

EXPLANATORY MEMORANDUM TO
THE RECOGNISED AUCTION PLATFORMS (AMENDMENT AND
MISCELLANEOUS PROVISIONS) REGULATIONS 2021

2021 No. 494

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 as part of the legislative effort to establish a United Kingdom (“UK”) Emissions Trading Scheme (“ETS”) and accompanying emission allowance market.
- 2.2 The UK ETS was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 - it is a UK-wide greenhouse gas emissions trading scheme to encourage cost-effective emissions reductions which will contribute to the UK’s emissions reduction targets and net zero goal.
- 2.3 This instrument is being introduced to parliament now so that it will be in force before the first UK emission allowances are auctioned later this year.
- 2.4 This instrument updates existing UK provisions to reflect that the UK is no longer part of the EU ETS but has now established the UK ETS. The holding of a UK auction of emissions allowances will, if approved by Parliament, be governed by the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021.
- 2.5 This instrument is specifically concerned with amendments to financial services law that govern access to a UK ETS auction platform, what is required of an auction platform, and the auctioning and trading of emissions allowances as financial instruments.
- 2.6 The auction platform of the UK ETS is the service that allows emitters and financial intermediaries to bid on and purchase UK emission allowances via periodic auctions. These allowances are then surrendered for the purposes of emitting greenhouse gases. As part of the ETS design, the number of available allowances will decrease year-on-year. The Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021 establish in law how these auctions function in the UK ETS.
- 2.7 This instrument ensures the appropriate regulatory treatment of UK emission allowances, which includes replacing references to EU emissions allowances with references to UK emissions allowances or adding references to UK emissions allowances to existing references to EU emissions allowances (such as in relation to emissions allowances listed in paragraph 11 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001).

Explanations – What did any relevant EU or UK law do before exit day and how is it being changed?

- 2.8 The UK was formerly a participant in the EU ETS, and various aspects of that was implemented into financial services legislation (such as to allow for the trading of financial instruments which included EU emissions allowances, or the secondary trading of EU emissions allowances). Following the end of the Transition Period, the UK is operating a new UK ETS. Consequently, this instrument makes consequential amendments to UK financial services to incorporate the UK ETS. In doing that, the amendments do not remove the ability to trade or regulate financial instruments based on EU emissions allowances.

Financial Services and Markets Act 2000 (“FSMA”) (regulation 2)

- 2.9 FSMA provides the framework within which the Financial Conduct Authority (“FCA”) operates. The Act makes provisions related but not limited to: the definition of the scope of regulated activities; the control of financial promotion; and powers of the FCA to authorise, regulate, investigate and discipline authorised persons.
- 2.10 This instrument amends FSMA to continue the FCA’s power to suspend auctioning of emission allowances if deemed necessary as part of its functions derived from market abuse regulations.
- 2.11 This instrument also ensures that FSMA refers to the correct definition of emission allowance as is necessary for the functioning of the UK ETS.

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (“RAO”) (regulation 3)

- 2.12 The RAO specifies that “regulated activities” are certain activities carried on by way of business in relation to an investment of a specified kind. To carry out regulated activities by ways of business in the United Kingdom, persons must be authorised by the FCA or PRA (or exempt). Contravention of that prohibition is a criminal offence.
- 2.13 This instrument amends the RAO to reflect the creation of the new UK ETS. It ensures that the act of bidding in a UK emission allowance auction is a regulated activity and, as such, gives the FCA the appropriate oversight over this activity. It also updates cross-references so that they refer to appropriate UK legislation.
- 2.14 This instrument further amends the RAO to bring UK emission allowances into the scope of what is considered a ‘financial instrument’. This is key in establishing the correct regulatory treatment of UK allowances, ensuring – for example – the application of market abuse rules and associated controls.

The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (“FPO”) (regulation 4)

- 2.15 The FPO contains the framework regarding promotion of financial activities or investments. It specifies the kinds of activities and investments which are “controlled” for the purposes of FSMA. Any invitation or inducement which invites or induces someone either to: (a.) enter into an agreement which constitutes a controlled activity or (b.) exercise rights conferred by a controlled investment is subject to restriction which precludes anyone from doing so unless either they are an authorised person within the meaning of FSMA (or the content of the communication is approved by an authorised person). Contravention of this prohibition is a criminal offence.

- 2.16 This instrument updates the FPO to reflect the introduction of a UK emissions allowance and ensures that they are appropriately covered by this Order and the prohibitions it contains. This means that the promotion of investment in UK emission allowances can only be undertaken by persons with the correct permissions.

