

Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a system for greenhouse gas emission allowances trading within the Union (Text with EEA relevance)

## CHAPTER II

### THE DESIGN OF THE AUCTIONS

#### *Article 4*

#### **Auctioned products**

[<sup>F1</sup> Allowances shall be offered for sale on an auction platform by means of standardised electronic contracts ('the auctioned product').]

[<sup>F2</sup> Each Member State shall auction allowances in the form of either two-day spot or five-day futures.]

<sup>F3</sup> .....

#### **Textual Amendments**

- F1** Substituted by Commission Regulation (EU) No 1143/2013 of 13 November 2013 amending Regulation (EU) No 1031/2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community in particular to list an auction platform to be appointed by Germany (Text with EEA relevance).
- F2** Substituted by Commission Regulation (EU) No 1210/2011 of 23 November 2011 amending Regulation (EU) No 1031/2010 in particular to determine the volume of greenhouse gas emission allowances to be auctioned prior to 2013 (Text with EEA relevance).
- F3** Deleted by Commission Regulation (EU) No 1210/2011 of 23 November 2011 amending Regulation (EU) No 1031/2010 in particular to determine the volume of greenhouse gas emission allowances to be auctioned prior to 2013 (Text with EEA relevance).

#### *Article 5*

#### **Auction format**

Auctions shall be carried out through an auction format whereby bidders shall submit their bids during one given bidding window without seeing bids submitted by other bidders. Each successful bidder shall pay the same auction clearing price as referred to in Article 7 for each allowance regardless of the price bid.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EU) No 1031/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

## Article 6

### Submission and withdrawal of bids

1 The minimum volume bid for shall be one lot.

[<sup>F2</sup>One lot auctioned by an auction platform appointed pursuant to Article 26(1) or Article 30(1) shall be 500 allowances.]

[<sup>F4</sup> . . . . .]

2 Each bid shall state the following:

- a the identity of the bidder and whether the bidder is bidding on its own account or on behalf of a client;
- b where the bidder is bidding on behalf of a client, the identity of the client;
- [<sup>F5</sup>c the volume bid as a number of allowances in integral multiples of lots of 500 allowances;]
- d the price bid in euros for each allowance specified to two decimal points.

3 Each bid may only be submitted, modified or withdrawn during a given bidding window.

Bids submitted may be modified or withdrawn by a given deadline before the close of the bidding window. Such deadline shall be set by the auction platform concerned and published on that auction platform's website at least five trading days prior to the opening of the bidding window.

Only a natural person established in the Union appointed pursuant to Article 19(2) (d) and authorised to bind a bidder for all purposes relating to the auctions including the submission of a bid (the 'bidder's representative') is entitled to submit, modify or withdraw a bid on behalf of a bidder.

Once submitted, each bid shall be binding, unless it is withdrawn or modified pursuant to this paragraph or withdrawn pursuant to paragraph 4.

4 Where the relevant auction platform is satisfied that a genuine mistake has been made in the submission of a bid, it may, upon request of the bidder's representative, treat the mistakenly submitted bid as withdrawn after the close of the bidding window, but before the auction clearing price has been determined.

[<sup>F55</sup> The reception, transmission and submission of a bid by an investment firm or credit institution on any auction platform shall be deemed to constitute an investment service within the meaning of point (2) of Article 4(1) of Directive 2014/65/EU.]

#### Textual Amendments

- F2** Substituted by [Commission Regulation \(EU\) No 1210/2011 of 23 November 2011 amending Regulation \(EU\) No 1031/2010 in particular to determine the volume of greenhouse gas emission allowances to be auctioned prior to 2013 \(Text with EEA relevance\)](#).
- F4** Deleted by [Commission Delegated Regulation \(EU\) 2019/1868 of 28 August 2019 amending Regulation \(EU\) No 1031/2010 to align the auctioning of allowances with the EU ETS rules for the period 2021 to 2030 and with the classification of allowances as financial instruments pursuant to Directive 2014/65/EU of the European Parliament and of the Council \(Text with EEA relevance\)](#).

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**F5** Substituted by Commission Delegated Regulation (EU) 2019/1868 of 28 August 2019 amending Regulation (EU) No 1031/2010 to align the auctioning of allowances with the EU ETS rules for the period 2021 to 2030 and with the classification of allowances as financial instruments pursuant to Directive 2014/65/EU of the European Parliament and of the Council (Text with EEA relevance).

## Article 7

### Auction clearing price and resolution of tied bids

1 The auction clearing price shall be determined upon closure of the bidding window.

2 An auction platform shall sort bids submitted to it in the order of the price bid. Where the price of several bids is the same, these bids shall be sorted through a random selection according to an algorithm determined by the auction platform before the auction.

The volumes bid shall be added up, starting with the highest bid price. The price of the bid at which the sum of the volumes bid matches or exceeds the volume of allowances auctioned shall be the auction clearing price.

3 All bids making up the sum of the volumes bid determined pursuant to paragraph 2 shall be allocated at the auction clearing price.

4 Where the total volume of successful bids determined pursuant to paragraph 2 exceeds the volume of auctioned allowances, the remaining volume of the auctioned allowances shall be allocated to the bidder that has submitted the last bid making up the sum of the volumes bid.

5 Where the total volume of bids sorted pursuant to paragraph 2 falls short of the volume of auctioned allowances, the auction platform shall cancel the auction.

6 Where the auction clearing price is significantly under the price on the secondary market prevailing during and immediately before the bidding window when taking into account the short term volatility of the price of allowances over a defined period preceding the auction, the auction platform shall cancel the auction.

<sup>[F57]</sup> Before an auction is started, the auction platform shall determine the methodology for the application of paragraph 6 of this Article, after consulting the relevant contracting authority pursuant to Article 26(1) or Article 30(5), and notifying the competent national authorities referred to in Article 56.

In between two bidding windows on the same auction platform, the auction platform concerned may modify the methodology. It shall notify the relevant contracting authority pursuant to Article 26(1) or Article 30(5) and the competent national authorities referred to in Article 56 without delay.

The auction platform concerned shall take the utmost account of the opinion of the relevant contracting authority, where provided.

8 Where an auction of allowances covered by Chapter III of Directive 2003/87/EC is cancelled, its volume shall be distributed evenly over the next four auctions scheduled on the same auction platform. Where the Member State volume from cancelled auctions may not be distributed evenly in accordance with the first sentence, the Member State concerned shall auction those allowances over less than four auctions in volumes pursuant to Article 6(1) of this Regulation.

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Where an auction of allowances covered by Chapter II of Directive 2003/87/EC is cancelled, its volume shall be distributed evenly over the next two auctions scheduled on the same auction platform. Where the Member State volume from cancelled auctions may not be distributed evenly in accordance with the previous sentence, the Member State concerned shall auction these allowances in the first following auction in volumes pursuant to Article 6(1) of this Regulation.

Where an auction that already includes volumes from a previously cancelled auction is cancelled, its volume shall be spread in accordance with the first and second subparagraphs starting from the first auction which is not subject to other adjustments due to previous cancellations.]

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#### **Textual Amendments**

- F5** Substituted by [Commission Delegated Regulation \(EU\) 2019/1868 of 28 August 2019 amending Regulation \(EU\) No 1031/2010 to align the auctioning of allowances with the EU ETS rules for the period 2021 to 2030 and with the classification of allowances as financial instruments pursuant to Directive 2014/65/EU of the European Parliament and of the Council \(Text with EEA relevance\).](#)

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