

Consultation on the functioning of the Auctioning Regulation pursuant to the scheme for greenhouse gas emission allowances trading within the Community (EU ETS).

Fields marked with * are mandatory.

Introduction

Auctioning is the default method of allocating allowances within the EU emissions trading system (EU ETS, established by Directive 2003/87/EC). This means that the majority of allowances are brought into circulation by auctioning and businesses have to buy an increasing proportion of allowances through auctions or in the secondary market. Auctioning is the most transparent allocation method and puts into practice the principle that the polluter should pay with no distortion in the markets.

Following a [detailed consultation in 2009](#) and an in-depth [Impact Assessment](#) of several options, the modalities for conducting auctions of allowances (constituting the primary market of the EU ETS) were established through the [Auctioning Regulation](#) (Regulation (EU) No 1031/2010) in 2010 (Regulation on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to the EU Emission Trading System). The Auctioning Regulation was amended in 2011 to determine the volume of greenhouse gas emission allowances to be auctioned prior to 2013, in 2013 to improve certain technical aspects concerning procurement procedures for appointing auction platforms and the auction monitor, and the holding of auctions, and otherwise only to list the auction platforms appointed to conduct the auctions and to incorporate the [Backloading Regulation](#) (Regulation (EU) No 176/2014).

Europe's carbon market was the first cap-and-trade system in the world to put in place large-scale auctioning as of 2012. In no other existing carbon market have as many allowances, covering such a large proportion of the total allowances issued, been put in circulation via auctioning as in the EU ETS. To date over 700 auctions for more than 2 billion EU ETS emission allowances (hereafter "allowances" this reference also includes allowances for aviation) having taken place without any noticeable distortion or malfunctioning, indicating that the infrastructure established is performing well.

Further amendments of the Auctioning Regulation are required to make adjustments to certain modalities stemming from the forthcoming introduction of the Market Stability Reserve (MSR) ([Decision 2015/1814/EU](#)). This consultation addresses two objectives. Firstly, it aims to collect stakeholders' views on the changes to the Auctioning Regulation directly related to the technical aspects of implementation of the MSR (Decision EU 1814/2015). In addition, this consultation

contains questions that allow stakeholders to share their views on the functioning of the Auctioning Regulation in order to assess the extent to which the more than 700 auctions of allowances executed to date have been implemented effectively and efficiently and to identify any potential areas for further technical improvements. The functioning of the ETS Directive was the subject of a recent consultation (Consultation on revision of the EU Emission Trading System (EU ETS) Directive, carried out 19/12/2014 - 16/03/2015). In order to avoid overlap, the scope of this consultation is limited to those aspects directly related to the implementation of auctions for emissions allowances covered in the Auctioning Regulation.

Profile

* P.1 What is your profile?

Other



[1] The category of micro, small and medium-sized enterprises (SMEs) is considered to be made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million (are defined in the [EU recommendation 2003/361](#)).

* Please explain:

Business association representing carbon market participants

* Please enter the name of your business/organisation/association etc.:

IETA

P.2 Please enter your contact details:

* Street & number:

* Office/apt:

* Locality:

* Postal code:

* Country:

* Telephone:

* Email:

P.3 If relevant, please state if the sector/industry you represent falls within the scope of the EU ETS:

* P.4 Please state what sector you/ the entity you represent is active in/ represents:

Select all that apply

- ☒ Electricity generation
- ☐ Non-electricity energy sector
- ☒ Non-energy-intensive manufacturing sector
- ☒ Energy-intensive manufacturing sector
- ☐ Aviation sector
- ☒ Financial sector
- ☒ Other

* P.5 Since the introduction of large scale auctions of allowances (from 2012 to 2015) have you/ the entity you represent participated directly or indirectly in the primary market for allowances (auctions of allowances)?

Select all that apply

- ☐ Yes, directly
- ☐ Yes, via intermediary
- ☒ No

* P.6 In the past year (2015) have you/ the entity you represent directly or indirectly participated in the primary market for allowances (auctions of allowances)?

- ☐ Yes, directly
- ☐ Yes, via intermediary
- ☒ No

* P.7 Have you/ the entity you represent ever been denied direct access to auctions of allowances?

Never requested direct access to auctions of emission allowances

* P.8 In 2015 have you/ the entity you represent participated in the secondary market for allowances (in non-auction exchanges or over the counter)?

Select all that apply

- ☐ Yes, directly in non-auction exchanges
- ☐ Yes, via intermediary in non-auction exchanges
- ☐ Yes, directly over the counter
- ☐ Yes, via intermediary over the counter
- ☒ No

* P.9 From 2012 to 2014 have you/ the entity you represent participated in the secondary market for allowances (via non-auction exchanges or over the counter)?