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (regulation 5)

- 2.17 The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 specify the circumstances in which “confidential information”, within the meaning of FSMA, can be disclosed. FSMA provides that—except as permitted by such regulations—confidential information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the consent of the person from whom the primary recipient obtained the information and (if different) the person to whom it relates. Disclosure of confidential information is an offence under FSMA.

- 2.18 This instrument updates these regulations so that the FCA can correctly discharge its functions with regard to the disclosure of information relating to the UK ETS and emissions allowance holdings. Such information must be disclosed in the running of the UK ETS to allow for proper functioning and oversight of the scheme.

The Recognised Auction Platform Regulations 2011 (regulation 6)

- 2.19 The Recognised Auction Platform Regulations 2011 implemented EU obligations on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances in the EU ETS. The regulations also set out the procedure for applying to be a recognised auction platform in the context of auctioning of emissions allowances (limiting the eligibility solely to recognised investment exchanges), and give the regulator oversight of recognised auction platforms.

- 2.20 This instrument updates these regulations to reflect that emission allowances auctions are now to be carried out for a UK ETS and will involve the auctioning of UK emission allowances. It also amends cross-references to previous greenhouse gas auctioning legislation to reflect the new legislative structure behind the UK ETS. This instrument sets out what persons or firms are permitted to access the UK auction platform, primarily those based in the UK

The Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013 (regulation 7)

- 2.21 The purpose of this Order is to apply certain provisions of FSMA to retained EU law to ensure the enforceability of these FSMA provisions.
- 2.22 This instrument updates these regulations to enable the FCA to exercise designated FSMA enforcement powers in respect of breach of the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021. This ensures that the FCA has the investigation and enforcement powers to fulfil its duties with regard to preventing financial misconduct in the context of the auctioning and trading of emission allowances.

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (regulation 8)

- 2.23 These regulations give effect to agreed standards that promote implementation of legal, regulatory and operational measures for combatting money laundering and other such financial crimes. They implement the UK Money Laundering Directives and related EU legislation.
- 2.24 This instrument amends these regulations so that they refer to the correct legislation as part of the UK Emission Trading Scheme now that the UK is no longer participating in the EU ETS. Accordingly, this instrument ensures the relevant prohibitions against financial crimes apply to the UK ETS and the trading of UK allowances.

Market Abuse Regulation (regulation 9)

- 2.25 The UK Market Abuse Regulation (“UK MAR”) sets out a regulatory framework on market abuse including prohibitions on activities such as insider dealing, unlawful disclosure of inside information and market manipulation. UK MAR also includes measure to enable the FCA to detect and market abuse and supports the FCA being able to cooperate with relevant UK and EU authorities in relation to emission allowances.
- 2.26 This instrument amends UK MAR so that it includes the UK ETS. The result of these amendments (as well as changes to the financial instrument definition as a result of amendments to the RAO) is that UK MAR covers the primary and secondary market trading of UK emission allowances and the secondary market trading of EU emission allowances (in all cases, where these activities fall within the territorial scope of UK MAR).
- 2.27 The Market Abuse (Amendment) (EU Exit) Regulations 2019, which addressed deficiencies in retained EU law in relation to market abuse, kept provisions in relation to the secondary market trading of EU emission allowances under the EU Emission Trading Scheme. The Securities Financing Transactions, Securitisation, and Miscellaneous Amendments (EU Exit) Regulations 2020 removed some of the changes initially included in The Market Abuse (Amendment) (EU Exit) Regulations 2019 (prior to their taking effect) to facilitate the final changes to UK MAR being made in this instrument to include the UK ETS.
- 2.28 The amendments made by this instrument to UK MAR include:
- 2.29 The scope has been changed to apply to behaviours or transactions, including bids, relating to the auctioning of emission allowances on an auction platform recognised under the UK Recognised Auction Platforms Regulations 2011.
- 2.30 A new definition for UK Emission Allowance Market Participant definition (“UK EAMP”) has been inserted. Broadly, a UK EAMP is a person who trades or bids, directly or indirectly in UK emission allowances and who has emissions or rated thermal input related to their UK installations and activities under the UK ETS which exceed either of the minimum thresholds referred to in UK MAR. A UK EAMP is subject to requirements to disclose inside information, maintain insider lists, and to notify “persons discharging managerial responsibilities” transactions for UK and, in certain circumstances, EU emission allowances.
- 2.31 The definition of inside information for emission allowances has been updated so that, broadly speaking, for participants in the market for UK emission allowances who have aggregate emissions or thermal rated input at or below the minimum thresholds

referred to in UK MAR, information about their physical operations related to their UK installations and UK aviation activities is not considered to be inside information as it does not have a significant price effect on the price of emission allowances.

