

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 Otherwise, the contribution will not be published nor will, in principle, its content be taken into account.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: Stadtwerke München GmbH (SWM)

Principal nature of activities: Utility Service

Number of employees in 2008:

World-wide: 7082

Europe-wide: 7082

Turnover in 2008:

World-wide: 4717

Europe-wide: 4717

Question B

Type of respondent:

Company operating one or more installations covered by the EU ETS
Electricity generators

Approx Annual Emissions: 4000000 tCO₂

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 :

It is common practice that generators hedge some of their price exposure by buying fuel and emission allowances in advance and selling their power at the same time (up to 3 years prior to delivery). To allow appropriate risk management and hedging strategies, allowances should be auctioned up to three years in advance. As auction profile for early auctions we therefore recommend: n-3: 15 %; n-2: 25 %; n-1: 30 %.

Question 2

Do you think there is a need to auction futures?

Yes

If so, why?

Ans: It is common practice that generators hedge some of their price exposure by buying fuel and emission allowances in advance and selling their power at the same time (up to 3 years prior to delivery). To allow sophisticated risk management and hedging strategies the predominant part of the allowances should be auctioned as futures. Additionally to that the early auction of futures would facilitate and promote a liquid and efficient EUA market.

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	8	22
Year n-1	8	22
Year n-2	6	19

Please provide evidence to support your case.

Ans: Due to the continued existence of free allocation of allowances in the industry sector and because of the common practice to use spot EUAs for liquidity management purposes, we expect a liquid spot market even with an auctioning strategy which is focussed on early futures auctions. We therefore recommend, to auction one quarter of the yearly volume of allowances as spot and three quarters as future. In year n-3 this means to auction 3.75 % as spot and 11.25 % as future.

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)?

Yes

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

Ans:

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: Weekly

0

What should be the maximum frequency of auctions?

Ans: Other.

Please Specify: daily

Please provide arguments to support your case.

Ans: The maximum frequency are daily auctions. A high auction frequency lowers the risk of market distortions, which could be caused by huge EUA volumes auctioned just occasionally. The huge volume of allowances to be auctioned enables to -at least- weekly auctions. To establish a transparent and harmonised auction process SWM furthermore recommends the establishment of a fully centralised EU-wide auctioning platform and the early publication of the planned auction schedule (See question 68).

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: An equal auction size helps to prevent market distortions and leads to a maximum of transparency and predictability. So we propose as an optimum: Yearly volume of allowances divided by the number of weekly auctions; as a minimum: Yearly volume of allowances divided by the number of weekly auctions and as a maximum: Yearly volume of allowances divided by the number of daily auctions.

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: Weekly

0

What should be the maximum frequency of auctions?

Ans: Other.

Please Specify: daily

Please provide arguments to support your case.

Ans: A high auction frequency lowers the risk of market distortions, which could be caused by huge EUA volumes auctioned just occasionally. The huge volume of allowances to be auctioned enables to -at least- weekly auctions. To establish a transparent and harmonised auction process SWM furthermore recommends the establishment of a fully centralised EU-wide auctioning platform and the early publication of the planned auction schedule (See question 68).

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: An equal auction size helps to prevent market distortions and leads to a maximum of transparency and predictability. So we propose as an optimum: Yearly volume of allowances divided by the number of weekly auctions; as a minimum: Yearly volume of allowances divided by the number of weekly auctions and as a maximum: Yearly volume of allowances divided by the number of daily auctions.

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)?

Yes

If yes, how long should this period be:

Ans: One week

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

Yes

If yes, how long should this period be:

Ans: One week

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: e.g. Christmas, New Year, Easter, Withsun

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?

No

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

Ans: A harmonised auction slot is highly desirable. However, with regard to risk management strategies, the auctions themselves should only be open for a maximum of 15 minutes.

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:

more years in advance

Ans: To guarantee a maximum amount of predictability and transparency, all data should be published at the earliest moment possible. SWM suggests to establish a EU-wide platform where all needed data is published and regularly up-dated. Linkage across trading periods must be assured.

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

more years in advance

Ans: To guarantee a maximum amount of predictability and transparency, all data should be published at the earliest moment possible. SWM suggests to establish a EU-wide platform where all needed data is published and regularly up-dated. Linkage across trading periods must be assured.

Dates of individual auctions:

more years in advance

Ans: To guarantee a maximum amount of predictability and transparency, all data should be published at the earliest moment possible. SWM suggests to establish a EU-wide platform where all needed data is published and regularly up-dated. Linkage across trading periods must be assured.

Volume and product type for individual auctions:

more years in advance

Ans: To guarantee a maximum amount of predictability and transparency, all data should be published at the earliest moment possible. SWM suggests to establish a EU-wide platform where all needed data is published and regularly up-dated. Linkage across trading periods must be assured.

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

more years in advance

Ans: To guarantee a maximum amount of predictability and transparency, all data should be published at the earliest moment possible. SWM suggests to establish a EU-wide platform where all needed data is published and regularly up-dated. Linkage across trading periods must be assured.

Question 15

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

in 2011: 25% of the 2013 volume and 15% of the 2014 volume

in 2012: 30% of the 2013 volume and 25% of the 2014 volume

Please provide evidence to support your case.

Ans: See above, question 1 & 3.

What percentage of these shares should be auctioned as futures?

in 2011: 19% of the 2013 share and 11% of the 2014 share

in 2012: 22% of the 2013 share and 19% of the 2014 share

Please provide evidence to support your case.

Ans: See above, question 1 & 3.

Question 16

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

Ans: Other

Please Specify: They should be equally spread on coming auctions within the next three month. In case this increases the auction size by more than 10 per cent, this period should be extended to six month.

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 gives a clear price signal for the value of an EU allowance. It also ensures that every successful participant pays the same price, meaning that the auction price will be fair. Uniform-pricing also minimises the risk of distortions to the secondary market. A further advantage is that the transparent and risk avoiding design of uniform pricing enables smaller entities to take part in the auctioning process.

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: This solution would be fair and support further competition between the bidders.

Question 21

Should a reserve price apply?

Yes

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: Yes, a reserve price should apply in proportion to the secondary market to prevent big price spreads between both markets and protect the auctioneer's interests. For transparency reasons the methodology should be published. SWM proposes to set the reserve price at X per cent below the closing price or the average closing prices of the most frequented exchange in the secondary market at a certain date (X days before auction) or a certain period of time.

Question 23

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

Yes

Please comment on your choice.

Ans: A maximum bid-size is highly desirable to make market manipulation more difficult. Maximum limits also protect against discrimination of smaller participants. Without a maximum bid-size big entities would be able to acquire huge amounts of allowances, thereby reducing the amount left for smaller participants.

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

Yes

Please comment on your choice.

Ans: A maximum bid-size is highly desirable to make market manipulation more difficult. Maximum limits also protect against discrimination of smaller participants. Without a maximum bid-size big entities would be able to acquire huge amounts of allowances, thereby reducing the amount left for smaller participants.

Question 24

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

Ans: 25%:

Please comment on your choice.

Ans: According to our answer to question 23 a max. volume per auction and bidder should be set at 25 per cent of the volume of allowances auctioned per auction. It would be a good compromise between the demand of large entities and the need to prevent uncompetitive behaviour.

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: A maximum bid-size per single entity?

Please comment on your choice.

Ans: See above, question 19 and 23.

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?

Please specify: To simplify the pre-registration process declaration should only be required once. Afterwards participants are only obliged to report changes.

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: Creditworthiness rules and collateral have to be designed in a way that they remain manageable for smaller entities (see below, questions 33-35).

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: From our point of view full harmonisation of the complete auctioning process is a precondition of its success. Without it, the auctioning scheme will neither be able to guarantee transparency and predictability nor fair market conditions. For further information see below, question 68.

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?

0

If so, what should the differences be?

Ans: Pre-registration requirements have to be designed in a way that they remain manageable for smaller entities.

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:

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: There should be only one centralised pre-registration process. It is appropriate to entrust a third party with the necessary checks if it helps to reduce costs.

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: There should be only one centralised (european) pre registration process independent from the origin country of the bidder. This would make the whole auction process manageable for all bidders but especially for smaller ones. See above, question 27.

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: Both is needed to guarantee a maximum amount of trustworthiness.

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: There should be only one centralised (european) pre-registration process. This would make the whole auction process manageable for all bidders but especially for smaller ones. See above, question 27.

Question 33

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

Yes

If so, how should they be harmonised?

Ans: In a way that they remain manageable for smaller entities.

If not, why not?

Ans:

Question 34

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

Yes

If so, how should they be harmonised?

Ans: In a way that they remain manageable for smaller entities.

If not, why not?

Ans:

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?

No

If not, why not?

Ans:

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

Ans: As mentioned in the accompanying text of the questionnaire (4.2.2) not only electronic money should be recognized but also certified cheques, bank guarantees and blocked accounts. This is especially important for smaller entities and offers them more flexibility.

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: Delivery versus payment is the usual market practise (cf. Blue Next).

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: 5 working days

0

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: Definition of force majeure, interest on arrears, definition of penalties, debate procedures, transaction rules, rules on jurisdiction.

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: No

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

Ans: See above, question 39.

Question 41

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

Yes

If so, should these be:

- [X] 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: SWM prefers a centralised auction scheme (See below, question 68). In order to ensure uniform jurisdiction the place of jurisdiction should be situated where the auctioning platform is based.

If not, why not?

Ans:

Question 42

Which auction model is preferable?

- Direct bidding?
- Indirect bidding?
- Both?

