



**Technical Aspects of EU Emission Allowances Auctions
Summary of Consultation Responses**

**Volume 1
Sections 1-4
Draft**

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1. Introduction

This summary paper discusses the results of a consultation process run by ICF International on behalf of the European Commission to assess a variety of stakeholder's views on the appropriate design and process for the auction of European Union Allowances (EUAs) and European Union Aviation Allowances (EUAAAs) under the European Union Emissions Trading Scheme (EU ETS). The revision of the EU ETS Directive agreed in December 2008 will mean that a substantial number of EUAs will be auctioned with respect to the third and later trading periods, rather than being allocated for free to industrial emitters. The mode of auctioning will be important for emitters and more generally for participants in the secondary market for EUAs. In fact, an effective and efficient auctioning system is crucial for the smooth functioning of the ETS itself. Information and perspectives from stakeholders in the process, including Member States, emitters, carbon commodity traders, financial institutions and market operators, can support the development of such an auctioning system.

The consultation was open for a two month period ending the 3rd of August 2009, following publication of a consultation paper and the list of questions on which views were sought. Responses were accepted via an online survey or through completion and email of a text document. An opportunity was also provided for additional information to be submitted beyond the direct response to the consultation paper, although the additional views could not be used in the statistical assessment of respondents' views on the specific questions in the consultation document. One hundred and thirty six responses were received on the specific questions raised in the consultation paper. 16 additional responses were received, 14 of them were submitted by respondents that also answered the specific questions.

This draft report will be discussed in a stakeholder meeting on 28 and 29 September 2009.

The remainder of this document is structured as follows:

Section 2 provides an overview of the key messages from responses to the consultation

Section 3 discusses the identity and nature of the respondents and the way in which they have responded to the consultation.

Section 4 gives a question by question summary of the responses to the consultation, both in terms of statistics from the overall sample of responses and a discussion of specific arguments provided by respondents.

Section 5 provides detailed statistics on the responses to the consultation by category of respondent.

Section 6 addresses the small emitter's survey which was intended to help the European Commission learn about the routes small emitters have been using to access the EU carbon markets. Our methodology and results of this survey are presented in this section.

Section 7 is an appendix to this document containing tables that are referred to through the document.

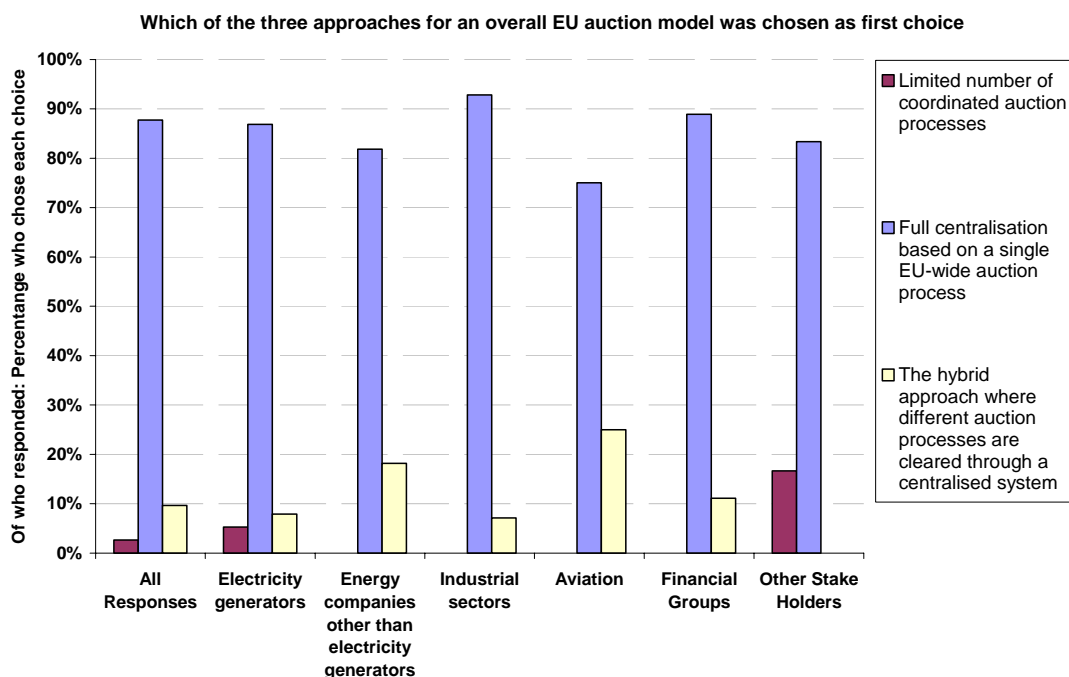
2. Key Messages

The online consultation that was open from 3 June till 3 August raised significant interest. There were 124 responses to the detailed questions raised in the consultation paper from stakeholders other than Member States. The majority of these were from large companies covered by the EU ETS and their trade associations, particularly those in the electricity generating sector. Other respondents included the operators of carbon exchanges, carbon traders and non-governmental organisations. Hardly any responses were submitted by SMEs. In addition to the direct responses to the consultation questions there were various position papers submitted that gave more general perspectives on the auction process and issues. There were 12 responses submitted by Member States. In general, the respondents show a significant degree of consensus and in many cases echo arguments raised in the consultation document in their response. However, there are some key issues where divergent views exist with reasoned arguments submitted for and against particular features of the auction process.

Overall approach to auctioning

Respondents are overwhelmingly in favour of a **single process for auctioning** allowances. This is shown in the graph below, which evaluates responses excluding member states. Member States (MS) are split, generally with the largest emitters wanting to control their own process (UK, Poland, Germany, Spain). A number of MS are in favour of centralisation (Sweden, Finland, Denmark, Austria, France, Italy, Netherlands) but do not seem optimistic on achieving this: the Netherlands state that a hybrid outcome is the most likely and Italy states that they have started developing a national platform in preparation for the failure to agree on a centralised approach. The possibility of a central EU platform with an effective opt-out for Member States has been raised by the UK and Eurelectric, who is strongly in favour of a centralised system, raised a compromise option with a central process for those countries interested in the option as an initial stage, but then converging to a single platform over time.

The hybrid approach where different auction processes are cleared through a centralised system gained significant support particularly as a second choice where the first preference was for full centralisation.



*Further breakdown of statistics is presented in section 5

*Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House

*Other Stakeholders: Groups NGOs, Trade Associations and those classified as other

*Statistical analysis does not include Member state responses

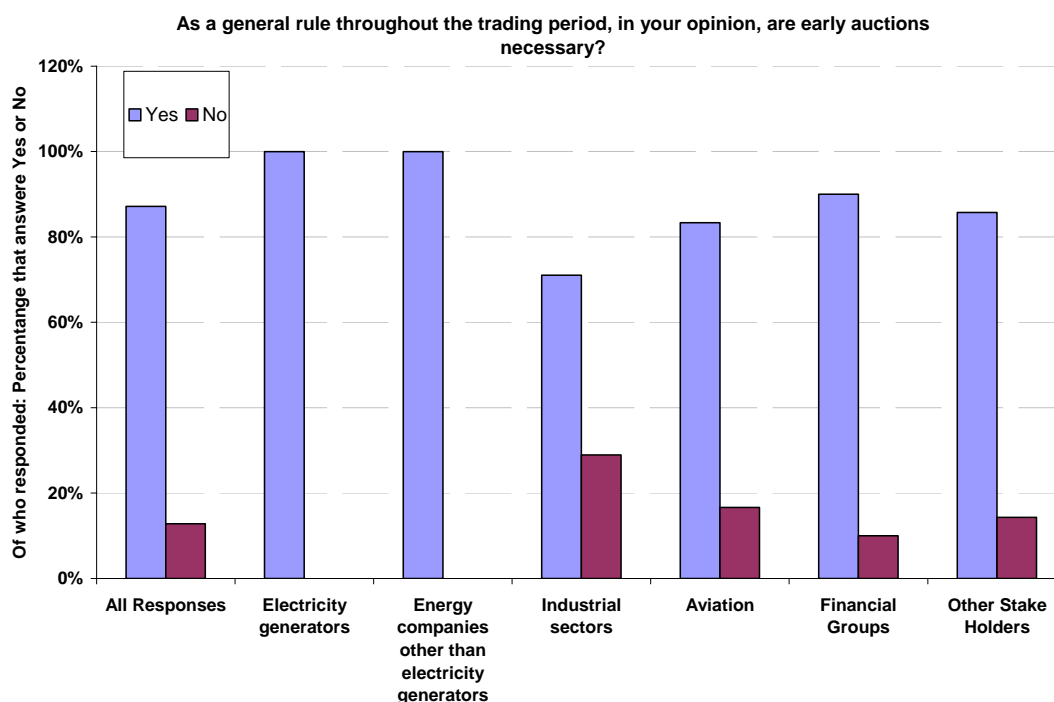
Those respondents in favour of a centralised process point to enhanced efficiency and equal access for all parties. Those wanting a variety of auction processes suggest some form of competitive benefit. Germany questions whether attempting to impose an auction format conflicts with the principle of subsidiarity.

What and when to auction?

Early auctions would be welcomed by a large majority of respondents. There were some counter-arguments that the futures market would provide for advanced hedging needs if there is sufficient certainty around the calendar and process for the release of spot allowances. However, the majority felt that early auctions were necessary to enable power companies to back forward electricity sales contracts (the focus on power contracts as the driver for early auctions came from both power companies and industrial electricity buyers). The power companies generally argued for a significant volume of early auctions, in some cases asking for all allowances being auctioned before the compliance year. The most frequent counter argument against the early auction of EUAs, raised in particular by Member States, is the potential for an oversupply of allowances to depress the market price and push higher EUA prices and correspondingly higher emission reduction efforts to the back-end of the compliance period by when any initial allowance oversupply would disappear. In this respect, a number of respondents pointed at the bankable allowances from Phase II and project emission credits that will be available to cater for advanced hedging needs. A significant number of respondents, including some Member States, requested a

specific study on this subject to determine the appropriate profile of early auctions and avoid distorting the EUA market.

The graph below shows the preference of the electricity generators, intermediaries & other energy companies for early auctions for risk management.



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**Statistical analysis does not include Member state responses*

Considerable support exists for **auctioning futures**, the most common reason given being because this is felt to reduce the required cash flow for companies hedging their exposure under the EU ETS. Another reason mentioned regards the practical issues associated with early spot allowance sales, particularly the availability of the registry for spot allowances (as spot allowances for the third trading period can not be delivered before 2012, early auctions in 2011 would have to be achieved through futures). However, not all respondents saw futures as necessary and there were a variety of comments on some potentially significant issues associated with futures auctions by the Member States. These include:

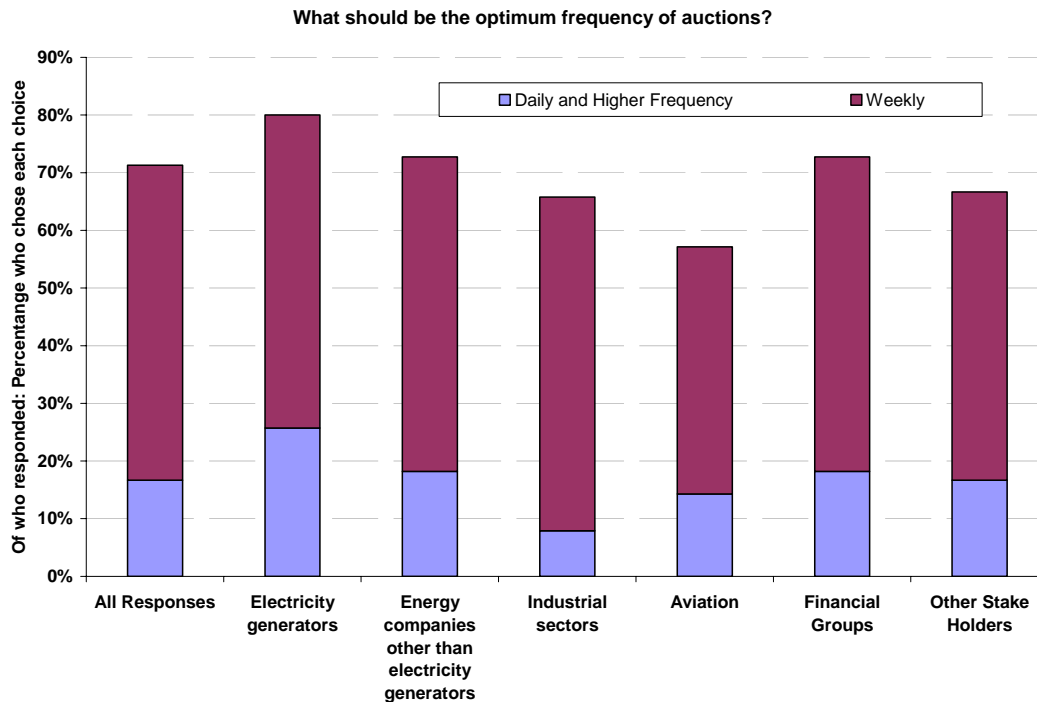
- Member States would have to set up or have access to an exchange and a form of clearing house system to manage margin calls, creditworthiness of counterparties, etc. A futures system parallel to those offered by the existing exchanges, possibly with concessions made to assist trading by smaller emitters, could have serious implications for the operation and competitiveness of existing futures exchanges.
- EEX stressed that futures traded on existing exchanges are not fungible with each other (unlike spot allowances). This potentially means that the decision

to auction a portion of EUAs through futures on a particular exchange would lock in the trades of these allowance futures to that platform, which is not helpful in the context of inter-exchange competition.

- Some Member States noted that auctioning futures poses an issue with respect to their accounting rules.

There was very little discussion in the responses on whether the early auction of spot allowances would enable intermediaries to offer futures and thereby sidestep some of the complications associated with Member States auctioning futures directly. The arguments provided tended to focus on whether futures were needed, not where they would come from.

There are a range of opinions on the optimal **frequency** of auctions. Most respondents opted for weekly or monthly auctions. There were also a number of arguments for daily or almost continuous auctioning. The justification for frequent auctions is to maintain a steady flow of allowances into the secondary market whilst minimising the size of any individual injection so as to avoid destabilising the secondary market. This argument was put forward by some financial players, such as KfW (who have experience from the auction of Phase II EUAs in Germany) and Barclays Capital, and by some of the largest emitters, e.g. E.On and RWE. The potential disadvantage of this system is a risk of a low number of participants in some auctions. The balance between ensuring sufficient participation and limiting the scale of the auction to prevent shocks to the secondary markets is the main reasoning for those pointing to a weekly or monthly approach. The graph below shows that amongst respondent categories consisting of large emitters (energy companies, electricity generators) and financial groups, a higher proportion opted for a high frequency of auctions (daily or more frequent) than was the case for the overall sample. 'Daily' is a higher frequency than any of the options outlined in the consultation paper.



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**The residual of these statistics presented, shows the percentage of respondents that opted for a lower than weekly frequency*

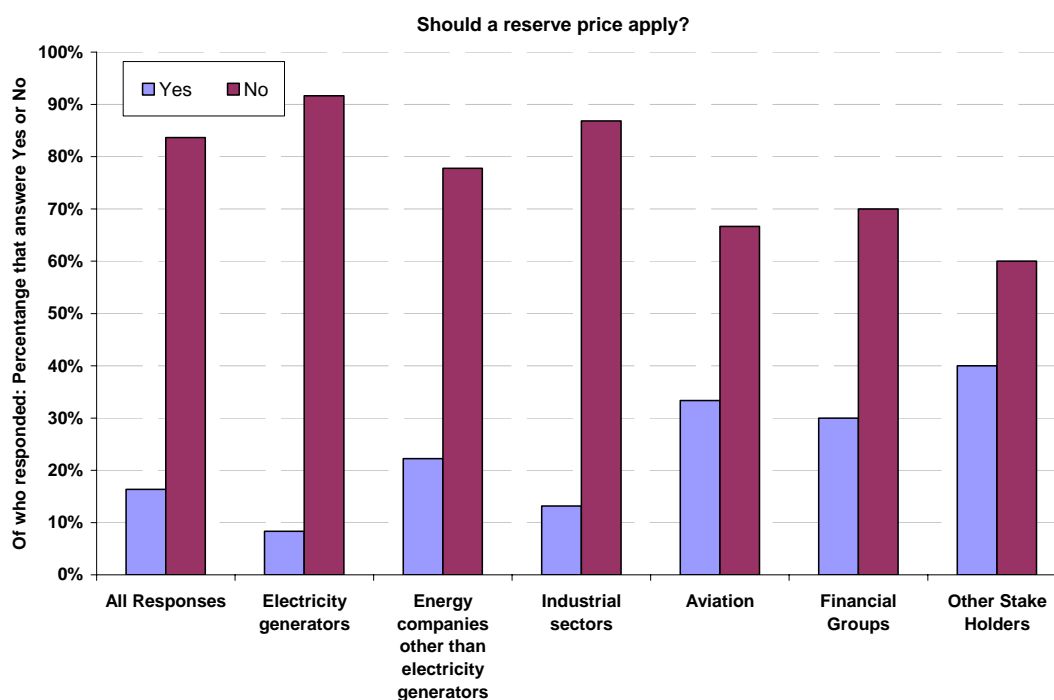
Most respondents want the **auction calendar** to be determined well in advance. In particular there is a desire for the annual volume of allowances to be auctioned and the distribution of these between spot allowances and futures to be set at least three years in advance. The precise distribution of these between specific auction dates and processes can then be set nearer the actual time. Recognising that there is some uncertainty on the exact volume of EUAs available to be auctioned, some respondents suggested a system where the timing for the auction of the bulk of the allowances is set well in advance and then the timing for any residual is set nearer the auction date.

