

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 VIII

### APPOINTMENT OF AUCTION PLATFORMS BY MEMBER STATES OPTING TO HAVE THEIR OWN AUCTION PLATFORM AND THEIR FUNCTIONS

#### *Article 30*

#### **[<sup>F1</sup>Appointment of any auction platform other than an auction platform appointed pursuant to Article 26(1)]**

[<sup>F2</sup>[<sup>F1</sup> Any Member State not participating in the joint action as provided in Article 26(1) may appoint its own auction platform for the auctioning of its volume of allowances covered by Chapters II and III of Directive 2003/87/EC to be auctioned as provided for in Article 31(1) of this Regulation.]

<sup>F3</sup>2 .....

[<sup>F1</sup>3 Member States not participating in the joint action as provided in Article 26(1) may appoint the same auction platform or separate auction platforms for the auctioning pursuant to Article 31(1).

4 Any Member State not participating in the joint action as provided in Article 26(1), shall inform the Commission of its decision not to participate in the joint action as provided in Article 26(1) but to appoint its own auction platform pursuant to paragraph 1 of this Article within 3 months of the entry into force of this Regulation.

5 Any Member State not participating in the joint action as provided in Article 26(1) shall select its own auction platform appointed pursuant to paragraph 1 of this Article on the basis of a selection procedure compliant with Union and national procurement law where a public procurement process is required by either Union or national law, respectively. The selection procedure shall be subject to all applicable remedies and enforcement procedures under Union and national law.

Any period of appointment of the auction platform referred to in paragraph 1 shall be no longer than 3 years renewable for no more than a further 2 years.

The appointment of the auction platforms referred to in paragraph 1 shall be subject to listing the auction platform concerned in Annex III pursuant to paragraph 7. It shall not be implemented before the entry into force of the listing of the auction platform concerned in Annex III as provided for in paragraph 7.]]

[<sup>F2</sup>6 [<sup>F1</sup>Each Member State not participating in the joint action as provided for in Article 26(1) but opting to appoint its own auction platform pursuant to paragraph 1 of this Article shall provide the Commission with a complete notification containing all of the following:]

- a the identity of the auction platform it proposes to appoint;

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- [<sup>F4</sup>b] the detailed operative rules that would govern the auction process to be conducted by the auction platform(s) it proposes to appoint, including the contractual provisions concerning the appointment of the auction platform concerned including any clearing system(s) and settlement system(s) connected to the proposed auction platform stipulating the terms and conditions governing the structure and level of fees, collateral management, payment and delivery;]
- [<sup>F1</sup>c] the auctioned product and any information necessary for the Commission to assess whether the envisaged auction calendar is compatible with any prevailing or envisaged auction calendar of the auction platforms appointed pursuant to Article 26(1) as well as other auction calendars proposed by other Member States not participating in the joint action provided for in Article 26 but opting to appoint their own auction platforms;]
- d the detailed rules and conditions on surveying and supervising the auctions to which its proposed auction platform shall be subject pursuant to Article 35(4), (5) and (6) as well as the detailed rules protecting against money laundering, terrorist financing, criminal activity or market abuse, including any remedial measures or sanctions;
- e the detailed measures put in place to comply with Article 22(4) and Article 34 regarding the appointment of the auctioneer.]

[<sup>F17</sup> Auction platforms other than those appointed pursuant to Article 26(1), the Member States appointing them, their term of appointment, and any applicable conditions or obligations, shall be set out in Annex III where the requirements of this Regulation and the objectives of Article 10(4) of Directive 2003/87/EC are satisfied. The Commission shall act solely on the basis of these requirements and objectives and shall have full regard to any information submitted by the Member State concerned.

In case a Member State having appointed its own auction platform decides to appoint the same auction platform under the same conditions and obligations as per the listing provided for in the first subparagraph, this listing shall continue to be valid where that Member State and the Commission confirm that the requirements of this Regulation and the objectives of Article 10(4) of Directive 2003/87/EC are satisfied. To this end, the Member State shall, in particular, provide a notification containing the information referred to in paragraph 6 to the Commission and share any relevant information with the other Member States. The Commission shall inform the public about the extended validity of the listing.

In the absence of any listing provided for in the first subparagraph, a Member State not participating in the joint action as provided in Article 26(1) but opting to appoint its own auction platform pursuant to paragraph 1 of this Article shall use the auction platforms appointed pursuant to Article 26(1) to auction its share of allowances that would have otherwise been auctioned on the auction platform to be appointed pursuant to paragraph 1 of this Article in the period until the expiry of 3 months after the entry into force of the listing provided for in the first subparagraph.

Without prejudice to paragraph 8, a Member State not participating in the joint action as provided in Article 26(1) but opting to appoint its own auction platform pursuant to paragraph 1 of this Article may nevertheless participate in the joint action for the sole purpose of being able to make use of the auction platforms appointed pursuant to Article 26(1) as provided in the third subparagraph. Such participation shall take place in accordance with the provisions of the second subparagraph of Article 26(6) and subject to the terms and conditions of the joint procurement agreement.

8 Any Member State not participating in the joint action as provided in Article 26(1) but opting to appoint its own auction platform pursuant to paragraph 1 of this Article may join the joint action provided for in Article 26, pursuant to Article 26(6).

