SETTING THE LEGAL FRAMEWORK
FOR TRANSACTION REGISTRIES

WORKSHOP “BUILDING REGISTRIES TO SUPPORT THE NEXT GENERATION OF CARBON MARKETS”
PARTNERSHIP FOR MARKET READINESS

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1. Introduction to approach

- What’s in a name?
- No “one-size fits all” solution
- A sliding scale of legal and functional considerations
- Adoption of a modular approach
A sliding scale of platform functionality

Degree of Functionality

- Reporting & Compliance
  - Recording
  - Reporting

- Offset Schemes
  - Issuance
  - Cancellation
  - Surrender
  - Retirement

- Cap & Trade
  - Transfer, Trade

- Cap & Trade+
  - Settlement (real time)
2. Factors influencing the choice

- **Purpose**
- **Scope**
- **Scale**
- **Potential for growth**
3. The building blocks

- Laws enacted at multiple levels within a legal framework
- Laws that set out monitoring and reporting obligation
- Laws to mandate the creation of the platform (e.g. as a reporting database)
- Laws to mandate creation (registration) or issuance (serialisation) of a unit
- Laws to facilitate the consequences of a unit’s surrender, cancellation and retirement
- Laws to provide for the transferability of the underlying unit (including tracking)
- Laws to establish the authority of the Register/Registry administrator
3. The building blocks

- Laws to address the tax consequences of a transfer of a unit
- Laws to guide the balance sheet accounting treatment of a unit
- Laws to prescribe consequences of non-compliance and access to units
- Laws to protect the sensitivity of the data collected as part of the registry function
3. The building blocks

- Laws to determine the legal nature of the carbon unit.
- Laws to determine the insolvency treatment registry account holders.
- Laws aimed at avoiding abusive market behaviour.
3. The building blocks

- Laws to determine the inclusion/exclusion of the market activity within the scope of financial regulation
- Laws to ensure cyber security of registry users
- Laws to bridge the conflicts of laws where linking is contemplated
4. Lessons from existing mechanisms

Directors banned over £5.5m land and carbon credit scam
4. Lessons from existing mechanisms

VAT Fraud

Phishing, cyber theft and hacking

Management of market data
4. Lessons from existing mechanisms

Carbon credit gang jailed over £38m fraud
Jun 19, 2012

Carbon credit scam would have cost Britain £2bn
Sunday 24 June 2012

EU carbon credit system still 'at risk of VAT fraud'
2 Jul 2015
## 5. Common recommendations and guidance

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<th>Recommendation</th>
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<td>1</td>
<td>Build the Register/Registry in a manner commensurate with the nature, scope and scale of the proposed Market Mechanism</td>
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<td>2</td>
<td>Identify what is required to establish the immediate legal framework</td>
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<td>Identify other areas of law likely impacted</td>
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<td>Establish a plan to coordinate and consult on issues</td>
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<td>5</td>
<td>Recognise limitations</td>
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<td>Do not avoid the hard issues</td>
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<td>7</td>
<td>Ensure allocation of responsibility is clear and unambiguous</td>
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<td>8</td>
<td>Recognise that the success of a market product is dependent on the market participant’s confidence in it</td>
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Questions
Thank you for your attention

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