Auction design

There is widespread agreement on the use of a **single-round sealed-bid auction** with **uniform pricing** for participants. The majority of respondents like the simplicity of this system and the perceived fairness to all parties paying the same price. There are also perceived benefits for small and medium-sized enterprises (SMEs) in that they do not need to guess the right bid level as would be necessary in a discriminatory-price auction. Some respondents like discriminatory-price auctions as it increases the cost of building a strong position that could be used for attempts to corner the market.

In general there was limited appetite for a **reserve price**, as many respondents argued that a robust auction design and process should suffice to avoid the clearing price varying too widely from the ongoing secondary market price. An exception to the

general sentiment is the position of most Member States that consider a reserve price to be a useful tool to protect the auctioneer against any events that might cause an artificially low clearing price. A number of respondents used the discussion on reserve prices to underline their opposition to any absolute price floor for EUAs. The graph below illustrates the majority of respondents' disagreement with the adoption of a reserve price.



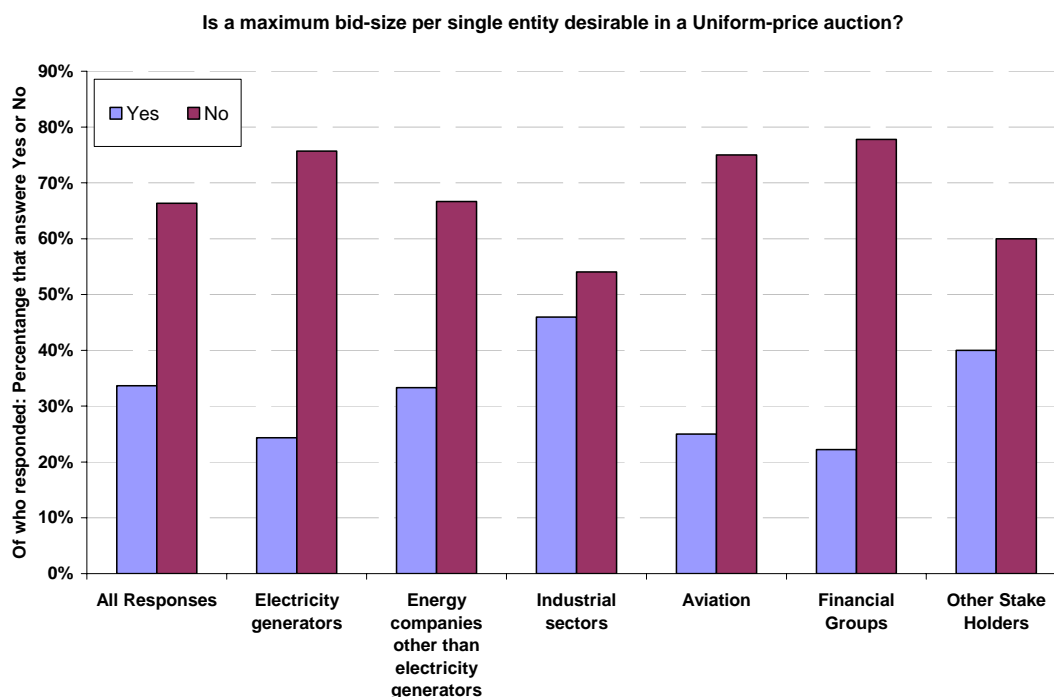
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A clear majority were against a **maximum bid-size**, although the size of the majority against varied between groups and there was a sizeable minority in favour of a maximum bid-size for uniform-price auctions amongst the industrial respondents. Many respondents felt that the clear price signal and availability of allowances on the secondary market and the use of frequent auctions removed the need to set a maximum bid-size as a protection against cornering in an auction. It was also pointed out by a number of respondents, including some of the larger emitters, that the need for some single entities to purchase large amounts of the allowances in order to balance their compliance needs is unavoidable under the revised EU ETS. They therefore claim this behaviour does not act as an indication of market abuse (in the auction process or more generally). We can see from the graph below that almost all respondent categories are against a maximum bid-size. It is also noticeable, and unsurprising, that those most against a maximum bid-size were the large emitters (electricity generators) and financial institutions.



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The responses for discriminatory-price auctions were broadly similar.

How will the auction(s) be implemented?

There was strong support for a **harmonised pre-registration process and collateral system** in the auctions. This is consistent with the level of support for a fully centralised auction process. It was however pointed out that a harmonised collateral system could be difficult to design and implement given the variation in the risk profile of bidders where direct bidding takes place. There was support for auctioneers to be able to rely on third parties, particularly appropriate financial and credit institutions, to carry out registration and know-your-customer checks.

It is clear that a large majority of stakeholders would be unhappy with any process that does not allow direct bidding by industrial emitters covered by the EU ETS. There is very little support for anything resembling a **primary participants** model. There is majority support for the **use of existing exchanges** due to the efficiency benefits of utilising existing infrastructure. However this support often comes with the caveat that it is dependent on cost-effective non-discriminatory access for non-members of the exchange.

The majority of respondents felt that standard auction processes would be sufficient to meet the **needs of SMEs**, particularly when the options available through intermediaries and the secondary market are taken into account. Most respondents to the consultation are, however, not SMEs.

Respondents favour an EU level **auction monitor** to ensure that the process operates correctly. There was also a large majority in favour of provisions in the regulation to prevent insider dealing and market manipulation, however a number of the detailed comments regarding this issue suggested that a regulatory system for the energy markets is under development within the EU and that it would be appropriate to consider abuse of the EUA market within that. Some responses also commented that any attempt to separate consideration of market abuse in the auction context from behaviour in the secondary market would be artificial and ineffective. Respondents were heavily in favour of central **enforcement and sanctions** to ensure that auctions took place as planned, with the enforcement measures applying to bidders, the Member States and auctioneer(s) responsible for the auction process.

EUAA auctions

For the **auctioning of EU Aviation Allowances (EUAAAs)**, the majority of responses were in favour of having the same auction process as for EUAs.

However, despite the general support for a similar process, there were some differences in the level of support for specific features

- Those supporting auctioning of EUAA futures were in the minority
- Aviation respondents were split with equal votes for uniform and discriminatory pricing for EUAs, presumably this split would apply to the rules for EUAAAs also.
- There was majority support for a maximum bid-size in EUAA auctions
- The optimal auction frequency was lower, reflecting the smaller number of allowances to be auctioned in EUAA auctions

It may, however, be noted that the number of respondents in aviation was limited. Furthermore, half of the other respondents gave their views on the overall process for auctioning EUAAAs, but only about a quarter answered the detailed questions.

3. Profile of respondents and quality of responses

Responses were received from a diverse mix of stakeholders. The vast majority of these responded directly to the specific questions raised in the consultation paper and these responses form a basis for the statistical analysis of the responses incorporated into this summary paper. Various parties, both Member States and other stakeholders, submitted position papers with more general perceptions on the issues raised by the auction of EU Allowances. Although these additional responses have not been considered for the statistical analysis (because the responses didn't map to the consultation questions) they have where possible been taken into account in the discussion of the messages from the consultation in Sections 2 and 4.

Many respondents only answered some of the questions raised in the consultation paper and there were a lot of cases where respondents did not provide their reasoning for a particular answer despite the explicit request to do so. In many instances where they provided such reasoning, they echoed arguments raised in the consultation paper. Unsurprisingly, the answers provided seem to be consistent with the potential commercial interest of the respondent (e.g. larger emitters wanting no maximum bid size, those who undertake most forward hedging wanting early auctions). Reflecting the resources necessary to respond effectively to the consultation the most comprehensive responses came from Member States, trade associations and larger companies. Some individual responses suggest that there may have been some confusion on certain questions, but in most of the cases the answers appear rather coherent.

The distribution over type of respondent was:

Respondent Type		Number
Member State		12
Company operating one or more installations covered by the EU ETS	Electricity generators	30
	Energy companies other than electricity generators	10
	Industrial sectors	22
	Aviation	7
	Other	0
Intermediary	Financial institution	2
	Trading arm of non-financial institution	0
	Other	0
Trader on own account	Financial institution	0
	Trading arm of non-financial institution	2
	Other	0
Regulated market	Carbon only	0
	Carbon and electricity	1

	Carbon and other energy products	2
Other carbon market	Multilateral trading facility trading carbon derivatives	0
	Carbon exchange trading spot carbon	2
	Other	0
Clearing house		0
Central counterparty		0
Other	Non-governmental organisation	6
	Trade association	24
	Carbon analyst	0
	Carbon publication	0
	Academic	0
	Other	16

Many NGOs, Trade Associations and other groups represent certain industries. Other stake holders were further categorized under respective industry as follows:

21 of the 46 “other” respondents represent industrial sectors, 10 represent parts of the electricity generating sector, one represents an energy sector other than electricity generation and 3 represent sub-sectors in aviation. In order to allow a proper interpretation, in the statistical assessment, these trade associations are re-classified and grouped together with the responses of emitters under the ETS in their respective sectors: industry, electricity generating sector, energy sector other than electricity generation and aviation. Similarly, in the statistical assessment, Euroclear is re-classified and grouped together with clearing houses. 1 response has been re-classified and grouped with “trader on own account” and CDC Climat has been grouped with “Other Carbon Market.” 7 institutions that selected “other” as their respondent type, were not re-classified. Table A2, shows a list of all respondents. Table A3 describes those submissions that were re-classified for the purposes of the statistical analysis. Altogether, the sectors responsible for the large majority of emissions covered by the EU ETS have participated in the consultation. Unsurprisingly, only a small part of all emitters covered by the EU ETS responded individually to the consultation and it seems most of them rather relied on their association for the reply. This also applies to some of the largest emitters, particular in industry.

In some cases a number of responses have been received from companies with links between them (e.g. subsidiaries and joint ventures). Despite these links, they have been included as separate submissions. There were also a number of identical submissions from different companies and organisations, suggesting that discussion in trade associations on potential responses was being reflected into more than one submission. A particular group of these responses is from Austrian industrial associations where several responses were received from trade associations

representing different groups but all of the responses were the same. In this respect, for the purpose of transparency, the statistical analysis in section 5 distinguishes between the response from the total population and the total population where such duplications have been removed.

4. Survey questions (86)

This section provides a discussion of the responses to each question asked in the consultation paper and survey. All responses received during the consultation period that responded to the specific consultation questions are taken into account. The statistical results, however, are based on responses that were received in time to be included (a number of responses were received late) and excluding those of Member States. This represents a sample size $n = 119$. Questions based on a subset of responses are identified as such.

In each table the 1st column shows percentage of respondents who selected that choice, the 2nd column shows the selection offered.

The statistics quoted in the text and tables relate to the overall sample of respondents, excluding Member States; where there were material differences in the views of different categories of respondents this is discussed in the text accompanying each question. This also applies to the Member States' views. Where no discussion of these differences is provided it indicates that such differences are not material.

4.1 What and when to auction?

Question 1

As a general rule throughout the trading period, in your opinion, are early auctions necessary?

92% of respondents addressed this question. Those who did answered as follows:

87%	Yes
13%	No

If so, what should the profile of EUA auctions be?

Of the respondents who answered 'Yes' to the first component of this question, 91% addressed this part. Those who did answered as follows:

9%	5-10% in year n-2, 10-20% in year n-1, remainder in year n
8%	10-20% in year n-2, 20-30% in year n-1, remainder in year n
32%	20-30% in year n-2, 30-35% in year n-1, remainder in year n
51%	Other?

Respondents were heavily in favour of early auctions. The motivation for this, from both power generators and industrial electricity buyers, is to enable power companies to cover their future exposure to EUA prices in relation to their forward supply contracts for electricity. Although the majority in favour of early auctions is higher amongst power companies than amongst other respondents, the majority of all categories support early auctions. The table below shows that of those who

responded, 100% of electricity generators and other energy companies are in favour of early auctions and other EU ETS installation groups and financial groups are also in favour of early auctions. The respondents that believed early auctions were not necessary consisted mainly of some German industrial companies and Austrian associations.

As a general rule throughout the trading period, in your opinion, are early auctions necessary?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	97%	100%	90%	67%	83%	100%
Yes	100%	100%	71%	83%	90%	86%
No	0%	0%	29%	17%	10%	14%

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If so, what should the profile of EUA auctions be?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	95%	82%	93%	100%	100%	67%
5-10% in year n-2, 10-20% in year n-1, remainder in year n	6%	0%	20%	20%	0%	0%
10-20% in year n-2, 20-30% in year n-1, remainder in year n	6%	22%	0%	40%	0%	25%
20-30% in year n-2, 30-35% in year n-1, remainder in year n	40%	22%	28%	40%	33%	0%
Other? Please specify :	49%	56%	52%	0%	67%	75%

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The level of early auctions proposed by those in favour is large, with a number of respondents suggesting profiles with more early auctions than any of the options listed in the consultation paper, in some cases all of the EUAs to be auctioned for a particular year would be sold in advance. This tended to be justified by reference to the volume of power generators output that is sold forward. Again, power companies were more aggressive on the profile of early auctions than other respondents, wanting more allowances released sooner. The table above illustrates this: electricity generators selected option 3 most frequently to express their desire for heavy early auctions. Certain German utilities, as mentioned above, suggested a profile with earlier auctions than suggested in the consultation paper with 15% of auctioning in year n-3, 25% in n-2 and 30% in n-1, leaving only 30 % auctioning for the year n.

Most financial groups agreed with the need for early auctions, but did not take a profile position.

A few respondents provided a quantitative assessment of the potential level of early auctions by referring to typical or assumed hedging practices by power companies. However, no comprehensive analysis was presented incorporating issues such as downward revisions of economic growth and the availability of banked allowances and project credits. The following responses are indicative of the reasoning employed by the proponents of early auctions:

IETA: *“IETA believes that there is a need for early auctions, and that a viable auction system should be operational by early 2011. The European power sector needs early auctions, as large electricity companies hedge their positions ahead of time. Generators in certain Member States, for example Germany, follow a strategy where they forward sell 60-80% of production a year in advance, 30-50% two years in advance, and around 10% three years in advance. Hence, at any one time more than one year’s worth of generation has been sold on a forward basis. Early auctions should bring into the market the supply necessary to allow appropriate hedging.*”

If auctions are delayed, or insufficient volume is made available then it is likely that either the market price for EUAs will rise significantly in order to incentivise forward-selling or generators will have to change their hedging strategies for 2013/14. Both alternatives would be very disruptive, damage liquidity in the emissions and power markets and would not help to establish a credible emission trading scheme.”

Rio Tinto Alcan: *“We support forward auction of some allowances, to provide direct access to forward delivery of EUA for industrials without having to trade through a bank or utility. We note that this should increase secondary market liquidity and have beneficial impact on liquidity on the forward market for power.”*

The main arguments advanced by those who do not think early auctions are necessary is that secondary markets are an effective means of covering forward contracting in the power sector and that the early release of large volumes of allowances risks destabilising the scheme by creating a surplus of EUAs. This risk is amplified at the start of Phase 3 by the availability of project credits and banked allowances from Phase 2. Member States are far more cautious on early auctions than other

respondents to the consultation. Specific mention is made in the Spanish response of the risk of depressing the market price for EUAs. There is a suggestion from France that a specific study is undertaken to assess the right level of early auctions.

Irrespective of the arguments, if early auctions were deemed desirable in principle, the responses to the consultation leave significant uncertainty on the desirable levels. Many respondents recognised this uncertainty by proposing a detailed and independent study to determine the appropriate level of early auctions.

IETA: *“However, it is important that the aims of the EU ETS are considered. The price of carbon is intended to be the leading tool within the EU for the mitigation of climate change. With this in mind the Commission should give due consideration to the fact that there is already forecast to be an excess of supply of EUAs under Phase 2 and project credits generated from the Kyoto Flexible Mechanisms available at the end of Phase 2. If excessive additional supply was added in advance of the commencement of Phase 3, and despite the availability of banking then there are risks – both real and presentational - that the required investments needed for the deployment of new technologies and cleaner plants required to meet EU targets may not occur due to the carbon price signal being inadequate. On the other hand, insufficient early supply will inevitably drive up prices, which brings its own risks to the acceptability of the EU-ETS.*

Careful analysis of real compliance and hedging needs will be required to keep all these risks in balance. IETA therefore urges the Commission to give detailed consideration to studying the needs and timing of the market for allowances so as to avoid distorted price signals or avoid added market price volatility that would result if too few or too many EUAs were made available in relation to early auctioning for Phase 3.

In assessing the scale of early auctioning, IETA urges the Commission to take a comprehensive, independent and detailed view of:

- 1) the likely hedging demands from the power sector and of other sectors*
- 2) the potential surplus of Phase II EUAs and credits from flexible mechanisms that may be available for banking before the end of Phase II.*
- 3) how much front loading of the auction volumes is actually needed. “*

There were some responses that proposed options where the auctioning of the allowances would be actively managed rather than following a pre-defined auction schedule. Active management of the schedule and mode of allowance sales would have potential advantages in that the auctioneers could react to the impact on the EUA market of early auctions or specific shocks (e.g. economic). However, a strong theme in many responses to the consultation is a desire for market participants to have certainty in the profile and calendar of allowance auctions. This is viewed as necessary to enable market players to take a view on the evolution of prices and to limit any issues associated with changes in the allowance release affecting market prices (i.e. avoiding price management or revenue maximisation by limiting allowance flows).

Question 2

Do you think there is a need to auction futures?

92% of respondents addressed this question. Those who did answered as follows:

81%	Yes
19%	No

A significant majority of respondents support the auction of futures. The main motivation for this is to enable power companies to cover their future exposure to EUA prices whilst limiting cash flow issues. Respondents perceived cash flow issues to be both a direct and indirect threat, with cash flow drain for power companies associated with hedging forward electricity sales reducing the availability of these contracts and putting upward pressure on contract prices. However, a counter-argument, typically (and somewhat unsurprisingly) raised by financial intermediaries, is that the release of spot allowances into the market would enable the secondary market to offer futures without Member States having to be involved.

Corus Tata Steel: *"In some circumstances and for a minority of auction volumes, if it removes barriers to power companies offering supply contracts"*

Some respondents highlighted, as raised in the consultation document, that early spot allowance sales may face specific practical difficulties, in particular with regards to the availability of the registry for spot allowances and the timing of delivery of the updated CITL. If the early auction of spot allowances can not be organised, early auctions would then have to be achieved through futures.

Association of Electricity Producers: *"Experience tells us that auctions need to be in place early (by-mid 2011 for 2013/14 allowances) as electricity companies need to hedge their positions ahead of time. Otherwise risk exposure will lead to avoidable higher costs to electricity consumers.*

•Typically generators hedge their position through forward contracts which minimise cash flow impacts through payment on delivery. Currently, in excess of 90% of EUAs are acquired in this way. Generators will want to maintain this practice during the lead in to 2013 (i.e. from 2011) and beyond.

•While spot auctioning allowances from 2011 onwards has the potential to create liquidity in the secondary market, there are several significant barriers to this happening. Firstly, the community-wide registry (CITL) will not be in place before 2012. Secondly, there is considerable uncertainty regarding the timing of finalisation of any international climate agreement which will be a prerequisite, if EUAs are to be backed by AAUs. Spot auctions of Phase 3 EUAs would require that both of these issues are resolved, which means that only futures auctions could be held in advance of this happening."

EDF: *"The EU registry is not planned to be operational in time in order to deliver allowances that would be auctioned spot in 2011 and 2012. The only alternative is an auction for futures contracts."*

However, not all respondents saw futures as necessary.

There were a variety of comments on some potentially significant issues associated with futures auctions by the Member States. In particular, Member States would have to set up or have access to a clearing house style system to manage margin calls, creditworthiness of counterparties etc. The Member State rules to deal with accounting for futures auctions also seem to be an issue in some Member States.

Some groups of companies other than in the electricity generating sector, appear to be less supportive of auctioning futures than others: 43% of respondents from the aviation sector, 30% of respondents in the financial sector (traders, exchanges, intermediaries, etc) and 30% of industrial respondents do not see futures auctions as necessary. Energy companies and electricity generators views were skewed towards the auction of futures being necessary, although some electricity generators like PGE Polska did not agree.

Do you think there is a need to auction futures?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	100%	100%	88%	78%	83%	86%
Yes	95%	100%	70%	57%	70%	67%
No	5%	0%	30%	43%	30%	33%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

Arguments include:

- Existing futures contracts traded on exchanges are not fungible with each other, unlike spot allowances. This potentially means that the decision to auction a portion of the MS EUAs through futures on a particular exchange locks in ongoing futures trade based on the allowances underlying those to that platform, which could distort inter-exchange competition.
- Secondary markets are sufficiently developed and liquid enough to enable energy producers to hedge their positions on existing markets. Adding complexity to the auction is therefore not necessary.

Borealis: "Auctions should be spot. Futures and other derivate products should be part of the secondary markets"

Nasdaq OMX Commodities: "We believe that the existing secondary markets provide adequate opportunities for large and small market participants to manage their price and volume exposures [without auctioning futures]"

Question 3

What share of allowances should be auctioned spot and what share should be auctioned as futures for each year?

48% of respondents addressed this question. Those who did answered as follows:

	SPOT		FUTURES	
Year n	5% 14% 14% 63% 4%	0-25% 26-50% 51-75% 76-100% No Response	53% 4% 12% 5% 26%	0-25% 26-50% 51-75% 76-100% No Response
Year n-1	35% 19% 4% 18% 25%	0-25% 26-50% 51-75% 76-100% No Response	21% 9% 23% 47% 0%	0-25% 26-50% 51-75% 76-100% No Response
Year n-2	39% 16% 4% 18% 25%	0-25% 26-50% 51-75% 76-100% No Response	21% 9% 19% 46% 5%	0-25% 26-50% 51-75% 76-100% No Response

Although respondents have diverse views on the organisation of early auctions and the mix between spot and future auctions, the analysis of the consultation results highlights the following points:

For the majority of respondents, auctions organised during year 'n' for allowances allocated for the same year 'n' should mainly be spot auctions. A number of respondents, particular amongst ETS operators in industry and energy companies other than electricity companies, even support the idea of 100% spot auctions.

A large number of respondents suggest that early auctions should be 100% future auctions. Other respondents mentioned the fact that future contracts were only of interest for a few ETS operators (mostly electricity producers). Other ETS operators should be given the ability to choose between spot and future contracts if they want to participate in early auctions.

IBERDROLA : "We believe that as many EUAs as possible should be sold as futures"

Half of the respondents favour a share of more than 75% future auctions (including 100% futures for number of participants), whereas only a quarter of respondents prefer that less than 25% of early auctions are based on futures.

SOLVAY: "The role of the primary market should be to enable companies affected by ETS to source their allowances in order to meet their legal obligations under ETS. It is not up to public authorities to create a futures market, the secondary market will take care of it."

What share of allowances should be auctioned spot and what share should be auctioned as futures for each year?

		Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>		71%	36%	29%	56%	67%	29%
Spot Year n	0-25%	4%	0%	0%	20%	13%	0%
	76-100%	67%	50%	58%	40%	88%	0%
Spot Year n-2	0-25%	44%	50%	8%	40%	50%	50%
	76-100%	7%	0%	42%	20%	25%	0%
Futures Year n	0-25%	56%	50%	33%	60%	63%	50%
	76-100%	0%	0%	8%	40%	0%	0%
Futures Year n-2	0-25%	11%	0%	33%	40%	38%	0%
	76-100%	59%	50%	8%	60%	50%	0%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

The table above shows that this question was an important issue for electricity generators with a 71% response rate. In general these companies wanted spot auctions in year n but significant early auctions of futures in years n-2, n-1 and even n-3. Financial groups seem to think this is an important issue but are split on the answer with opinions in favour of both spot allowances and futures auctioned early. The exception to the consensus is with industrial ETS operators, being least in favour of early futures auctions, although here the response rate is low.

Question 4

Should the common maturity date used in futures auctions be in December (so the maturity date would be December in year n, both when auctioning in year n-2 as when auctioning in year n-1)? [Y/N]

66% of respondents addressed this question. Those who did answered as follows:

81%	Yes
19%	No

If auctions of futures are implemented, a large majority of respondents support the use of a common maturity date that should be in December, as December delivery contracts have been established as the standard by the market and are very liquid.

Almost all the respondents that do not support the December maturity date suggest that a delivery at the end of November is preferable, as it would allow settlement ahead of “standard” delivery in the secondary futures market and OTC market in early December.

Repsol: “The common maturity date should be end of November to allow settlement ahead of the delivery of secondary market EUA futures and OTC market delivery in early December of each year.”

Question 5

For spot auctions:

What should be the **optimum** frequency of auctions?

91% of respondents addressed this question. Those who did answered as follows:

55%	Weekly
0%	Fortnightly
25%	Monthly
2%	Quarterly
19%	Other

Some other options selected (number of respondents)

Daily	16
hourly	1

What should be the **minimum** frequency of auctions?

90% of respondents addressed this question. Those who did answered as follows:

36%	Weekly
9%	Fortnightly
27%	Monthly
23%	Quarterly
5%	Other

Some other options selected (number of respondents)

Daily	3
one minute	1
Twice per year	1

What should be the **maximum** frequency of auctions?

87% of respondents addressed this question. Those who did answered as follows:

41%	Weekly
12%	Fortnightly
15%	Monthly
3%	Quarterly
30%	Other.

Some other options selected (number of respondents)

Daily	29
Twice a week	1
Hourly	1

Many respondents underlined that their answer is not definitive as frequency strongly depends of the final architecture of auctions in the EU and in particular on the number of platforms / auction processes.

Arguments for more frequent auctions include: smaller impact on liquidity, reduced impact on prices in secondary market, reduced risk of market manipulation, and easier cash management for compliance participants. Arguments against include: increased administration costs and burden (although a number of respondents suggest that there will be more fixed than variable costs).

In a centralised system, weekly auctions are the preferred option by respondents. Response patterns across the different category of respondent were similar, again except for Member States where the preference for monthly auctions was stronger than for any other group except for aviation.¹

E.ON: "A frequency less than weekly would result in a release of volumes large enough to disturb the secondary market price and would therefore counteract the fundamental function of the ETS."

A complicating factor for this question is that the responses on optimal auction size and on optimal auction frequency are not completely consistent. For example, 58% of industrial respondents pleaded for weekly auctions but 75% of industrial respondents favoured auctions of a size between 1,000,000 and 4,999,999 tonnes. This means that some of the respondents who pleaded for weekly auctions want them at that size level, but a weekly auction of 4,999,999 tonnes is nowhere near sufficient to auction the total number of allowances that must be released.

As shown in section 2, the view across all respondent groups was to have auctions at a high frequency. Many of the respondents indicated another choice than those provided in the consultation document and suggested daily auctions.

¹ Some respondents in the aviation sector may mistakenly have had in mind the much lower volume of EUAAs to be auctioned.

For spot auctions:

What should be the **optimum** frequency of auctions?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	92%	100%	90%	78%	92%	86%
Weekly	54%	55%	58%	43%	55%	50%
Fortnightly	0%	0%	0%	0%	0%	0%
Monthly	17%	27%	34%	29%	9%	33%
Quarterly	3%	0%	0%	14%	0%	0%
Other.	26%	18%	8%	14%	36%	17%

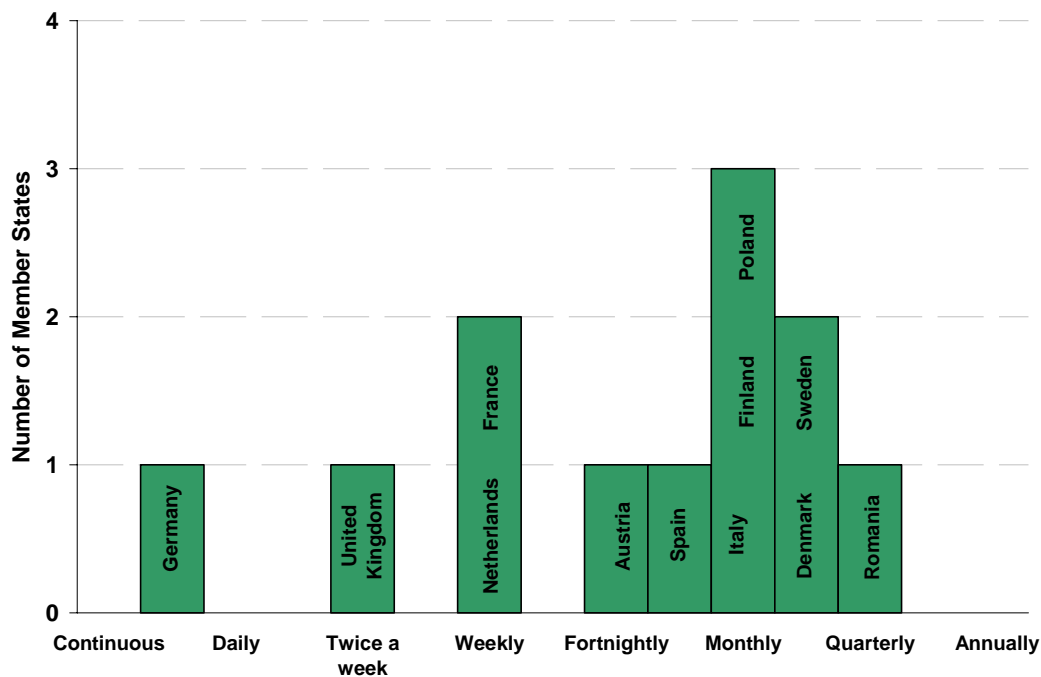
**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

On the other hand, some of the NGOs, trade associations and industrial ETS operators, favoured a lower frequency, such as monthly auctions. Also member states are on balance inclined towards a lower frequency of spot auctions.

For spot auctions, what should be the **optimum** frequency of auctions?



Question 6

For spot auctions, what should be the:

- Optimum auction size?

30% of respondents addressed this question. Those who did answered as follows:

6%	Less than 1,000,000 tons
33%	1,000,000 to 4,999,999 tons
22%	5,000,000 to 9,999,999 tons
28%	10,000,000 to 25,000,000 tons
11%	Greater than 25,000,000 tons

- Minimum auction size?

29% of respondents addressed this question. Those who did answered as follows:

20%	Less than 1,000,000 tons
43%	1,000,000 to 4,999,999 tons
14%	5,000,000 to 9,999,999 tons
17%	10,000,000 to 25,000,000 tons
6%	Greater than 25,000,000 tons

- Maximum auction size?

28% of respondents addressed this question. Those who did answered as follows:

3%	Less than 1,000,000 tons
0%	1,000,000 to 4,999,999 tons
36%	5,000,000 to 9,999,999 tons
42%	10,000,000 to 25,000,000 tons
18%	Greater than 25,000,000 tons

Summary statistics (value in tons):

	Mean	Standard Deviation	Min	Max
Optimum auction size?	13,900,000.00	21,600,000.00	100.00	100,000,000.00
Minimum auction size?	6,008,600.00	9,567,339.00	-	40,000,000.00
Maximum auction size?	34,900,000.00	62,600,000.00	100,000.00	300,000,000.00

Only a few stakeholders (less than 30%) have answered this question because most of the respondents considered that auction size will be primarily determined by: (1) the organisation of auctions, and (2) the share of spot auctions and, (3) the frequency of auctions. As mentioned in question 1, many respondents suggested that the Commission should undertake a detailed and independent study to determine the actual hedging needs and their implications for auction design (including the appropriate volume of individual auctions).

A number of respondents have suggested that the maximum auction size should be consistent with the average traded volume on the secondary markets to avoid any unexpected volatility in the markets.

Question 7

For futures auctions:

What should be the **optimum** frequency of auctions?

77% of respondents addressed this question. Those who did answered as follows:

51%	Weekly
1%	Fortnightly
20%	Monthly
1%	Quarterly
27%	Other

Some other options selected (number of respondents)

Daily	20
one minute	1

What should be the **minimum** frequency of auctions?

76% of respondents addressed this question. Those who did answered as follows:

40%	Weekly
3%	Fortnightly
32%	Monthly
12%	Quarterly
13%	Other

Some other options selected (number of respondents)

Daily	8
weekly	1

What should be the **maximum** frequency of auctions?

75% of respondents addressed this question. Those who did answered as follows:

45%	Weekly
10%	Fortnightly
9%	Monthly
4%	Quarterly
31%	Other

Some other options selected (number of respondents)

Daily	23
Twice a week	1

For the majority of respondents, auction frequency should be the same for spot and future auctions. As for spot auctions, a weekly auction is the preferred option for futures contracts.

The optimal frequency for auctions of futures and spot respectively, will clearly depend on the distribution of the total volume to be auctioned over futures and spot. The response to this question should be interpreted cautiously, as respondents may based their response on different assumptions as regards this distribution.

IETA: “IETA believes that the separation of spot and futures auctions with regards to frequency is artificial. The two are linked, and there is no reason why they should differ.”

Similar to spot auctions, a higher frequency was chosen for futures auctions across all respondent groups. A difference from question 5 with reference to spot auctions was that the response rate is much lower and the higher proportion of respondents selecting weekly options was the industrial sector instead of financial institutions.

For futures auctions:

What should be the **optimum** frequency of auctions?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	92%	82%	67%	78%	75%	57%
Weekly	43%	44%	68%	43%	44%	50%
Fortnightly	0%	0%	0%	14%	0%	0%
Monthly	20%	33%	18%	14%	11%	25%
Quarterly	3%	0%	0%	0%	0%	0%
Other.	34%	22%	14%	29%	44%	25%

*Further breakdown of statistics is presented in section 5

*Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House

*Other Stakeholders: Groups NGOs, Trade Associations and those classified as other

As with all other types of respondents, there was also a lower member state response rate, with most member states that did respond indicating the same level of frequency as with spot auctions. The only exception to this was Romania that indicated an annual frequency for futures auctions.

Question 8

For futures auctions, what should be the:

- Optimum auction size?

24% of respondents addressed this question. Those who did answered as follows:

7%	Less than 1,000,000 tons
18%	1,000,000 to 4,999,999 tons
39%	5,000,000 to 9,999,999 tons
25%	10,000,000 to 25,000,000 tons
11%	Greater than 25,000,000 tons

- Minimum auction size?

24% of respondents addressed this question. Those who did answered as follows:

10%	Less than 1,000,000 tons
52%	1,000,000 to 4,999,999 tons
14%	5,000,000 to 9,999,999 tons
24%	10,000,000 to 25,000,000 tons
0%	Greater than 25,000,000 tons

- Maximum auction size?

23% of respondents addressed this question. Those who did answered as follows:

7%	Less than 1,000,000 tons
4%	1,000,000 to 4,999,999 tons
11%	5,000,000 to 9,999,999 tons
56%	10,000,000 to 25,000,000 tons
22%	Greater than 25,000,000 tons

Summary statistics (value in tons):

	Mean	Standard Deviation	Min	Max
Optimum auction size?	12,400,000.00	16,200,000.00	-	80,000,000.00
Minimum auction size?	4,793,138.00	6,298,381.00	-	25,000,000.00
Maximum auction size?	29,200,000.00	32,500,000.00	-	150,000,000.00

There were a limited number of responses to this question (less than 25%) as most of the respondents considered that auction size will be primarily determined by: (1) the organisation of auctions, (2) the share of spot auctions, and (3) the frequency of auctions. As mentioned in question 1, many respondents suggested that the Commission should undertake a detailed and independent study to determine the actual hedging needs and their implications for auction design (including appropriate volume of individual auctions).

The Member States expressing a view on the optimal auction size supported a large auction size, consistent with their views on auction frequency. Nearly all of the views given supported auctions of a size greater than 25 million of EUAs.