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The volume of allowances that were scheduled to be auctioned on an auction platform other than the auction platforms appointed pursuant to Article 26(1) shall be spread evenly over the auctions conducted by the relevant auction platform appointed pursuant to Article 26(1).]

#### Textual Amendments

- F1** 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).
- 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 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).
- F4** Substituted by Commission Regulation (EU) 2017/1902 of 18 October 2017 amending Commission Regulation (EU) No 1031/2010 to align the auctioning of allowances with Decision (EU) 2015/1814 of the European Parliament and of the Council and to list an auction platform to be appointed by the United Kingdom (Text with EEA relevance).

#### Article 31

#### **[<sup>F1</sup>Functions of auction platforms other than the auction platforms appointed pursuant to Article 26(1)]**

<sup>F51</sup> Any auction platform appointed pursuant to Article 30(1) shall carry out the same functions as the auction platform appointed pursuant to Article 26(1) as provided for in Article 27.

<sup>F1</sup>However, an auction platform appointed pursuant to Article 30(1) shall be exempted from the provisions of Article 27(1)(c) and it shall submit the exit strategy referred to in Article 27(3) to the appointing Member State.]]

<sup>F32</sup> .....

<sup>F1</sup><sup>F33</sup>] The provisions on the auction calendar provided for in Article 8(1), (2) and (3), Articles 9, 10, 12, 14 and 32 shall apply to the auction platforms appointed pursuant to Article 30(1).]

#### Textual Amendments

- F1** 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).
- F3** 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 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).

### Article 32

#### **[<sup>F1</sup>Auction calendar for any auction platform other than the auction platforms appointed pursuant to Article 26(1)]**

<sup>F1</sup> The volume of allowances covered by Chapter III of Directive 2003/87/EC auctioned in individual auctions conducted by an auction platform appointed pursuant to Article 30(1) of this Regulation shall be no greater than 20 million allowances and no less than 3,5 million allowances; save where the total volume of allowances, covered by Chapter III of Directive 2003/87/EC, to be auctioned by the appointing Member State is less than 3,5 million in a given calendar year, in which case the allowances shall be auctioned in a single auction per calendar year. However, the volume of allowances covered by Chapter III of Directive 2003/87/EC auctioned in an individual auction conducted by those auction platforms shall be no less than 1,5 million allowances in the respective periods of 12 months when a number of allowances is to be deducted from the volume of allowances to be auctioned pursuant to Article 1(5) of Decision (EU) 2015/1814.

2 The volume of allowances covered by Chapter II of Directive 2003/87/EC auctioned in individual auctions conducted by an auction platform appointed pursuant to Article 30(1) of this Regulation shall be no greater than 5 million allowances and no less than 2,5 million allowances; save where the total volume of allowances, covered by Chapter II of Directive 2003/87/EC, to be auctioned by the appointing Member State is less than 2,5 million in a given calendar year, in which case the allowances shall be auctioned in a single auction per calendar year.

3 The total volume of allowances covered by Chapters II and III of Directive 2003/87/EC to be auctioned by all auction platforms appointed pursuant to Article 30(1) of this Regulation collectively shall be distributed evenly over any given calendar year, except that the volume auctioned in auctions held in August of each year shall be half of the volume auctioned in other months of the year. These requirements shall be considered to be met where each auction platform appointed pursuant to Article 30(1) meets these requirements individually.

4 The auction platforms appointed pursuant to Article 30(1) of this Regulation shall determine the auction calendar, including the bidding windows, individual volumes, auction dates as well as the auctioned product, payment and delivery dates of the allowances to be auctioned in individual auctions each year, having previously consulted the Commission. The auction platforms concerned shall make their determination of the individual auction volumes in accordance with Articles 10 and 12.

The auction platforms concerned shall publish the auction calendar for the allowances covered by Chapter II of Directive 2003/87/EC, by 31 October of the previous year or as soon as practicable thereafter, and for those covered by Chapter III of that Directive, by 15 July of the previous year or as soon as practicable thereafter, provided that the Commission has instructed the central administrator of the EUTL to enter the respective auction table into the EUTL in accordance with the delegated acts adopted pursuant to Article 19(3) of Directive 2003/87/EC. The auction platforms concerned shall make their determination and publication of the auction calendars only after the determination

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and publication pursuant to Articles 11 and 13(2) of this Regulation by the auction platforms appointed pursuant to Article 26(1) of this Regulation, unless such an auction platform has not yet been appointed. Without prejudice to the deadline for publication of the auction calendar for allowances covered by Chapter III of Directive 2003/87/EC, the auction platforms concerned may simultaneously determine the auction calendars for allowances covered by Chapter II and Chapter III of Directive 2003/87/EC.

Published calendars shall be consistent with any relevant conditions or obligations listed in Annex III.

5 Where an auction conducted by an auction platform appointed pursuant to Article 30(1) is cancelled by the auction platform pursuant to Article 7(5) or (6) or Article 9, the auctioned volume shall be distributed either pursuant to Article 7(8) or, if the auction platform concerned conducts less than four auctions in a given calendar year, over the next two auctions scheduled on the same auction platform.]

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**Textual Amendments**

- F1** 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 \(Text with EEA relevance\).](#)

<sup>F3</sup>Article 33

[<sup>F3</sup>Review of this Regulation]

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**Textual Amendments**

- F3** 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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