- 2.32 The exemptions from UK MAR have been amended to include activities of certain persons and bodies within the UK and devolved governments where these concern UK emission allowances and are carried out in pursuit of climate policies of the UK or any part of the UK or in accordance with any international agreement to which the UK is a party. This is so that the UK and devolved governments might effectively pursue carbon reduction goals.
- 2.33 UK MAR continues to apply in relation to the secondary market trading of EU emission allowances where these activities fall within the territorial scope of UK MAR. The prohibitions concerning insider dealing, unlawful disclosure of inside information and market manipulation continue to apply to EU emission allowances. The definition of inside information for emission allowances continues to exclude information about the physical operations of participants in the market for EU emission allowances relating to EU installations or EU aviation activities, on the basis that such information is deemed not to have a significant effect on the price of emission allowances. EAMPs as identified under EU MAR continue to be included in provisions concerning insider dealing and market soundings.

Commission Delegated Regulation (EU) 2016/522

- 2.34 This Commission Delegated Regulation includes setting the minimum emission and rated thermal input thresholds which a participant in the UK emission allowance market needs to exceed in relation to their UK installations and UK aviation activities under UK ETS to qualify as a UK EAMP under UK MAR.
- 2.35 The Delegated Regulation maintains the minimum threshold of carbon dioxide (CO₂) equivalent as 6 million tonnes a year; and the minimum threshold of rated thermal input as 2,430 MW.
- 2.36 The Delegated Regulation continues to apply the thresholds at the group level such that they relate to the business of the participant in the emissions allowance market as well as their parent and related undertakings. The instrument makes changes to apply the threshold to UK aviation activities and UK installations related to the UK ETS.
- 2.37 The Treasury may make regulations under UK MAR to change the minimum thresholds. The Treasury may consider amending the minimum thresholds in the future to make them more suitable for size of the UK emissions market.
- 2.38 This regulation codifies rules to reinforce the integrity of benchmarks as used in the pricing of financial instruments and contracts.
- 2.39 This instrument amends these regulations to ensure that auction platforms recognised under the Recognised Auction Platforms Regulations 2011 are venues from which trading and price data can be used in the calculation of a regulated data benchmark. Currently, the auction platform of the UK ETS is the only such platform.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The operation of this instrument is dependent on the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021, laid before Parliament in draft on 11 February 2021.

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)

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.3 The powers under which this instrument is made cover the entire United Kingdom (sections 21, 22, 39, 286, 349 and 428 of the Financial Services and Markets Act 2000, and section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 and the territorial application of this instrument is not limited by those Acts or by this instrument.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is UK-wide.
- 4.2 The territorial application of this instrument is UK-wide and some provisions have extraterritorial application where they amend legislation that has effect outside the UK.

5. European Convention on Human Rights

- 5.1 The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

“In my view the provisions of the Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument makes a number of fixes under section 8 of the European Union (Withdrawal) Act 2018, amending primary and secondary legislation, and amending parts of retained EU law to address deficiencies arising from the withdrawal of the UK from the EU. The instrument also makes amendments to existing financial services law under powers in the Financial Services and Markets Act 2000 (sections 21, 22, 39, 286, 349 and 428).
- 6.2 This instrument amends primary legislation: the Financial Services and Markets Act 2000.
- 6.3 This instrument amends the following secondary legislation: the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005; the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001; of the Recognised Auction Platforms Regulations 2011; the Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013; and, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

- 6.4 This instrument amends the following retained EU law: Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (Market Abuse Regulation); Commission Delegated Regulation (EU) 2016/522; and Regulation (EU) 2016/1011.
- 6.5 In summary, this instrument uses Section 8 of the EUWA to adjust the UK statute book so that it reflects the UK's status outside of the EU and the creation of a UK ETS.
- 6.6 This instrument should be considered in reference to other pieces of ETS-related legislation: the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021 which creates the legislative framework for auctions to function; and the Greenhouse Gas Emissions Trading Scheme Order 2020 ("GGETS Order") which legally established the UK ETS.

7. Policy background

What is being done and why?

- 7.1 At the end of the Transition Period (on 31st December 2020), the UK ceased to participate in the EU ETS, subject to its obligations in the Withdrawal Agreement pursuant to Article 96(2) in respect of 2020 compliance and the Protocol on Ireland/Northern Ireland. A UK ETS, operational from 1st January 2021, was introduced through the GGETS Order as a replacement carbon pricing policy to stimulate emissions reduction from large emitters within the industrial, power and aviation sectors that previously participated in the EU ETS.
- 7.2 This instrument is part of the process for creating a functional UK emission allowance market.
- 7.3 The ETS incentivises carbon reductions by putting a market value on each tonne of greenhouse gas emitted. Emission allowances are issued via free allocation or auction, and then can be traded between emitters or intermediaries until they are used to cover an emitter's greenhouse gas output. The quantity of allowances in the market is intended to reduce year-on-year and thus bring down the overall volume of greenhouse gasses emitted. The UK ETS is a major plank in the Government's strategy to meet its "Net-Zero by 2050" commitment.
- 7.4 This instrument establishes an oversight role for the FCA in relation to the auctioning of emission allowances. It sets the rules for access to the ETS auction platform and allows the FCA to monitor and regulate the trading of UK emissions allowance. The FCA's role in the new UK ETS mirrors its role in the UK element of the EU ETS.
- 7.5 This instrument is being introduced now so that the necessary regulatory framework for the auctioning and trading of UK emission allowances is in place for the start of auctioning in the ETS later this year.

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

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU. 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 There are currently no plans to consolidate the relevant legislation.

10. Consultation outcome

- 10.1 Between 2nd May 2019 and 12th July 2019, the UK Government and Devolved Administrations ran a public consultation seeking views on the UK's future carbon pricing policy. This consultation stated that a UK ETS linked to the EU ETS is the UK Government and Devolved Administrations' preferred carbon pricing policy, and that if this could not be secured alternative options included a standalone UK emissions trading scheme, a carbon emissions tax, or remaining in Phase IV of the EU ETS. The consultation set out policy proposals for a UK ETS and sought views on these proposals from stakeholders.
- 10.2 Alongside the consultation, the UK Government and Devolved Administrations jointly commissioned the Committee on Climate Change (CCC) for advice on both a standalone and linked UK ETS.
- 10.3 The public consultation received over 130 responses, from a range of stakeholders including current EU ETS participants and NGOs, with the majority supporting most of the proposals on the design of a UK ETS.
- 10.4 The Government Response to the consultation was published on 1st June 2020.
- 10.5 Full details of the consultation and the response can be found at: <https://www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing>
- 10.6 The Energy White Paper was published on 14th December 2020. This paper confirmed that the UK would introduce an ETS to replace our membership of the EU ETS following the end of the Transition Period.
- 10.7 HM Treasury has not undertaken a separate consultation on this specific instrument but has engaged extensively with the FCA during the drafting process. The FCA will separately consult on its own rule changes that will be enacted as a result of these regulations.

11. Guidance

11.1 The FCA will provide guidance on how these regulations apply to the UK ETS.

12. Impact

- 12.1 There is no significant, impact on business, charities or voluntary bodies.
- 12.2 The main impact on the public sector is that on the FCA, but this is limited as this instrument only serves to continue the FCA's function in the UK ETS in the same manner it had a role in the EU ETS. The FCA continues to have a role in relation to secondary trading of the EU ETS on UK markets.
- 12.3 An Impact Assessment has not been prepared for this instrument because, in line with Better Regulation guidance, HM Treasury considers that the net impact on businesses will be less than £5 million a year. Due to this limited impact, a de minimis impact assessment has been carried out.

13. Regulating small business

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

14. Monitoring & review

14.1 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

15. Contact

15.1 Thomas Shields at HM Treasury (email: Thomas.Shields@hmtreasury.gov.uk) can be contacted with any queries regarding the instrument.

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

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

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), 9 and 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
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 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), 9 and 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), 9 and 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), 9 and 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 exit 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), 9, and 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 sections 10(1), 12 and 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 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after exit 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 exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 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.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

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

“In my view the Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021 does no more than is appropriate”.

- 1.2 This is the case because: these regulations do no more than necessary to amend pre-existing financial services law to reflection the creation of the UK ETS now that UK membership of the EU ETS has ceased as a consequence of UK withdrawal from the Union.

2. Good reasons

- 2.1 The Economic Secretary to the Treasury (John Glen MP) 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”.

- 2.2 These are: these provisions ensure the stable and consistent functioning of a UK emission market, which is established for the functioning of the UK ETS. The UK ETS has been created as a consequence of the UK’s withdrawal from the EU.

3. Equalities

- 3.1 The Economic Secretary to the Treasury (John Glen MP) has made the following statements:

“The Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021 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”.

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

“In relation to the Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021 instrument, I, John Glen MP 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”.

4. Explanations

- 4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.