Question 9

Should volumes of spot allowances be auctioned evenly throughout the year? [Y/N]

88% of respondents addressed this question. Those who did answered as follows:

89%	Yes
11%	No

If not, how should volumes be distributed? (more than one answer possible) Please specify:

Of the respondents who answered 'No' to the first component of this question, the percentage who agreed with the each of the following statements was:

42%	A larger proportion in the first 4 months of the year?
17%	A larger proportion in December?
25%	A smaller proportion in July and August?
42%	Other?

The vast majority of respondents support an even distribution of auctions throughout the year.

Among the 11% of alternative views one third suggest that a larger portion of allowances should be auctioned during the first quarter of the year, before the annual surrendering date for compliance with the EU ETS. Among these respondents were some intermediaries and exchanges, e.g. KFW, CDC Climat and Nasdaq OMX commodities and also a few energy companies.

A reduced volume of auctions during the quieter summer months and increased volume in December received little support. The latter option in particular has been questioned because it was considered to be a vacation month.

Question 10

In case futures are auctioned, should the volumes for spot and futures auctions be spread over the year in the same manner? [Y/N]

76% of respondents addressed this question. Those who did answered as follows:

92%	Yes
8%	No

If not, how should they differ? (more than one answer possible)

Of the respondents who answered 'No' to the first component of this question, the percentage who agreed with the each of the following statements was:

14%	No futures auctions less than six months before the maturity date.
29%	A larger proportion in December.
14%	A smaller proportion in July and August.
57%	Otherwise?

Institutions like Drax power, Statoil and Nasdaq opted that futures auctions be spread over the year in the same manner as spot auctions, which they did not want spread evenly through the year.

For the majority of respondents, the auction calendar should be the same for spot and future auctions and the volume should also be evenly distributed over the year. One exception to this was the Romanian Government who wanted spot auctions spread evenly through the year but futures auctions not to be spread in the same manner. Romania effectively wanted no futures be auctioned less than 6 months before their maturity date.

The 57% of respondents who answered 'Otherwise' to the second part of the question is in fact only 4 responses. Two of these respondents said that Futures should be spread evenly through the year. One respondent just reiterated their position against auctioning for futures. The fourth respondent was CDC Climat, who said:

"Having auctions for futures whose maturity is in the same year does not seem to be a very cost-effective way of auctioning. Thus futures auctions should be made with a flat distribution and end one year before their maturity date. Auctions in August should be avoided or at least reduced given it is a common period of holidays throughout Europe."

Question 11

Does the Regulation need to have provisions to avoid holding auctions during a short period of time before the surrendering date (30 April each year)? [Y/N]

80% of respondents addressed this question. Those who did answered as follows:

24%	Yes
76%	No

If yes, how long should this period be:

Of the respondents who answered 'Yes' to the first component of this question, 95% addressed this part. Those who did answered as follows:

27%	One week
36%	2 weeks
0%	3 weeks
36%	1 month

In case futures are auctioned, should there be similar provisions with respect to the period immediately prior to the maturity date? [Y/N]

55% of respondents addressed this question. Those who did answered as follows:

26%	Yes
74%	No

If yes, how long should this period be:

Of the respondents who answered 'Yes' to the third component of this question, 100% addressed this part. Those who did answered as follows:

24%	One week
35%	2 weeks
6%	3 weeks
35%	1 month

A majority of respondents do not see a necessity for provisions to avoid holding auctions just before the surrendering date. Respondents in favour of such measures have suggested that a minimum delay may be relevant to ensure that auctioneers and potential intermediaries will have sufficient time to deliver allowances before the annual EU ETS surrendering deadline, including some -reasonable- latitude to deal with any delivery failures.

At the same time, spot auctions during this period could be useful for the compliance process, which suggests a small non-auctioning period. The period without auctions should be less than 2 weeks for 56% of the respondents in favour of such measures, and of one month duration for 38%.

Member States and aviation respondents saw more of a need for a gap in the auction calendar before the surrendering date for both spot allowances and futures.

Question 12

Which dates should be avoided? (more than one answer possible)

The percentage who agreed with the each of the following statements was:

76%	Public holidays common in most Member States?
14%	Days where important relevant economic data is released?
41%	Days where emissions data are released?
22%	Other?

The majority of respondents considered that auctions should not be held on the dates of common public holidays.

The views are mixed with regards to the days where emissions data are released, with 40% of the overall sample wanting these days avoided and a majority of Member States. Only a few respondents see a necessity for avoiding holding auctions on days when important relevant economic data is released.

The detailed suggestions for dates to be avoided tended to be listings of appropriate public holidays in member states, with additional support expressed for no auctions during a week around major holiday periods (Christmas, New Year) and lower amounts to be auctioned during August.

Question 13

Is a harmonised 10-12 hrs CET auction slot desirable? [Y/N]

87% of respondents addressed this question. Those who did answered as follows:

93%	Yes
7%	No

The 10-12hrs CET auction slot proved to be consensual among respondents. Although there were a few alternative proposals including the 09-11hrs CET timeslot chosen by the UK for Phase II auctions to avoid a conflict with key trading times for related commodities such as German power. The majority of those against harmonisation were in favour of very frequent auctions, in some cases continuous.

Question 14

How long in advance should each element of the calendar be determined?

Annual volumes to be auctioned:

82% of respondents addressed this question. Those who did answered as follows:

20%	1 year in advance
8%	2 years in advance
24%	3 years in advance
45%	More years in advance
2%	No response

Distribution of annual volumes over spot and futures (if applicable):

82% of respondents addressed this question. Those who did answered as follows:

20%	1 year in advance
13%	2 years in advance
26%	3 years in advance
39%	More years in advance
2%	No response

Dates of individual auctions:

82% of respondents addressed this question. Those who did answered as follows:

36%	1 year in advance
20%	2 years in advance
15%	3 years in advance
29%	More years in advance
0%	No response

Volume and product type for individual auctions:

80% of respondents addressed this question. Those who did answered as follows:

28%	1 year in advance
22%	2 years in advance
15%	3 years in advance
35%	More years in advance
0%	No response

Each auctioneer carrying out auction process (if more than one):

81% of respondents addressed this question. Those who did answered as follows:

32%	1 year in advance
22%	2 years in advance
16%	3 years in advance
30%	More years in advance
0%	No response

Respondents have mixed views on how long in advance each element of the calendar should be determined. The majority considered that the annual volume to be

auctioned should be known years in advance and for the entire trading period – although the European Commission may make future adjustments due to perimeter change. Two groups of respondents have diverging views compared with the overall sample: 43% of responding Member States consider annual volume should only be known 2 years in advance, whereas 67% of the representatives of the finance community consider it is sufficient to know this information 1 year in advance. There was a suggestion from BP that a mixed system could be applied whereby the profile of allowances to be auctioned will be mainly fixed a long period in advance but that there will be a process for fine-tuning the final volumes closer to the date to allow for uncertainty on the release of allowances from new entrant reserves etc.

BP: *“The calendar should fix the amounts of EUA for auction by Member States to ensure the regular and predictable supply of EUA to the market, and to avoid any possibility of Member States gaming the market by varying the auction times and EUA quantities. Thus the regulation should differentiate between absolute disclosure of Core Auction Volumes (CAV) and a timely disclosure of the variable Residual Auction Volume (RAV).”*

CAV is mechanistically determined by Phase length (8 years) x annual non-free allocation for auctioning divided by number of auctions, and would have to take into account any front-loading of auction volume as well as the declining cap. The variable RAV will require advanced notification of additional EUA volume - say 6 months prior to auction. Amongst other items RAV volumes would consist of unused NER EUA, early release NER EUA, closed installation unissued EUA allocation, and additional EUA auction allocation due to carbon leakage sectors being potentially redefined as non carbon leakage.”

39% of respondents think that the distribution among spot and futures should be known more than 3 years in advance, and a clear majority of all categories except Member States want this split to be known at least 3 years in advance. The majority of respondents also consider that, if more than one auctioneer is involved in the auction process, the practical details of each individual auction can be disclosed less time in advance, as long as the volume and nature of contracts to be auctioned have been fixed earlier. The groups with the highest proportions that do not see the need for as much notice for the distribution between spot and futures are the Member States and the financial players and institutions such as carbon market operators and traders.

Question 15

What should be the volume of allowances to be auctioned in 2011 and 2012?

45% of respondents addressed this question. Those who did answered as follows:

in 2011:	<table border="1"> <tr><td>47%</td><td>0-25%</td></tr> <tr><td>42%</td><td>26-50%</td></tr> <tr><td>9%</td><td>51-75%</td></tr> <tr><td>2%</td><td>76-100%</td></tr> <tr><td>0%</td><td>No Response</td></tr> </table>	47%	0-25%	42%	26-50%	9%	51-75%	2%	76-100%	0%	No Response	...of the 2013 volume, and	<table border="1"> <tr><td>72%</td><td>0-25%</td></tr> <tr><td>17%</td><td>26-50%</td></tr> <tr><td>2%</td><td>51-75%</td></tr> <tr><td>4%</td><td>76-100%</td></tr> <tr><td>6%</td><td>No Response</td></tr> </table>	72%	0-25%	17%	26-50%	2%	51-75%	4%	76-100%	6%	No Response	...of the 2014 volume.
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in 2012:	<table border="1"> <tr><td>25%</td><td>0-25%</td></tr> <tr><td>70%</td><td>26-50%</td></tr> <tr><td>2%</td><td>51-75%</td></tr> <tr><td>4%</td><td>76-100%</td></tr> <tr><td>0%</td><td>No Response</td></tr> </table>	25%	0-25%	70%	26-50%	2%	51-75%	4%	76-100%	0%	No Response	...of the 2013 volume, and	<table border="1"> <tr><td>60%</td><td>0-25%</td></tr> <tr><td>32%</td><td>26-50%</td></tr> <tr><td>2%</td><td>51-75%</td></tr> <tr><td>4%</td><td>76-100%</td></tr> <tr><td>2%</td><td>No Response</td></tr> </table>	60%	0-25%	32%	26-50%	2%	51-75%	4%	76-100%	2%	No Response	...of the 2014 volume.
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4%	76-100%																							
2%	No Response																							

What percentage of these shares should be auctioned as futures?

40% of respondents addressed this question. Those who did answered as follows:

in 2011:	<table border="1"> <tr><td>31%</td><td>0-25%</td></tr> <tr><td>6%</td><td>26-50%</td></tr> <tr><td>8%</td><td>51-75%</td></tr> <tr><td>54%</td><td>76-100%</td></tr> <tr><td>0%</td><td>No Response</td></tr> </table>	31%	0-25%	6%	26-50%	8%	51-75%	54%	76-100%	0%	No Response	...of the 2013 share, and	<table border="1"> <tr><td>42%</td><td>0-25%</td></tr> <tr><td>4%</td><td>26-50%</td></tr> <tr><td>10%</td><td>51-75%</td></tr> <tr><td>35%</td><td>76-100%</td></tr> <tr><td>8%</td><td>No Response</td></tr> </table>	42%	0-25%	4%	26-50%	10%	51-75%	35%	76-100%	8%	No Response	...of the 2014 share.
31%	0-25%																							
6%	26-50%																							
8%	51-75%																							
54%	76-100%																							
0%	No Response																							
42%	0-25%																							
4%	26-50%																							
10%	51-75%																							
35%	76-100%																							
8%	No Response																							
in 2012:	<table border="1"> <tr><td>25%</td><td>0-25%</td></tr> <tr><td>15%</td><td>26-50%</td></tr> <tr><td>10%</td><td>51-75%</td></tr> <tr><td>50%</td><td>76-100%</td></tr> <tr><td>0%</td><td>No Response</td></tr> </table>	25%	0-25%	15%	26-50%	10%	51-75%	50%	76-100%	0%	No Response	...of the 2013 share, and	<table border="1"> <tr><td>31%</td><td>0-25%</td></tr> <tr><td>4%</td><td>26-50%</td></tr> <tr><td>10%</td><td>51-75%</td></tr> <tr><td>54%</td><td>76-100%</td></tr> <tr><td>0%</td><td>No Response</td></tr> </table>	31%	0-25%	4%	26-50%	10%	51-75%	54%	76-100%	0%	No Response	...of the 2014 share.
25%	0-25%																							
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31%	0-25%																							
4%	26-50%																							
10%	51-75%																							
54%	76-100%																							
0%	No Response																							

Less than half of the respondents answered this question. The groups with the highest response rate are the ETS operators in the electricity generating sector. With a response rate of 20%, industrial ETS operators seem less sensitive to this issue. Most of those who responded defend the following points:

1. Implementation of early auctions in 2011
2. Use of both spot and future contracts

However, some respondents have argued that early auctions to take place prior to Phase 3 should be 100% futures to allow sales to take place before the centralised EU registry is completed.

There was a suggestion from Dalkia that the auction should be designed such that every buyer has a choice between spot and futures and none of those products should dominate the other ones in terms of volumes or date of availability.

Question 16

What should be the rule with respect to allowances not auctioned due to *force majeure*?

89% of respondents addressed this question. Those who did answered as follows:

51%	They should automatically be added to the next auction on the calendar, irrespective of the auction process.
8%	They should be auctioned within one month, though leaving flexibility as to which auction(s) the EUAs should be added.
10%	They should be auctioned within three months, though leaving flexibility as to which auction(s) the EUAs should be added.
31%	Other?

If an auction can not be held due to *force majeure*, half of the respondents are in favour of automatically adding the EUAs to the next auction on the calendar, irrespective of the auction process (if more than one).

Alternative views (one third of respondents) suggest that allowances rolled forward should be spread over a few auctions to prevent the auction immediately following the failed one from becoming too large.

Question 17

Is 1,000 allowances the most appropriate lot size? [Y/N]

92% of respondents addressed this question. Those who did answered as follows:

83%	Yes
17%	No

A large majority are in favour of a standard lot size of 1,000 allowances to be consistent with the current secondary market practice. Those who advocated a lower lot size felt that this could be useful for smaller emitters, in some cases a twin-track approach was suggested with a 1,000 allowance lot size as standard but provisions for SMEs to bid for and purchase smaller lot sizes. Austria has indicated how for its auctions in the second trading period a lot size of 50 was established, as it was felt that a large lot size might act as a barrier to small emitters. Shell also would ideally like a small lot size, even as small as one single allowance, but understand that exchanges may not provide such variation on lot sizes.

There were also some suggestions for a higher lot size given the scale of the auctions. Barclays believe that a lot size should be in line with the secondary market standard size.

Germany: *“As SMEs might only need a small number of allowances, a minimum ticket [lot] size of 500 allowances is deemed to be appropriate for spot auctioning.”*

4.2 Auction Design

Question 18

Is a single-round sealed-bid auction the most appropriate auction format for auctioning EU allowances? [Y/N]

88% of respondents addressed this question. Those who did answered as follows:

76%	Yes
24%	No

Is a single-round sealed-bid auction the most appropriate auction format for auctioning EU allowances? [Y/N]

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	100%	91%	83%	67%	92%	71%
Yes	92%	90%	63%	50%	64%	80%
No	8%	10%	37%	50%	36%	20%

*Further breakdown of statistics is presented in section 5

*Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House

*Other Stakeholders: Groups NGOs, Trade Associations and those classified as other

A single-round sealed-bid auction tended to be preferred on the grounds of simplicity. Multi-round bidding was suggested as a lower risk approach for bidders because they have the ability to react to evolving prices and would be able to withdraw if the price gets too high. However, most respondents felt that the evolved state of the secondary market assured a price signal and therefore did not see a need for multi-round bidding to mitigate ‘price risk’ in the auction.

In all respondents groups other than electricity generators and energy companies other than electricity generators, there are relatively large minorities disagreeing that a single-round sealed-bid auction would be the most appropriate auction format. The two primary concerns with a single-round sealed bid approach are a lack of opportunity for bidders to react to price (as exists in a multiple round auction) and a lack of transparency on bids (although this may show some confusion in that

transparency can be addressed via information disclosure and the ‘sealed bid’ mechanism refers to not seeing other parties bids prior to or during the auction).

BlueNext: *“Multiple rounds provide a price discovery, but this already exists in the secondary market. Single round are less complex and less prone to collusion.”*

More complex options were mentioned. EEX Eurex, e.g., suggested a dynamic multi-round single-price double auction.

Question 19

What is the most appropriate pricing rule for the auctioning of EU allowances?

90% of respondents addressed this question. Those who did answered as follows:

84%	Uniform-pricing
7%	Discriminatory-pricing
8%	Indifferent

Another large majority in favour of the simplest option, i.e. uniform pricing. This is perceived to provide a clear price signal and to be more accessible for SMEs because there is no need to guess the price level in order to bid, all buyers pay the same price. Those selecting discriminatory pricing tended to view this as a means of preventing the auction being dominated by a limited number of players because of the need to bid higher prices than others pay in order to gain additional allowances.

Lafarge: "Uniform-pricing enables the generation of a unique carbon price which will be visible and will better enhance investments. It is also more accessible and easy to deal with for SMEs."

FEVIA: "To avoid market manipulation and to keep the auctioning open for SME (with less experience in trading) Fevia is in favor of discriminatory-price auctions (participants pay as they bid) with the possibility for non-competitive bids for SMEs (participants can bid on volume without the need to quote the price and pay the clearing price). Question = What is defined as SME?"

There was limited variation across respondent types, with most respondent groups showing a clear majority for uniform pricing. The only noticeable differences were within the other stakeholders category (n=7), where each option was selected evenly and again in aviation. Although there was only a 56% response rate by the aviation respondent category for this question, 40% selected uniform pricing, 40% selected discriminatory-pricing and 20% selected indifferent. Air Malta selected discriminatory pricing, but said this is subject to its answer to question 18, where they suggested "Original bids with results published with a second bid option", rather than a single-round sealed-bid auction.

Question 20

Should the rules for solving ties in the Regulation be:

83% of respondents addressed this question. Those who did answered as follows:

1%	Random selection
99%	Pro-rata re-scaling of bids

An overwhelming majority in favour of pro-rata re-scaling of bids in the event of a tie on bid price. This was claimed to be the fairest approach, resulting in everyone who bids at the clearing price receiving some allowances. Also Italy selected random selection:

Iberdrola: *“Ties should be resolved on a pro-rata basis to ensure that those bidding at the clearing price are awarded some allowances. Random selection is not a fair methodology as some participants, who bid the clearing price, will not be allocated any allowances.”*

Italy: *“pro rata is generally recognised to be a pro-collusive tie-breaking rule mechanism. This means that the auctioneer would become the one enforcing a “split-the-market” collusive strategy.”*

One alternative that was suggested by a couple of exchanges is the use of price-time priority (i.e. “first come – first served”, whereby bids that tie on price are filled in the order in which the bids were received and which corresponds to the existing practice on these exchanges.

Question 21

Should a reserve price apply?

87% of respondents addressed this question. Those who did answered as follows:

16%	Yes
84%	No

Many respondents used this question to highlight their opposition to any absolute price floor in the framework of government interventions into the price setting mechanism. As the consultation document made clear, such intervention is not foreseen and does not form part of this consultation.

Of those who responded, and in each respondent group, an overwhelming proportion were against a reserve price. The only groups with any significant support for a reserve price were aviation and other stakeholders, which are the smallest respondent groups categorized separately. There were some respondents who supported a reserve price as an indicator of any flaw in the auction process, i.e. a divergence of the auction clearing price from recent secondary market prices would suggest an issue that could invalidate that auction. These included Dalkia, Veolia, CDC Climat, Edison, PGE Polska, Corus Steel, UK steel and Nasdaq OMX.

Should a reserve price apply?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	95%	82%	90%	67%	83%	71%
Yes	8%	22%	13%	33%	30%	40%
No	92%	78%	87%	67%	70%	60%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

Outokumpu Stainless: "A reserve price will act as a floor and avoid destabilising the market if linked to the secondary market price, for example 80% of the average price for the previous month. The linkage mechanism to the secondary market needs to be transparent."

Veolia: "A reserve price should be applied in order to avoid accidents, i.e. very low price due to lack of participants. But reserve price should be much lower than secondary market price so that the auction is able to reveal the emissions' fair value even when the secondary market is overvalued."

Significant support for a reserve price came from member states. Out of 12 member states 10 responded to the question with 80% of these opting for a reserve price. The Netherlands and Finland did not see it as necessary.

Question 22

In case a reserve price would apply, should the methodology/formula for calculating it be kept secret? [Y/N]

76% of respondents addressed this question. Those who did answered as follows:

6%	Yes
94%	No

If a reserve price is used the majority of respondents think that the basis for setting it should be transparent. The comment was also made that it was unrealistic to expect the methodology for setting a reserve price to stay secret over the long term. Those who did think that secrecy was useful thought that this would avoid bidders deliberately targeting bids at the reserve price level.

CDC Climat: *The methodology used to calculate the reserve price should be kept secret to avoid speculative bidding just above the reserve price which may incur a diminished price clearing ; nevertheless it might be easily discovered by important bidders after a few auctions. As such, to avoid any information distortion among bidders, it might be more relevant to publish the price reserve calculation's methodology.*

There was no variation in the statistical results to this response across different respondent types, but the response rates for ETS operators in aviation and industry were lower than for the other respondent groups.

Out of those who said a reserve price should apply in question 21, Nasdaq OMX was the only respondents who agreed that the method for calculation remain a secret, aside from the member states.

Member state responses for question 21 and this question are shown in the table below.

Member State	Should a reserve price apply?	In case a reserve price would apply, should the methodology/formula for calculating it be kept secret?
Austria	Yes	No
Denmark	no comment	No comment
Finland	No	Yes
France	Yes	No
Germany	Further evaluate	Further evaluate
Italy	Yes	Yes
Netherlands	No	Yes
Poland	Yes	Yes
Romania	Yes	No
Spain	Yes	Yes
Sweden	Yes	Yes
United Kingdom	Yes	Yes

Question 23

Is a maximum bid-size per single entity desirable in a Uniform-price auction?

85% of respondents addressed this question. Those who did answered as follows:

34%	Yes
66%	No

Is a maximum bid-size per single entity desirable in a discriminatory-price auction?

66% of respondents addressed this question. Those who did answered as follows:

24%	Yes
76%	No

Although the majority of respondents did not feel that a maximum bid-size was necessary, a sizeable minority like the idea of a maximum bid-size to prevent the domination of a particular auction by a single bidder. The proportion supporting a maximum bid-size was highest amongst industrial respondents and Member States. The support for a maximum bid-size by industrial respondents may not be a surprise, as they are expected to be smaller bidders, whereas they are being asked if large bidders such as electricity generators should be restricted in competing against them in the auctions.

MOL: "Yes, it might be necessary in order to avoid anti-competitive behavior and prevent distortions of the market in case the full centralization or the hybrid auctioning model prevails"

The counter-argument from large emitters is that their need to buy large volumes of allowances is a reality of the EU ETS, therefore the purchase of a significant share of the allowances at a particular auction by one company should be expected rather than being a signal of market abuse.

RWE: "Many market participants face very significant annual purchase requirements which may comfortably exceed the volumes available in any one auction. There would be nothing inherently wrong with a single participant successfully bidding for all of the allowances for one auction on one day. (Indeed some parties buying a lot of allowances is to be expected, rather than deemed to provide de facto evidence of an underlying problem or abuse.) Moreover, the choice over when and how to buy is fundamental to the development of liquid and efficient markets and is crucial to ensure efficient price discovery and convergence across several auction platforms Restricting this choice - through a maximum bid size - could force market participants into having to participate in some or all auctions and commit to a particular programme of purchases. This could lead to serious unintended consequences and distorted results for some auctions and would undermine efficiency and liquidity in the secondary markets. To the extent that market participants can ultimately buy allowances via the secondary market, a maximum bid size would also force unnecessary and inefficient intermediation via the secondary markets (ie, if you can't buy in the primary auction you are merely forced to buy in secondary market from someone who could buy in the primary auction)."

Interestingly, a number of respondents related the maximum bid-size to the auction frequency as a supporting argument for both larger and smaller auction sizes. One argument is that larger auctions will be harder to dominate and therefore counter the need for a maximum bid-size, on the other hand very frequent auctions (even continuous) limit the impact of an issue with any specific auction and therefore make protective clauses less necessary.

Some respondents, for example Sweden, pointed out the complexity of implementing and monitoring a maximum bid-size given the ownership (in whole or part) of several emitting companies by certain entities.

Is a maximum bid-size per single entity desirable in a Uniform-price auction?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	97%	82%	88%	44%	75%	71%
Yes	24%	33%	46%	25%	22%	40%
No	76%	67%	54%	75%	78%	60%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

Is a maximum bid-size per single entity desirable in a discriminatory-price auction?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	74%	82%	55%	56%	67%	71%
Yes	29%	33%	9%	40%	25%	40%
No	71%	67%	91%	60%	75%	60%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

The response rate for the question on a maximum bid-size in case of discriminatory-price auctions is significantly lower than the same question in case of uniform-price auction. Of all the respondents who answered both questions, the vast majority gave the same answer. Only Italy, SA Helios and Mol Plc responded ‘yes’ to the first and ‘no’ to the second question.

Question 24

If so, what is the desirable bid-size limit (as a percentage of the volume of allowances auctioned per auction – only one choice is possible):

25% of respondents addressed this question. Those who did answered as follows:

40%	10%
7%	15%
37%	20%
7%	25%
7%	30%
3%	More than 30%

Response rates for each respondent type were roughly 25%, which is somewhat below the share of respondents that actually were in favour of a maximum bid-size. Only the financial group had a significantly lower response rate.

The most popular choices are 10% and 20%. The consultation paper already pointed out that currently the share of the largest emitter in the EU ETS is about 6-7% of total emissions, which in 2013 roughly corresponds to 13% of the total quantity to be auctioned. These largest emitters are active in the electricity generating sector, which in principle will not receive allowances for free. Those favouring a maximum bid-size of 10% apparently see no problem in imposing a restriction that requires the largest emitters to purchase allowances on the secondary market in addition to what they can purchase in auctions.

4.3 How will the auction(s) be implemented?

Question 25

In case only one of the two following options would be chosen, to limit the risk of market manipulation or collusion, which one would be preferable?

55% of respondents addressed this question. Those who did answered as follows:

20%	A discriminatory-price auction format?
80%	A maximum bid-size per single entity?

The selection of a maximum bid-size rather than a discriminatory price auction format as the means to limit the risk of market manipulation or collusion is consistent with the sentiment regarding these options expressed in the questions relating to these directly. The support for discriminatory pricing is low whereas there is a much higher level of support for a maximum bid-size, although neither option gains majority support. The only category where the sentiment is reversed is aviation, where more respondents supported discriminatory pricing should one of these options be applied.

A few respondents explicitly answered that they are in favour of neither one of the two options. This position is also implicitly clear from the relatively low response rate to this question.

Question 26

Are the following pre-registration requirements appropriate and adequate?

The percentage who agreed with the each of the following statements was:

Identity:	
75%	Natural or legal person;
72%	Name, address, whether publicly listed, whether licensed and supervised under the AML rules; membership of a professional association; membership of a chamber of commerce; VAT and/or tax number;
76%	Contact details of authorised representatives and proof of authorisation; and
74%	CITL-Registry account details.
17%	Anything else? Please specify: ____
Declarations with respect to the past 5 years on absence of:	
56%	Indictment or conviction of serious crimes: check corporate officers, directors, principals, members or partners;
61%	Infringement of the rules of any regulated or unregulated market;
65%	Permits to conduct business being revoked or suspended;
59%	Infringement of procurement rules; and
60%	Infringement of disclosure of confidential information.
13%	Anything else? Please specify: ____
Declarations and submission of documentation relating to:	
66%	Proof of identity;
64%	Type of business;
62%	Participation in EU ETS or not;
60%	EU ETS registered installations, if any;
66%	Bank account contact details;
33%	Intended auctioning activity;
48%	Whether bidding on own account or on behalf of another beneficial owner;
52%	Corporate and business affiliations;
63%	Creditworthiness;
58%	Collateral; and
55%	Whether it carries out transactions subject to VAT or transactions exempted from VAT.
23%	Anything else? Please specify: ____

18 % did not tick any of the options at all, which suggests the absence of an opinion rather than disagreement on all of the pre-registration requirements.

Generally there was a high level of agreement that the listed pre-registration requirements were appropriate and adequate. Those with the lowest levels of agreement were those items which went beyond basic data about the organisation and into wider issues such as business affiliations. The majority were unhappy with any suggestion that the information provided for pre-registration should include a

description of intended bidding activity. Votes were split on the need to declare whether a company is bidding on behalf of any other entity, although clearly this information will be necessary should auction rules such as a maximum aggregate bid-size per single entity be implemented and for auction monitoring.

Under 'anything else', respondents rather provided comments than suggesting requirements not yet raised in the question. E.g., some suggest applying 'normal know-your-customer checks' as is customary in regulated market places. Some others point out that, auctioning futures by using exchanges and clearing houses would remove the need to stipulate pre-registration requirements, as the latter will have their own registration criteria regulated by the relevant supervisory bodies.

Among various specific remarks, a few respondents raised the need for the Regulation to provide for the possibility of applications being submitted in English only, regardless of the mother language of the Member State.

Question 27

Do you agree that the pre-registration requirements for admittance to EU auctions should be harmonised throughout the EU?

88% of respondents addressed this question. Those who did answered as follows:

100%	Yes
0%	No

Respondents want simplicity and equal access to auctions and view harmonised pre-registration requirements as an important part of this. The response rates for the respondents groups do not differ very much, though being lowest for ETS operators in industry and aviation.

Corus Tata Steel Europe: *“It is essential that there must be a level playing field and that auction integrity is maintained.”*

Solvay: *“In the interest of uniformity and simplicity, especially for companies present in different Member States.”*

Question 28

Should the amount of information to be supplied in order to satisfy the pre-registration requirements for admittance to EU auctions depend on the:

The percentage who agreed with the each of the following statements was:

29%	means of establishing the trading relationship;
29%	identity of bidder;
28%	whether auctioning spot or futures;
14%	size of bid;
24%	means of payment and delivery;
24%	anything else?

35% did not tick any of the options at all, which in some cases will imply absence of an opinion rather than disagreement on all. Some respondents held that it was premature to consider this prior to resolving some of the broader details of the potential auction design, for instance whether futures or spot allowances will be auctioned and whether the auction will take place through direct or indirect bidding.

The response nevertheless shows that a sizeable minority agrees on a relationship between the information to be provided for pre-registration and the listed factors.

A significant part of those commenting under 'anything else' pleaded for the same or similar pre-registration requirements to be generally applicable. Another part of this group suggested differentiation between compliance buyers and other auction participants.

Question 29

Should the bidder pre-registration requirements under the Regulation apply in the same manner irrespective of whether or not the auctioneer is covered by the MiFID or AML rules? [Y/N]

72% of respondents addressed this question. Those who did answered as follows:

85%	Yes
15%	No

A significant majority is in favour of the same bidder pre-registration requirements whether or not the auctioneer is covered by the MiFID or AML rules. Dissent came from respondents who felt that the auctions should take place through existing regulated markets which would therefore already have registration systems in place and specifying these in the Regulation would not be necessary. A number of respondents commented that this depended on whether spot allowances or futures were being auctioned.

EEX Eurex: *“We note that Regulated Markets have very comprehensive, clear-cut rules for admission of new customers. Furthermore, KYC rules are efficiently spread over the intermediation chain of Regulated Markets’ trading members and their customers in a cascade way, ensuring quality and suitability checks all the way down to end customers. If auctions are done by Regulated Markets, it would be the Regulated Market that would enforce its criteria and no pre registration for each auction as such would be necessary.”*

Question 30

Do you agree that the auctioneer(s) should be allowed to rely on pre-registration checks carried out by reliable third parties including: [Y/N]

76% of respondents addressed this question. Those who did answered as follows:

91%	Yes
9%	No

Of the respondents who answered 'Yes' to the first component of this question, the percentage who agreed with the each of the following statements was:

55%	Other auctioneers?
70%	Credit and/or financial institutions?
22%	Other?

Respondents had a high level of support for allowing pre-registration checks by third party financial and credit institutions and a slightly lower support for relying on other auctioneers to carry out these checks. Most of the 'no' responses came from ETS operators in industry.

Question 31

In order to facilitate bidder pre-registration in their home country, should the auctioneer(s) be allowed to provide for pre-registration by potential bidders in other (or all) Member States than the auctioneer's home country e.g. by outsourcing this to a reliable third party?

78% of respondents addressed this question. Those who did answered as follows:

89%	Yes
11%	No

If so, should such entities be:

Of the respondents who answered 'Yes' to the first component of this question, the percentage who agreed with the each of the following statements was:

13%	Covered by the AML rules?
11%	Covered by MiFID?
31%	Covered by both?
17%	Other?

There is strong agreement that auctioneer(s) should be able to rely on pre-registration of potential bidders in other countries by third parties, with the most popular option being for these third parties to be covered by both the AML rules and MiFID. However, 43% of respondents who said yes to the first part of this question, did not address the second part. Most of the 'no' responses to the overall concept came from ETS operators in industry, consistent with the answers to question 30 regarding reliance on third parties for pre-registration. A number of comments were made that the regulation does not need to cover these issues because existing regulations cover them.

Question 32

Should the Regulation prohibit the multiplicity of pre-registration checks in the case of Member States auctioning jointly?

82% of respondents addressed this question. Those who did answered as follows:

96%	Yes
4%	No

A large majority support the prohibition of multiple pre-registration checks in the event of joint auctioning. The 'no' answers seem to be based on a view that if existing infrastructure is used then the pre-registration processes are set up and would be implemented by the exchange rather than by several Member States so this issue doesn't actually arise.

Question 33

Do you agree that the *level* of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions?

82% of respondents addressed this question. Those who did answered as follows:

88%	Yes
12%	No

The vast majority of respondents favour a harmonised level and nature of collateral for all ETS auctions. Those who dissented from this tended to be exponents of existing exchanges and see no benefit in attempting to force exchanges to change their developed collateral mechanisms. It was also pointed out that the level of collateral in the secondary markets varies according to the risk profile of the buyer. Attempting to set a standardised system of collateral within the regulation will be very hard and potentially dangerous given the variation in the risk profiles of bidders. Existing exchanges have a variety of practices in terms of collateral but may all be involved in the auction process.

ENBW: “The level of collateral accepted in EUA auctions should be harmonised (percentage of the total volume bid) for all EU ETS auctions.”

ECX: “This depends on each individual company's credit worthiness, assets, expected volumes to be bought in the auction etc. and cannot be streamlined.”

Do you agree that the *level* of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	92%	82%	81%	56%	75%	71%
Yes	91%	100%	85%	100%	67%	80%
No	9%	0%	15%	0%	33%	20%

*Further breakdown of statistics is presented in section 5

*Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House

*Other Stakeholders: Groups NGOs, Trade Associations and those classified as other

Question 34

Do you agree that the *type* of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions? [Y/N]

82% of respondents addressed this question. Those who did answered as follows:

85%	Yes
15%	No

The vast majority of respondents favour a harmonised level and nature of collateral for all ETS auctions. However, similarly as for question 33, the difficulty of standardisation was raised.

Question 35

Do you agree that 100% collateral in electronic money transfer ought to be deposited up-front at a central counterparty or credit institution designated by the auctioneer to access spot auctions?

76% of respondents addressed this question. Those who did answered as follows:

41%	Yes
59%	No

Only a minority of respondents agree with the relevance of requiring 100% collateral to be deposited up-front at a central counterparty in advance of spot auctions. Those against were from those sectors that may be more concerned about the cash flow burden associated with the auction process, in particular industrials and aviation.

