

EU Emissions Trading Scheme (ETS) – Consultation on design and organisation of emissions allowance auctions
Response from E.ON AG, 29 July 2009

Name of Company/Organisation: E.ON AG

Principal nature of activities: Investor-owned energy company with power and gas operations throughout the value chain: generation/production; transmission/wholesale; trading/supply; distribution; and retail/sales

Number of employees in 2008: World-wide: 93538
Europe-wide: 90428 (including Russia)

Turnover in 2008: World-wide: 86,753,000,000€
Europe-wide 84,873,000,000€ (including Russia)

Type of Respondent: Company operating one or more installations covered by the ETS
Electricity Generators
Energy company other than electricity generators
Approx. annual emissions: 100mtCO₂
Trader on own account
Trading arm of non-financial institution

No objection to publication of data.
Responses are not confidential.

1.	<p>As a general rule throughout the trading period, in your opinion, are early auctions necessary? If so, what should the profile of EUA auctions be?</p> <ul style="list-style-type: none">• 5-10% in year n-2, 10-20% in year n-1, remainder in year n• 10-20% in year n-2, 20-30% in year n-1, remainder in year n• 20-30% in year n-2, 30-35% in year n-1, remainder in year n• Other
A:	<p>Yes, early auctions are necessary. We would like to see the profile 1/3 in year n-2, 1/3 in year n-1 and 1/3 in year n; starting early in 2011 and continuing throughout the third compliance period.</p> <p>It is common practice to sell wholesale electricity output several years in advance of it actually being needed by customers. This process is essential to ensuring that electricity customers are not exposed to the prices that occur in short term markets, which are significantly more</p>

	<p>volatile than over the long term. In order to provide future prices, electricity producers must be able to lock in their costs, which are principally for fuel and for the certificates needed to account for carbon emissions.</p> <p>Therefore to be able to offer future prices for electricity from the start of the trading period, electricity producers need to be able to procure allowances in advance. The length of the carbon market in the second compliance period does not affect this fundamental need. Early auctions are essential.</p> <p>Figures 1 to 3 on pages 22 and 23 of the consultation report indicate that this question asks how the total volume of allowances to be distributed in a year should be split into timed products. The full range of product types – a spot product, a year-ahead future product and a 2-year-ahead future product – would be available for the years 2013 to 2018 (as it is not possible, for example, to have a year-ahead future in 2011). There is enough public information available in the electricity markets to demonstrate that producers seek to sell most of their output at least 2 years ahead, where there is enough liquidity in a national or regional wholesale market to provide a reliable future price.</p> <p>In markets where there is not currently sufficient liquidity to sell 2 or more years in advance, it is a key aim of the European energy market integration process to develop it. We foresee that liquidity in electricity markets will develop around Europe in the coming years, which will further increase the need for early auctions of allowances.</p> <p>Therefore the third of the options presented is clearly the most appropriate, as it provides the largest volume of futures. However, because the exact split suggested in this option is necessarily somewhat arbitrary, it would be simpler to split the profile 1/3 n-2, 1/3 n-1 and 1/3 n for the years when it will be possible to offer the full range. This means opening the third compliance period with auctions in 2011 that would distribute 1/3 of the total volume of allowances due to be released in 2013. We would ideally prefer a n-3 product to be accounted for but think that, on balance, having a third of the volumes as 2-year ahead products will allow the necessary level of advance fuel and carbon procurement in most of the EU markets.</p> <p>In summary, without early auctioning there will undoubtedly be more risk to electricity producers, who will not be able to lock in either their costs or future sales of output, and therefore increased price volatility in future electricity sales, which will have a detrimental effect on customers.</p>
<p>2.</p>	<p>Do you think there is a need to auction futures? If so, why?</p> <p>A: For clarity, we define futures to be allowances that are auctioned before delivery at an exchange, with a clearing house managing the risk in the time between the sale of the allowances and settlement of the full price. Settlement should take place on delivery.</p> <p>Futures purchases are the preferred method of securing allowances in advance because they fit with the practice of selling wholesale electricity to customers. The basic principle is that the spread between the wholesale electricity price and the costs of fuel and emissions is locked in well in advance of delivery. Then cash flow, for both producers and customers need not be settled until actual delivery (except in the case of exchange margining where a proportion of the full price must be put down as collateral). This system would be disrupted if producers were required to settle the full value of early-release spot allowances several years before</p>

	<p>revenues are received from the sale of electricity.</p> <p>To be compatible with the existing system governments should also receive payments in the same year as delivery. Early-release spot allowances would, in contrast, give early payments to governments and considerably increase the financial burden on electricity producers.</p> <p>The scale of this potential financial burden should be emphasised. As an example, using the average annual supply figure given in the consultation report, of around 1,85 billion allowances, and making an assumption that after free allocation to industries deemed to be at risk of carbon leakage, 1,2 billion allowances are to be auctioned each year. With no futures, an example EUA price of €20 would require companies active in the carbon market to pay out 24 bn€, in cash and long before the majority of the bought allowances could be turned into revenues.</p> <p>It is questionable whether the energy industry and the financial community would be able to manage this magnitude of up-front cash flow. It is of particular concern for electricity producing companies, who would possibly have to divert capital from new generation projects in order to procure enough allowances to sell their current level of output. A further consideration is that electricity producers may have to borrow in order to procure early-release spot volumes. In this scenario access to auctioned allowances may not be equitable, as companies with better credit ratings would be subject to lower costs.</p>
<p>3.</p>	<p>What share of allowances should be auctioned spot and what share should be auctioned as futures for each year?</p> <ul style="list-style-type: none"> • Year n 100% spot, 0% futures • Year n-1 0% spot, 100% futures • Year n-2 0% spot, 100% futures <p>Please provide (non confidential) evidence to support your case.</p>
<p>A:</p>	<p>This question appears to repeat question 1, as it too is asking for a recommended profile, although this time there is no distinction made between n-2 and n-1 futures. We do not believe that early-release spot products could be afforded in sufficient volumes to sell future electricity output. Therefore our recommended split of products is a simple 1/3 in year n-2 (futures), 1/3 in year n-1 (futures) and 1/3 in year n (spot). To be clear, that is 33,3% spot, 0% early-release spot and 66,6% futures each year. If applied through the trading period, and starting in 2011, 1/3 of the total volume of 2013 release allowances will be auctioned as n-2 futures, 1/3 of the total volume will be auctioned as n-1 futures in 2012, and the final 1/3 of the total volume will be auctioned as spot for immediate delivery in 2013. This process is applied on a rolling basis to every year. (We have submitted a separate table to DG Environment that illustrates the profile clearly.)</p> <p>This profile is compatible with the current split of products traded on the secondary market. In 2008, 32% of allowances were traded as spot and 68% as futures at the exchanges, including cleared trades with an intermediary broker (OTC). Such a profile is appropriate because it fits with the needs of those companies that will need to buy very large volumes, ensuring that the ETS is fit for purpose. However, it is notable that a large volume will still be available as spot for buyers that have no need to lock in their costs in advance or who would prefer not to enter into a futures contract. 1/3 of the forecast average supply of auctioned allowances (based on our answer to question 2) will create around 400 million spot allowances per year.</p>

	<p>We have selected this profile specifically because it is both simple and yet compatible with the current carbon market overall. If we were to suggest a profile to suit E.ON's generation portfolio, the proportion of allowances auctioned as futures would in fact be higher. We have provided examples of our future electricity sales to DG Environment as answers to the following confidential questions. However our current hedging profiles are known as part of the information we make available for investor relations purposes. Therefore for transparency here we can provide the example of our largest electricity production Market Unit, Central Europe, which operates power stations mainly in Germany, France and the Netherlands: a total generation capacity of 28GW (59% of which is fossil fuels). A range rather than an exact figure is necessary to account for trading positions that change constantly over time. At 31 March 2009, 90-100% of electricity output for whole of 2009 (year n) had been sold; 90-100% of output for the whole of 2010 (2009 is year n-1) had been sold; and 50-60% of output for the whole of 2011 (2009 is near n-2) had been sold.</p> <p>In summary, based on our largest generation portfolio, as per 31 March 2009, E.ON had to procure enough allowances to cover around 2,5 years of future electricity output; and that is discounting sales for 3 or more years in advance. For context, in 2008 the combined emissions of all the E.ON businesses in the ETS required a compliance budget of nearly 100 million allowances.</p>
4a.	<p>Should the common maturity date used in futures auctions be in December (so the maturity date would be in December in year n, both when auctioning in year n-2 as when auctioning in year n-1)? If not, please suggest alternative maturity dates and provide evidence to support your view.</p>
A:	<p>Yes, we strongly emphasise that the key to ensuring a successful primary auction process in the third compliance period is to align as many features as possible with existing trading practices. Millions of secondary allowances are traded each day and although the market is relatively young, consensus best practices have emerged, one of which is the December maturity date. This delivers allowances in convenient time for emitters to complete their compliance obligations. There is no reason to disrupt this process, and add unnecessary operational complications, for the new primary market.</p>
4b.	<p>Request for confidential information 1 (see separate submission rules): For ETS operators, what share of your expected emissions covered by the EU ETS in a given year n do you hedge and how much in advance?</p> <ul style="list-style-type: none"> • Year n (% spot, % futures) • Year n-1 • Year n-2 • Earlier years (please specify)
A:	<p>Separate paper.</p>
4c.	<p>Request for confidential information 2: What share of the annual quantity of allowances you intend to purchase via auctions would you wish to buy spot or futures respectively?</p> <ul style="list-style-type: none"> • Year n (% spot, % futures) • Year n-1 • Year n-2 <p>Please specify whether you are an ETS operator other participant.</p>
A:	<p>Separate paper.</p>

5a.	<p>For spot auctions: what should be the optimum frequency of auctions?</p> <ul style="list-style-type: none"> • Weekly • Fortnightly • Monthly • Quarterly • Other
A:	<p>Again for this question we strongly emphasise the importance of compatibility with the existing secondary market, which is and should continue to be the price-setting market, and current trading practices.</p> <p>There is no reason why, with a common system and efficient utilisation of existing processes, it will not be possible to deliver a daily (trading day) supply of primary allowances into the market. Daily auctions will supply a volume of around 4,8 million allowances (our 1,2 billion example/252 days) into a daily traded market of around 24 million (new carbon finance state the traded ETS volume in Q1 2009 was 1,49 billion/63 days), providing suitable liquidity to discover the fair market price. With less frequent auctions the volumes of allowances for sale become too great, meaning that especially positive or negative sentiment on the day could move the market price.</p>
5b.	<p>What should be the minimum frequency of auctions?</p> <ul style="list-style-type: none"> • Weekly • Fortnightly • Monthly • Quarterly • Other
A:	<p>Should there be genuine operational barriers to daily auctions (which we cannot see) weekly auctions could, just, be acceptable. A frequency less than weekly would result in a release of volumes large enough to disturb the secondary market price and would therefore counteract the fundamental function of the ETS.</p>
5c.	<p>What should be the maximum frequency of auctions?</p> <ul style="list-style-type: none"> • Weekly • Fortnightly • Monthly • Quarterly • Other <p>Please provide arguments to support your case.</p>
A:	<p>(Trading day) daily auctions.</p>
6.	<p>For spot auctions, what should be the:</p> <ul style="list-style-type: none"> • Optimum auction size • Minimum auction size • Maximum auction size? <p>If deemed appropriate, please indicate a range and/or distribution over different sizes. Please provide arguments to support your case.</p>
A:	<p>This question is answered by the selected profile and auction frequency and therefore need not be a separate consideration. The profile of the auction will determine the volume of spot</p>

	allowances available in the year, which can then be divided equally by the frequency.
7a.	<p>For futures auctions: what should be the optimum frequency of auctions?</p> <ul style="list-style-type: none"> Weekly Fortnightly Monthly Quarterly Other
A:	There is no need to make a separate schedule for futures. The differently timed products should be auctioned at the same time. Therefore, as with spot, the optimum frequency is that of the existing traded market: (trading day) daily auctions.
7b.	<p>What should be the minimum frequency of auctions?</p> <ul style="list-style-type: none"> Weekly Fortnightly Monthly Quarterly Other
A:	Should there be genuine operational barriers to daily auctions (which we cannot see) weekly auctions could, just, be acceptable. A frequency less than weekly would result in a release of volumes large enough to disturb the secondary market price and would therefore counteract the fundamental function of the ETS.
7c.	<p>What should be the maximum frequency of auctions?</p> <ul style="list-style-type: none"> Weekly Fortnightly Monthly Quarterly Other <p>Please provide arguments to support your case.</p>
A:	(Trading day) daily auctions.
8.	<p>For futures auctions, what should be the:</p> <ul style="list-style-type: none"> Optimum auction size Minimum auction size Maximum auction size? <p>If deemed appropriate, please indicate a range and/or distribution over different sizes. Please provide arguments to support your case.</p>
A:	Again this question is answered by the selected profile and auction frequency and therefore need not be a separate consideration. Any figure derived independently is likely to be arbitrary and add unnecessary complication. The profile of the auction will determine the volume of futures allowances available in the year, which can then be divided equally by the frequency. For clarity there is no reason why the auctioning parameters for spot and futures should differ.
9.	<p>Should volumes of spot allowances be auctioned evenly throughout the year? If not, how should volumes be distributed? (More than one answer possible.) Please specify:</p> <ul style="list-style-type: none"> A larger proportion in the first 4 months of the year A large proportion in December

	<ul style="list-style-type: none"> • A smaller proportion in July and August • Other, please specify?
A:	As the auctioning system should be no more than a method of consistently releasing new supplies of tradable allowances, all unwarranted complexities should be avoided. We therefore agree that allowances, spot and futures, should be auctioned evenly. With early auctioning, whereby the total volume for phase 3 is spread over 2011 to 2020, the effect is to front-load the first compliance year(s) of the scheme.
10.	<p>In case futures are auctioned, should the volumes for spot and futures auctions be spread over the year in the same manner? If not, how should they differ? (More than one answer possible.)</p> <ul style="list-style-type: none"> • No futures auctions less than six months before the maturity date • A larger proportion in December • A smaller proportion in July and August • Otherwise, please specify how and comment
A:	As the auctioning system should be no more than a method of consistently releasing new supplies of tradable allowances, all unwarranted complexities should be avoided. We therefore agree that allowances, spot and futures, should be auctioned evenly. With early auctioning, whereby the total volume for phase 3 is spread over 2011 to 2020, the effect is to front-load the first compliance year(s) of the scheme.
11.	<p>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)? If yes, how long should this period be?</p> <ul style="list-style-type: none"> • One week • 2 weeks • 3 weeks • 1 month <p>In case futures are auctioned, should there be similar provisions with respect to the period immediately prior to the maturity date? If yes, how long should this period be?</p> <ul style="list-style-type: none"> • One week • 2 weeks • 3 weeks • 1 month
A:	There is no benefit in disrupting the consistent supply of allowances. A December maturity date will ensure that emitters have sufficient time to procure their annual compliance volume and prepare their submission. This question is an example of where very frequent auctions will remove the need for unnecessarily complex rules and bureaucracy.
12.	<p>Which dates should be avoided? (More than one possible answer.)</p> <ul style="list-style-type: none"> • Public holidays common in most Member States • Days where important relevant economic data is released • Days where emissions data are released • Other <p>Please specify the dates you have in mind in your answers.</p>
A:	As we are advocating that auctions are conducted on normal trading days, this rules out the major public holidays.
13.	Is a harmonised 10-12 hrs CET auction slot desirable? If not, what alternative(s) would you suggest?

A:	Yes
14.	<p>How long in advance should each element of the calendar be determined? Annual volumes to be auctioned:</p> <ul style="list-style-type: none"> • 1 year in advance • 2 years in advance • 3 years in advance • More years in advance <p>Distribution of annual volumes over spot and futures (if applicable):</p> <ul style="list-style-type: none"> • 1 year in advance • 2 years in advance • 3 years in advance • More years in advance <p>Dates of individual auctions:</p> <ul style="list-style-type: none"> • 1 year in advance • 2 years in advance • 3 years in advance • More years in advance <p>Volume and product type for individual auctions:</p> <ul style="list-style-type: none"> • 1 year in advance • 2 years in advance • 3 years in advance • More years in advance <p>Each auctioneer carrying out the auction process (if more than one):</p> <ul style="list-style-type: none"> • 1 year in advance • 2 years in advance • 3 years in advance • More years in advance <p>Please provide arguments to support your case.</p>
A:	<p>Full transparency of the auction calendar is important but is answered by setting the auctioning profile, frequency and distribution. If the Regulation sets binding terms for a set profile of spot and future products, very frequent auctions and even distribution, the information listed here is in practice known for the entire trading period at the outset.</p> <p>Under such terms the only information that may be subject to material change is the identity of the auctioneer(s). In these cases 1 year's notice will be appropriate.</p>
15.	<p>What should be the volume of allowances to be auctioned in 2011 and 2012?</p> <ul style="list-style-type: none"> • In 2011 33,3% of the 2013 volume and 0% of the 2014 volume • In 2012 33,3% of the 2013 volume and 33,3% of the 2014 volume <p>What percentage of these shares should be auctioned as futures?</p> <ul style="list-style-type: none"> • In 2011 100% of the 2013 share and 0% of the 2014 share • In 2012 100% of the 2013 share and 100% of the 2014 share <p>Please provide evidence to support your case.</p>
A:	<p>This question is answered as the product of questions 1 and 3. We advocate a simple system of 1/3 n-2, 1/3 n-1 and 1/3 spot, which means that 100% of the early shares should be futures.</p> <p>To be clear, that is 33,3% spot, 0% early-release spot and 66,6% futures each year. If applied</p>

	<p>through the trading period, and starting in 2011, 1/3 of the total volume of 2013 release allowances will be auctioned as n-2 futures, 1/3 of the total volume will be auctioned as n-1 futures in 2012, and the final 1/3 of the total volume will be auctioned as spot for immediate delivery in 2013.</p> <p>This process rolls on into 2012, when 1/3 of the total volume of 2014 release allowances will be auctioned as n-2 futures, 1/3 of the total volume will be auctioned as n-1 futures in 2013, and the final 1/3 of the total volume will be auctioned as spot for immediate delivery in 2014. The process then rolls in 2013 for 2015 and so on. (We have submitted a separate table to DG Environment that illustrates this profile clearly.)</p>
16.	<p>What should be the rule with respect to allowances not auctioned due to force majeure?</p> <ul style="list-style-type: none"> • They should automatically be added to the next auction on the calendar, irrespective of the auction process. • They should be auctioned within one month, though leaving flexibility as to which auction(s) the EUAs should be added. • They should be auctioned within three months, though leaving flexibility as to which auction(s) the EUAs should be added. • Other, please specify
A:	<p>We see that the first option is a suitable force majeure rule with frequent (trading day) auctions. This issue again highlights the benefits of very frequent auctioning, as force majeure events will have a negligible impact.</p>
17.	<p>Is 1,000 allowances the most appropriate lot size? If not, why not?</p>
A:	<p>Yes. A uniform lot size adds the benefit of neatly commoditizing the auctions, and 1,000 allowances is the standard commodity size in the secondary market. Should some smaller emitters indicate that they would prefer to purchase smaller lots, it can be accepted without too much scrutiny, the important thing is that the chosen size is uniform and applied in every auction.</p>
18.	<p>Is a single-round sealed-bid auction the most appropriate auction format for auctioning EU allowances? If not, please comment on your alternative proposal?</p>
A:	<p>Yes. As opposed to a multi-period dynamic auction, this type of auction lowers transactions costs, preserves bidder anonymity, increases understanding of the price-formation process and helps avoid any possible collusion. It is even more appropriate with frequent auctions and a price determined by the secondary market as there is little chance of over paying and all bidders, including small emitters, will have unlimited opportunities to bid again should they be unsuccessful in a single auction.</p>
19.	<p>What is the most appropriate pricing rule for the auctioning of EU allowances?</p> <ul style="list-style-type: none"> • Uniform pricing • Discriminatory pricing • Indifferent <p>Please provide arguments to support your case.</p>
A:	<p>Uniform pricing avoids the risk of pricing deviating from the market price in the secondary market and ensures fairness.</p>
20.	<p>Should the rules for solving ties in the Regulation be:</p>

	<ul style="list-style-type: none"> • Random selection, or • Pro-rata re-scaling of bids? <p>Please comment on your choice.</p>
A:	<p>The system should distribute new allowances fairly according to an accurate market price, which the clearing price with single-round sealed bidding and a uniform price will tend to. Therefore all bidders at or above the clearing price should receive a pro-rata re-scaled volume of allowances.</p>
21.	<p>Should a reserve price apply?</p>
A:	<p>Emphatically no, as to apply a reserve price will fundamentally undermine the purpose of the ETS, which is to discover the true price of carbon based on scarcity. With a good auction design the primary clearing price will tend to the secondary market price. Furthermore a reserve price might be subject to short term political considerations, which would be detrimental to investor confidence in the carbon market. The same applies for price caps.</p> <p>This question again highlights the benefits of (trading day) frequency, as it removes any perceived danger of an infrequent auction suffering an 'unrepresentative' price.</p>
22.	<p>In case a reserve price would apply, should the methodology/formula for calculating it be kept secret? Please comment on your choice.</p>
A:	<p>A reserve price cannot apply, as it would undermine the very purpose of the ETS. A non-transparent reserve price is even worse, in terms of distorting the price discovery process.</p>
23.	<p>Is a maximum bid-size per single entity desirable in a uniform price auction? Is a maximum bid-size per single entity desirable in a discriminatory price auction? Please comment on your choice.</p>
A:	<p>Emphatically no. There is nothing wrong with a bidder wishing to purchase a large volume of allowances in a free market. The European wide traded carbon market is too big for a single, or a small group, of traders to exercise market power and control the price.</p> <p>The proposal that a maximum bid-size should be applied is based on the mistaken premise that one or a few trading parties could seek to corner the market. Even aside from the fact that severe anti-collusion sanctions can be applied in the EU, this premise is clearly mistaken due to both the size and liquidity of the existing secondary market and the size of the primary market that the Regulation will create.</p> <p>As an example, we have already noted that the current traded market is around 24 million allowances a day x 252 trading days = around 6 billion allowances annually. Liquidity in this market has improved year on year and is likely to grow significantly again in the coming years. However, even holding this figure constant, adding the 1,2 billion average annual auction volume example for the third compliance period and applying an example a carbon price of 20€, we have a view of a market worth $(6 + 1,2) \times 20€ =$ in excess of 140 bn€ annually. Clearly there would be no benefit in applying a maximum bid volume to a single auction in a market of this size: firstly there are millions of allowances available for sale at any time for anyone to buy; and secondly it would take a huge capital outlay to buy up a significant portion of the market in order to attempt to exercise market power.</p> <p>In summary, the combination of a functioning secondary market and very frequent auctions will ensure that bidders have unlimited access to the allowances they need at the prevailing</p>

	and undisturbed market price.
24.	<p>If so, what is the desirable bid-size limit (as a percentage of the volume of allowances auctioned per auction – only one choice is possible):</p> <ul style="list-style-type: none"> • 10% • 15% • 20% • 25% • 30% • More than 30%, please specify <p>Please comment on your choice.</p>
A:	An answer here is not applicable and would be completely arbitrary.
25.	<p>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?</p> <ul style="list-style-type: none"> • A discriminatory price auction format • A maximum bid-size per single entity <p>Please comment on your choice.</p>
A:	<p>One of the options to mitigate any perceived threat of manipulation already exists, namely the size and liquidity of the secondary market. Simple options available to the Regulation have been covered in the consultation, such as to mandate very frequent actions, at a uniform clearing price with pro-rata scaling.</p> <p>The auctioning Regulation is not the place to draw up bespoke market abuse rules. A comprehensive set of rules, including provisions on transparency and market integrity is being considered for the energy markets as a whole alongside this Regulation. Carbon auctioning and its secondary market can be included in these provisions.</p>
26.	<p>Are the following pre-registration requirements appropriate and adequate?</p> <p>Identity:</p> <ul style="list-style-type: none"> • Natural or legal person • Name, address, whether publicly listed, whether licensed and supervised under the AML rules, membership of a chamber of commerce, VAT and/or tax number • Contact details of authorised representatives • Proof of authorisation and CITL Registry account details • Anything else? Please specific. <p>Declarations with respect to the past 5 years on absence of:</p> <ul style="list-style-type: none"> • 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 • Infringement of disclosure of confidential information • Anything else? Please specify. <p>Declarations and submission of documentation relating to:</p> <ul style="list-style-type: none"> • Proof of identity • Type of business • Participation in EU ETS or not

	<ul style="list-style-type: none"> • 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 • Whether it carries out transactions subject to VAT or transactions exempted from VAT • Anything else? Please specify.
A:	<p>This question presupposes that pre-registration is necessary for an auction conducted by a new platform. In which case, the aim should be to keep the requirements to the minimum in order to attract bidders and ensure open-access to all companies, particularly small emitters. We have highlighted a suitable smaller list.</p> <p>However most of the requirements listed would already be covered, without the need for a separate pre-registration process, under the third party service provide model raised in question 48. If auctioning were conducted through one or a few existing exchanges, essential pre-registration checks will have already been carried out: directly for exchange members and indirectly for non-exchange member companies bidding through banks or brokers. The consultation report appears to assume that a bespoke platform and registration process is required; whereas it would be more efficient to seek to commoditize primary allowances and make them available through existing channels, in the same way as all other commodities.</p>
27.	<p>Do you agree that the pre-registration requirements for admittance to EU auctions should be harmonised throughout the EU?</p> <ul style="list-style-type: none"> • Yes • No <p>Please comment on your choice.</p>
A:	<p>Ideally yes to provide a level playing field.</p> <p>It will be important that information is provided in English, as the most widely spoken trading language, and that participants can use English throughout the process. Where other languages are used in conjunction with English, information should be presented in both languages at the same time.</p>
28.	<p>Should the amount of information to be supplied in order to satisfy the pre-registration requirements for admittance to EU auctions depend on the:</p> <ul style="list-style-type: none"> • Means of establishing the trading relationship • Identity of the bidder • Whether auctioning spot or futures • Size of bid • Means of payment and delivery • Anything else? Please specify. <p>If so, what should the differences be?</p>
A:	<p>The process should be made as standard as possible to ensure fairness to all participants. The credit risk is different between spot and futures, which could result in a need for additional information to participate in futures auctions.</p>

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? If not, why not? Please provide arguments to support your case.
A:	Ideally yes as the process should be the same for all parties. We cannot foresee a scenario where the auctioneer(s), presumably an existing platform(s) such as an exchange(s) is not able to satisfy MiFID and AML requirements.
30.	Do you agree that the auctioneer(s) should be allowed to rely on pre-registration checks carried out by reliable third parties including: <ul style="list-style-type: none"> • Other auctioneers • Credit and/or financial institutions • Other, please specify? Please comment on your choice.
A:	Yes. There is no reason why the auctioneer should be restricted from deciding its own pre-registration systems, providing that the actual checks are harmonised with any other auctions (in the case of several auction platforms).
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? <ul style="list-style-type: none"> • <input checked="" type="radio"/> Yes • <input type="radio"/> No Please comment on your choice. If so, should such entities be: <ul style="list-style-type: none"> • Covered by the AML rules • Covered by MiFID • Covered by both • Other, please specify? Please comment on your choice.
A:	With harmonized rules there is no reason to restrict outsourcing to within individual Member States. Taking this argument further there should be no additional barriers at Member State level at all.
32.	Should the Regulation prohibit the multiplicity of pre-registration checks in the case of Member states auctioning jointly? <ul style="list-style-type: none"> • <input checked="" type="radio"/> Yes • <input type="radio"/> No Please comment on your choice.
A:	It should be easy to register and to attract participants.
33.	Do you agree that the level of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions? If so, how should they be harmonised? If not, why not?
A:	We think that this may be too complex an issue to be specified in the Regulation, especially if existing platforms are used.
34.	Do you agree that the type of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions? If so, how should they be harmonised? If not, why not?

A:	We think that this may be too complex an issue to be specified in the Regulation, especially if existing platforms are used.
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? If not, why not? What alternative(s) would you suggest? Please provide arguments to support your case.
A:	No. It would be too burdensome to have to tie up 100% collateral for an auction where a company does not know in advance if it will be successful. The risk to the auctioneer is only the risk of the possible lower price at delivery compared to the time of the auctioning.
36.	In case futures are auctioned, should a clearing house be involved to mitigate credit and market risks? If so, should specific rules – other than those currently used in exchange clearing houses – apply to: <ul style="list-style-type: none"> • The level of initial margin • The level of variation margin • 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.
A:	The obvious answer to this question is yes because the clearing houses are an essential component of futures trading system. We would caution again here against the assumption that a bespoke process is required for carbon as compared to all other commodities. The levels of margins used at different clearing houses are market determined: it would be far too complex to mandate margining formulas in the Regulation.
37.	What are the most preferable payment and delivery procedures that should be implemented for auctioning EUAs? <ul style="list-style-type: none"> • Payment before delivery • Delivery verses payment • Both Please comment on your choice.
A:	Delivery verses payment is standard practice.
38.	Irrespective of the payment procedure, should the Regulation fix a maximum delay of time for payment and delivery to take place? If yes, what should it be? <ul style="list-style-type: none"> • 4 working days • 5 working days • 6 working days • 7 working days • Other, please specify
A:	4 working days, if not sooner.
39.	Should the Regulation provide any specific provisions for the handling of payment and delivery incidents or failures? If yes, what should they be?
A:	The Regulation could reference the same rules as applied by existing clearing houses.
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? If not, why

	<p>not? If so, are the matters enumerated below complete?</p> <ul style="list-style-type: none"> • The designation of the parties to the trade • The characteristics of the auctioned product: <ul style="list-style-type: none"> ○ 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 • If not, what additional measures should be foreseen in the Regulation and why?
A:	Yes. This list is one of overall governance measures, which, unlike the details of trading features such as collateral, is an area where the Regulation should provide detailed guidance.
41.	<p>Should the Regulation provide for rules on jurisdiction and the mutual recognition and enforcement of judgements? If so, should these be:</p> <ul style="list-style-type: none"> • 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? <p>Please comment on your choice. If not, why not?</p>
A:	It should be specific to the Regulation.
42.	<p>Which auction model is preferable?</p> <ul style="list-style-type: none"> • Direct bidding • Indirect bidding • Both <p>Please comment on your choice.</p>
A:	Any requirement that intermediaries must be used will be totally unacceptable. Intermediaries exist to offer services to bidders that may not wish, for example, to qualify for direct bidding by becoming an exchange member. Whether to bid directly or indirectly should be a matter of choice. Current experience shows that both options can be cost-effective.
43.	<p>If an indirect model is used, what share of the total volume of EU allowances could be auctioned through indirect bidding? Please provide arguments to support your case.</p>
A:	There should be a free choice for all participants, which means that the best bids will be accepted irrespectively if direct or indirect.
44.	<p>If the primary participants model is used, what provisions would be desirable for mitigating disadvantages of restricting direct access: (More than one answer is possible.)</p> <ul style="list-style-type: none"> • Allow direct access to largest emitter, even if they trade only on their own account (if so, who would have direct access and what thresholds should apply?) • 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?

A:	There should be a free choice for all participants. There is no reason for restricting direct access.
45.	<p>If the primary participants' model is used, what conflict of interest requirements should be imposed? (More than one answer possible.)</p> <ul style="list-style-type: none"> • Separation of client registration and trading on behalf of clients from all own trading activities • Separation of collateral management, payment and delivery on behalf of clients from all own trading account activities • Separation of anything else, please specify?
A:	In case of free choice for all participants there is no need for specific rules as clients that do not want to be a direct participant will choose a service provider that suits their needs.
46.	<p>What obligations should apply to primary participants acting in EU-wide auctions as:</p> <ul style="list-style-type: none"> • Intermediaries • Market makers? <p>Please provide arguments to support your case.</p>
A:	In case of free choice for all participants there is no need for specific rules as clients that do not want to be a direct participant will choose a service provider that suits their needs. There would not appear to be a role for market makers. Market makers play a role in the secondary market, but not in auctions.
47.	<p>Under what conditions should auctioning through exchanges be allowed. (More than one answer possible.)</p> <ul style="list-style-type: none"> • 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? <p>Please provide arguments to support your case.</p>
A:	For futures it would be appropriate to require that participants are members of a clearing house. There should be a cost-effective option for spot auctions to simplify participation for small participants.
48.	<p>Should direct auctions through:</p> <ul style="list-style-type: none"> • Third party service providers, or • Public authorities be allowed? <p>If not, why not?</p>
A:	<p>We would prefer a third party service provider as it would make it easier to achieve a common auction platform. It might be difficult for a Member State to accept other Member States auctioning their allowances. There is an obvious cost advantage if existing infrastructure is used. Furthermore, using existing infrastructure reduces the number of issues that the Regulation has to provide detail on, making the challenging project of launching the primary market more manageable.</p> <p>We suggest that the consultation report gives insufficient attention to how the service provider(s) will be selected. This will be a major tender and it not even clear, for example, if the Commission would be willing to undertake the tender process.</p>

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? If not, why not?
A:	The method of ensuring fair and equitable access is simple, and therefore adequately covered by the general rules. If the Regulation can be shown to provide a consistent supply of allowances, at a freely floating market price, where it is not possible (due to the size of the market) for a trader to influence the price, there is by definition no restriction to prevent any emitter from buying the allowances they need at the prevailing price.
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: <ul style="list-style-type: none"> • Discriminatory price auctions • Uniform price auctions?
A:	<p>No. With liquidity and frequency there is zero advantage in non-competitive bidding. It would actually introduce unnecessary complexity and administrative procedures (e.g. what size of business would qualify and how would this be verified?).</p> <p>Fair auction design with low barriers for participation is the best way to ensure access for SMEs: frequent auctions; a uniform clearing price to ensure fairness with pro-rata re-scaling of bids ensuring that all bidders at or above the clearing price receive pro-rata re-scaled volume of allowances; standardisation of auctions; harmonised and simple registration process with minimum requirements; full transparency of the auction calendar; a uniform lot size applied in every auction with the option to purchase smaller lots if necessary to accommodate smaller emitters; and a single-round sealed bid auction which lowers transaction costs.</p> <p>We appreciate that the Directive requires that the Regulation make provisions for SMEs and consider that the list above meets that requirement.</p>
51.	<p>If non-competitive bids are provided for in spot auctions, what maximum share of allowances could be allocated through this route?</p> <ul style="list-style-type: none"> • 5% • 10% • Other, please specify <p>Please comment on your choice.</p>
A:	<p>We do not know of a convincing, explicit argument to explain what advantage non-competitive bids provide: they serve no practical purpose other than to be seen to be providing for the compliance needs of small emitters.</p> <p>It would also be difficult to decide what bids should be curtailed in case the maximum share is exceeded. The auctioning process will be simplified if there are competitive bids only. With a liquid secondary market, frequency and a uniform clearing price there is no reason to introduce the complexity and extra administration inherent in non-competitive bids. It could be seen as over-engineering the Regulation to be seen to cater for small emitters, whereas small emitters are best catered for with a fair auction design.</p>
52.	<p>What rule should apply for accessing non-competitive bids? (More than one answer possible.)</p> <ul style="list-style-type: none"> • 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

	<p>emitters only</p> <ul style="list-style-type: none"> • Other, please specify <p>Please comment on your choice.</p>
A:	There is no benefit in non-competitive bids.
53.	<p>What should be the maximum bid-size allowed for SMEs covered by the EU ETS and small emitters submitting non-competitive bids?</p> <ul style="list-style-type: none"> • 5,000 EUAs • 10,000 EUAs • 25,000 EUAs • Over 25,000 EUAs, please specify exact size and give reasons for your answer.
A:	There is no benefit in non-competitive bids.
54.	<p>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? If so, please specify.</p>
A:	No. In a free and fair system rules should not differ between different types of participants.
55.	<p>What should be the minimum period of time before the auction date for the release of the notice to auction?</p> <ul style="list-style-type: none"> • 2 weeks • 1 month • 2 months • Other, please specify <p>Please comment on your proposal.</p>
A:	Sufficient time may be needed for bidders to complete, for example, pre-registration requirements.
56.	<p>What should be the minimum period of time before the auction date for the submission of the intent to bid?</p> <ul style="list-style-type: none"> • 1 week • 2 weeks • 1 month • Other, please specify. <p>Please comment on your proposal.</p>
A:	The purpose of having an 'intent to bid' feature in the auction is not clear, especially with frequent auctioning. We suggest it is an unnecessary complexity.
57.	<p>Are there any specific provisions that need to be highlighted in:</p> <ul style="list-style-type: none"> • The notice to auction • The intention to bid • Both <p>Please specify what they are.</p>
A:	In the notice to bid, auction rules and the specification of volumes for spot and futures should be specified.
58.	<p>What information should be disclosed after the auction:</p> <ul style="list-style-type: none"> • Clearing price

	<ul style="list-style-type: none"> Any relevant information to solve tied bids Total volume of EUAs auctioned Total volume of bids submitted Total volume of allowances allocated Anything else, please specify?
A:	In case of discriminatory price basis, which we do not support, lowest, average and highest price would have to be published.
59.	<p>What should be the maximum delay for the announcement of auction results?</p> <ul style="list-style-type: none"> 5 minutes 15 minutes 30 minutes 1 hour Other, please specify. <p>Please comment on your proposal.</p>
A:	A simple auction design would allow for a quick release of the results.
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? If so, what may they be?
A:	All information should be published in English without delay at a central website.
61.	Should an auction monitor be appointed centrally to monitor all EU auctions? If not, why not?
A:	Yes. To provide unequivocal guidance the monitoring function should only be conducted by one organisation, which could be an existing regulator. It will not be in the interests of uniformity to have individual monitoring organisations in each Member State.
62.	<p>Do you agree that the Regulation should contain general principles on:</p> <ul style="list-style-type: none"> The designation and mandate of the auction monitor, and Cooperation between the auctioneer(s) and the auction monitor? <p>If not, why not? Should these be supplemented by operational guidance, possibly through Commission guidelines? If not, why not?</p>
A:	Yes.
63.	Is there a need for harmonised market abuse provisions in the Regulation to prevent insider dealing and market manipulation? If not, why not? Please comment on your choice outlining the provisions you deem necessary and stating the reasons why.
A:	Yes. We unequivocally support the introduction of a Europe-wide market abuse regime for the energy markets. It is important that there is a common provision for auctions and the secondary market. It may therefore be more efficient for the Regulation to be linked to wider market abuse legislation, rather than attempting to detail specific rules for carbon. Legislative duplication should be avoided.
64.	<p>Should the Regulation provide for harmonised enforcement measures to sanction:</p> <ul style="list-style-type: none"> Non-compliance with its provisions Market abuse? <p>Please provide arguments to support your case.</p>
A:	Yes, but maybe a link to legislation that applies to the energy market in general, as with the answer to question 63.

65.	<p>Should enforcement measures include:</p> <ul style="list-style-type: none"> • The suspension of the auctioneer(s) and/or bidders from the EU-wide auctions. If so, for how long should such suspension last? • Financial penalties. If so, at what level should such penalties be fixed? • 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? <p>Please provide arguments to support your case.</p>
A:	<p>Yes. Suspension and financial penalties should be possible measures. The time of suspension and level of penalties depends on the offence. The above follows accepted practice from exchanges.</p>
66.	<p>Should such enforcement measures apply at:</p> <ul style="list-style-type: none"> • EU level • National level • Both? <p>Please comment on your choice.</p>
A:	<p>Harmonised rules are important.</p>
67.	<p>Who should enforce compliance with the Regulation? (More than one answer is possible.)</p> <ul style="list-style-type: none"> • The auction monitor • The auctioneer • A competent authority at EU level • A competent authority at national level • Other, please specify? <p>Please provide evidence to support your case.</p>
A:	<p>If the auction monitor also enforced compliance, it would in fact be an auction regulator, which is a completely different entity. Third party platforms already issue penalties and could do so if conducting carbon allowance auctions.</p>
68.	<p>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):</p> <ul style="list-style-type: none"> • 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 <p>Please give argument to support your case.</p>
A:	<p>Full centralisation would make auctioning simple for market participants.</p> <p>Should a fully-centralised single platform not be possible, we see that the hybrid solution, as raised in the consultation report, is innovative. It would appropriately resolve the problem of how to manage auctioning by several platforms. The consultation report could have given more thought to how a central auction office would be chosen to run the clearing price calculation under the hybrid model. This is a second example (reference question 48 for the first example) where the Commission needs to consider the scale of the tendering process. It would be helpful if the Commission would indicate its willingness to issue tenders and select</p>

	service providers. It will be a crucial, and so far insufficiently considered, process.
69.	<p>If a limited number of coordinated auction processes develops, what should be the maximum number?</p> <ul style="list-style-type: none"> • 2 • 3 • 5 • 7 • More than 7, please specify <p>Please give arguments to support your case.</p>
A:	As few as possible.
70.	<p>Is there a need for a transitional phase in order to develop gradually the optimal auction structure? If so, what kind of transitional arrangements would you recommend?</p>
A:	We do not see a need for a transitional phase. However it is notable that the hybrid model could be used for any number or volume of auctions: a major benefit it terms of not moving the secondary market price.
71.	<p>Should the Regulation impose the following requirements for the auctioneer(s) and the auction processes?</p> <p>Technical capabilities of auctioneers:</p> <ul style="list-style-type: none"> • 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 • Relevant professional licences, high ethical and quality control standards, compliance with financial and market integrity rules <p>Integrity:</p> <ul style="list-style-type: none"> • 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 • Full cooperation with the auction monitor <p>Reliability:</p> <ul style="list-style-type: none"> • Robust organisational and IT systems • Adequate fallback measures in case of unexpected events • Minimisation of the risk of falling functionalities (e.g. access to the bidding platform for certain potential bidders) • Fallback system in case of IT problems on the bidder side <p>Accessibility and user friendliness:</p> <ul style="list-style-type: none"> • 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

	<ul style="list-style-type: none"> • Adequate and regular trading (using mock auctions) • Detailed user guidance on how to participate in the auction • Ability to test identification and access to the auction <p>Please elaborate if any of these requirements need not be included.</p>
A:	The above requirements outline a tender specification. More clarity is needed on which organisation(s) would conduct such a tender(s).
72.	<p>What provisions on administrative fees should the Regulation include? (More than one answer is possible.)</p> <ul style="list-style-type: none"> • General principles on proportionality, fairness and non-discrimination • Rules on fee structure • Rules on the amount of admissible fees • Other, please specify <p>Please provide arguments to support your case.</p>
A:	Fees should be an important part of the evaluation when selecting auction platform. It might be simpler that the governments pay the fees as the market price including fees will be relevant when operators optimise their operations.
73.	<p>Should there be provisions for public disclosure of material steps when introducing new (or adapted) auction processes? Should new (or adapted) auction processes be notified to and authorised by the Commission before inclusion in the auction calendar?</p>
A:	Yes. New auction processes should be consulted with market participants. As long as the auction process is within the Regulation an authorisation by the Commission should not be necessary.
74.	<p>Which one of the following options is the most appropriate in case a Member State does not hold auctions (on time)?</p> <ul style="list-style-type: none"> • Auctions by an auctioneer authorised by the Commission • Automatic addition of the delayed quantities to those foreseen for the next two or three auctions <p>What other option would you envisage, please specify?</p>
A:	This is a force majeure issue that would be solved with frequent auctioning, as the effect of delayed volumes will be minimal.
75.	<p>Should a sanction apply to a Member State that does not auction allowances in line with its commitments? If so, what form should that sanction take?</p>
A:	No answer.
76-86	Specific questions for aviation allowances.
A:	No answers.
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