

<p><b>Title:</b> Emissions Trading Platform (The Recognised Auction Platforms Regulations 2011; The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Business in the Regulated Sector) Order 2011; The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Business in the Regulated Sector) Order 2012; The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012)</p> <p><b>PIR No:</b> N/A</p> <p><b>Original IA/RPC No:</b> N/A</p> <p><b>Lead department or agency:</b> HM Treasury</p> <p><b>Other departments or agencies:</b> <b>Financial Conduct Authority (FCA)</b></p> <p>Contact for enquiries: <a href="mailto:Samuel.Hill@hmtreasury.gov.uk">Samuel.Hill@hmtreasury.gov.uk</a></p>	<b>Post Implementation Review</b>
	<b>Date:</b> 13/03/2019
	<b>Type of regulation:</b> EU
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 2011-2012
	<b>Recommendation:</b> Keep
	<b>RPC Opinion:</b> N/A

### 1. What were the policy objectives of the measure?

The aim of the four interrelated regulations being reviewed here was to comply with mandatory EU requirements, so UK market participants can participate in the EU-wide trading of carbon emissions allowances under the EU's Emissions Trading System. This system sets a gradually reducing cap on Member States' emissions and provides firms with tradable emissions allowances that equal that year's cap.

The regulations also enable UK Recognised Investment Exchanges (RIEs) to become auction platforms for this trading activity, and they also provided the competent national authority, the Financial Conduct Authority (FCA) in the UK's case, with powers to authorise and supervise these trading platforms and to impose penalties on an auction platform that fails to comply with the provisions of the regulations.

### 2. What evidence has informed the PIR?

The implementation of the regulations has been tested in consultation with key stakeholders. We have worked with the FCA to understand which bodies have applied for authorisation and to gain information on FCA enforcement actions relating to the regulations. We reached out to industry, specifically the Intercontinental Exchange (ICE), the only RIE that applied and became authorised as an auction platform following the introduction of the regulations, which provided feedback on certain pieces of legislation.

### 3. To what extent have the policy objectives been achieved?

The fact that the regulations have provided emissions allowance trading participants with an opportunity to lawfully bid and trade in these markets demonstrates the positive impact of the regulations in ensuring a level-playing field for UK market participants vis-à-vis EU counterparts.

## SCS of Securities, Markets and Banking

Signed: *Clare Bolingford*

Date: 13/03/2019

**SCS of Better Regulation Unit**

Signed: ***Gemma Peck***

Date: ***28/02/2018***

Sign-off for Post Implementation Review: Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: ***John Glen MP, Economic Secretary to the Treasury***

Date: ***14/03/2019***

## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### **4. What were the original assumptions?**

An original assumption was that only one RIE would apply for authorisation with the FCA, and this has been realised as expected. Moreover, the regulations aimed to enable certain categories of individuals to apply for admission to bid in auctions of carbon emissions allowances by designating their eligibility under the regulations. This has occurred as the FCA has received participation applications from these categories of individuals.

### **5. Were there any unintended consequences?**

We expected that only one RIE would apply for FCA registration, so in this respect we have not found any unintended consequences. Moreover, no industry bodies have contacted the FCA regarding these regulations, which would indicate that they have not caused any unintended consequences in the wider financial services industry. However, while ICE did note that the regulations restrict access to markets, where brokers and other liquidity providers cannot participate, we believe that these restrictions enhance the FCA's supervisory capabilities in relation to these markets.

### **6. Has the evidence identified any opportunities for reducing the burden on business?**

In their response, ICE noted that the regulations have improved security in the emissions trading market, therefore providing businesses with added protections which they are not required to enact themselves.

### **7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?**

The cost of implementation in other Member States is not available.

## **Recommended Next Steps (Keep, Amend, Repeal or Replace)**

The PIR recommends that the regulations are renewed. We have seen that the FCA has not enforced against firms in respect of the legislation, and no firms have submitted formal complaints to the FCA due to them. Moreover, ICE explained that the regulations do establish barriers to entry into the emission trading market, but the increased protection to the market of these barriers is an effective measure of the regulations.