Select all that apply

- ☐ Yes, directly in non-auction exchanges
- ☐ Yes, via intermediary in non-auction exchanges
- ☐ Yes, directly over the counter
- ☐ Yes, via intermediary over the counter
- ☒ No

* P.10 Please indicate your preference for the publication of your response on the Commission's website: (Note that whatever option is chosen, your contribution may still be subject to requests for 'access to documents' under Regulation 1049/2001):

- ☒ Under the name given: I consent to publication of all information in my contribution and I declare that none of it is subject to copyright restrictions that prevent publication;
- ☐ Anonymously: I consent to publication of all information in my contribution and I declare that none of it is subject to copyright restrictions that prevent publication;
- ☐ Not at all — please keep my contribution confidential (it will not be published, but will be used internally within the Commission).

P.11 Transparency Register ID number (if you/ the entity you represent is registered):

715799950214

Questions

CHAPTER II of the Auctioning Regulation covers general provisions on the design of the auctions.

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Q.1 Articles 4 to 7 of the Auctioning Regulation lay out provisions determining which products are to be auctioned, the auction format, how the submission and withdrawal of bids is to take place, how to determine the auction clearing price and how to resolve tied bids.

In the light of your experience with the auctions performed, do you consider changes to be necessary regarding the general provisions on the design of the auctions to further improve the effectiveness and efficiency of the auctions?

- ☐ Yes
☒ No

Chapter III of the Auctioning Regulation covers provisions regarding the auction calendar.

- * Q.2 The date and volumes of every auction are currently set on the basis of calendar years (from January to December). Following the 2015 MSR Decision (Decision 2015/1814/EU), in principle for each year, from 2019 onwards, a certain number of general allowances may need to be deducted or added to the number of allowances to be auctioned over a 12-month period running from September to August. When this happens, if the calendar-year cycle is kept for establishing the auction calendars, the volumes to be auctioned in September to December of each year would have to be revised, and the corresponding auction calendars amended.

Once the MSR is in place, would you:

- ☐ a) prefer to continue the auction calendars on a calendar-year cycle (January to December);
☐ b) prefer the auction calendars to be changed to a September to August cycle;
☒ c) have no preference?

- * Q.3 Please explain the reasons for your answer to the previous question:

IETA members have different views on whether the auctioning calendar should be amended. The choice depends on a preference for either introducing a one-off modification or regularly adjusting the auctioning calendar to match the compliance cycle. We detail below some of the arguments.

- Changing the auction calendar from to September to August would be in line with the MSR adjustment from September 2019 onwards. This will ensure full visibility to market participants over the next 12 months and will avoid the need for an adjustment of auctions part-way through the existing Jan-December calendar. One single adjustment of the auction volumes would be possible, instead of a continuous cycle of revision and adjustment.

- On the other hand, maintaining the auction calendars on a calendar-year cycle (January-December) would provide visibility of demand in a given year, in line with the compliance period, which runs from January to December. The market should be able to anticipate modifications to the auctioning calendar.

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Q.4 Since auctions started, the monthly auction volume for August has always been substantially lower than in other months, pursuant to Article 8(5) of the Auctioning Regulation. Article 8(5) of the Auctioning Regulation establishes that the volume to be auctioned is to be distributed evenly over the auctions held over a given year, except that volumes in August auctions are to be half the volumes of auctions in other months. This provision would also apply to annual cycles when the implementation of the MSR Decision would lead to deductions in the number of allowances to be auctioned.

Do you consider that:

- ☒ a) maintaining the reduction of volumes in August is appropriate;
- ☐ b) the reduction of volumes in August should be modified?

Chapter IV of the Auctioning Regulation covers provisions regarding access to the auctions.

- ★ Q.5 Article 8(2) of the Auctioning Regulation stipulates that auctions should not occur during public holidays that affect international financial markets, or in the 2 weeks over Christmas and New Year.

As a result, although the volume of each auction (except for those in August) is the same, by virtue of variations in the number of auctions within each month, the total volume auctioned varies in different months. In particular, there is often a sharp reduction in total volumes auctioned in December.

Do you consider that the existing provisions (the volume to be auctioned is distributed evenly over the year, leading to the auctioning of a fixed amount per auction but a differing amount per month) are:

- ☒ a) Appropriate;
- ☐ b) should be modified to ensure a fixed volume per month;
- ☐ c) should be modified in another way?

- ★ Q.6 Do you have any further comments regarding the provisions of the Auctioning Regulation on the auction calendar?

Further comments in relation to Q4

Q4: There are pros and cons to maintaining a reduced volume of auctions in August, depending on the criteria taken into consideration.

- When looking at the evidence of prices (we are happy to provide this on request), it shows that prices have consistently increased during the month of August, as a result of reduced auction volumes. This would suggest it makes sense to modify the reduced volumes of auctions in August and treat it like other months of the year, in order to avoid undue price volatility..
- When looking at the auction cover ratios (available on request), i.e. the sum of total volume bid relative to the volume auctioned, the ratio is similar in August to the rest of the year. Based on this criteria, it might make more sense to maintain the reduced auction volumes in August to avoid causing a problem of low liquidity in auctioning during that month.
- From a compliance perspective, although it is difficult to generalise assumptions to all actors, some players rely on auctions being distributed

evenly throughout the year. From this perspective, it makes sense not to have a lower auction volume in August in order to avoid liquidity concerns and too few auctions in certain months, as this may not be reflected in lower productions levels.

Other comments relating to the auction calendar:

In general, auctioning evenly over the year is appropriate. The aim should be to achieve the highest liquidity possible. Hence, there is no reason per se to auction the same amount of allowances in each month. In particular, a reduction in auction volumes in December is recommended due to lower participation in auctions at that time of year because of holidays.

However, certain industrial actors recommend a fixed volume of auctions per month, to match the need for liquidity throughout the year, which does not necessarily decrease in holiday months.

For the EUAA auctions, the fact that it is a much more compliance-driven market than EUAs should be more closely reflected in the timing of volumes. Previous EUAA auctions show that interest in the auctions is highest at the beginning of the year before 31 March compliance deadline, as well as in December for the settlement of futures. Instead of an even distribution of auction volumes across the year, offering higher volumes in the first quarter of the year and in December, may be more suitable. This is important to increase participation, in particular given the relatively small size of the EUAA market.

- ★ Q.7 Article 18 of the Auctioning Regulation establishes that bidding in the auctions of emission allowances is restricted to: a) ETS operators bidding on own account; b) investment firms authorised under the Markets in Financial Instruments Directive (MiFID) bidding on their own account or on behalf of their clients; c) credit institutions authorised under the Capital Requirements Directive (CRD) IV bidding on their own account or on behalf of their clients; d) business groupings of persons listed in point (a) bidding on their own account and acting as an agent on behalf of their members; (e) public bodies or state-owned entities of the Member States that control any of the persons listed in point (a); and f) Persons exempt under Markets in Financial Instruments Directive (MiFID) (for an ancillary activity) but authorized by the competent authorities of Member states bidding either on their own account or on behalf of clients of their main business.

To date, some means of access to auctions have been more used than others. Moreover, the implementation of Markets in Financial Instruments Directive (MiFID) II may *de facto* indirectly influence the portfolio of persons falling under the eligible categories listed in Article 18 of the Auctioning Regulation.

Do you consider this list of persons eligible to participate in auctions adequate?

- ☒ Yes
☐ No
☐ No opinion

Chapter VIII of the Auctioning Regulation covers provisions regarding the appointment of auction platforms for Member States opting-out of the Common Auction Platform.

- ★ Q.8 As explained in Recital 8 to the Auctioning Regulation, in order to mitigate any risk of reduced competition in the carbon market, in its Article 30 the Auctioning Regulation provides the possibility for Member States to opt out of the Common Auction Platform by appointing their own auction platforms under certain conditions. This has led to the appointment of a limited number of opt-out auction platforms in parallel to the Common Auction Platform, and the experience obtained to date indicates that the resulting auctioning process has been open, transparent, non-discriminatory and without any distortion or market malfunction.

Do you agree that this set-up, with a Common Auction Platform and a limited number of opt-out platforms, performs satisfactorily?

Yes

- ★ Q.9 Do you have any recommendations for improvements in this set-up?

IETA believes the current set-up works well, although there would be concerns if the number of opt-out platforms were to increase since this would likely increase costs and lead to market fragmentation. There is a preference for having one platform only.

The functioning of opt-out platforms could further be improved by waiving the requirement for minimum auction volumes in each auction. This would allow more flexibility to optimise the auction calendar to reflect market needs.

Chapter XVI of the Auctioning Regulation covers provisions regarding transparency and confidentiality in performing the auctions.