Please comment on your choice.

Ans: In an indirect auction scheme companies have to share commercially sensitive information with primary participants. Additionally, an indirect scheme does not offer the flexibility needed by participants. For example it would be very difficult to change bids in reaction to market developments. A direct auction scheme avoids these problems. To make it easier for SMEs to participate in direct auctions intermediaries could be allowed to take part in such auctions as well.

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: SWM is against an indirect approach (See above, question 42).

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
- Disallow primary participants trading on their own account? 0
- Impose strict separation of own-account trading from trading on behalf of indirect bidders?
- Other

Please specify: SWM is against an indirect approach (See above, question 42).

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: SWM is against an indirect approach (See above, question 42).

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: SWM is against an indirect approach (See above, question 42).

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.

0

Please provide arguments to support your case.

Ans: Auctioning through exchanges is desirable because of the extensive experience exchanges have in the trading sector. However, such auctions should only be allowed on two preconditions: To enable participation of SMEs registration modalities should be lightened so that even small entities will be able to participate. Furthermore, the participation of exchange must not endanger the EU-wide centralisation of the auction process.

Question 48

Should direct auctions be allowed through:

- 1) Third party service providers?

- 2) Public authorities?
Yes

Please comment on your selection:

Ans: Auctions through public authorities guarantee a fair and reliable 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?

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?

Yes

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: No Response

0

Please comment on your choice.

Ans: SWM is favouring uniform price auctions. With them there is no need for non-competitive bids (See above, question 19).

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: SWM is favouring uniform price auctions. With them there is no need for non-competitive bids (See above, question 19).

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: No Response

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: One month

0

Please comment on your proposal.

Ans: SWM suggests to establish a EU-wide platform where all needed data is published upfront and well in advance (several years in advance, see answer 14) and regularly up-dated (See above, question 14).

Question 56

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

Ans: One week

0

Please comment on your proposal.

Ans: SWM suggests to establish a EU-wide platform where all needed data is published upfront and well in advance (several years in advance) and regularly up-dated (See above, question 14).

Question 57

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

Ans: The notice to auction?

Please specify what they are.

Ans: Amount of allowances to be auctioned, time and place of the auction, time and place of the disclosure of auctioning results (See above, question 14).

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: SWM is favouring uniform price auctions. With them there is no need to publish the average price or the volume of non- competitive bids. (See above, question 19). Additional remark: To ensure a maximum of transparency the disclosure of an order book made anonymous (anonymous total bidding curve) would be highly desirable.

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: A rapid announcement of auction results is necessary to enable participants react to the results in due time.

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: SWM suggests to establish a EU-wide platform where all needed data is published upfront and well in advance (several years) and regularly up-dated (See above, question 14).

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?

Yes

If not, why not?

Ans:

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

Ans: A maximum amount of harmonization is necessary (See below, question 68).

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: A common approach is essential for a centralised auction scheme.

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:

Financial penalties?

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

Ans:

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?

Please specify: Public disclosure of culprits

Please provide arguments to support your case.

Ans: Large entities are dependent on ETS-auctions. The suspension of participants could disable them to acquire the needed allowances. In our point of view financial penalties accompanied by public disclosure are more appropriate enforcement measures.

Question 66

Should such enforcement measures apply at:

EU level?

- National level?
 Both?

Please comment on your choice.

Ans: From our point of view full harmonisation of the complete auctioning process is a precondition of its success. For further information see below, question 68.

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?

0

Please provide evidence to support your case.

Ans: From our point of view a centralized approach is vital. A competent authority at EU level should be in charge of both, monitoring process and enforcement issues.

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: From our point of view full harmonisation of the complete auctioning process is a vital precondition of its success. There are a number of facts that speak against any form of decentralization:

- Impossibility to coordinate auctions and lot sizes with 27 member states in an economically appropriate way.
- The ETS itself is a European and not a national system.
- Different jurisdiction, making law suits both, unpredictable and expensive.
- Possible advantages of "home players".
- Possibility of governmental intervention in order to align the timing and volume of auctions with periods when prices in the secondary markets are high.
- Difficulties to monitor various auction processes in an appropriate and efficient way.
- Increase of costs and bureaucracy.

In a nutshell: Without a centralised approach, the auctioning process will neither be able to guarantee predictability nor fair market conditions.

Question 69

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

Ans: No Response

0

Please give arguments to support your case.

Ans: From our point of view a centralized approach is vital (See above, question 68).

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:

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

Integrity:

- 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:

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: These rules are necessary to avoid law-suits.

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: In order to prevent governmental intervention financial penalties are appropriate (e.g. 100 per cent of the market price of the not auctioned allowances).

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: Other?

Please Specify: To guarantee fair market conditions, the EUAA system should be fully integrated in the EUA system as soon as possible.

Question 77

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

No Response

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: No Response

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: