

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?

Government entity/regulatory authority



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

UK Government - Department of Energy and Climate Change

P.2 Please enter your contact details:

* Street & number:

* Office/apt:

* Locality:

* Postal code:

* Country:

England

* Telephone:

* Email:

@decc.gsi.gov.uk

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

No

* 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):

Questions

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

- * 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

★ Please explain your answer:

The UK Government considers that the design of the auctions works well and does not see any need for substantial change to the requirements for aspects of the auction design covered by Articles 4 to 7. We have not received any feedback from stakeholders that change is needed to the fundamental design of the auctions.

The UK Government believes that for the sake of consistency, platforms approved under Article 30(1) should be able to offer the same lot sizes as platforms approved under Article 30(2). Article 30(1) should therefore also include the option for a lot size of 1000 allowances. We do not feel that this would have any material impact on participation in the auctions.

The auction monitor is referred to in Article 7(7) and elsewhere in the Regulation. The UK Government would welcome clarification on the prospect of further developments on the identification of an auction monitor. Currently, the relevant competent authority in the Member State of an approved platform carries out that function as part of its wider regulatory market oversight. The UK believes that these arrangements provide a robust mechanism for ensuring that an orderly market is maintained, in addition to the market supervision responsibilities of the auction platforms themselves. In light of this we question whether there is still a need for the auction monitor. The review of this Regulation would be a good opportunity to clarify the provisions on this matter.

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:

The UK Government supports the significant steps taken so far to improve the functioning of the EU ETS, in particular through the creation of the Market Stability Reserve (MSR). The introduction of the MSR will help address the surplus of allowances and it is essential that the integrity of the MSR is maintained in the next phase of negotiations. An objective of the MSR is to protect the system from future imbalances between supply and demand and from significant changes in market circumstances. This will provide industry with a more stable basis to base investment decisions to reduce CO2 emissions.

In order to implement the MSR in the most effective manner, we believe that a change to a September to August cycle would enable to auction calendars to best reflect what has been agreed in the MSR Decision (i.e. that allowances will be withdrawn over 12 months from Sep to Aug). We believe that there is sufficient time to make these amendments to the calendar following publication of the surplus figures earlier in the year and to provide the market with certainty over forthcoming volumes to enable auction participants to make decisions over their purchasing strategies.

The transition to the new arrangements will require careful handling to ensure that the market has sufficient information to make reasonable adjustments in light of the changing calendars in-year. The UK Government would be happy to provide input into any guidance to be produced.

★ 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?

★ How should the reduction of volumes in August be modified? Please explain the reasons for your reply:

Currently, the retention of half volumes in August would appear to be appropriate. The reduction in volume has historically led to a relatively small increase in prices and this has not been out of step with the prevailing trends at that time.

The UK Government feels that it would be beneficial to consider whether further analysis is needed to determine the possible price impacts of the MSR on the August auction volumes. This is because for the foreseeable future after introduction in 2019, it is likely that the MSR will reduce the auction

volumes available year-on-year. With the half volumes for August coming at the end of the auction calendar year, demand for allowances could be significantly increased ahead of the start of the new calendar, when auction volumes will reduce. We need to ensure that the reduction in volume does not lead to a significant spike in prices.

Alternatively, this approach should be reviewed as part of a wider review of the MSR once this becomes operational.

Whilst such an increase is unlikely to be so great as to require the need for additional allowances need to be released from the MSR, we do need to guard against the risk that an auction might fail if it is considered that the clearing price exceeds the prevailing secondary market to such an extent.

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?

N/A

- ★ 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

★ Please indicate which other persons should be included in your opinion:

Currently intermediaries (such as trading houses who participate in auctions on behalf of others) cannot access auctions if they are exempted unless their Member State has put in place the enabling legislation and this has a potential impact on levels of participation. Whilst MIFID II might mean that such entities are regulated in future we request that the Commission provides further clarity on this and whether an amendment to give intermediaries easier access could be made.

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?

The UK has opted-out from the Common Auction Platform and agrees that the current procedures work well and are essential to maintaining competition in the carbon emissions market and protecting Member States' fiscal sovereignty. The UK is not aware of any evidence that the inclusion of opt-out platforms has led to any distortions or market malfunction.

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

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?

The Auctioning Regulation gives the details of the information that must be published to the market. This provides useful background (for example the volume of allowances bid for must be published to inform the cover ratio) for the market but further consideration is needed as to whether additional or different information could be more useful for the market, in particular in relation to the perceived strength or weakness of a particular auction. For example a high cover ratio might not necessarily be indicative of a good auction result. Cover ratios on both EEX and ICE have reduced over time as the auction market has matured, and the minimum bid / clearing price spread has reduced. Any new metrics should be underpinned by further analysis of the trends since Phase III auctions began.

As Phase IV negotiations progress and the MSR becomes operational, it will be important that clarity is provided to the market about the progress of negotiations. Any information of this nature needs to be issued in a managed and transparent way through official regulatory channels to prevent adverse impacts on auctions and the wider carbon market.

Any changes would need to be announced well in advance of coming into force because of lead-in times on development of reporting IT programmes for the auction platforms.

The UK Government believes that the other requirements for maintaining the confidentiality of information about bids etc. remain appropriate, although account needs to be taken of the impacts of the implementation of MiFID II.

- * 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?

As mentioned above, the UK Government would welcome further clarity from the Commission about the implications of MiFID II on the auction market and whether any changes to the Auctioning Regulation are required as a result.

In particular early clarification is requested on aspects which may restrict participation in the auctions (for example around capitalisation requirements and aspects related to hedging). Whilst the overall thrust of MiFID II is designed to minimise impacts on compliance buyers, further analysis would be welcomed to ensure that there are no unintended consequences of introducing new rules under MiFID II or that participation in auctions is reduced to such an extent that the viability of the EU ETS carbon market is called into question.

The UK Government is open to ways in which participation in auctions can be increased, where there is evidence of a demand for entry into the auctions. Any new provisions should not increase the burdens on auction platforms or participants and must maintain sufficient protections to ensure the orderly functioning of the auction and wider carbon market.

★ 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

Contact

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