

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 Otherwise, the contribution will not be published nor will, in principle, its content be taken into account.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: Department for European Affairs

Principal nature of activities: Governmental institutions

Number of employees in 2008:

World-wide: 100

Europe-wide:

Turnover in 2008:

World-wide:

Europe-wide:

Question B

Type of respondent:

Member State

-
-
-

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: 5-10% in year n-2, 10-20% in year n-1, remainder in year n

Question 2

Do you think there is a need to auction futures?

Yes

If so, why?

Ans: There is a need to auction futures as this type of contract requires less initial cash as compared to spot auctions where immediate full payment is required.

Question 3

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

	SPOT	FUTURES
Year n	90	10
Year n-1	25	75
Year n-2	20	80

Please provide evidence to support your case.

Ans: Smaller the amount of spot is in the upcoming period, lesser the outlay of needed cash. Considering the current economic crisis, it is very unlikely that the operators will block high amounts of cash in spot contracts for EUA which will be valid for emissions during the period post 2012.

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: Quarterly

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What should be the minimum frequency of auctions?

Ans: Other.

Please Specify: Twice per year

What should be the maximum frequency of auctions?

Ans: Other.

Please Specify: 6 times per year

Please provide arguments to support your case.

Ans: The abovementioned answers were given considering the cost efficiency (at operators level, as well as the authorities/auctioneer level), the need to ensure as much flexibility as possible in cash management and to mitigate the risk associated to the capital markets.

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:

as small as possible

Minimum auction size?

Ans:

as small as possible

Maximum auction size?

Ans:

as small as possible

Please provide evidence to support your case.

Ans: For any of the above questions we prefer that the auction size to be as small as possible considering the following : the impact of the international negotiations on the measures to implement the Climate - Energy Package, unknowing at the moment the precise data on the cap for existing installations and the estimated amount of auctioning rights. We are in favour for smaller volume of EUA taking into account financial capability of SME and considering that high EUA volume has a major effect on the market liquidity and also triggers decrease in price.

Question 7

For futures auctions:

What should be the optimum frequency of auctions?

Ans: Other.

Please Specify: Annually

What should be the minimum frequency of auctions?

Ans: Other.

Please Specify: Annually

What should be the maximum frequency of auctions?

Ans: Other.

Please Specify: Twice per year

Please provide arguments to support your case.

Ans:

Question 8

For futures auctions, what should be the:

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

Optimum auction size?

Ans:

Minimum auction size?

Ans:

Maximum auction size?

Ans:

Please provide evidence to support your case.

Ans: For any of the above questions we are not able to mention the size/ EUA volume considering the following: the impact of the international negotiations on the measures to implement the Climate - Energy Package, unknowing at the moment the precise data on the cap for existing installations and the estimated amount of auctioning rights.

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?

No

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

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

Question 11

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

Yes

If yes, how long should this period be:

Ans: One month

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

Yes

If yes, how long should this period be:

Ans: One month

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: 6 months before the maturity date of the future contracts.

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:

2 years in advance

Ans: For any of the above questions we have considering the following: the impact of the international negotiations on the measures to implement the Climate - Energy Package, unknowing for the moment the precise data on the cap for existing installations and the estimated amount of auctioning rights, the current level of knowledge and know-how, the world economic crisis.

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

1 year in advance

Ans: For any of the above questions we have considering the following: the impact of the international negotiations on the measures to implement the Climate - Energy Package, unknowing for the moment the precise data on the cap for existing installations and the estimated amount of auctioning rights, the current level of knowledge and know-how, the world economic crisis.

Dates of individual auctions:

1 year in advance

Ans: For any of the above questions we have considering the following: the impact of the international negotiations on the measures to implement the Climate - Energy Package, unknowing for the moment the precise data on the cap for existing installations and the estimated amount of auctioning rights, the current level of knowledge and know-how, the world economic crisis.

Volume and product type for individual auctions:

1 year in advance

Ans: For any of the above questions we have considering the following: the impact of the international negotiations on the measures to implement the Climate - Energy Package, unknowing for the moment the precise data on the cap for existing installations and the estimated amount of auctioning rights, the current level of knowledge and know-how, the world economic crisis.

Each auctioneer carrying out auction process (if more than one):
2 years in advance

Ans: For any of the above questions we have considering the following: the impact of the international negotiations on the measures to implement the Climate - Energy Package, unknowing for the moment the precise data on the cap for existing installations and the estimated amount of auctioning rights, the current level of knowledge and know-how, the world economic crisis.

Question 15

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

in 2011: ___% of the 2013 volume and ___% of the 2014 volume
in 2012: 20% of the 2013 volume and 10% of the 2014 volume

Please provide evidence to support your case.

Ans:

What percentage of these shares should be auctioned as futures?

in 2011: ___% of the 2013 share and ___% of the 2014 share
in 2012: 50% 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: Uniform-pricing as it provides a level playing field for all participants and operators, transparency and simple implementation. Moreover uniform-pricing is the most appropriate method in hindering the anti-competitive behavior and speculative practices, as well as meeting the Directive's objective, to reduce the greenhouse gases.

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: The rules for solving ties in the Regulation should be pro-rata; for this answer we have taken into account the previous answer.

Question 21

Should a reserve price apply?

Yes

Question 22

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

No

Please comment on your choice.

Ans: If a reserve price would apply, the formula for calculating it should be public, but the methodology should take into account the price evolution from the secondary market.

Question 23

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

Yes

Please comment on your choice.

Ans: A maximum bid-size per single entity is the most appropriate in a uniform-price auction as it avoids market manipulation and abuse

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: 20%:

Please comment on your choice.

Ans: The desirable bid-size limit (as a percentage of the volume of allowances auctioned per auction) is 20%. Higher the bid-size limit is, more access to the EUA have the SME. In the same time, the limit must hinder the speculative behavior which may lead to market manipulation based on the market control of a fewer bidders with financial support.

Question 25

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

Ans: A maximum bid-size per single entity?

Please comment on your choice.

Ans: To limit the risk of market manipulation or collusion we would chose maximum bid-size per single entity by facilitating and developing a fair and equitable mechanism with the view to mitigate and control negative effects of market abuse and collusion. In order to promote and preserve a level playing field maximum bid-size per single entity should be combined with discriminatory-price auction format.

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?

Please specify: Pre-registration requirements related to the category “Identity” should include information on the citizenship and residence. ; the “Contact details” should include the type of information requested, such as: name and surname, address, city, postcode, country, telephone number, facsimile number and email address place and date of birth, the scope and the nature of activity carried out by the natural person with his representative, name of the beneficiary, etc.

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: Pre-registration requirements related to the category “Declarations and submission of documentation relating to” should specify whether the legal person is in bankruptcy or insolvency procedure.

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: the pre-registration requirements for admittance to EU auctions should be harmonised throughout the EU in order to ensure a level playing field for all participants and operators and harmonized implementation of legislation across EU.

Question 28

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

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

Please specify: The amount of information to be supplied in order to satisfy the pre-registration requirements for admittance to EU auctions should not depend on the size of bid and means of payment and delivery. In case of auctioning futures when using a clearing house, the information will depend anyway.

If so, what should the differences be?

Ans:

Question 29

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

Yes

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Please provide arguments to support your case.

Ans:

Question 30

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

Yes

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

0

Please comment on your choice.

Ans: the auctioneer(s) should be allowed to rely on pre-registration checks carried out by reliable third parties such as other auctioneers and credit and/or financial institutions provided that the externalization is approved by Member State and the auctioneer (who has appointed someone else to act on his behalf) will not be exempted from the responsibility as a result of the externalization.

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

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Please comment on your choice:

Ans: Reliable third parties should fall under scope of the AML legislation. If the third party is an intermediary will fall also under the MiFID legislation.

When pre-registration was externalized to a third party, we are concerned about a possible conflict of interests stemming from the access of that third party to the information on other bidders while acting as well as a bidder during that auctioning. We have in mind the case of a credit institution which was appointed to carry out the pre-registration and acts also on behalf of its clients as a bid aggregator in the same auctioning.

If the pre-registration is outsourced to another auctioneer in this case it is avoided the conflict of interests without any prejudice to the auctioneer and good functioning of the process.

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?

No

If so, how should they be harmonised?

Ans:

If not, why not?

Ans: No. We would like to mention the fact that the criteria for establishing the amount for collateral should be based on price volatility and maximum price variation during one transaction session.

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 , by harmonizing the types of collateral which can be brought as warranty by the bidder.

If not, why not?

Ans:

Question 35

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

No

If not, why not?

Ans: No as it would be too restrictive. The level of collaterals should allow flexibility in implementation by mentioning the maximum accepted level and types of collaterals.

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

Ans: Moreover, we would like to mention the fact that flexibility should be given as concerns the provisions regarding the number of credit institutions designated by a certain Member State in respect to collateral deposit. The possibility for a Member State to designate a list of credit institutions – instead of just a single one – should be allowed.

Question 36

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

Yes

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

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

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

Ans:

Question 37

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

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

Please comment on your choice.

Ans: Payment before delivery when a third party does not interfere. Delivery versus payment in rest of the cases and the delivery of the EUA is made only if the payment is done on the spot.

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

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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: the Regulation should provide specific provisions for the handling of payment and delivery incidents or failures, such as the existence of clearing houses, collateral execution, current practice of the secondary market.

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: provisions concerning the “settlement of disputes” during auctioning procedure should be included in order to facilitate the process

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 auction models should be allowed, especially due to the cost efficiency principle, that requires small operators, in particular, to use indirect bidding.

Question 43

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

Ans: No limit should be imposed for indirect bidding, considering the fact that the total amount corresponding to certain bidding model should be established in accordance with the market evolution and respectively with the global economic situation.

Please provide arguments to support your case.

Ans:

Question 44

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

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

0

0

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

Please specify: Romania considers that access should be limited for those participants who take part in indirect bidding for speculative purposes and not for certain operators.

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: The obligations for the two categories of participants should be those provided by the AML and MiFID Directives.

The main obligations for intermediaries concern concluding a contract for provision of services, registration and evidence of information concerning the client, client assessment, report to the client, the obligation to act in the best interest of the client. As concerns the market-makers, their main obligations concern maintaining liquidity on the auctioning primary market and to intervene on the market for ensuring the balance between supply and demand.

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:

Question 48

Should direct auctions be allowed through:

1) Third party service providers?

Yes

2) Public authorities?

Yes

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?

Yes

Question 51

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

Ans: 10%

0

Please comment on your choice.

Ans: The maximum share of allowances could be allocated in case of non-competitive bids in spot auctions is 10%. This is due to the fact that the share of emissions from small installations in total ETS emissions amounts to approximately 4.5%. Assuming that the entire amount of certificates for small installations are sold on the basis of non-competitive spot auctions, the maximum share should equal the share of emissions from these installations plus the amount required for small aviation operators.

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:

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?

Yes

If so, please specify:

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

Question 55

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

Ans: One month

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Please comment on your proposal.

Ans: The minimum period of time before the auction date for the release of the notice to auction should be of one month, in order to provide the participants with the possibility to be properly informed and also to ensure a proper interval for attracting a larger number of participants to auctions.

Question 56

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

Ans: One week

0

Please comment on your proposal.

Ans: The minimum period of time before the auction date for the submission of the intention to bid should be of one week, in order to avoid market abuse practices and blocking the collateral corresponding funds for a longer period of time than it is needed

Question 57

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

Ans: The notice to auction?

Please specify what they are.

Ans: the notice to auction should represent the total amount and the reserve price, together with the particular detailed information (according to the above-mentioned responses)

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?

0

Question 59

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

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

0

Please comment on your proposal.

Ans: The maximum delay for the announcement of auction results should be established according to the usual practices.

Question 60

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

Yes

If so, what may they be?

Ans:

Question 61

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

Yes

If not, why not?

Ans:

Question 62

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

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

If not, why not?

Ans:

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

Yes

If not, why not?

Ans:

Question 63

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

Yes

If not, why not?

Ans:

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

Ans: there is a need for harmonized market abuse provisions in the Regulation in order to ensure the integrity and well functioning of the auctioning process, the harmonization of legislation and uniform implementation for all Member States. Moreover, the completion and enhancing the existing provisions, for example Directive MAD (Market Abuse Directive) respectively Directive 2003/6/EC.

Question 64

Should the Regulation provide for harmonised enforcement measures to sanction:

- Non-compliance with its provisions?
- Market abuse?

Please provide arguments to support your case.

Ans: The Regulation should provide for harmonized enforcement measures to sanction both non-compliance and market abuse, in order to reduce, if not eliminate, the hedge risk, to increase of arbitrage costs and to ensure uniform application of legislation in the field.

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: for the bidders – the suspension from the EU-wide auctions for 3 months up to 12 months in the worst cases;

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?

0

Please provide arguments to support your case.

Ans: The enforcement measures should vary in accordance with the gravity of the deed and include: for the auctioneer - financial penalties and also warnings for procedural failures; for the bidders – the suspension from the EU-wide auctions for 3 months up to 12 months in the worst cases; financial penalties; the execution of the collateral payment.

Question 66

Should such enforcement measures apply at:

EU level?

National level?

Both?

Please comment on your choice.

Ans: The enforcement measures should apply either at EU level or national level depending on the one who is convicted.

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: The compliance with the Regulation should be enforced either by the auction monitor or the auctioneer or a competent authority at EU level or a competent authority at national level. The answer depends on the EU auction model to be used.

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)

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

Please give arguments to support your case.

Ans: No Response.

Question 69

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

Ans: 7

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?

Yes

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: The Regulation should include provisions on administrative fees on general principles of proportionality, fairness and nondiscrimination, rules on fee structure and rules on the amount of admissible fees as to ensure transparency for the participants and harmonized implementation across EU.

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: If a Member State does not hold auctions (on time) the most appropriate option refers to the automatic addition of the delayed quantities to those foreseen for the next two or three auctions. We are not in favor of an auctioneer authorized by the Commission as we consider it to be measured to be carried out by each MS.

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: this could take the form of maximum 0.1% of the delayed quantity being redistributed amongst Member States on the basis of the shares laid down in Article 10(2) of the revised ETS Directive.

Question 76

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

Yes

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

Ans: 5-10% in year n-2, 10-20% in year n-1, remainder in year n

0

Question 77

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

Yes

If so, why?

Ans: In order to allow a flexible implementation of the legislation and efficient management of the cash.

Question 78

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

Ans: 3 auctions per year of around 10 million EUAAs?

0

Please comment on your choice.

Ans: 3 auctions per year of around 10 million EUAAs in order to ensure the appropriate price volatility and market liquidity.

Question 79

What would be your preferred timing for EUAA auctions:

Ans: Equally spread throughout the year?

0

Question 80

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

No

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

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)?

Yes

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: information should be made available to the auction organizer, particularly concerning the following aspects: the operator should be verified EASA on issues concerning air security (if conformity problems exist as far as the respective operator is concerned, the authorization to operate should not be granted); the operator should be verifiable as far as insurance, re-insurance issues are concerned, according to EU standards; the operator should possess the required authorizations for operating in the EU airspace through AOC issued by the Member State's authorities and through EUOPS. As concerns the operators outside EU, the authorizations for cross-country and landing issued by Member States on the basis of ICAO regulations are required.

Question 83

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

Yes

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

Yes

Please provide arguments to support your case.

Ans: in order to protect the SME from aviation

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: No Response

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.

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Ans: