

EU Emissions Trading Scheme (ETS) – Consultation on design and organisation of emissions allowance auctions

This document contains the responses for the survey. The survey contains **4** initial questions (A-D) to identify respondents and **86** questions for which responses will be made public. Contact details provided in Question C, are not made public and therefore are not in this document.

Period of consultation

From 3 June 2009 to 3 August 2009 inclusive

Specific privacy statement

"Received contributions, together with the identity of the contributor, will be published on the Internet, unless the contributor objects to publication of his or her personal data on the grounds that such publication would harm his or her legitimate interests. In such cases the contribution may be published in an anonymous form. Otherwise, the contribution will not be published nor will, in principle, its content be taken into account. Responses for questions deemed confidential in the consultation will not be available for view on the website irrespective of contributor objecting or not."

Thank you

Note: Zero's on the right hand side of page reflect Non-Applicable questions in the survey response.

Section 1: Questions to categorize participants

Question A

Name of Company/Organization: IETA

Principal nature of activities: International business organisation promoting emissions trading as a means of limiting GHG emissions and achieving climate objectives.

Number of employees in 2008:

World-wide:

Europe-wide:

Turnover in 2008:

World-wide:

Europe-wide:

Question B

Type of respondent:

Other

Trade association

-
-

Question C

Contact details will not be made public.

Question D

Do you object to publication of your personal data because it would harm your legitimate interests?

No

If so, please provide an explanation of the legitimate interests that you think will be harmed:

Ans:

Are any of your responses confidential?

No

If so, please indicate which ones and provide an explanation:

Ans:

Section 2: Survey questions (86)

Question 1

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

Yes

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

Ans: Other? Please specify :

Please see IETA's comments to the consultation for a complete answers

Question 2

Do you think there is a need to auction futures?

Yes

If so, why?

Ans: Please see IETA's comments to the consultation

Question 3

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

	SPOT	FUTURES
Year n		
Year n-1		
Year n-2		

Please provide evidence to support your case.

Ans: Please see IETA's comments to the auctioning consultation

NB: The answer to this question will be published as part of the public consultation. Please do not submit confidential information as part of your answer to this question.

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)?

No

If not, please suggest alternative maturity dates and provide evidence to support your view.

Ans: The common maturity date should be either the 30 November or no later than 12 am CET on 1st December 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?

Ans: Weekly

0

What should be the minimum frequency of auctions?

Ans: No Response

0

What should be the maximum frequency of auctions?

Ans: Fortnightly

0

Please provide arguments to support your case.

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

In the event that a single auction process is established, the optimum frequency of spot (and futures) auctions would be weekly.

In no case auctions should be held less frequently than fortnightly, as their size would be by necessity larger and would seriously disrupt the secondary market by injecting excessive liquidity on a particular date.

Question 6

For spot auctions, what should be the:

If deemed appropriate, please indicate a range and/or distribution over different sizes.

Optimum auction size?

Ans:

Minimum auction size?

Ans:

Maximum auction size?

Ans:

Please provide evidence to support your case.

Ans: Sizes of spot and futures auctions are intrinsically linked, and one should not be set without due consideration of the other. When setting the optimum sizes of spot and futures auctions, due consideration should be given to the fact that auctions should be as possible, and that both forward and spot and spot auctions present several advantages and disadvantages which have been highlighted in our answer to question 3

It is important that the volume of both spot and future sales is modest in comparison to the daily trading volumes in order to avoid disrupting the secondary market.

IETA recommends that the Commission undertakes an independent, transparent and comprehensive assessment of hedging needs and related issues along the parameters indicated in our answer to question 1.

Question 7

For futures auctions:

What should be the optimum frequency of auctions?

Ans: Weekly

0

What should be the minimum frequency of auctions?

Ans: No Response

0

What should be the maximum frequency of auctions?

Ans: Fortnightly

0

Please provide arguments to support your case.

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

In the event that a single platform is established, the optimum frequency of spot (and futures) auctions would be weekly.

In no case auctions should be held less frequently than fortnightly, as their size would be by necessity larger and would seriously disrupt the secondary market by injecting excessive liquidity on a particular date.

Question 8

For futures auctions, what should be the:

If deemed appropriate, please indicate a range and/or distribution over different sizes.

Optimum auction size?

Ans:

Minimum auction size?

Ans:

Maximum auction size?

Ans:

Please provide evidence to support your case.

Ans: As we stated in question 6, sizes of spot and futures auctions are intrinsically linked, and one should not be set without due consideration of the other. When setting the optimum sizes of spot and futures auctions, due consideration should be given to the fact that auctions should be as possible, and that both forward and spot and spot auctions present several advantages and disadvantages which have been highlighted in our answer to question 3
It is important that the volume of both spot and future sales is modest in comparison to the daily trading volumes in order to avoid disrupting the secondary market.

IETA recommends that the Commission undertakes an independent, transparent and comprehensive assessment of hedging needs and related issues along the parameters indicated in our answer to question 1.

Question 9

Should volumes of spot allowances be auctioned evenly throughout the year?

Yes

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

- A larger proportion in the first 4 months of the year
- A larger proportion in December
- A smaller proportion in July and August
- Other.

Question 10

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

Yes

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

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

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)?

No

If yes, how long should this period be:

Ans: No Response

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

No

If yes, how long should this period be:

Ans: No Response

Question 12

Which dates should be avoided?

Please specify the dates you have in mind in your answers.

Public holidays common in most Member States?

Ans: As there is seasonality in the carbon market, it would be advisable to check the LEBA, and exchange public data to assess whether there is a discernible trend of market activities at different times of the year.

According to ECX data, such seasonality does exist. Based on such data, IETA recommends that:

- Reduce the volumes of allowances auctioned in August at least by 25 % and distribute the remaining quota pro-rata through the rest of the year
- No auctions be held in the second half of December, when trading activity is low as most operators are on leave.
- No auctions be held on ECB holidays (see below list) which are common to most Member States,
 - 25 December - Christmas
 - 26 December - Boxing day
 - 01 January - New Year
 - Good Friday
 - Easter Monday
 - 1 May – Labour day
 - Ascension Day
 - Whit Monday

Days where important relevant economic data is released?

Ans:

Days where emissions data are released?

Ans:

Other?

Ans:

Question 13

Is a harmonised 10-12 hrs CET auction slot desirable?

Yes

If not, what alternative(s) would you suggest?

Ans:

Question 14

***How long in advance should each element of the calendar be determined?
Please provide arguments to support your case.***

Annual volumes to be auctioned:

No response

Ans: Please see IETA's comments to the auctioning consultation

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

No response

Ans: Please see IETA's comments to the auctioning consultation

Dates of individual auctions:

No response

Ans: Please see IETA's comments to the auctioning consultation

Volume and product type for individual auctions:

No response

Ans: Please see IETA's comments to the auctioning consultation

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

No response

Ans: Please see IETA's comments to the auctioning consultation

Question 15

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

in 2011: ___% of the 2013 volume and ___% of the 2014 volume

in 2012: ___% of the 2013 volume and ___% of the 2014 volume

Please provide evidence to support your case.

Ans:

What percentage of these shares should be auctioned as futures?

in 2011: ___% of the 2013 share and ___% of the 2014 share

in 2012: ___% of the 2013 share and ___% of the 2014 share

Please provide evidence to support your case.

Ans:

Question 16

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

Ans: Other

Please Specify: The allowances unsold due to force majeure should be spread evenly over the next 2 or 3 auctions to avoid inflating the size of the auction following the annulled auction.

Question 17

Is 1,000 allowances the most appropriate lot size?

Yes

If not, why not?

Ans:

Question 18

Is a single-round sealed-bid auction the most appropriate auction format for auctioning EU allowances?

Yes

If not, please comment on your alternative proposal?

Ans:

Question 19

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

Ans: Uniform-pricing.

Please provide arguments to support your case.

Ans: Uniform pricing is a simpler pricing rule and requires less information from smaller players.

Question 20

Should the rules for solving ties in the Regulation be:

Ans: pro-rata re-scaling of bids

Please comment on your choice.

Ans: Pro rata for reasons of equity.

Question 21

Should a reserve price apply?

No

Question 22

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

No

Please comment on your choice.

Ans: The reserve price should be harmonised across the EU and be market-based using a relevant period average spot price derived from the secondary market. If auctions are held on a weekly basis, the reserve price should be the average value of the market prices for spot allowances (and futures if applicable) over a period of the three days preceding the auction, with a 25% discount factor.

The reserve price mechanism should distinguish between a technical failure resulting in a lack of auction bids triggering the reserve price (valid reason), and the proper market response to steep market related price fall resulting in average bids below the reserve price (invalid reason).

Following the exercise of a reserve price, non-auctioned allowances should be added to the volume of allowances available at the next auction; there should also be timely public disclosure of the circumstances of the exercise of the reserve and the amount affected.

Question 23

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

No

Please comment on your choice.

Ans: IETA believes that holding frequent (i.e weekly) auctions would already reduce risks of market abuse, as the ability of each individual bidder to influence the outcome of the totality of auctions in a given year would be severely limited.

A maximum bid-size is not desirable in either case, as it is not possible to define what a single bidding entity actually is in the context of the EU ETS i.e., to establish a clear link between an installation and a bidder without imposing an extraordinary administrative burden onto the auction process (cf. qualification process under RGGI auctions). Also, limiting bid sizes would severely hamper the flexibility of those operators with largest EU ETS liabilities in optimising their compliance strategies.

Last, imposing a maximum bid-size would not mitigate risks of market manipulation as it would only apply to the primary market.

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

No

Please comment on your choice.

Ans: IETA believes that holding frequent (i.e weekly) auctions would already reduce risks of market abuse, as the ability of each individual bidder to influence the outcome of the totality of auctions in a given year would be severely limited.

A maximum bid-size is not desirable in either case, as it is not possible to define what a single bidding entity actually is in the context of the EU ETS i.e., to establish a clear link between an installation and a bidder without imposing an extraordinary administrative burden onto the auction process (cf. qualification process under RGGI auctions). Also, limiting bid sizes would severely hamper the flexibility of those operators with largest EU ETS liabilities in optimising their compliance strategies.

Last, imposing a maximum bid-size would not mitigate risks of market manipulation as it would only apply to the primary market.

Question 24

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

Ans: No Response

Please comment on your choice.

Ans:

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?

Ans: No Response

Please comment on your choice.

Ans: Neither option is desirable: the first would add complexity to the system without effectively addressing the issue, and the second would merely limit the flexibility of major players in optimising their compliance strategies. It should be noted that buying a large amount of allowances does not imply, per se, market abuse. For example there will be a number of compliance buyers whose likely annual EUA purchase requirements would exceed weekly pan EU auction quantities.

The body in charge of monitoring the auction should report to the competent authorities if there is a well-founded suspicion of market abuse, this should then be investigated and pursued on a case-by-case basis according to EC legislation.

Question 26

Are the following pre-registration requirements appropriate and adequate?

Identity:

- Natural or legal person;
- 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;
- Contact details of authorised representatives and proof of authorisation; and
- CITL-Registry account details.
- Anything else?

0

Declarations with respect to the past 5 years on absence of:

- Indictment or conviction of serious crimes: check corporate officers, directors, principals, members or partners;
- Infringement of the rules of any regulated or unregulated market;
- Permits to conduct business being revoked or suspended;
- Infringement of procurement rules; and
- Infringement of disclosure of confidential information.

Anything else?

0

Declarations and submission of documentation relating to:

- Proof of identity;
- Type of business;
- Participation in EU ETS or not;
- EU ETS registered installations, if any;
- Bank account contact details;
- Intended auctioning activity;
- Whether bidding on own account or on behalf of another beneficial owner;
- Corporate and business affiliations;
- Creditworthiness;
- Collateral; and
- Whether it carries out transactions subject to VAT or transactions exempted from VAT.
- Anything else?

Please specify: All this and nothing more. As IETA recommends a single harmonised auction process, carried out as far as possible by existing exchanges, the above-mentioned registration requirements should apply and no additional criteria should be added. As pre-registration requirements are already in place in existing exchanges, the harmonised requirements should be based on existing practices. If a body other than existing exchanges should be appointed to carry out the auctions, then the above-mentioned pre-registration requirements should apply to them as well.

Question 27

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

Yes

Please comment on your choice.

Ans: YES - as harmonised pre-registration requirements are in line with IETA's belief that a single auction process must be established.

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:

- means of establishing the trading relationship;
- identity of bidder;
- whether auctioning spot or futures;
- size of bid;
- means of payment and delivery;
- anything else?

Please specify: None of the above, the amount of information should be standard for all bidders

If so, what should the differences be?

Ans:

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?

Yes

0
0

Please provide arguments to support your case.

Ans: Yes, where applicable. IETA believes that MIFID and AML rules should apply to the auctioneers already covered by these rules. Should an auctioneer not be covered by MIFID or AML rules, the Regulation should impose comparable requirements. The Commission should seek to harmonise such requirements with the legislation on market oversight that is currently being developed by DG TREN.

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:

Yes

- Other auctioneers?
- Credit and/or financial institutions?
- Other

0

Please comment on your choice.

Ans: Yes – provided that there is some form of appeal mechanism

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?

Yes

Please comment on your choice:

Ans: Yes – provided that there is some form of appeal mechanism

If so, should such entities be:

- Covered by the AML rules?
- Covered by MiFID?
- Covered by both?
- Other

0

Please comment on your choice:

Ans:

Question 32

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

Yes

Please comment on your choice.

Ans: Yes, it should be a principle of joint auctioning that one Member State conducts pre-registration checks

Question 33

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

No

If so, how should they be harmonised?

Ans:

If not, why not?

Ans: IETA believes that the Commission should provide guidance on this subject to the existing exchanges who we believe should be carrying out the auctions (see our answer to question 47) in order to avoid competitive distortions and set a range of acceptable levels of collateral based on an assessment of existing practices.

Question 34

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

No

If so, how should they be harmonised?

Ans:

If not, why not?

Ans: No, for the same reasons explained in the answer to the previous question.

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?

Yes

If not, why not?

Ans:

What alternative(s) would you suggest? Please provide arguments to support your case:

Ans:

Question 36

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

Yes

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

- the level of the initial margin;
- the level of variation margin calls;
- the daily frequency of variation margin call payments?

If you have answered yes, please justify and elaborate on the rules that should apply and the mechanisms to implement them:

Ans:

Question 37

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

- Payment before delivery.
- Delivery versus payment.
- Both.

Please comment on your choice.

Ans: A distinction should be drawn between delivery for spot and futures. IETA deems that “Delivery vs. Payment” is the most preferable procedure for spot and “Futures delivery mechanism” for is the preferable procedure for futures, as these reflect current practices which are commonly accepted and deemed efficient by market operators. The Delivery vs. Payment procedure is not suitable for futures as these are delivered and paid at a pre-set date in the future, and operators can trade in and out of a future position until expiry of the contract.

Question 38

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

Yes

If yes; what should it be?

Ans: Other

As indicated in our previous answer, a distinction should be drawn between spot and futures trades.

Question 39

Should the Regulation provide any specific provisions for the handling of payment and delivery incidents or failures?

Yes

If yes, what should they be?

Ans: Yes. The provisions should be based on practices currently established by existing exchange platforms.

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?

Yes

If not, why not?

Ans:

If so, are the matters enumerated below complete?

- 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.

Ans: Yes

If not, what additional matters should be foreseen in the Regulation and why?

Ans:

Question 41

Should the Regulation provide for rules on jurisdiction and the mutual recognition and enforcement of judgments?

Yes

If so, should these be:

- specific to the Regulation;
- by reference to the Brussels I Regulation;
- by citing exceptions from the Brussels I Regulation;
- by citing additions to the Brussels I Regulation?

Please comment on your choice:

Ans:

If not, why not?

Ans:

Question 42

Which auction model is preferable?

- Direct bidding?
- Indirect bidding?

Both?

Please comment on your choice.

Ans: Buyers should have a choice to participate either directly or indirectly.

Question 43

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

Ans:

Please provide arguments to support your case.

Ans: There is no need for IETA to specify a share. The service of indirect bidding (whether provided by the market or explicitly contracted) does not require the identification of a separate "pot" of allowances. Reserving a portion for indirect bidding raises the prospect of inefficient attempts to arbitrage between the respective pools if each pool has to "clear" independently.

Question 44

If the primary participants model is used, what provisions would be desirable for mitigating disadvantages of restricting direct access:

Allow direct access to largest emitters, even if they trade only on their own account? 0

0

Disallow primary participants trading on their own account?

Impose strict separation of own-account trading from trading on behalf of indirect bidders?

Other

Please specify: IETA believes that a primary participants model should not be used

Question 45

If the primary participants' model is used, what conflict of interest requirements should be imposed?

Separation of client registration and trading on behalf of clients from all own account trading activities.

Separation of collateral management, payment and delivery on behalf of clients from all own account trading activities.

Separation of anything else.

Please specify: 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 46

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

- Intermediaries
- Market makers

Please provide arguments to support your case.

Ans: In the case where there are primary participants, the same set of obligations set out in the answer to the previous question should apply.

Question 47

Under what conditions should auctioning through exchanges be allowed:

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

Please specify: See the IETA's additional comments to the consultation for the full answer

Please provide arguments to support your case.

Ans: IETA strongly supports the creation of a single auction process based as far as possible on existing infrastructure (particularly existing exchanges) IETA favours an auction system that could be managed by a number of different entities but is based broadly on common principles. An EU –wide tendering process should be set up by the Commission to award the right to carry out the auction to one or more entities. IETA expects that the existing exchanges, who have already developed and proven much of the necessary technology and other infrastructure, would quite properly be in a strong position in such a tender. But it is essential that winning tenders cater for all legitimate prospective purchasers. For example, in order to facilitate direct access to small emitters and SMEs, for whom full membership of exchanges may prove onerous, a system of associate membership could be envisaged. See the IETA's additional comments to the consultation for the full answer

Question 48

Should direct auctions be allowed through:

- 1) Third party service providers?

- 2) Public authorities?

Please comment on your selection:

Ans: Auctions through public service providers or public authorities should not be encouraged, as auctions should take place using existing infrastructure based on a single platform insofar as possible. Allowing a public authorities approach would tend to encourage many different national solutions, which would be inefficient.

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?

Yes

If not, why not?

Ans:

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:

discriminatory-price auctions?

uniform-price auctions?

Question 51

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

Ans: 5%

0

Please comment on your choice.

Ans: Non-competitive bids might be requested by SMES and small compliers, but they are not necessary or desirable. If non-competitive auctions were to be organised, 5% of the volume is probably more than enough

Among those ETS operators that will need to acquire EUAs on auctions, medium to large companies directly active on the carbon markets likely represent more than 95% of the emissions. These companies will very likely participate directly to the auction through sophisticated bidding strategies. Non-competitive bids would only be useful to companies likely representing less than 5% of the needs.

Question 52

What rule should apply for accessing non-competitive bids:

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

0

Please comment on your choice.

Ans: IETA believes that non competitive bids are not necessary for the efficient functioning of the auctioning system, especially if a uniform price system applies.
However, should non-competitive bids be allowed, they should meet the following conditions:

- Participants should be allowed to submit both competitive and non-competitive bids, as restricting non competitive bids to participants that do not place competitive bids is over restrictive,
- Non-competitive bids should be restricted to SMEs and small emitters
- The amount of allowances auctioned by means of non-competitive bids should be capped at a specific, EU wide percentage level of the amount auctioned
- if the demand for non-competitive bids exceeds the cap, all bids could be scaled down proportionally.

Question 53

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

Ans: 10 000 EUAs

0

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?

No

If so, please specify:

Ans:

Question 55

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

Ans: Other

Please Specify: Please see our reply to question 14.

Please comment on your proposal.

Ans: 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.

Question 56

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

Ans: Other

Please Specify: Please see our reply to question 14.

Please comment on your proposal.

Ans:

Question 57

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

Ans: No Response

Please specify what they are.

Ans: IETA believes that submitting intentions to bid is a superfluous and unnecessary step that would make participation in auctions more cumbersome and would rule out the possibility of holding weekly or daily auctions. IETA would strongly prefer a system based on a single pre-registration process, that would enable operators to participate in any auction across the EU for the whole duration of the trading period.

Question 58

What information should be disclosed after the auction:

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

Please specify: All of the above. In addition, IETA recommends that the number of participants and the number of participants successful in securing bids be published.

Question 59

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

- 5 minutes
- 15 minutes
- 30 minutes
- 1 hour
- Other.

0

Please comment on your proposal.

Ans: The delay should be as small as possible to enable the necessary checks and publish reliable and accurate information. Ideally this should be done within five minutes from the closure of the auction.

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?

Yes

If so, what may they be?

Ans: Specific provisions in the Regulation should ensure that all relevant information be released at the same time on recognised media platforms.

Question 61

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

Yes

If not, why not?

Ans:

Question 62

Do you agree that the Regulation should contain general principles on:

- the designation and mandate of the auction monitor; and
- cooperation between the auctioneer(s) and the auction monitor?
- Neither

If not, why not?

Ans:

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

Yes

If not, why not?

Ans:

Question 63

Is there a need for harmonised market abuse provisions in the Regulation to prevent insider dealing and market manipulation?

No

If not, why not?

Ans: Individuals operating the auctions may at times be privy to information that could be deemed inside information (eg, that an auction only had one registered bidder, surprise results that could move the market once published etc). In terms of the execution of the auctions it will therefore be necessary to adopt measures which impose confidentiality obligations, restrict the parties with access to information (via an "insiders list"), and the conduct of those parties (ie, preventing them or any related persons - partners, parents, friends - from trading in allowances).

Please comment on your choice outlining the provisions you deem necessary and stating the reasons why.

Ans: The Regulation cannot and should not hope to cover conduct in the secondary and derivatives markets in allowances not least since these are already covered by existing financial services rules covering market manipulation and insider trading . Moreover, fraud, bribery and anti-trust provisions exist which would prohibit organised and concerted action either between bidders or between a bidder and the auctioneer. Instead of attempting to duplicate or supplement these provisions, it would be far better to assess whether there are any specific characteristics of the emissions market that would require amendments to those existing provisions. Indeed in this area, ERGEG- CESR and the Commission are assessing the need for a bespoke market abuse regime for the electricity gas and emissions markets. In this light, IETA believes that an EU ETS-specific regime that is separated from the forthcoming framework for the electricity and gas markets would not be appropriate

Question 64

Should the Regulation provide for harmonised enforcement measures to sanction:

- Non-compliance with its provisions?
 Market abuse?

Please provide arguments to support your case.

Ans: The regulation should provide for harmonised enforcement measures to sanction non-compliance and market abuse, to establish a level-playing field across the EU, ensure transparency and avoid competitive distortions.

Question 65

Should the enforcement measures include:

- The suspension of the auctioneer(s) and/or bidders from the EU-wide auctions?

If so, for how long should such suspension last?

Ans: The length of the suspension of the auctioneer and /or the bidders should be effective, dissuasive and proportionate to the scale and seriousness of the breach. It should last as long as necessary to restore market integrity and ensure that the offender is in compliance with the Regulation. As a general rule, suspensions should be limited to a maximum period of six months for first time offenders, which could be extended by the Regulator in the event that the offender is still in breach of the Regulation and/or market integrity has not been restored within the 6 month period. Suspension should be a measure of last resort (e.g. for repeat offenders or offences that seriously threaten the integrity of the market). Before resorting to suspending an operator/ auctioneer, the regulator should impose financial penalties.

- Financial penalties?

If so, at what level should such penalties be fixed?

Ans: Financial penalties should be effective, dissuasive and proportionate to the scale and seriousness of the breach. The Regulation should ensure that financial penalties are consistent with and proportionate to, financial penalties set in existing legislation applying to exchanges and intermediaries.

- 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?

- Anything else?

0

Please provide arguments to support your case.

Ans: Please see IETA's answer relating to the length of the suspension and the financial penalties.

In terms of The right to exert 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 should respect the principle of subsidiarity and should be granted to different bodies, depending on the nature of the breach. Authorities that could exert such powers are, for example, the National Regulators/ Competent Authorities, the national market supervision authorities, the supervisory bodies that regulate the Exchange Platforms and, in the event that the threat originates from a bidder, the Exchange Platforms themselves.

The Regulation must also ensure that an efficient appeal mechanism is set up.

Question 66

Should such enforcement measures apply at:

- EU level?
- National level?
- Both?

Please comment on your choice.

Ans: Enforcement measures should apply both at national and EU level, as required by the principle of subsidiarity. Enforcement powers should be granted to different bodies depending on the nature of the breach. The measures should be complementary to and compatible with the existing regulatory regime, but should take into account the fact that delays in enforcement are incompatible with the functioning of the EUA markets. Hence the Regulation should include provisions to ensure that illicit behavior be sanctioned swiftly and effectively and provide for additional enforcement measures to address in those cases not covered by existing legislation. Such measures should enhance the effectiveness and be consistent with existing applicable legislation.

Question 67

Who should enforce compliance with the Regulation:

- The auction monitor?
- The auctioneer?
- A competent authority at EU level?
- A competent authority at national level?
- Other?

Please specify: The entities carrying out the auctions

Please provide evidence to support your case.

Ans: Enforcement measures should apply both at national and EU level, as required by the principle of subsidiarity. Enforcement powers should be granted to different bodies depending on the nature of the breach. The measures should be complementary to and compatible with the existing regulatory regime, but should take into account the fact that delays in enforcement are incompatible with the functioning of the EUA markets. Hence the Regulation should include provisions to ensure that illicit behavior be sanctioned swiftly and effectively and provide for additional enforcement measures to address in those cases not covered by existing legislation. Such measures should enhance the effectiveness and be consistent with existing applicable legislation.

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)

- [3] Limited number of coordinated auction processes.
[1] Full centralisation based on a single EU-wide auction process.
[2] The hybrid approach where different auction processes are cleared through a centralised system.

Please give arguments to support your case.

Ans: IETA strongly prefers a single, EU-wide auction process as this would:
- Limit the risk of competitive distortions (e.g. different rules of participation, credit and KYC requirements) by establishing a level-playing field
- Reduce complexity, transaction costs and increase transparency

Question 69

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

Ans: 2

0

Please give arguments to support your case.

Ans: IETA strongly prefers a single, EU- wide auction process. Should it not be possible to establish one, the limited number of coordinated auction processes should be kept to a minimum.

Question 70

Is there a need for a transitional phase in order to develop gradually the optimal auction infrastructure?

No

If so, what kind of transitional arrangements would you recommend?

Ans:

Question 71

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

Technical capabilities of auctioneers:

- [X] 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;
[X] appropriate investment in keeping the system up-to-date and in line with ongoing market and technological developments; and
[X] relevant professional licences, high ethical and quality control standards, compliance with financial and market integrity rules.

Integrity:

- [X] guarantee confidentiality of bids, ability to manage market sensitive information in an appropriate manner;

- duly protected electronic systems and appropriate security procedures with regards to identification and data transmission;
- appropriate rules on avoiding and monitoring conflicts of interest; and
- full cooperation with the auction monitor.

Reliability:

- robust organisation and IT systems;
- adequate fallback measures in case of unexpected events;
- minimisation of the risk of cancelling an individual auction once announced;
- minimisation of the risk of failing functionalities (e.g. access to the bidding platform for certain potential bidders); and
- fallback system in case of IT problems on the bidder side.

Accessibility and user friendliness:

- fair, concise, comprehensible and easily accessible information on how to participate in auctions;
- short and simple pre-registration forms;
- clear and simple electronic tools;
- (option of) accessibility of platforms through a dedicated internet interface;
- ability of the auction platform to connect to and communicate with proprietary trading systems used by bidders;
- adequate and regular training (including mock auctions);
- detailed user guidance on how to participate in the auction; and
- ability to test identification and access to the auction.

Please elaborate if any of these requirements need not be included.

Ans: the requirement relating to the “ability of the auction platform to connect to and communicate with proprietary trading systems used by bidders” should be reformulated as a requirement for the a trading platform(s) to connect and communicate with trading systems generally currently used in the market”.

Please elaborate what additional requirements would be desirable.

Ans:

Question 72

What provisions on administrative fees should the Regulation include?

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

0

Please provide arguments to support your case.

Ans: IETA doubts that prescriptive rules on the fee structure and the level of fees are necessary. There is a healthy competition among exchanges that ensures a low and attractive level of fees for the clients. Binding rules on the levels and structure of the fees would also be incoherent with the current framework regulating the secondary market, which does not prescribe the structure and level of fees.

However, IETA believes that the Commission could provide guidance to avoid competitive distortions and set an indicative range of acceptable levels of fees based on an assessment of existing practices.

One possible way forward could be to follow the example set by the German Regulation on auctioning for the phase 2, which requires the fees to be no higher than the ones in the secondary market

Question 73

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

Yes

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

Yes

Question 74

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

Auctions by an auctioneer authorised by the Commission.

Automatic addition of the delayed quantities to those foreseen for the next two or three auctions.

What other option would you envisage? Please specify:

Ans:

Question 75

Should a sanction apply to a Member State that does not auction allowances in line with its commitments?

Yes

If so, what form should that sanction take?

Ans: The Regulation should apply effective, proportionate and dissuasive sanctions that should be swiftly implemented. Member States should have a right of appeal.

Member states should be issued an initial warning, if they do not comply with two weeks, then the volume that was meant to be auctioned should be re-distributed to the other Member States on the basis of the shares laid down in Article 10(2) and auctioned at the earliest opportunity by the other Member States.

Question 76

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

Yes

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

Ans: No Response

0

Question 77

Do you think there is a need to auction EUAA futures?

No

If so, why?

Ans:

Question 78

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

Ans: No Response

0

Please comment on your choice.

Ans:

Question 79

What would be your preferred timing for EUAA auctions:

Ans: Equally spread throughout the year?

0

Question 80

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

No Response

If so, please specify and comment on your choice.

Ans:

Question 81

Do you agree there is no need for a maximum bid-size?

No Response

If not, why not?

Ans:

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)?

No Response

If so, please describe what information is concerned and whether it should be referred to in the Regulation or any operational guidance published by the Commission.

Ans:

Question 83

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

No Response

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

No Response

Please provide arguments to support your case.

Ans:

Question 84

Do you agree that there is no need for any specific provisions for EUAA auctions as regards:

- Involvement of primary participants, exchanges or third party service providers?
- Guarantees and financial assurance?
- Payment and delivery?
- Information disclosure?
- Auction monitoring?
- Preventing anti-competitive behaviour and/or market manipulation?
- Enforcement?
- None of the above?

If not, please describe in detail what rules would be needed and why.

Ans:

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)

- [0] Limited number of coordinated auction processes.
- [0] Full centralisation based on a single EU-wide auction process.
- [0] Hybrid approach where different auction processes are cleared through a centralised system.

Does your choice differ from the approach preferred for EUAs?

No Response

Please provide arguments to support your case.

Ans:

Question 86

Do you agree that there is no need for any specific provisions for EUAA auctions as regards:

- Requirements for the auctioneer(s) and auction processes?
- Administrative fees?
- Rules to ensure appropriate and timely preparation of the auctions?
- None of the above?

If not, please describe in detail what rules would be needed and why.

Ans: