

- 7.15 This instrument makes amendments to Commission Delegated Regulation (EU) (2020/1816) and Commission Delegated Regulation (EU) (2020/1818) to remedy deficiencies and provide for the effective operation of these technical regulations in a UK-only context.

#### What will it now do?

- 7.16 This instrument remedies deficiencies to ensure that the technical standards introduced by the Commission Delegated Regulations for low carbon benchmarks operate effectively in a UK-only context. Specifically, Regulations 5 and 6 replace references to the “EU” with references to the “UK” and replace references “national law” with reference to “UK law”. Regulations 5 and 6 also replace references to the Statistical Classification of Economic Activities in the European Community (NACE) with relevant references to the UK Standard Industrial Classification of Economic Activities (SIC). Relevant references to definitions in EU Regulations are retained and written out in Regulations 5 and 6. The substance of the technical regulations is not changed by this instrument.

#### Amendments relating to the Financial Promotion Order

##### What did any law do before the changes to be made by this instrument?

- 7.17 Part 1 of Schedule 3 of the Financial Promotion Order defines the concept of ‘relevant market’. This concept is used in five articles of the Financial Promotion Order (Articles 37, 41, 67, 68 and 69) to provide for exemptions to the financial promotions restriction (set out in section 21 of the Financial Services and Markets Act 2000). Currently relevant markets are defined as those where the head office of the market is situated in an EEA State or in Gibraltar, and are subject to requirements in the state in which they are situated.

- 7.18 Article 37 exempts promotions communicated by a relevant market where those communication relate to facilities provided by the relevant market.
- 7.19 Article 41 exempts promotions communicated by a body corporate (A) directed at persons entitled to bearer instruments issued by A (or a parent or subsidiary undertaking of A) where the communication is required or permitted by the rules of a relevant market to be communicated to holders of instruments of a class which consists of or includes the bearer instruments in questions.
- 7.20 Article 67 exempts promotions which relate to an investment which is permitted to be traded or dealt in on a relevant market and which is required or permitted to be communicated by the rules of that market, the body which regulates the market or the body which regulates offers or issues of investments traded on such a market.
- 7.21 Article 68 exempts promotions which are required to be communicated by a relevant EEA market before an investment can be admitted to trading on that market and which, if included in a prospectus, would be subject to prospectus rules. These communications must not be accompanied by any information other than information which is required or permitted to be published by the rules of the market.
- 7.22 Article 69 exempts promotions communicated by a body corporate (A) which relate only to relevant investments issued to be issued by A or by another body corporate in the same group if those investments are permitted to be traded on a relevant market.

#### Why is it being changed?

- 7.23 The exemptions relating to relevant markets were designed to apply to EEA markets (including markets in the UK and Gibraltar). Following our departure from the EU it is no longer possible for firms to rely on the exemptions set out above which relate to relevant markets in the EEA and Gibraltar in so far as they relate to UK markets.
- 7.24 These exemptions are important to the way that firms trading on relevant markets do business. The proposed changes resolve the deficiency that arises from our departure from the EU.

#### What will it now do?

- 7.25 The instrument makes amendments to ensure that the definition of relevant markets includes UK markets as they did prior to the UK's exit from the EU. It will not change the status of the exemption with regards to EEA markets or markets headquartered in Gibraltar.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

## **9. Consolidation**

- 9.1 HM Treasury does not intend to consolidate the relevant legislation at this time.

## 10. Consultation outcome

### Amendments relating to MiFIR

- 10.1 HM Treasury engaged with a cross section of industry participants between January and May 2021 in order to determine that the non-discriminatory access regime is unsuitable in respect of ETDs in a UK-only context. A full public consultation was not undertaken as the non-discriminatory access regime for ETDs has not been used in the UK.
- 10.2 HM Treasury has also consulted the Financial Conduct Authority and the Bank of England to inform the development of this instrument.

### Amendments relating to the Benchmarks Regulation

- 10.3 A public consultation was not undertaken for the low carbon benchmarks delegated regulations onshoring instrument. The changes made by the EU to their delegated regulations were informed by the EU's [Technical Expert Group on sustainable finance](#).
- 10.4 HM Treasury has also consulted the Financial Conduct Authority and the UK Statistics Authority to inform the development of this instrument.

### Amendments relating to the Financial Promotion Order

- 10.5 A public consultation was not undertaken for these amendments to the Financial Promotion Order as this is a small technical amendment to ensure that these exemptions continue to apply to UK markets as they did prior to the UK's exit from the EU.
- 10.6 HM Treasury has consulted the Financial Conduct Authority on this issue.

## 11. Guidance

### Amendments relating to MiFIR

- 11.1 HM Treasury published [guidance](#) on gov.uk on 5 May 2021 stating its intention to bring forward legislation to permanently remove the non-discriminatory access regime for ETDs. This was an update to guidance originally published on 30 December 2020 which clarified that the regime would continue to apply in the UK after IP completion day, and announcing HM Treasury's intention to review the regime in a UK-only context.
- 11.2 HM Treasury does not propose to provide any further guidance in relation to this instrument.

### Amendments relating to the Benchmarks Regulation

- 11.3 HM Treasury does not propose to provide any guidance in relation to this instrument.

### Amendments to the Financial Promotion Order

- 11.4 HM Treasury does not propose to provide any guidance in relation to this instrument.

## 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 because the impact of this SI is small (the cost to businesses is < £5m per year). A de minimis Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the [legislation.gov.uk](https://www.legislation.gov.uk) website.

### **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

#### *Amendments relating to MiFIR*

13.2 The basis for the final decision not to take action to mitigate the impact on small businesses is that no access arrangements have been granted under the non-discriminatory access regime for ETDs since it entered into force, and therefore there will be no change to the operational practices of small businesses.

#### *Amendments relating to the Benchmarks Regulation*

13.3 The basis for the final decision not to take action to mitigate the impact on small businesses is that the amendments made by this instrument will have a negligible impact on the operational practices of a small number of highly specialised businesses.

#### *Amendments relating to the Financial Promotion Order*

13.4 The basis for the final decision not to take action to mitigate the impact on small businesses is that the amendments made by this instrument are not expected to have an impact on small businesses.

### **14. Monitoring & review**

14.1 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

### **15. Contact**

15.1 Ciara Mitchell at HM Treasury [ciara.mitchell@hmtreasury.gov.uk](mailto:ciara.mitchell@hmtreasury.gov.uk), Merlin Veron at HM Treasury [merlin.veron@hmtreasury.gov.uk](mailto:merlin.veron@hmtreasury.gov.uk), or Fraser Macleod at HM Treasury [fraser.macleod@hmtreasury.gov.uk](mailto:fraser.macleod@hmtreasury.gov.uk) can be contacted with any queries regarding the instrument regarding non-discriminatory access, low carbon benchmarks, or financial promotions respectively.

15.2 Tom Duggan, Deputy Director for Securities and Markets, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.

15.3 John Glen, Economic Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.



# Annex

## Statements under the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020

### Part 1A

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriateness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2  In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before IP completion day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising section 8 or part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 5 or 19, Schedule 7.	Statement of the reasons for the Minister’s opinion that the SI is urgent.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after IP completion day under powers conferred before the start of the 2017-19 session of Parliament which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority’s response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after IP completion day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before IP completion day, and explaining the instrument’s effect on retained EU law.

## Part 1B

### Table of Statements under the 2020 Act

This table sets out the statements that may be required under the 2020 Act.

<b>Statement</b>	<b>Where the requirement sits</b>	<b>To whom it applies</b>	<b>What it requires</b>
Sifting	Paragraph 8 Schedule 5	Ministers of the Crown exercising section 31 to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees

## Part 2

### Statements required under the European Union (Withdrawal) 2018 Act or the European Union (Future Relationship) Act 2020

#### 1. Sifting statement(s)

- 1.1 The Economic Secretary, John Glen, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

#### Amendments relating to MiFIR

- 1.2 This is the case because there is a low level of public interest in this instrument; these are highly technical regulatory changes that are necessary in order to ensure a coherent regulatory regime; and as no access requests have been granted under the regime, this instrument will not change the way firms currently operate.

#### Amendments relating to the Benchmarks Regulation

- 1.3 This is the case because there is a low level of public interest in this instrument; these amendments are highly technical regulatory changes that are necessary to ensure a coherent regulatory regime; and this instrument does not make substantive changes to the regulatory regime for low carbon benchmarks.

#### Amendments relating to the Financial Promotion Order

- 1.4 This is the case because there is a low level of public interest in this instrument; these are highly technical regulatory changes that are necessary to ensure a coherent regulatory regime and to ensure those using UK markets can rely on the relevant exemptions.

#### 2. Appropriateness statement

- 2.1 The Economic Secretary, John Glen, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 do no more than is appropriate”.

- 2.2 This is the case because the instrument removes the non-discriminatory regime in respect of ETDs, which does not operate effectively in a UK-only context, remedies deficiencies to provide for the effective operation of the low carbon benchmarks regime in a UK only context, and remedies deficiencies to ensure exemptions for relevant markets operate effectively in a UK only context.

### **3. Good reasons**

3.1 The Economic Secretary, John Glen, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

3.2 Non-discriminatory access for ETDs does not operate effectively in a UK-only context, as it was designed to be implemented across the EU’s single market. This instrument also remedies deficiencies to provide for the effective operation of the low carbon benchmarks regime under the Benchmarks Regulation, supporting the transparency and comparability of low carbon benchmarks in a UK-only context. Finally, this instrument remedies deficiencies in the Financial Promotion Order 2005 to ensure that exemptions related to relevant markets apply to UK markets.

### **4. Equalities**

4.1 The Economic Secretary, John Glen, has made the following statement(s):

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”.

4.2 The Economic Secretary, John Glen, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, John Glen, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

### **5. Explanations**

5.1 The explanations statement has been made in section 7 of the main body of this explanatory memorandum.