- ★ Q.10 Articles 60 to 63 of the Auctioning Regulation lay down provisions regarding the announcement and notification of auction results, publication of other non-confidential information related to the performance of the auctions and protection of confidential information related to the performance of the auctions.

In the light of your experience with the auctions performed, are there any changes regarding the transparency and confidentiality provisions that you would deem necessary to further improve effectiveness or efficiency?

If an auction has failed, it would be useful to know why in a timely manner. Greater harmonisation and faster publication of the auction results would be helpful.

Auction statistics could be further improved: for example, statistics on the

types of bidders, figures on demand, etc. should be made public after each auction and not only as a monthly summary. Greater formalisation of such statistics would be in the interest of overall market transparency.

Higher transparency on auction results: participants in the auction receive the auction result slightly before the rest of the market, which gives participants an advantage and is not in line with the objective of a fully transparent market.

Visibility on the demand curve behind the marginal auction clearing price could help operators in understanding market trends

***Q.11 Do you have any other specific comments on the Auctioning Regulation, and in particular on the way EU ETS auctions have been designed and implemented, that you would like to share?**

Additional feedback in relation to:

Q1: Overall, the design of the auctions has proven successful and IETA does not believe that changes are necessary to improve the effectiveness and efficiency of auctions. However, we would like to share some reflections of various market participants for further consideration.

- Tied bids

Some market participants have suggested that tied bids should be pro-rated rather than allocated randomly, which may be considered fairer but risks adding complexity. Others believe that using the price random allocation method to resolve tied bids has proven successful to avoid strategic bidding. Nevertheless, it is of utmost importance that allocation on a 'first come, first served' basis is avoided.

- Harmonisation of auction volumes

There may be some potential in further aligning procedures across auctioning platforms based on the standards now established in the market. As an example, harmonising auction lot sizes across platforms to lot sizes on the secondary market (or allowing single EUA sizes rather than lots) would simplify trading for traders active on several platforms and for small players. It would enable market participants, especially smaller ones, to perfectly match their need and not have to buy lot sizes. However this could also create a risk of an uneven amount of EUAs being difficult to resell to the market.

Q7: IETA believes the list of eligible participants in auctions is adequate, however we would like to point out some further considerations. The paramount argument is to ensure market integrity and, whilst we don't think there is justification at this stage to modify the list of participants, further assessment of the following ideas could be worthwhile.

- Extending participation to other players: is there a case to be made for other participants to be involved in auctions? This could further improve liquidity in the auctions and the functioning of the overall market but needs to be assessed in the context of the implications for market integrity: there are concerns over involving more non-compliance actors if these players are not regulated in the same manner as those already participating in auctions.
- Reviewing participation criteria for operators, particularly for

companies holding a minority shareholding of an operator: Under current rules a firm with up to 49% share in an operator cannot participate in the auctions. There may be merit in looking at this threshold in more detail.

- Allowing market participants based outside the EU ETS region (Switzerland, United States, other jurisdictions) to participate could be another aspect to reflect further upon, and whether extending participation to such players could strengthen the connection between the EU ETS and these regions, facilitating future cooperation. However, such actors can also be involved in trading futures and the benefits of them taking part in auctions are unclear.
- To facilitate participation in the auctions in general, transparent information needs to be provided on the rules for MiFID exempt firms as these rules differ between Member States. A comprehensive list of responsible authorities in each Member State including the exact point of contact for enquiries should be published and regularly updated. This would support the market by ensuring participants have access to correct and timely information directly from the regulator in charge.
- The bidder category “business grouping of operators” could be removed as it has not generated significant interest in the market.

Q12:

The Auctioning Regulation has been successful as the basis for successful liquid, established auctions in place today. Auctions clear very close to market prices, there have been no price discrepancies and there has been limited market impact so we conclude that the system has been successful.

The objectives of the Auctioning Regulation could even better be achieved by reviewing the rules for the fee structure. The current Auctioning Regulation caps fees for auctioning at the level of fees in the secondary market. This provision needs to be reviewed as it does not reflect the much higher requirements for operating auctions in contrast to operating the secondary market. Under current rules, fees in the auctions are paid only by bidders. This is exceptional as typically fees are shared between bidders and the auctioneer. The revision of the Auctioning Regulation should allow for more flexible arrangements in sharing fees.

★ Q.12 Do you consider that the Auctioning Regulation has been successful in achieving its objectives of ensuring that auctioning of EU ETS allowances is predictable, with full, fair and equitable access, avoiding distortions to competition, and with a cost-efficient organization and participation mechanism compared to alternative modes of organizing auctions of EU ETS allowances?

- ☒ Yes
☐ No

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