Do you agree that 100% collateral in electronic money transfer ought to be deposited up-front at a central counterparty or credit institution designated by the auctioneer to access spot auctions?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	89%	64%	74%	56%	67%	71%
Yes	47%	57%	26%	40%	50%	60%
No	53%	43%	74%	60%	50%	40%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

A number of respondents agree with the usefulness of collateral, but at a level lower than 100%. Arguments for reduced collateral levels include: heavy costs and burden for auction participants; uncertainty about auction result; and the risk of deterring participation from smaller participants. More generally, respondents suggested that typical secondary market collateral requirements should also be used for auctioning.

Some respondents argued that no collateral is necessary at all for spot auctions, as: (1) the financial risk is limited for the auctioneer (EUAs can be rolled into the next auction if payment does not happen); and (2) alternative measures can be envisaged to prevent defaulting behaviour, such as suspension from participating in future auctions, with lower overall cost.

Some respondents also mentioned the importance of giving some flexibility with regards to the number of credit institutions designated in respect to collateral deposit.

An auctioneer should be allowed to designate a list of credit institutions – instead of just a single one.

Poland: “100% cash coverage before an auction may be a problem for some participants. (...) We think that the regulation should contain a severe sanction, e.g. one-year suspension from participating in tenders if a given entity did not make a payment for allowances for which it had submitted an offer. (...) Moreover, necessary management of paid in securities (releasing, completing them) is a process which increases the operating costs of an auction organiser.”

UK: “Where bidders have established creditworthiness, as part of pre-registration, auctioneers may consider the posting of collateral unnecessary - as is the case in the UK competitive auctions.”

Romania: “that flexibility should be given as concerns the provisions regarding the number of credit institutions designated by a certain Member State in respect to collateral deposit. The possibility for a Member State to designate a list of credit institutions – instead of just a single one – should be allowed.”

Rio Tinto Alcan: “The Secondary market does not typically require collateral for spot transactions. Furthermore, we believe that trade exposed industry should be encouraged to participate in auctions through more flexible collateral options to reduce cash flow impact and costs of credit, including the ability to post EUAs from its free allocation where appropriate.”

Question 36

In case futures are auctioned, should a clearing house be involved to mitigate credit and market risks?

70% of respondents addressed this question. Those who did answered as follows:

87%	Yes
13%	No

If so, should specific rules – other than those currently used in exchange clearing houses – apply to:

Of the respondents who answered 'Yes' to the first component of this question, the percentage who agreed with the each of the following statements was:

25%	the level of the initial margin;
21%	the level of variation margin calls;
21%	the daily frequency of variation margin call payments?

In case future contracts are auctioned, the vast majority of respondents support the involvement of a clearing house to mitigate credit and market risks. However, some Member States mentioned some potential legal, financial and practical difficulties for them becoming members of a clearing house that still need to be clarified.

If clearing houses are involved in the auction process, the majority of respondents consider that no specific rules should be stipulated, so as to be sure that clearing houses can ensure zero counterparty-risk transactions as for any other market transactions. It may be noted that none of the intermediaries, traders on own account, carbon exchanges and clearing houses supported specific rules for the margining system.

In case futures are auctioned, should a clearing house be involved to mitigate credit and market risks?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	84%	73%	64%	44%	67%	57%
Yes	97%	100%	74%	50%	88%	100%
No	3%	0%	26%	50%	13%	0%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

If so, should specific rules – other than those currently used in exchange clearing houses – apply to:

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
the level of the initial margin;	29%	38%	20%	50%	0%	25%
the level of variation margin calls;	29%	25%	20%	0%	0%	0%
Other?the daily frequency of variation margin call payments?	26%	25%	25%	0%	0%	0%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account , Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

Question 37

What are the most preferable payment and delivery procedures that should be implemented for auctioning EUAs?

70% of respondents addressed this question. Those who did answered as follows:

12%	Payment before delivery.
76%	Delivery versus payment.
12%	Both.

What are the most preferable payment and delivery procedures that should be implemented for auctioning EUAs?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	68%	73%	74%	67%	58%	71%
Payment before delivery.	12%	25%	13%	0%	14%	0%
Delivery versus payment.	73%	50%	81%	83%	86%	80%
Both.	15%	25%	6%	17%	0%	20%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

There is considerable agreement across respondent groups that delivery versus payment (DVP) is the preferred option to minimise credit risk for all market participants. The simultaneous movement of cash and allowances would be facilitated by 100% initial collateral in electronic money if this is used so that the central counterpart can rapidly make the transactions.

Question 38

Irrespective of the payment procedure, should the Regulation fix a maximum delay of time for payment and delivery to take place?

71% of respondents addressed this question. Those who did answered as follows:

95%	Yes
5%	No

If yes; what should it be?

Of the respondents who answered 'Yes' to the first component of this question, 91% addressed this part. Those who did answered as follows:

26%	4 working days
32%	5 working days
0%	6 working days
18%	7 working days
25%	other

Almost all respondents acknowledge the need for the Regulation to fix a maximum delay of time for payment and delivery to take place. This delay should be as short as possible but consistent with existing financial practice, as well as coherent to the functioning of registries.

Views are mixed concerning the duration of this maximum delay of time, ranging from 2 to 10 working days; but more than half of respondents support a delay of 4 or 5 days.

Irrespective of the payment procedure, should the Regulation fix a maximum delay of time for payment and delivery to take place?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	79%	55%	71%	56%	75%	57%
Yes	93%	100%	100%	80%	89%	100%
No	7%	0%	0%	20%	11%	0%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

If yes; what should it be?

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	82%	83%	100%	100%	100%	75%
4 working days	48%	20%	7%	50%	38%	0%
5 working days	30%	40%	37%	25%	13%	33%
6 working days	0%	0%	0%	0%	0%	0%
7 working days	4%	0%	33%	25%	0%	33%
Other	17%	40%	23%	0%	50%	33%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

The 50% opting for 'other' from the financial group were in favour of a shorter time period with 2-3 days being the most popular choice, although it was also suggested that if escrow accounts etc are in place the payment and delivery can take place almost immediately.

Question 39

Should the Regulation provide any specific provisions for the handling of payment and delivery incidents or failures? [Y/N]

79% of respondents addressed this question. Those who did answered as follows:

88%	Yes
12%	No

Respondents heavily acknowledge the need for the Regulation to provide specific provisions for the handling of payment and delivery incidents or failures. Typically it is suggested that these measures should be in line with current exchange practices. In particular, interest should be charged in the case of a payment failure. However, the UK has suggested that the auction process should be set up to frame a regulatory relationship between buyers and the Member States rather than a contractual one which would have a significant impact on the treatment of delivery failures.

UK: "The Consultation Document to which this question relates suggests that a contractual relationship exists between the entity auctioning allowances and the bidder. In part this is because of the use of phrases such as "notice to auction" and "intention to bid" –which import the idea of a contract. We think that it is wrong to suggest a contractual relationship. The relationship between the entity auctioning allowances (ultimately the Member State) and the bidder is a purely regulatory relationship. This is because EUAs only exist by virtue of a legislative act (EU ETS Directive) which requires participants to acquire EUAs for compliance purposes. The UK Government has designed auctions to ensure that it is clear that this key relationship is regulatory, not contractual. So public law (the law governing the relationship between individuals and the state) not the private law of contract applies. This has significant consequences. In particular, it means that remedies are appropriately limited. Apart from those expressly referred to in the UK legislation governing auctioning -see here, the only remedies for participants are those for breach of public law –bringing a Judicial Review on the ground of either illegality, or irrationality, or unreasonableness, or procedural impropriety of the administrative decision.

When designing the UK model, it seemed to us that the only matters which could lead to the need for remedies are failure in the delivery of allowances and failure to pay for allowances. We therefore regulated for these situations with express and specific provision in our law (see answer 39 and our legislation). This means that there is no need for recourse to the courts in relation to the auctioning process unless there is a breach by the UK of public law. There are real and worrying consequences for state liability, for example, for damages for breach of contract, if the regulatory relationship were to be characterised by the Regulation as a contractual one."

Question 40

Should the Regulation provide for all matters that are central to the very creation, existence and termination or frustration of the transaction arising from the EUA auctions? [Y/N]

71% of respondents addressed this question. Those who did answered as follows:

93%	Yes
7%	No

If so, are the matters enumerated below complete? [Y/N]

- The designation of the parties' to the trade.
- The characteristics of the auctioned product:
 - Nature: EUAs or EUAAs, trading period concerned.
 - Date of delivery: date at which winning bidders will receive the allowances on their registry account.
 - Date of payment: date at which payment will be required from winning bidders.
 - Lot size: number of allowances associated with one unit of the auctioned good.
- Events of 'force majeure' and resulting consequences.
- Events of default by the auctioneer and/or the bidder and their consequences.
- Applicable remedies or penalties.
- The regime governing the judicial review of claims across the EU.

Of the respondents who answered 'Yes' to the first component of this question, 91% addressed this part. Those who did answered as follows:

79%	Yes
21%	No

With the notable exception of both the regulated carbon market operators who responded yes or no, the vast majority of respondents within the statistical analysis agree that the Regulation should define these issues and agree with the list of items to be stipulated, essentially with the view to achieving a high level of harmonization when transactions take place. A number of respondents agree that, in doing so, the Regulation should build upon best practices already used on the carbon market. However, very few answered to the question of whether other matters additional to the proposed list should also be foreseen in the Regulation and said the reason why. It seems that respondents, who did not give much explanation, are primarily concerned by securing the transactions in a harmonized manner wherever they take place. Some suggest making available a template for standard Terms & Conditions as guidance, without specifying whether such template should be included in the Regulation or not.

It is worth noting the comments from the UK Government regarding the nature of the relationship between Member States and bidders, which should be of regulatory

nature instead of contractual, as a matter of principle, though recognizing that such relationship is to be regulated by the Regulation. The general comments from Germany seem to question the extent to which the Regulation should specify Member State actions with regards to auctions.

The argument made by the regulated carbon market operators is that current market rules and regulations are sufficient to define and execute allowance auctions and therefore there is no need to incorporate additional provisions into the Regulation.

ECX: *“Regulation should only set out the general principles, the market should manage issues related to more detailed operational matters.”*

EEX Eurex: *“This question touches upon the underlying fundamental question on the scope and regulation intensity the Regulation on auctioning aims for. We note that if auctioning takes place on Regulated Markets, there are procedures and regulations in place to address all the issues mentioned above. In particular, there are rules, regulations and supervisory institutions in place to ensure market integrity and discipline.”*

Question 41

Should the Regulation provide for rules on jurisdiction and the mutual recognition and enforcement of judgments? [Y/N]

72% of respondents addressed this question. Those who did answered as follows:

98%	Yes
2%	No

If so, should these be:

Of the respondents who answered 'Yes' to the first component of this question, the percentage who agreed with the each of the following statements was:

38%	specific to the Regulation;
42%	by reference to the Brussels I Regulation;
5%	by citing exceptions from the Brussels I Regulation;
15%	by citing additions to the Brussels I Regulation?

There is a very high level of agreement that the Regulation should provide for rules on jurisdiction and the mutual recognition and enforcement of judgements. Respondents do however seem split on the best route to achieve this, the most popular routes are by defining specific rules within the Regulation and, where relevant, by cross-referencing the Brussels I Regulation. To support this preference, some respondents argue that if auctions are conducted by the Member States themselves, the Brussels I Regulation will not apply in as far as disputes related to transactions would not be settled through civil or commercial proceedings. Notwithstanding the level of centralization, if auctions are conducted by a platform subject to private law the Brussels I Regulation shall then apply.

This goes back to the question raised by the UK on the status of the relationship between the auctioneers and auction participants, is it contractual or regulatory?

Question 42

Which auction model is preferable?

91% of respondents addressed this question. Those who did answered as follows:

61%	Direct bidding?
1%	Indirect bidding?
38%	Both?

All respondents but one demand that auctions should be based on direct bidding, although ETS participants should also be allowed to use the services of financial intermediaries to participate in the auction.

The primary participant model generates strong opposition and deeply negative judgements by a number of respondents considering that “*primary participant model should NOT be used*”.

BlueNext: Auctions should be carried out by existing exchanges which have already established rules and liquidity. An associate participants’ model could be added for SMEs but only within the exchange scheme.

Question 43

If an indirect model is used, what share of the total volume of EU allowances could be auctioned through indirect bidding?

Only 16 respondents provided percentages. The distribution was as follows.

Respondents (%)	Share of total volume of EUAs
31%	0%
6%	5%
13%	10%
6%	15%
19%	20%
6%	50%
6%	70%
13%	100%

There was clearly a range of views on the question of limits to the share of allowances for which indirect bidding could be allowed, including several statements that there is no need to pre-determine shares of allowances that are open to direct or indirect bidding. The answers confirmed the opposition to the primary participants model.

In terms of the volume of allowances required by smaller players it was suggested that this is low and therefore if the indirect approach is intended to be a primary route for smaller emitters then the proportion available for the indirect route could be low.

E.On: “ There should be a free choice for all participants, which means that the best bids will be accepted irrespectively if direct or indirect.”

Centrica Energy: “To ensure full and fair equitable access to all parties, bidders should have the option of directly participating in any auction. Any enforced indirect access, such as the UK’s primary participant scheme, leads to installations having less control over their bids and amendments, leading to a non-level playing field. This should be avoided at all costs. Some smaller installations may wish to use the services of an intermediary, but this should not be obligatory.”

Veolia: “The total volume being made available for auctions, each bidder should have the choice between direct or indirect bidding procedures, this having no impact on the volume the bidder is allowed to buy. Only the bid-size limit for each bidder (question 24) should apply.”

Question 44

If the primary participants model is used, what provisions would be desirable for mitigating disadvantages of restricting direct access (more than one answer is possible):

The percentage who agreed with the each of the following statements was:

20%	Allow direct access to largest emitters, even if they trade only on their own account?
9%	Disallow primary participants trading on their own account?
21%	Impose strict separation of own-account trading from trading on behalf of indirect bidders?
45%	Other?

As very few participants support auctions purely based on the primary participants model, Question 44 received few answers. 54 respondents chose the option 'other', out of which the majority of respondents used this option to express their opposition to the primary participants model.

Among these answers, significant support is given to granting direct access to the largest emitters (particularly favoured by the largest emitters, the electricity generators) and the strict separation of own-account trading from trading on behalf of indirect bidders.

EDF Energy: *“Direct access should be extended to large emitters, even if they trade only on their own account. Instead of restricting primary participant registration through prohibitive requirements, such as the obligation to accept all indirect bids, the regulation should offer an incentive to encourage primary participants to build relationships with indirect participants.”*

Question 45

If the primary participants' model is used, what conflict of interest requirements should be imposed? (more than one answer possible)

The percentage who agreed with the each of the following statements was:

28%	Separation of client registration and trading on behalf of clients from all own account trading activities.
23%	Separation of collateral management, payment and delivery on behalf of clients from all own account trading activities.
24%	Separation of anything else?

As few participants support auctions purely based on the primary participants model, Question 45 received few answers.

Among these answers, the need for strict separation of activities and the operation of strict Chinese walls is strongly supported, as it would be deemed appropriate by financial regulators for any trading activities.

Question 46

What obligations should apply to primary participants acting in EU-wide auctions as:

- Intermediaries?
- Market makers?

45% of respondents answered this question. It is clear that respondents do not support a primary participant model, but if this was used want strong internal separation of bidding activities from other activities.

IETA: *“Separation should be focused on separation of trading (in particular submission of bid prices), volumes and execution. This should include whether or not a customer was or was not awarded any volumes in the auction via the operation of strict Chinese walls as would be deemed appropriate by financial regulators such as the UK FSA. In any event, IETA believes that an exclusive primary participants model should not be used.”*

Question 47

Under what conditions should auctioning through exchanges be allowed (more than one answer possible):

The percentage who agreed with the each of the following statements was:

23%	Only for futures auctions open to established members of the exchange?
33%	Also for spot auctions open to established members of the exchange?
40%	Only when the exchange-based auction is open to non-established members on a non-discriminatory cost-effective basis?
11%	Other?

Out of the 119 respondents, 81 respondents chose at least one option, 33 chose more than 1 option and 13 chose more than 2 options.

A high number of respondents acknowledge that it could be cost effective that existing exchanges contribute to the auction process. Votes are however split on whether the use of existing exchanges should be conditional on this not creating undue barriers for participating in the auction. In particular, simple and affordable access should be ensured for SMEs and small emitters.

BlueNext: "Auctioning through exchanges should be favoured whether it is for spot or futures auctions. Using existing infrastructures have the following advantages: (a) it reduces the administrative and transaction costs since most participants are already "connected", on a legal point of view (legal package, KYC) and a technical point of view (the system is already integrated in the participant's front and back offices) and because a market place reduces transaction cost via its liquidity (tighter spreads provide lower prices); (b) exchanges have to comply with the competent authorities' compliance requirements; and (c) it shall be possible to access to the market via associate members acting on behalf of clients."

Eni: "Eni suggests that exchange could be allowed both for spot and for futures auctions. In order to avoid any entry barrier to the exchanges, a specific profile of fees should be set up, bearing in mind that SME's and small emitters could have difficulties in accessing exchanges.

However, allowing exchanges to organise auctions should not imply ties and restrictions to participants, especially from an operational point of view."

Member States as well generally supported the use of existing exchanges, but for most this was dependent on non-discriminatory cost-effective access to non-members. Germany is in favour of using existing exchanges for spot allowance auctions and for auctioning futures, potentially without any special measures to address cost and access concerns.

Italy:: "For Italy the existence of an exchanges system needs to respect a number of conditions: Harmonisation, meaning that, if no centralised platform exists, the rules for exchanges are harmonised and every national platform has an exchange; Freedom of access, meaning that there cannot be barriers, in the forms of excessive regulation or excessive costs; Special provisions must be in place to protect SMEs."

Question 48

Should direct auctions be allowed through:

The percentage who agreed with the each of the following statements was:

55%	Third party service providers?
46%	Public authorities?

The majority of respondents support the potential role of 3rd party service providers in organising auctions. This was particularly the case for Member States and large emitters such as electricity generators and other energy companies.

The role of public authorities in organising the auction received less support, as some respondents fear that allowing a public authorities approach may tend to encourage national solutions and create obstacles for the emergence of a fully centralised auction process.

Question 49

Do the general rules for auctioning EUAs suffice for ensuring full, fair and equitable access to allowances to SMEs covered by the EU ETS and small emitters? [Y/N]

76% of respondents addressed this question. Those who did answered as follows:

82%	Yes
18%	No

The majority of respondents felt that standard auction processes would be sufficient to meet the needs of SMEs, particularly when the options available through intermediaries and the secondary market are taken into account. This message may be biased by the typically large size of the respondents to the consultation. The 'no' responses to this question were overwhelmingly from industrial ETS operators. The low response level from SMEs may or may not be an indicator of the level of interest from these companies in direct involvement in auctions.

Question 50

Is allowing non-competitive bids necessary for ensuring access to allowances to SMEs covered by the EU ETS and small emitters in case of:

The percentage who agreed with the each of the following statements was:

20%	discriminatory-price auctions?
13%	uniform-price auctions?

The majority of respondents consider that the general rules for auctioning EUAs suffice for ensuring full, fair and equitable access to allowances to SMEs and small emitters covered by the EU ETS. In particular, non-competitive bids are not seen as necessary for ensuring access to allowances for SMEs, whatever pricing model is used. Some respondents pointed out that the option to submit non-competitive bids in the recent Austrian auction has not been popular.

Member States, however, have a higher level of support for non-competitive bids than other categories of respondent.

BlueNext: “Non competitive bidding has been used for the British and Austrian auctions and we understand that such a mechanism is expensive for the emitter since he needs to mandate an organisation to place bids on behalf of SMEs and to realise their creditworthiness and KYC checks. In addition, the mechanism doesn't seem to be very efficient since it would be easier and cheaper for the non-competitive bidders to go through an intermediary. The Austrian experience has demonstrated little interest for this kind of process since only 5% of the quantity available for non competitive bidders was subscribed.”

Question 51

If non-competitive bids are provided for in spot auctions, what maximum share of allowances could be allocated through this route?

50% of respondents addressed this question. Those who did answered as follows:

30%	5%
15%	10%
55%	Other

The vast majority of answers submitted under ‘other’ confirmed the answer given to the previous question that provisions for non-competitive bidding are not deemed necessary.

If non-competitive bids are provided for in spot auctions, more than half of respondents consider that the volume of these bids should not exceed 5% of the total volume of allowances in the auction.

Question 52

What rule should apply for accessing non-competitive bids (more than one answer possible):

The percentage who agreed with the each of the following statements was:

5%	Participants should only be allowed to use one of the two bidding routes?
9%	Non-competitive bids should be restricted to SMEs covered by the EU ETS and small emitters only?
28%	Other?

The majority of those answering 'other' actually used this question to reiterate their opposition to non-competitive bids.

Very little support has been given to proposed restrictions in terms of access to the non-competitive route as they are seen as unnecessary complications. Of the potential restrictions proposed there was more support for only allowing SMEs and small emitters to submit non-competitive bids. Support for this option was strongest amongst Member States.

Repsol: *"Participants that only placed a non competitive bid should be served first, but no restrictions should apply.*

Restricting non competitive bids to participants that do not place competitive bids is overrestrictive in our view, as long as non competitive bidders are served in priority as we suggest. Under the EU ETS, while emitters are installations, bidders are companies. The very concept of small emitter will be very challenging to define and to enforce in a fair and balanced manner in the context of auctions. Similarly, the EU definition of SMEs is too wide to be really useful in this context.

So, while we agree that implementation provisions of the auction should allow fair access of small emitters and SMEs to auctioned EUAs, Repsol advises against any specific provision that would apply only to a "small emitters/SMEs category". Serving in priority exclusive non competitive bidders ensures that participants with large needs will not undermine the objectives of the non-competitive bidding facility."

Question 53

What should be the maximum bid-size allowed for SMEs covered by the EU ETS and small emitters submitting non-competitive bids?

30% of respondents addressed this question. Those who did answered as follows:

22%	5 000 EUAs
33%	10 000 EUAs
31%	25 000 EUAs
14%	Over 25 000 EUAs

Views are mixed with regards to the maximum bid-size allowed for the non-competitive routes. 61% of respondents favour a maximum bid size equal to or less than 10 000 tons of CO₂. It should be noted that, in a weekly auction hypothesis (50 auctions per year), such a limit would allow each company to acquire up to 500 000 tons of CO₂ per year through the non-competitive route, which seems more than sufficient for a small emitter (although this does require participation in all available auctions).

Climex: “As stated earlier, we think non-competitive auctions should not be organised, but if they are there: at the start small emitters still receive part of their allowances for free, so a maximum of 5,000 should be applied at the start, which can then grow to a maximum of 25,000 over the years.”

Borealis: “There should NOT be a separate max. bid-size allowed for SMEs. Uniform rule is proposed for all bidders.”

Question 54

Are there any other specific measures not mentioned in this consultation that may be necessary for ensuring full, fair and equitable access to allowances for SMEs covered by the EU ETS and small emitters? [Y/N]

48% of respondents addressed this question. Those who did answered as follows:

19%	Yes
81%	No

The vast majority of respondents do not see the necessity to develop additional measures to ensure full, fair and equitable access to allowances for SMEs. The most notable exceptions are some of the Member States who are assessing ways to make access to allowances easier for SMEs.

***Italy:** “Italy is exploring the mechanisms to ensure an adequate and easy participation of SMEs to the system.”*

***Romania:** “We consider that specific measures are necessary in order to ensure full, fair and equitable access to allowances for SMEs covered by the EU ETS and small emitters, especially as concerns: access to auctions on a non-competitive basis, according to the amount of CO2 emissions (principle of proportionality), application of preemption right for small operators.”*

Question 55

What should be the minimum period of time before the auction date for the release of the notice to auction?

82% of respondents addressed this question. Those who did answered as follows:

2%	Two weeks
14%	One month
44%	Two months
39%	Other

The most popular selection was for the notice to auction to be released at least two months before the auction date.

The responses received under ‘other’ ranged from ‘weekly’ and ‘as soon as possible’ to ‘2 years’. There may have been confusion on the distinction between establishing the auction calendar and publishing the notice to auction. In fact, when answering this question, quite some respondents confirmed the need of predictability and early establishment of the auction calendar.

IETA: “IETA would strongly prefer that all the above-mentioned elements be notified in a single, reliable, EU-wide calendar that applies to the whole trading period by 1 January 2011.”

UK Steel: “Full transparency means that participants should have as much preparation time as possible”

Question 56

What should be the minimum period of time before the auction date for the submission of the intention to bid?

75% of respondents addressed this question. Those who did answered as follows:

47%	One week
6%	Two weeks
3%	One month
44%	Other

Half of respondents consider they can decide to participate in an auction up to one week before the auction to take place at least.

The vast majority of respondents that proposed an “Other” response defend the idea that, once the registration process has been completed and the company authorized to participate in auctions and enabled to do so (e.g. granted an access to the auction platform, etc.), the announcement of an intention to bid should not be needed.

Some respondents also mentioned that, in case of daily or even weekly auctions, such intentions to bid will be hardly manageable for both the auctioneers and the bidders.

EDP: *“In our opinion the announcement of an intention to bid should not be needed. If the registration process is completed and the company is authorized to participate in the auctions, it will have to be free to decide if they want to participate or not in the auction, and no communication should be required before the auction day.”*

Question 57

Are there any specific provisions that need to be highlighted in:

32% of respondents addressed this question. Those who did answered as follows:

84%	The notice to auction?
5%	The intention to bid?
11%	Both?

The response level from the industrials category was low, but the response patterns were similar across categories. A large majority perceived a need for the notice to auction to provide particular information, but only few indicated a need for any specific information to be included in any intention to bid. The majority of respondents underlined the fact that, if rules or auction design are not fully harmonised EU-wide, the notice to auction should clearly indicate which rules will be applicable (including any restrictions), and when results will be released.

As some slight change may occur with regards to the initial calendar, any deviations from the pre-agreed auction schedule and volumes should be clearly mentioned.

More generally, respondents requested that reference to general auction rules applicable to all auctions by the auctioneer should be given in the notice. The information in the notice should also cover:

- publication of results;
- payment and delivery dates. Provisions in case of late payment;
- fall-back bidding procedure (e.g. in case of IT unavailability)- if any;
- management of bidding errors prior to auction closure;
- method for contestation;
- liability terms;
- force majeure cases.

Question 58

What information should be disclosed after the auction:

The percentage who agreed with the each of the following statements was:

87%	Clearing price (if allowances are awarded on a uniform-price basis or in the case of non-competitive bids being allowed)?
77%	Average price (if allowances are awarded on a discriminatory-price basis)?
82%	Any relevant information to solve tied bids?
88%	Total volume of EUAs auctioned?
82%	Total volume of bids submitted distinguishing between competitive and non-competitive bids (if applicable)?
85%	Total volume of allowances allocated?
62%	Anything else?

Respondents support the publication of the whole list of information proposed in the consultation paper. Many respondents also suggested adding: the number of participants; the number of successful bidders; any amount of EUAs not auctioned that will be carried over to the following auction; the total revenue for the auctioneer.

Question 59

What should be the maximum delay for the announcement of auction results?

88% of respondents addressed this question. Those who did answered as follows:

53%	5 minutes
17%	15 minutes
9%	30 minutes
10%	1 hour
11%	Other

In order to avoid any unexpected volatility in secondary markets, the majority of respondents support a 5 minutes delay before announcement of auction results, with more than 70% of respondents looking for a delay of less than 15 minutes.

Question 60

Do you feel that any specific additional provisions should be adopted in the Regulation for the granting of fair and equal access to auction information? [Y/N]

65% of respondents addressed this question. Those who did answered as follows:

65%	Yes
35%	No

Respondents insist on the fact that all information should be provided at the same time, according to a standardised format. Unauthorised discriminatory release of information should be strictly prohibited. Furthermore, all information should be put on one single centralised website, at least in the English language.

Some respondents suggested that this website should include a service allowing companies to be actively informed of new information posted on the website.

According to some respondents, general information on the auction process should best be provided in ‘all relevant national languages’.

IBERDROLA SA: *“Provided that information is not commercially-sensitive, all information should be provided at the same time, according to a standardised format. There should be a prohibition on any unauthorised discriminatory release of information. Furthermore, all information should be put on one single website and the relevant information should be send by e-mail.”*

Vattenfall AB: *“Full and simultaneous public access to the auctioning results in all official EU languages, thus not only restricted to e.g. operators subject to pre-registration, preferably using one single EU platform/website to publish all market sensitive data.”*

Question 61

Should an auction monitor be appointed centrally to monitor all EU auctions?

[Y/N]

90% of respondents addressed this question. Those who did answered as follows:

98%	Yes
2%	No

Central oversight of whatever auction process is implemented is strongly supported by respondents in general. The feeling is that this is important to protect equal access to auctions.

Iberdrola: “Regarding enforcement, there are two groups which rules need to apply to:- Member States and bidders. Non-compliance with its provisions will most likely be due to Member States actions. Looking at the history of compliance by Member States with the provisions in the ETS directive, one can easily remark that only a very few of them have met, for instance, required deadlines on time. In addition, they have sought to use creativity in designing Allocation Plans and applying rules. The Commission has few measures at its disposal to correct this behaviour. **For a timely and harmonised organisation of auctions, enforcement at EU level seems inevitable looking at the track record of Member States.** Oversight should also ensure that volumes are always brought to the market by Member States according to schedule and not withheld in order to drive prices up or wait for “better” moments.

Any rules which apply should be enforced with equal weight. Only then will a level-playing field exist.”

It was however pointed out by a number of carbon exchanges that existing market infrastructure is already covered by regulation, so when using this infrastructure an additional layer of monitoring oversight at the central EU level may be unnecessary.

ECX: “If auctioning takes place on Regulated Markets, we note that these are subject to clear and strict rules and supervision by Competent Authorities. We are currently not clear about the concrete scope of responsibilities of such a central monitoring body and how it would co-exist with existing supervision structures of Regulated Markets”

Question 62

Do you agree that the Regulation should contain general principles on [mark those that you agree with,]:

The percentage who agreed with the each of the following statements was:

83%	the designation and mandate of the auction monitor; and
79%	cooperation between the auctioneer(s) and the auction monitor?

Should these be supplemented by operational guidance, possibly through Commission guidelines? [Y/N]

74% of respondents addressed this question. Those who did answered as follows:

91%	Yes
9%	No

Again, there is rather wide agreement on the suggestion that the Regulation should address general principles on the role of the auction monitor and how the auction monitor interacts with the auctioneer(s).

Question 63

Is there a need for harmonised market abuse provisions in the Regulation to prevent insider dealing and market manipulation? [Y/N]

87% of respondents addressed this question. Those who did answered as follows:

80%	Yes
20%	No

Respondents were heavily in favour of an appropriate market abuse provision, although in their detailed comments they expressed doubts whether this should be part of the auctioning regulation, while stressing the need to take into account regulation under development for the secondary market and for the energy market.

E.On AG: *“We unequivocally support the introduction of a Europe-wide market abuse regime for the energy markets. It is important that there is a common provision for auctions and the secondary market. It may therefore be more efficient for the Regulation to be linked to wider market abuse legislation, rather than attempting to detail specific rules for carbon. Legislative duplication should be avoided.”*

VKU Verband kommunaler Unternehmen: *“A maximum amount of harmonization is necessary to create a transparent and solvent market.”*

Question 64

Should the Regulation provide for harmonised enforcement measures to sanction [mark those that you agree with,

The percentage who agreed with the each of the following statements was:

87%	Non-compliance with its provisions?
71%	Market abuse?

Respondents are in favour of sanctions that ensure that auctions are carried out as intended by the Regulation.

The level of agreement with the need for harmonised enforcement measures to sanction market abuse provisions corresponds to the level of support for provisions on market abuse in general (as per the previous question). The agreement with such market abuse provisions in the regulation is, however, substantially lower among ETS operators in the electricity generating sector compared to other respondent categories.

Centrica: *“It is important that all participants (both bidders and Member States) adhere to the harmonised rules and penalties. A level playing field for EU auctions has to be created”*

Question 65

Should the enforcement measures include [mark those that you agree with,]:

The percentage who agreed with the each of the following statements was:

40%	The suspension of the auctioneer(s) and/or bidders from the EU-wide auctions?
50%	Financial penalties?
30%	The power to address binding interim decisions to the auctioneer(s) and/or bidders to avert any urgent, imminent threat of breach of the Regulation with likely irreversible adverse consequences?
9%	Anything else?

Both financial penalties and suspension of the auctioneer or bidder from future auctions find significant support. There was less support for the ability to address binding interim decision to a party to enforce immediate correction of breaches of the regulation.

Compared to other respondent groups, Member States gave somewhat stronger support for ‘suspension’ and somewhat less support for ‘financial penalties’. They expressed a similar level of agreement with potentially binding interim decisions.

Solvay: “The penalties could include fines which should be at least as big as the gains made through the market abuse/manipulation as well as suspension from the primary market for more serious incidents.”

AFEP: “The sanctions should be based on the already existing EU legislation and should converge as close as possible to other legislation such as the Waxman/Markey bill.”

Question 66

Should such enforcement measures apply at:

85% of respondents addressed this question. Those who did answered as follows:

64%	EU level?
1%	National level?
35%	Both?

Respondents do not appear comfortable with reliance on enforcement of the provisions of the auctioning regulation at national level, particularly given that the Member States are one of the key parties in the process that is being regulated.

The support for regulation solely at national level is minimal, also amongst Member States. Support for solely EU level regulation is lowest amongst Member States and industrial respondents but is the majority view in other categories.

Should such enforcement measures apply at:

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
<i>Percent of respondents who addressed the question:</i>	97%	82%	88%	67%	67%	57%
EU level?	78%	67%	49%	50%	75%	75%
National level?	0%	0%	3%	0%	0%	0%
Both?	22%	33%	49%	50%	25%	25%

**Further breakdown of statistics is presented in section 5*

**Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House*

**Other Stakeholders: Groups NGOs, Trade Associations and those classified as other*

Question 67

Who should enforce compliance with the Regulation (more than one answer is possible):

The percentage who agreed with the each of the following statements was:

34%	The auction monitor?
17%	The auctioneer?
70%	A competent authority at EU level?
19%	A competent authority at national level?
3%	Other?

Again the majority of respondents have signalled their support for enforcement of the regulations provisions by a competent authority at EU level, with significant support also for this role by the auction monitor. Member States have a different view from all other categories, with a majority favouring enforcement of the regulations provisions by a competent authority at national level.

Who should enforce compliance with the Regulation (more than one answer is possible):

	Electricity generators	Energy companies other than electricity generators	Industrial sectors	Aviation	Financial Groups	Other Stake Holders
The auction monitor?	34%	55%	31%	44%	17%	29%
The auctioneer?	24%	18%	5%	11%	42%	14%
A competent authority at EU level?	82%	64%	69%	56%	50%	71%
A competent authority at national level?	29%	9%	19%	11%	8%	14%
Other? Please specify:	0%	9%	0%	0%	8%	14%

*Further breakdown of statistics is presented in section 5

*Financial Group: Grouping: Intermediary, Trader on own account, Regulated market, Other carbon market, Clearing House

*Other Stakeholders: Groups NGOs, Trade Associations and those classified as other

4.4 Who auctions? Auction processes and auctioneer(s)

Question 68

Which of the three approaches for an overall EU auction model do you prefer? Please rate the options below (1 being the most preferable, 3 being the least preferable)

96% of respondents addressed this question. Those who did answered as follows:

1st choice	Limited number of coordinated auction processes	3%
	Full centralisation based on a single EU-wide auction process	88%
	The hybrid approach where different auction processes are cleared through a centralised system	10%
2nd choice	Limited number of coordinated auction processes	24%
	Full centralisation based on a single EU-wide auction process	10%
	The hybrid approach where different auction processes are cleared through a centralised system	60%
	No response	7%
3rd choice	Limited number of coordinated auction processes	68%
	Full centralisation based on a single EU-wide auction process	2%
	The hybrid approach where different auction processes are cleared through a centralised system	24%
	No response	7%

Among the 3 approaches described in the consultation paper, full centralisation is the preferred option for a significant majority of the respondents with many foreseen advantages: it is perceived as being the most efficient approach; ensures a level playing field and is least likely to create market distortions or discriminate between participants.

Member States are split, generally with the largest emitters wanting to control their own process (UK, Poland, Germany, Spain). A number of Member States are in favour of centralisation (Sweden, Finland, Denmark, Austria, France, Italy, Netherlands) but do not seem optimistic. The Netherlands state that a hybrid outcome is the most likely and Italy states that they have started developing a national platform in preparation for the failure to agree on a centralised approach. The UK and a few other stakeholders suggested the possibility of a central EU platform to co-exist with a limited number of separate auction processes set up by/for Member States that wish to do so. Eurelectric proposed that such a compromise solution should converge into a single platform in due time.

Those in favour of a centralised process point to enhanced efficiency and equal access for all parties. Those wanting a variety of auctions suggest some form of competitive benefit.

The hybrid approach comes as the second most popular choice, whereas the scenario of a limited number of coordinated auctions is third. As it combines some benefits of both centralisation and decentralisation, the hybrid approach is described by many respondents as a “second best” that may more easily be implemented than full centralisation. The hybrid approach may also lead towards a centralised system over time.

Vattenfall: *“The more centralized the auctions are in practice, the more the prospects for a cost-efficient and non-discriminatory conduct will improve.(...) Decoupling the conduct of the auctions from those that are benefiting from the proceeds could serve to ensure that potential conflicts of interests are avoided and that the process gets more transparent. The well-functioning of the EU ETS market must be first priority.”*

SPAIN: *“The subsidiarity principle must also be applied here. At the same time, it is necessary to set up a model with a significant degree of harmonization. For all these reasons, a limited number of well coordinated auction processes instead of full centralization based on a single EU-wide auction process is needed.”*

EnBW: *“The major advantage of the hybrid approach lies probably in the fact that it allows easy decentralised access with a central clearing process.”*

IBERDROLA: *“The hybrid approach combines the benefits of a central bid book giving a single EU-wide auctioning price and easier harmonisation with the possibility given to Member States in the ETS directive to set up auctions. The use of a central bid-book resulting in a single price not only benefits the market, but has also benefits for Member States, since they all receive the same price for their allowances.”*

Question 69

If a limited number of coordinated auction processes develops, what should be the maximum number?

53% of respondents addressed this question. Those who did answered as follows:

30%	2
24%	3
19%	5
5%	7
22%	Other

More than half of those that responded to this question are in favour of a maximum of only 2 or 3 coordinated auction processes. Less than 27% would agree to a maximum number of coordinated auction processes higher than 5, and only 6 would be happy to see up to 27 auction processes (all industrial respondents). The rationale provided by the respondents rests in particular on the practical difficulties associated with managing and bidding into a large number of auctions.

The major differences in response between categories of respondent are that Member States seem tolerant of more processes (a number selected 7) and although the majority of industrial respondents want as few processes as possible, some suggested 27, indicating that for a minority of industrial respondents dealing with a national auction process would be more comfortable than alternative options (assuming multiple processes).

Question 70

Is there a need for a transitional phase in order to develop gradually the optimal auction infrastructure? [Y/N]

77% of respondents addressed this question. Those who did answered as follows:

27%	Yes
73%	No

Most of the respondents consider that there is enough information to design an appropriate and efficient auction infrastructure from the beginning, without going through gradual or phased development. Looking to achieve an auction system properly in place right from the start does not preclude further measures to optimise the system.

A number of respondents emphasise the need to release EUAs in time. If setting up the right design of the auction system from the beginning creates a risk in this respect, a sufficient volume of EUAs should be released by other means, potentially by direct selling into the market via existing exchanges.

Question 71

Should the Regulation impose the following requirements for the auctioneer(s) and auction processes? [mark those that apply,]:

The percentage who agreed with the each of the following statements was:

Technical capabilities of auctioneers:	
78%	capacity and experience to conduct auctions (or a specific part of the auction process) in an open, fair, transparent, cost-effective and non-discriminatory manner;
76%	appropriate investment in keeping the system up-to-date and in line with ongoing market and technological developments; and
77%	relevant professional licences, high ethical and quality control standards, compliance with financial and market integrity rules.
Integrity:	
78%	guarantee confidentiality of bids, ability to manage market sensitive information in an appropriate manner;
76%	duly protected electronic systems and appropriate security procedures with regards to identification and data transmission;
76%	appropriate rules on avoiding and monitoring conflicts of interest; and
76%	full cooperation with the auction monitor.
Reliability:	
77%	robust organisation and IT systems;
78%	adequate fallback measures in case of unexpected events;
77%	minimisation of the risk of cancelling an individual auction once announced;
78%	minimisation of the risk of failing functionalities (e.g. access to the bidding platform for certain potential bidders); and
75%	fallback system in case of IT problems on the bidder side.
Accessibility and user friendliness:	
77%	fair, concise, comprehensible and easily accessible information on how to participate in auctions;
77%	short and simple pre-registration forms;
76%	clear and simple electronic tools;
76%	(option of) accessibility of platforms through a dedicated internet interface;
75%	ability of the auction platform to connect to and communicate with proprietary trading systems used by bidders;
74%	adequate and regular training (including mock auctions);
77%	detailed user guidance on how to participate in the auction; and
76%	ability to test identification and access to the auction.

Respondents largely supported the listed requirements for the auctioneer(s) and auction processes identified in the consultation paper.

Question 72

What provisions on administrative fees should the Regulation include (more than one answer is possible)?

The percentage who agreed with the each of the following statements was:

56%	General principles on proportionality, fairness and non-discrimination.
45%	Rules on fee structure.
44%	Rules on the amount of admissible fees.
29%	Other?

Respondents have mixed views on the need for the Regulation to include provisions dealing with administrative fees.

Those in favour of such provisions fear that the auctioneers otherwise could abuse their position and over-charge auction participants. Support for such provisions is stronger among industrial respondents than among electricity companies.

A number of respondents also suggested that part of the auction and infrastructure costs can be financed through the auction revenues.

Question 73

Should there be provisions for public disclosure of material steps when introducing new (or adapted) auction processes?

73% of the respondents agreed with this statement

Should new (or adapted) auction process be notified to and authorised by the Commission before inclusion in the auction calendar?

73% of respondents addressed this question. Those who did answered as follows:

98%	Yes
2%	No

Respondents strongly support the view that any significant change in the auction process should be consulted on with market participants and be subject to an authorisation by the Commission.

Question 74

Which one of the following options is the most appropriate in case a Member State does not hold auctions (on time)?

The percentage who agreed with the each of the following statements was:

52%	Auctions by an auctioneer authorised by the Commission.
29%	Automatic addition of the delayed quantities to those foreseen for the next two or three auctions.

In case of a Member State does not hold auctions on time, respondents favour the approach in which allowances are auctioned by an auctioneer authorised by the Commission. Automatic addition of the delayed quantities to the next two or three auctions finds lower, but still significant support.

Many respondents underlined that the route chosen is of less importance than the guarantee of a prompt release of the allowances concerned.

Member States were heavily in favour of adding the EUA volumes from a failed auction to future auctions rather than transferring them to an auctioneer authorised by the Commission. There was however a distinction drawn in some cases between the failure of a single auction, which could be rectified without Commission involvement, and longer term failure to auction which would require intervention.

Question 75

Should a sanction apply to a Member State that does not auction allowances in line with its commitments? [Y/N]

74% of respondents addressed this question. Those who did answered as follows:

99%	Yes
1%	No

Respondents clearly support the need for sanctions towards any defaulting Member State, so as to avoid such a situation. Many suggested financial penalties as an appropriate sanction for Member States. Some suggested a staged approach so as to avoid any default on the auctioneers side, with the auctioneer being given an opportunity to redress any issues before any formal breach of obligations is considered to have occurred.

Member State views on this issue were mixed, but only one supported specific financial sanctions. A number of Member States suggested that sanctions against the failure of a Member State to meet its legal obligations were already envisaged in the EC Treaty.

4.5 How to organise auctions of EU aviation allowances?

Question 76

As a general rule throughout the trading period, in your opinion, are early auctions necessary? [Y/N]

41% of respondents addressed this question. Those who did answered as follows:

80%	Yes
20%	No

Based on sample of Aviation respondents only

78% of respondents addressed this question. Those who did answered as follows:

86%	Yes
14%	No

If so, what should the profile of EUAA auctions be:

Of the respondents who answered 'Yes' to the first component of this question, 67% addressed this part. Those who did answered as follows:

27%	5-10% in year n-2, 10-20% in year n-1, remainder in year n
15%	10-20% in year n-2, 20-30% in year n-1, remainder in year n
31%	20-30% in year n-2, 30-35% in year n-1, remainder in year n
27%	Other?

Based on sample of Aviation respondents only

Of the respondents who answered 'Yes' to the first component of this question, 100% addressed this part. Those who did answered as follows:

17%	5-10% in year n-2, 10-20% in year n-1, remainder in year n
33%	10-20% in year n-2, 20-30% in year n-1, remainder in year n
50%	20-30% in year n-2, 30-35% in year n-1, remainder in year n
0%	Other?

As with the EUA auctions the airlines expressed strong support for early auctions with similar reasoning, in this case the forward sales of tickets and associated forward hedging. The proportion of requested early allowances is not as large as for the EUAs, reflecting a shorter forward hedging and contracting horizon as compared to the power generators in particular and probably reflecting the fact that aviation will continue to receive allowances free of charge.

Question 77

Do you think there is a need to auction EUAA futures? [Y/N]

33% of respondents addressed this question. Those who did answered as follows:

38%	Yes
62%	No

Based on sample of Aviation respondents only

89% of respondents addressed this question. Those who did answered as follows:

38%	Yes
63%	No

Those advocating the sale of futures point to the cash flow benefits for the companies involved. Others felt that the limited share of airline cash flow that would be devoted to EUAAs (given the level of free allocation) removed the need for auctioning futures EUAAs and thereby avoid the complexity inherent to such auctions.

Question 78

What should be the optimal frequency and size of EUAA auctions:

17% of respondents addressed this question. Those who did answered as follows:

10%	2 auctions per year of around 15 million EUAAs?
40%	3 auctions per year of around 10 million EUAAs?
50%	More than 3 auctions per year?

In the category “More than 3 auctions per year” responses suggested ‘as much as possible’, quarterly, monthly, weekly, daily and hourly.

Based on sample of aviation respondents only

78% of respondents addressed this question. Those who did answered as follows:

0%	2 auctions per year of around 15 million EUAAs?
43%	3 auctions per year of around 10 million EUAAs?
57%	More than 3 auctions per year?

Respondents generally wanted at least three auctions per year with the majority suggesting a significantly higher frequency, including some suggestions of hourly, daily and continuously. As with EUAs, this reflects some respondents' view that the frequent release of small quantities of allowances minimises the risk of significant disruption and volatility in the secondary market.

Question 79

What would be your preferred timing for EUAA auctions:

26% of respondents addressed this question. Those who did answered as follows:

81%	Equally spread throughout the year?
16%	November – March?
3%	Other?

Based on sample of Aviation respondents only

78% of respondents addressed this question. Those who did answered as follows:

86%	Equally spread throughout the year?
14%	November – March?
0%	Other?

As with EUAs, the preference is for auctions spread throughout the year. The avoidance of particular dates etc is less of an issue with EUAAS because of the limited number of auctions that will be necessary.

Question 80

Should any of the EUAA auction design elements be different compared to EUA auctions (see section 3)? [Y/N]

23% of respondents addressed this question. Those who did answered as follows:

7%	Yes
93%	No

Based on sample of Aviation respondents only

89% of respondents addressed this question. Those who did answered as follows:

13%	Yes
88%	No

Respondents wanted effectively the same key elements for EUAA auctions as for EUAs. This probably reflects the general preference for simplicity in the EUA auction. With the lower volume of EUAAs to be auctioned, simplicity would be even more desirable.

Question 81

Do you agree there is no need for a maximum bid-size? [Y/N]

25% of respondents addressed this question. Those who did answered as follows:

53%	Yes
47%	No

Based on sample of Aviation respondents only

89% of respondents addressed this question. Those who did answered as follows:

25%	Yes
75%	No

Despite a high number of respondents stating that they do not want differences in auction design between EUA and EUAA auctions, a higher proportion think that a maximum bid-size may be useful in EUAA auctions. Some expressed the concern that the lower volume of EUAAs to be auctioned could increase “the risk of the auctions being unduly influenced by one or a small number of participants,” apparently despite the fact that aircraft operators have the possibility to surrender EUAs instead of EUAAs.

IACA: “We believe that a maximum bid-size should be set per airline, corresponding to a percentage of the allowances that the airline has received for free. This would avoid market manipulation.”

Question 82

Is there any information regarding aircraft operators made available as part of the regulatory process to the competent authorities that could facilitate the KYC checks performed by the auctioneer(s)? [Y/N]

8% of respondents addressed this question. Those who did answered as follows:

56%	Yes
44%	No

Based on sample of Aviation respondents only

44% of respondents addressed this question. Those who did answered as follows:

100%	Yes
0%	No

There is clear recognition, particularly from the aviation companies, of the potential to use some of the information supplied by airlines as part of their existing regulatory processes to assist in pre-registration for EUAA auctions.

Question 83

In your opinion, is there a specific need to allow for non-competitive bids in EUAA auctions?

13% of respondents addressed this question. Those who did answered as follows:

20%	Yes
80%	No

Based on sample of Aviation respondents only

67% of respondents addressed this question. Those who did answered as follows:

33%	Yes
67%	No

Would this be the case even when applying a uniform clearing price format?

9% of respondents addressed this question. Those who did answered as follows:

82%	Yes
18%	No

Based on sample of Aviation respondents only

56% of respondents addressed this question. Those who did answered as follows:

80%	Yes
20%	No

As with the response to the same question with respect to EUAs, there is little support for non-competitive bids in EUAA auctions from the overall response sample or from the airline category.

Question 84

Do you agree that there is no need for any specific provisions for EUAA auctions as regards [mark those that you agree with,]:

The percentage who agreed with the each of the following statements was:

13%	Involvement of primary participants, exchanges or third party service providers?
13%	Guarantees and financial assurance?
15%	Payment and delivery?
13%	Information disclosure?
13%	Auction monitoring?
12%	Preventing anti-competitive behaviour and/or market manipulation?
13%	Enforcement?

Based on sample of Aviation respondents only

22%	Involvement of primary participants, exchanges or third party service providers?
22%	Guarantees and financial assurance?
44%	Payment and delivery?
44%	Information disclosure?
44%	Auction monitoring?
44%	Preventing anti-competitive behaviour and/or market manipulation?
44%	Enforcement?

Only less than half of the aviation respondents explicitly agreed on the absence of a need for specific provisions. However, no/only limited suggestions for specific provisions were given.

Question 85

Taking into account the smaller volume of EUAA allowances to be auctioned compared to EUAs, which of the three approaches for an overall EUAA auctioning model do you prefer? Please rate the options below (1 being the most preferable, 3 being the least preferable)

47% of respondents addressed this question. Those who did answered as follows:

1st choice	Limited number of coordinated auction processes	11%
	Full centralisation based on a single EU-wide auction process	80%
	The hybrid approach where different auction processes are cleared through a centralised system	9%
2nd choice	Limited number of coordinated auction processes	21%
	Full centralisation based on a single EU-wide auction process	13%
	The hybrid approach where different auction processes are cleared through a centralised system	55%
3rd choice	No response	11%
	Limited number of coordinated auction processes	57%
	Full centralisation based on a single EU-wide auction process	7%
3rd choice	The hybrid approach where different auction processes are cleared through a centralised system	25%
	No response	11%

Based on sample of Aviation respondents only

100% of respondents addressed this question. Those who did answered as follows:

1st choice	Limited number of coordinated auction processes	11%
	Full centralisation based on a single EU-wide auction process	78%
	The hybrid approach where different auction processes are cleared through a centralised system	11%
2nd choice	Limited number of coordinated auction processes	22%
	Full centralisation based on a single EU-wide auction process	22%
	The hybrid approach where different auction processes are cleared through a centralised system	44%
3rd choice	No response	11%
	Limited number of coordinated auction processes	56%
	Full centralisation based on a single EU-wide auction process	0%
3rd choice	The hybrid approach where different auction processes are cleared through a centralised system	33%
	No response	11%

Does your choice differ from the approach preferred for EUAs? [Y/N]

21% of respondents addressed this question. Those who did answered as follows:

0%	Yes
100%	No

Based on sample of Aviation respondents only

56% of respondents addressed this question. Those who did answered as follows:

0%	Yes
100%	No

Again, there is significant support for a fully centralised process with a hybrid system as the second choice (so retaining central clearing of the auction) and with little desire for a number of parallel auctions.

Question 86

Do you agree that there is no need for any specific provisions for EUAA auctions as regards. [mark those that you agree with,]:

The percentage who agreed with the each of the following statements was:

16%	Requirements for the auctioneer(s) and auction processes?
13%	Administrative fees?
14%	Rules to ensure appropriate and timely preparation of the auctions?

Based on sample of Aviation respondents only

56%	Requirements for the auctioneer(s) and auction processes?
33%	Administrative fees?
56%	Rules to ensure appropriate and timely preparation of the auctions?

Once more the responses, combined with the absence of specific suggestions, suggests general agreement on the absence of a need for specific provisions for EUAA auctions as regards the issues raised in this question.