

## 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 Otherwise, the contribution will not be published nor will, in principle, its content be taken into account.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: EDF Energy

Principal nature of activities: EDF Energy is one of the UK's largest energy companies. Interests include coal and gas electricity generation, combined heat and power plants, electricity networks and energy supply to end users.

#### **Number of employees in 2008:**

World-wide:

Europe-wide: 11,000

#### **Turnover in 2008:**

World-wide:

Europe-wide:

### **Question B**

#### **Type of respondent:**

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

Approx Annual Emissions: 21924000 tCO<sub>2</sub>

### **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 :

20-30% in year n-2, 30-35% in year n-1, remainder in year n. However, although not an option in this consultation the ideal split would be 40% in n-2, 40% in n-1 and 20% in n.

### **Question 2**

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

Yes

***If so, why?***

Ans: Yes, for the following reasons listed below;

- The EU registry is not planned to be operational in time in order to deliver allowances that would be auctioned spot in 2011 and 2012.
  
- Auctioning only spot would require significant amounts of cash to support companies' hedging needs. Whilst in theory, provided the rate of return on capital is high enough, it should be possible for operators to borrow cash to purchase spot allowances, in advance of Phase 3, currently debt markets are very illiquid and raising cash is very difficult.
  
- Many companies are already quite highly leveraged and any further exposure to debt markets would undermine their financial stability.
  
- The price paid by companies for allowances on early spot auctions would be significantly discounted to reflect the higher cost of borrowing. Therefore, as a form of borrowing against an asset this is a very expensive way for the Government to raise cash, compared to issuing Government bonds.

### **Question 3**

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

	<b>SPOT</b>	<b>FUTURES</b>
Year n	100	
Year n-1	90	10

Year n-2 90 10

**Please provide evidence to support your case.**

Ans: Until the Commission has the capacity to sell spot allowances in advance all allowances should be auctioned as futures.

If in the future the Commission/MS is in a position to sell spot EUAs in advance then it would be sensible to auction a small proportion of allowances as spot EUAs. The table below illustrates the ideal split:

	Spot	Futures
Year n*	100%	
Year n-1*	10%	90%
Year n-2*	10%	90%

\*Note that these figures are percentages of the total volume for a single vintage. For instance 100% of spot in year n is 100% of the residual 2013 vintage not sold as futures or spot in Year n-1 or n-2.

*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: Fortnightly

0

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

Ans: Other.

Please Specify: Daily

***Please provide arguments to support your case.***

Ans: Should a less centralised approach (see Q.68) be adopted auctions must be co-ordinated so auctions of similar volumes are held at least once a week. To ensure market liquidity it would be more appropriate to have auctions more frequently than this rather than less.

**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: 1000000

***Minimum auction size?***

Ans: 500000

***Maximum auction size?***

Ans: 5000000

***Please provide evidence to support your case.***

Ans: Volume will be a function of the proposed frequency of auctions. Auctions should be sufficiently frequent to increase market liquidity and reduce the amount of collateral bidders need to make available for each auction. But not so frequent that they become uncompetitive.

**Question 7**

***For futures auctions:***

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

Ans: Other.

Please Specify: Daily

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

Ans: Other.

Please Specify: Daily

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

Ans: Weekly

0

***Please provide arguments to support your case.***

Ans: Auctions should be as frequent as possible, with possibly a transition phase in 2011 and 2012 (e.g., moving from weekly to daily auctions) to allow for demand to ramp up and market participants to adjust their practices. Frequent auctions will minimize secondary market disruption, including strategies to bring down the market before each auction, and allow best alignment between primary (auction) and secondary market prices.

**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: 4000000

***Minimum auction size?***

Ans: 2000000

***Maximum auction size?***

Ans: 20000000

***Please provide evidence to support your case.***

Ans: The answer to this question has to be considered in the context of the frequency of auctions and the auction platform. The volumes below are calculated based on the assumption that the auction platform is centralised. These values also assume that auctions are held at least daily.

**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:

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:***

3 years in advance

Ans: Annual volumes and the share of futures are critical to hedging strategies. Information on auction frequency and total volumes (including the split between spot and futures) should be known long enough in advance so as to allow bidders to establish their bidding strategy and make all necessary administrative arrangements in time.

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

3 years in advance

Ans: Annual volumes and the share of futures are critical to hedging strategies. Information on auction frequency and total volumes (including the split between spot and futures) should be known long enough in advance so as to allow bidders to establish their bidding strategy and make all necessary administrative arrangements in time.

***Dates of individual auctions:***

1 year in advance

Ans: It is recognised that these volumes may vary slightly due to the inclusion of volumes from the closure of installations etc, therefore, Government should confirm exact volumes at least 2 months prior to the auction.

***Volume and product type for individual auctions:***

1 year in advance

Ans:

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

2 years in advance

Ans:

**Question 15**

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

in 2011: 40% of the 2013 volume and 40% of the 2014 volume

in 2012: 20% of the 2013 volume and 40% of the 2014 volume

***Please provide evidence to support your case.***

Ans: 2011 (% as futures) 2012 (% as futures)

% 2013 40% (90%) 40% (90%)

% 2014 20% (90%) 40% (90%)

***What percentage of these shares should be auctioned as futures?***

in 2011: 90% of the 2013 share and 90% of the 2014 share

in 2012: 90% of the 2013 share and 90% 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: They should automatically be added to the next auction on the calendar, irrespective of the auction process.

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**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:

**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:

**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:

**Question 23**

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

No

***Please comment on your choice.***

Ans:

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

No Response

***Please comment on your choice.***

Ans:

**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 is necessary. The Commission should focus on getting the design of the primary auction right so that it facilitates liquidity in both auctions and secondary markets.

**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?

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***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: Yes, except that proof of membership of a professional association and/or membership of a chamber of commerce is unnecessary.

**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:

**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?

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***If so, what should the differences be?***

Ans: If future auctions are conducted over exchanges then this would remove the need for having to stipulate pre-registration requirements in the regulations. Exchanges and clearing houses will have their own registration criteria regulated by the relevant financial services authority.

**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  
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***Please provide arguments to support your case.***

Ans: If EUAs are auctioned through an exchange (futures or spot), whose relationship with members is already regulated, then registration requirements should be reconsidered.

**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

Please specify: Third parties should be eligible to undertake pre-registration checks so long as they are subject to a regulation that, the Commission has reason to believe, would ensure their impartiality.

***Please comment on your choice.***

Ans:

**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:

***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: Third parties should be eligible to undertake pre-registration checks so long as they are subject to a regulation that, the Commission has reason to believe, would ensure their impartiality.

**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:

**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: The value of collateral, as a % of the total volume bid, should be the same for all MS's.

***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: Yes. Bidders should be allowed to use a range of specified credit tools.

***If not, why not?***

Ans:

**Question 35**

***Do you agree that 100% collateral in electronic money transfer ought to be deposited upfront 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: No specific rules should apply. Existing rules are adequate.

**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 a well tested settlement mechanism on the secondary market and should keep auctioneers immune to any default risk. For bidders, it would reduce the time during which cash is mobilised (thereby reducing overall costs) and allow for finer and more flexible adjustment of their position.

**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: 4 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: Handling of such incidents and failures should be carried out according to existing market practices on exchanges.

**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: The Regulation should only include applicable principles in that regard, in order to ensure that key issues will be addressed in the contracts, thereby safeguarding a minimum level of consistency across auction processes. A template for standard Terms & Conditions could be made available as guidance.

**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: Both. On the one hand, a number of companies, especially the most active market participants and/or larger companies, should have direct access to the auction platform so as to enjoy complete confidentiality and flexibility in adjusting their bidding strategy. On the other hand, considering the transaction costs involved, smaller and less active participants may prefer using an intermediary. The Regulation could state conditions or incentives under which some intermediaries could be mandated or encouraged by the auctioneer to facilitate smaller participant access to the auction.

It is worth noting that this issue would be resolved should the Commission decide to auction futures via an exchange. Futures exchanges already effectively regulate access to the futures market. It is in the interests of the exchange to facilitate a trading environment to optimise liquidity by ensuring that all participants, both large and small, are able to access the exchange cost effectively.

**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: Direct and indirect bidders should both have equal access to the auctions – preferential treatment or specific shares of the market should not be given to either.

**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?  
If so, who should have direct access and what thresholds should apply?

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

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

**Question 45**

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



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.

0

#### **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: If restrictions suggested in question 45 are applied, such obligations are not relevant considering the existence of a liquid secondary market with a number of active intermediaries.

#### **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, whether spot or futures, through an exchange should be open to all established members registered with that exchange.

Auctioning via exchanges should be encouraged where the existing infrastructure of exchanges would make the auctioning process more efficient.

#### **Question 48**

***Should direct auctions be allowed through:***

1) Third party service providers?  
Yes

2) Public authorities?

***Please comment on your selection:***

Ans:

#### **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:

**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: Participants with non competitive bids only should be serviced as a priority.

**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: One month

0

***Please comment on your proposal.***

Ans:

**Question 56**

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

Ans: No Response

0

***Please comment on your proposal.***

Ans: The intention to bid does not seem necessary. Only in the case of changes in the bidder's status or pre-registration information should advance notice be given to the auctioneer. In addition, in case of daily or even weekly auctions, such intentions to bid will be unpractical to manage.

**Question 57**

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

Ans: The notice to auction?

***Please specify what they are.***

Ans: Yes, in the notice to auction.

Detailed information or reference to general auction rules applicable to all auctions by the auctioneer should be given in the notice. The information should include:

- Publication of results
- Payment and delivery dates
- Provisions in case of late payment
- Fall-back bidding procedure (in case of unavailability of IT link)
- Management of bidding errors prior to auction closure
- Method for contestation
- Liability terms
- Force majeure cases

**Question 58**

***What information should be disclosed after the auction:***

[ ] 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 as well as:- number of participants, - number of participants successful in securing allowances

**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:

**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?***

No

***If so, what may they be?***

Ans:

**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: It is not necessary to include specific market abuse provisions in this regulation. EU allowances have become a new commodity which is an integral part of energy markets (direct relationship between CO2 emissions and fossil fuel consumption, a number of ETS operators manage carbon as a fuel, a number of ETS operators and market participants optimise their position around the spark and dark spreads on a continuous basis). Regulation of the CO2 market should encompass both the primary and secondary market (the auctioning regulation is not appropriate for that). More importantly, inconsistencies between carbon and power/ gas, regarding the way those commodities are traded and regulated would probably disrupt all energy markets. Regulation of the carbon market is necessary (especially the spot market) and shall be part of current broader initiatives to deal with market integrity/abuse in European physical energy markets (market integrity initiative lead by DG TREN with support from ERGEG).

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

Ans: It is not necessary to include specific market abuse provisions in this regulation. EU allowances have become a new commodity which is an integral part of energy markets (direct relationship between CO2 emissions and fossil fuel consumption, a number of ETS operators manage carbon as a fuel, a number of ETS operators and market participants optimise their position around the spark and dark spreads on a continuous basis). Regulation of the CO2 market should encompass both the primary and secondary market (the auctioning regulation is not appropriate for that). More importantly, inconsistencies between carbon and power/ gas, regarding the way those commodities are traded and regulated would probably disrupt all energy markets. Regulation of the carbon market is necessary (especially the spot market) and shall be part of current broader initiatives to deal with market integrity/abuse in European physical energy markets (market integrity initiative lead by DG TREN with support from ERGEG).

**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:

**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: Enforcement measures should be in proportion to the extent of the market abuse behaviour.

**Please provide arguments to support your case.**

Ans: Enforcement measures should be in proportion to the extent of the market abuse behaviour. Therefore, it would be appropriate to develop a range of penalties:

- confidential warning

- naming (public warning)

- suspension (as long as necessary to ensure that the auctioneer or bidder is no longer in breach)

Financial penalties are not necessary. The approach described above with suspension as a last resort should be enough of a deterrent.

It is also important to include an appeal mechanism.

**Question 66**

**Should such enforcement measures apply at:**

EU level?

National level?

Both?

**Please comment on your choice.**

Ans:

**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:

**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: A centralised process is the most efficient, ensures a level playing field and is least likely to create market distortions or discriminate between participants.  
It would reduce bidders complexity, transaction costs, and transparency.

However, should there be a need to compromise, the hybrid approach would be acceptable should MS be unwilling to relinquish fiscal sovereignty. Although implementation seems more challenging.

Another compromise option would be for a “European” auctioning process and platform to be developed and implemented under the initiative of the European Commission as per a mandate given by Member States through the forthcoming Regulation. Such a platform would be open to any Member State wishing to use it and aim to provide a basis for progressively leaning towards a fully centralised solution. In the meantime, the European platform would be coordinated with some of the national platforms that could be immediately available.

**Question 69**

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

Ans: 3

0

***Please give arguments to support your case.***

Ans:

**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: All of the provisions mentioned should be included in the regulation. In addition, a rule needs to be included stating that fees have to be recovered from EUA auction proceeds.



**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: Yes. The sanction should be based on the same principles outlined in Q.65.

**Question 76**

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

No Response

***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 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)***

- Limited number of coordinated auction processes.
- Full centralisation based on a single EU-wide auction process.
- 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: 1,2,3

**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: