

Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (Text with EEA relevance)

TITLE II

SPECIFIC PROVISIONS FOR THE UNION REGISTRY FOR THE UNION EMISSIONS TRADING SCHEME

CHAPTER I

Verified emissions and compliance

Article 35

Verified emissions data for an installation or aircraft operator

1 Whenever required by national law, each operator and aircraft operator shall select a verifier from the list of verifiers registered with the national administrator administering its account. If an operator or aircraft operator is also a verifier, it may not select itself as verifier.

2 The national administrator, the competent authority or, upon decision of the competent authority, the account holder or the verifier shall enter emissions data for the previous year by 31 March.

3 Annual emissions data shall be submitted using the format set out in Annex IX.

4 Upon the satisfactory verification in accordance with Article 15(1) of Directive 2003/87/EC of an operator's report on the emissions from an installation during a previous year, or of an aircraft operator's report on the emissions from all aviation activities it performed during a previous year, the verifier or the competent authority shall approve the annual verified emissions.

5 The emissions approved in accordance with paragraph 4 shall be marked as verified in the Union Registry by the national administrator or the competent authority. The competent authority may decide that instead of the national administrator, the verifier shall be responsible for marking emissions as verified in the Union Registry.

6 The competent authority may instruct the national administrator to correct the annual verified emissions for an installation or an aircraft operator to ensure compliance with Articles 14 and 15 of Directive 2003/87/EC, by entering the corrected verified or estimated emissions for that installation or an aircraft operator for a given year in the Union Registry.

7 Where, on 1 May of each year, no verified emissions figure has been recorded in the Union Registry for an installation or an aircraft operator for a previous year or the verified emissions figure was proven to be incorrect, any substitute emissions figure estimate entered in the Union Registry shall be calculated as closely as possible in accordance with Articles 14 and 15 of Directive 2003/87/EC.

Article 36

Blocking of accounts due to a failure to submit verified emissions

1 If, on 1 April of each year, the annual verified emissions of an installation or aircraft operator for the preceding year have not been recorded in the Union Registry, the central administrator shall ensure that the Union Registry sets the corresponding operator holding account or aircraft operator holding account to a blocked status.

2 When all overdue verified emissions of the installation or aircraft operator for that year have been recorded in the Union Registry, the central administrator shall ensure that the Union Registry sets the account to open status.

Article 37

Calculation of compliance status figures

1 The central administrator shall ensure that on 1 May of each year, the Union Registry indicates the compliance status figure for the preceding year for every installation and aircraft operator with an open or blocked operator or aircraft operator holding account by calculating the sum of all allowances surrendered for the current period less the sum of all verified emissions in the current period up to and including the current year, plus a correction factor.

2 The correction factor referred to in paragraph 1 shall be zero if the compliance status figure of the last year of the previous period was greater than zero, but shall remain the same as the compliance status figure of the last year of the previous period if this figure is less than or equal to zero.

3 The central administrator shall ensure that the Union Registry records the compliance status figure for every installation and aircraft operator for each year.

CHAPTER 2

Transactions

Section 1

General

Article 38

Only transactions expressly provided for in this Regulation for each account type shall be initiated by that account type.

Article 39

Execution of transfers

1 For all transactions specified in this Chapter that are not initiated by an external trading platform, an out of band confirmation shall be required by the Union Registry before the

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transaction can be initiated. A transaction shall only be initiated where an additional authorised representative or another account representative where appropriate, whose approval is required pursuant to Article 23(3), has confirmed the transaction out of band.

2 For all transfers specified in Article 64 and Section 8 of this Chapter, the transfer shall be initiated immediately if it is confirmed between 10:00 and 16:00 Central European Time between Monday and Friday inclusive, with the exception of public holidays in the Member States deciding to suspend the running of the delay pursuant to paragraph 3.

A transfer confirmed at any other time shall be initiated on the same day Monday to Friday with the exception of public holidays as referred to in the first subparagraph, at 10:00 Central European Time, if it is confirmed before 10:00 Central European Time, or on the following day, Monday to Friday with the exception of public holidays as referred to in the first subparagraph, at 10:00 Central European Time, if it is confirmed after 16:00 Central European Time.

3 For all transfers of allowances and Kyoto units specified in Articles 64 and 65, and for all transfers specified in Article 66 to accounts not indicated on the trusted list of the trading account holder, a delay of 26 hours shall apply between initiation and the transfer being communicated for finalisation pursuant to Article 104. The running of this delay shall be suspended between 00:00 and 24:00 Central European Time on Saturdays and Sundays. Member States may decide to also suspend the running of this delay between 00:00 and 24:00 Central European Time on national public holidays for a given year, subject to publication of that decision by 1 December of the previous year.

4 If an account representative suspects that a transfer was initiated fraudulently, at the latest two hours before the end of the delay provided in paragraph 3 the account representative may request the national administrator or the central administrator where appropriate to cancel the transfer on behalf of the account representative before the transfer is communicated for finalisation. The account holder shall report the suspected fraud to the competent national law enforcement authority immediately following the request. That report shall be forwarded to the national administrator or the central administrator where appropriate within 7 days.

5 Upon initiation pursuant to paragraphs 1 and 2, a notification shall be sent to all account representatives indicating the proposed initiation of the transfer.

Article 40

Nature of allowances and finality of transactions

1 An allowance or Kyoto unit shall be a fungible, dematerialised instrument that is tradable on the market.

2 The dematerialized nature of allowances and Kyoto units shall imply that the record of the Union Registry shall constitute prima facie and sufficient evidence of title over an allowance or Kyoto unit, and of any other matter which is by this Regulation directed or authorised to be recorded in the Union Registry.

3 The fungibility of allowances and Kyoto units shall imply that any recovery or restitution obligations that may arise under national law in respect of an allowance or Kyoto unit shall only apply to the allowance or Kyoto unit in kind.

Subject to Article 70 and the reconciliation process provided for in Article 103, a transaction shall become final and irrevocable upon its finalisation pursuant to Article 104. Without prejudice to any provision of or remedy under national law that may result

in a requirement or order to execute a new transaction in the Union Registry, no law, regulation, rule or practice on the setting aside of contracts or transactions shall lead to the unwinding in the registry of a transaction that has become final and irrevocable under this Regulation.

An account holder or a third party shall not be prevented from exercising any right or claim resulting from the underlying transaction that they may have in law, including to recovery, restitution or damages, in respect of a transaction that has become final in the Union Registry, for instance in case of fraud or technical error, as long as this does not lead to the reversal, revocation or unwinding of the transaction in the Union Registry.

4 A purchaser and holder of an allowance or Kyoto unit acting in good faith shall acquire title to an allowance or Kyoto unit free of any defects in the title of the transferor.

Section 2

Creation of allowances

Article 41

Creation of allowances

1 The central administrator may create an EU Total Quantity Account, an EU Aviation Total Quantity Account, an EU Auction Account, an EU Aviation Auction Account, an EU Credit Exchange Account and an EU International Credit Account as appropriate, and shall create or cancel accounts and allowances as made necessary by acts of Union law, including as may be required by Articles 3e(3), 9, 9a, 10a(8) and 11a of Directive 2003/87/EC, Article 10(1) of Regulation (EU) No 1031/2010, or Article 41(1) of Regulation (EU) No 920/2010.

2 The Commission shall, at an appropriate time or at appropriate times, instruct the central administrator to create a number of general allowances in total equivalent to the number determined in accordance with Article 2(1) of Commission Decision 2010/670/EU⁽¹⁾ on, or for transfer to, accounts established for the purposes of Article 10a(8) of Directive 2003/87/EC.

3 The central administrator shall ensure that the Union Registry assigns each allowance a unique unit identification code upon its creation.

Section 3

Account transfers before auctions and allocation

Article 42

Transfer of general allowances to be auctioned

1 The central administrator shall, in a timely manner, transfer on behalf of the relevant auctioneer appointed in accordance with Regulation (EU) No 1031/2010, general allowances from the EU Total Quantity Account into the EU Auction Account in a quantity corresponding to the annual volumes determined pursuant to Article 10 of that Regulation.

2 In case of adjustments to the annual volumes in accordance with Article 14 of Regulation (EU) No 1031/2010, the central administrator shall transfer a corresponding quantity of general allowances from the EU Total Quantity Account to the EU Auction Account, or from the EU Auction Account to the EU Total Quantity Account, as the case may be.

Article 43

Transfer of general allowances to be allocated free of charge

The central administrator shall, in a timely manner, transfer general allowances from the EU Total Quantity Account into the EU Allocation Account in a quantity corresponding to the sum of the allowances allocated free of charge according to the national allocation tables of each Member State.

Article 44

Transfer of general allowances for the new entrant reserve

1 The central administrator shall, in a timely manner, transfer general allowances from the EU Total Quantity Account to the EU New Entrant Reserve Account in a quantity corresponding to five percent of the Union-wide quantity of allowances determined by decisions adopted pursuant to Articles 9 and 9a of Directive 2003/87/EC, less by the number to be created pursuant to Article 41(2) of this Regulation.

2 If the Union-wide quantity of allowances is increased by a decision adopted pursuant to Articles 9 and 9a of Directive 2003/87/EC, the central administrator shall transfer further general allowances from the EU Total Quantity Account to the EU New Entrant Reserve Account in a quantity corresponding to five percent of the increase of the Union-wide quantity of allowances.

3 If the Union-wide quantity of allowances is decreased by a decision adopted pursuant to Articles 9 and 9a of Directive 2003/87/EC, the central administrator shall delete general allowances on the EU New Entrant Reserve Account in a quantity corresponding to five percent of the decrease of the Union-wide quantity of allowances.

4 In the case of allocation to new entrants or allocation to new entrants following a significant capacity extension pursuant to Articles 19 and 20 of Decision 2011/278/EU, the resulting final amount of allowances allocated free of charge to the operator for the whole trading period, which is entered into the EUTL in accordance with Article 51(2) of this Regulation, shall be transferred by the central administrator from the EU New Entrant Reserve Account to the EU Allocation Account.

Article 45

Transfer of aviation allowances to be auctioned

1 The central administrator shall, in a timely manner, transfer on behalf of the relevant auctioneer appointed in accordance with the Regulation (EU) No 1031/2010, aviation allowances from the EU Aviation Total Quantity Account to the EU Aviation Auction Account in a quantity corresponding to the annual volumes determined pursuant to Article 12(1) of Regulation (EU) No 1031/2010.

2 In case of adjustments to the annual volumes in accordance with Article 14 of Regulation (EU) No 1031/2010, the central administrator shall transfer a corresponding quantity of aviation allowances from the EU Aviation Total Quantity Account to the EU Aviation Auction Account, or from the EU Aviation Auction Account to the EU Aviation Total Quantity Account, as the case may be.

Article 46

Transfer of aviation allowances to be allocated free of charge

1 The central administrator shall, in a timely manner, transfer aviation allowances from the EU Aviation Total Quantity Account to the EU Aviation Allocation Account in a quantity corresponding to the number of aviation allowances to be allocated free of charge determined by the Commission's decision adopted on the basis of Article 3e(3) of Directive 2003/87/EC.

2 If the number of aviation allowances to be allocated free of charge is increased by a decision pursuant to Article 3e(3) of Directive 2003/87/EC, the central administrator shall transfer further aviation allowances from the EU Aviation Total Quantity Account to the EU Aviation Allocation Account in a quantity corresponding to the increase of the number of aviation allowances to be allocated free of charge.

3 If the number of aviation allowances to be allocated free of charge is decreased by a decision pursuant to Article 3e(3) of Directive 2003/87/EC, the central administrator shall delete aviation allowances on the EU Aviation Allocation Account in a quantity corresponding to the decrease of the number of aviation allowances to be allocated free of charge.

Article 47

Transfer of aviation allowances to the special reserve

1 The central administrator shall, in a timely manner, transfer aviation allowances from the EU Aviation Total Quantity Account to the EU Special Reserve Account in a quantity corresponding to the number of aviation allowances in the special reserve determined by the decision adopted pursuant to Article 3e(3) of Directive 2003/87/EC.

2 If the number of aviation allowances in the special reserve is increased by a decision adopted pursuant to Article 3e(3) of Directive 2003/87/EC, the central administrator shall transfer further aviation allowances from the EU Aviation Total Quantity Account to the EU Special Reserve Account in a quantity corresponding to the increase of the number of aviation allowances in the special reserve.

3 If the number of aviation allowances in the special reserve is decreased by a decision adopted on the basis of Article 3e(3) of Directive 2003/87/EC, the central administrator shall delete aviation allowances on the EU Special Reserve Account in a quantity corresponding to the decrease of the number of allowances in the special reserve.

4 In the case of allocation from the special reserve pursuant to Article 3f of Directive 2003/87/EC, the resulting final amount of aviation allowances allocated free of charge to the aircraft operator for the whole trading period, entered into the EUTL in accordance with Article 54(2) of this Regulation, shall be automatically transferred from the EU Special Reserve Account to the EU Aviation Allocation Account.

Article 48

Transfer of general allowances to the EU Total Quantity-Account

At the end of each trading period, the central administrator shall transfer all allowances remaining on the EU Allocation Account and on the EU New Entrant Reserve Account to the EU Total Quantity Account.

Article 49

Transfer of aviation allowances to the EU Aviation Total Quantity Account

At the end of each trading period, the central administrator shall transfer all allowances remaining on the EU Special Reserve Account to the EU Aviation Total Quantity Account.

Article 50

Deletion of aviation allowances

The central administrator shall ensure that, at the end of each trading period, all allowances remaining on the EU Aviation Allocation Account shall be transferred to the Union allowance deletion account.

Section 4

Allocation to stationary installations

Article 51

Entry of national allocation tables into the EUTL

1 Each Member State shall notify its national allocation table for the period 2013-2020 to the Commission by 31 December 2012. Member States shall ensure that national allocation tables include the information set out in Annex X.

2 The Commission shall instruct the central administrator to enter the national allocation table into the EUTL if it considers that the national allocation table is in conformity with Directive 2003/87/EC, Decision 2011/278/EU and decisions adopted by the Commission pursuant to Article 10c(6) of Directive 2003/87/EC. It shall otherwise reject the national allocation table within a reasonable period and inform the Member State concerned without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. That Member State shall submit a revised national allocation table to the Commission within three months.

Article 52

Changes to the national allocation tables

1 The national administrator shall carry out changes to the national allocation table in the EUTL where:

- a an installation's permit has been revoked or has otherwise expired;
- b an installation ceased operations;
- c an installation was split into two or more installations;
- d two or more installations were merged into one installation.

2 A Member State shall notify the Commission of changes to its national allocation table, concerning:

- a allocations to new entrants or allocations to new entrants following significant capacity extensions;
- b partial cessations of operations and significant capacity reductions;
- c allocation free of charge pursuant to Article 10c of Directive 2003/87/EC that is justified in the light of advancement of the investments that have been undertaken and reported to the Commission pursuant to Article 10c(1) of that Directive;
- d any other change not referred to in paragraph 1.

On receiving a notification pursuant to the first subparagraph, the Commission shall instruct the central administrator to make the corresponding changes to the national allocation table held in the EUTL, if it considers that the changes to the national allocation table are in conformity with Directive 2003/87/EC, Decision 2011/278/EU and decisions adopted by the Commission in accordance with Article 10c(6) of Directive 2003/87/EC. It shall otherwise reject the changes within a reasonable period and inform the Member State concerned without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.

Article 53

Free allocation of general allowances

1 The national administrator shall indicate in the national allocation table for each operator, for each year and for each legal basis set out in Annex X, whether or not an installation should receive an allocation for that year.

2 From 1 February 2013, the central administrator shall ensure that the Union Registry transfers general allowances automatically from the EU Allocation Account in accordance with the relevant national allocation table to the relevant open or blocked operator holding account, having regard to the modalities of the automatic transfer specified in the data exchange and technical specifications provided for in Article 105.

3 Where an excluded operator holding account does not receive allowances under paragraph 2, those allowances shall not be transferred to the account should it be subsequently set to open status.

4 The central administrator shall ensure that an operator can perform transfers returning excess allowances to the EU Allocation Account where the central administrator has made a change to the national allocation table of a Member State pursuant to Article 52(2) to correct

for an over allocation of allowances to the operator, and the competent authority has requested the operator to return such excess allowances.

Section 5

Allocation to aircraft operators

Article 54

Entry of national aviation allocation tables into the EUTL

1 Each Member State shall notify its national aviation allocation table for the period 2013-2020 to the Commission by 30 September 2012. Member States shall ensure that national aviation allocation tables include the information set out in Annex XI.

2 The Commission shall instruct the central administrator to enter the national aviation allocation table into the EUTL if it considers that the national aviation allocation table is in conformity with Directive 2003/87/EC, in particular with the allocations calculated and published by Member States under Article 3e(4) of that Directive. It shall otherwise reject the national aviation allocation table within a reasonable period and inform the Member State concerned without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. That Member State shall submit a revised national aviation allocation table to the Commission within three months.

Article 55

Changes to the national aviation allocation tables

1 The national administrator shall carry out changes to the national aviation allocation table in the EUTL where:

- a an aircraft operator ceased all its operations covered by Annex I of Directive 2003/87/EC;
- b an aircraft operator was split into two or more aircraft operators;
- c two or more aircraft operators have merged into a single aircraft operator.

2 A Member State shall notify the Commission of changes to its national aviation allocation table, concerning:

- a any allocation from the special reserve pursuant to Article 3f of Directive 2003/87/EC;
- b any adjustment following the adoption of measures pursuant to Article 25a of Directive 2003/87/EC;
- c any other change not referred to in paragraph 1.

3 The Commission shall instruct the central administrator to make the corresponding changes to the national aviation allocation table held in the EUTL if it considers that the change to the national aviation allocation table is in accordance with Directive 2003/87/EC, in particular with the allocations calculated and published pursuant to Article 3f(7) of that Directive in case of allocations from the special reserve. It shall otherwise reject the changes within a reasonable period and inform the Member State without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.

4 If a merger between aircraft operators involves aircraft operators that are administered by different Member States, the change under point (c) of paragraph 1 shall be initiated by the national administrator administering the aircraft operator whose allocation is to be merged into the allocation of another aircraft operator. Before carrying out the change, consent shall be obtained from the national administrator administering the aircraft operator whose allocation will incorporate the allocation of the merged aircraft operator.

Article 56

Free allocation of aviation allowances

1 The national administrator shall indicate for each aircraft operator and for each year whether or not the aircraft operator should receive an allocation for that year in the national aviation allocation table.

2 From 1 February 2013 the central administrator shall ensure that the Union Registry transfers aviation allowances automatically from the EU Aviation Allocation Account to the relevant open or blocked aircraft operator holding account in accordance with the relevant allocation table, having regard to the modalities of the automatic transfer specified in the data exchange and technical specifications provided for in Article 105.

3 Where an excluded aircraft operator holding account does not receive allowances under paragraph 2, those allowances shall not be transferred to the account should it be subsequently set to open status.

Article 57

Return of aviation allowances

When a change to the national aviation allocation table is carried out pursuant to Article 25a of Directive 2003/87/EC after the transfer of allowances to the aircraft operator holding accounts for a given year in accordance with Article 56 of this Regulation, the central administrator shall execute any transfer required by any measure adopted pursuant to Article 25a of Directive 2003/87/EC.

Section 6

Use of CERs and ERUs

Article 58

International credit holdings in the Union Registry

1 The central administrator shall ensure that CERs and ERUs relating to projects hosted in Member States are only held in ETS accounts in the Union Registry if their issuance was not prohibited by Article 11b of Directive 2003/87/EC.

The central administrator shall ensure that ERUs issued in respect of emission reductions taking place until 31 December 2012 but relating to projects hosted in Member States involving activities not listed in Annex I of Directive 2003/87/EC as amended by Regulation (EC) No 219/2009 of the European Parliament and of the

Council⁽²⁾, but listed in Annex I of Directive 2003/87/EC as amended by Directive 2009/29/EC of the European Parliament and of the Council⁽³⁾, shall only be held in ETS accounts in the Union Registry if they are issued before 30 April 2013.

2 The central administrator shall ensure that ERUs issued after 31 December 2012 in respect of emission reductions taking place until 31 December 2012 and relating to projects in third countries which do not have legally binding quantified emission targets from 2013 to 2020 as set out within an amendment to the Kyoto Protocol pursuant to its Article 3, paragraph 9, or that have not deposited an instrument of ratification relating to such an amendment to the Kyoto Protocol are only held in ETS accounts in the Union Registry where they relate to emission reductions verified in accordance with the verification procedure under the Joint Implementation Supervisory Committee set out in Decision 9/CMP.1 (pursuant to the so-called 'track 2 procedure'), or, if such verification is not possible, if they have been certified as having been issued in respect of emission reductions taking place until 31 December 2012 by an independent entity accredited pursuant to Decision 9/CMP.1.

3 The central administrator shall provide national administrators with a list of the ETS accounts holding international credits which cannot be held pursuant to paragraphs 1 and 2 after the dates therein. On the basis of this list, the national administrator shall request the account holder to specify a KP account to which such international credits shall be transferred.

If the account holder has not responded to the administrator's request within 40 working days, the administrator shall transfer the international credits to a national KP account.

Article 59

Entry of international credit entitlement tables into the EUTL

1 Each Member State shall notify its international credit entitlement table to the Commission within one month after the adoption of measures pursuant to Article 11a(8) of Directive 2003/87/EC. Member States shall ensure that the international credit entitlement table includes the total initial international credit entitlement for the period 2008-2020 for each operator and aircraft operator and the information set out in Annex XII.

2 The Commission shall instruct the central administrator to enter the international credit entitlement table into the EUTL if it considers that the international credit entitlement table is in conformity with Directive 2003/87/EC and measures adopted pursuant to Article 11a(8) of that Directive. The Commission shall otherwise reject the international credit entitlement table within a reasonable period and inform the Member State without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. A Member State shall submit a revised international credit entitlement table to the Commission within one month.

3 A Member State shall notify the Commission of changes to its international credit entitlement table, including entitlements to new entrants. The Commission shall instruct the central administrator to make the corresponding changes to the international credit entitlement table held in the EUTL if it considers that the changes to the international credit entitlement table are in conformity with Directive 2003/87/EC and measures adopted pursuant to Article 11a(8) of that Directive. The Commission shall otherwise reject the changes within a reasonable period and inform the Member State without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.

Article 60

Use of international credits through allowance exchange

1 An operator may request the exchange of an international credit for a general allowance pursuant to Article 11a(2) of Directive 2003/87/EC until 31 March 2015 and pursuant to Article 11a(3) and (4) of that Directive until 31 December 2020. It shall propose a transfer of international credits from the relevant operator holding account to the EU International Credit Account for operators in the Union Registry.

An aircraft operator may request the exchange of an international credit for an aviation allowance pursuant to Article 11a(2) of Directive 2003/87/EC until 31 March 2015 and pursuant to Article 11a(3) and (4) of that Directive until 31 December 2020. It shall propose a transfer of international credits from the relevant aircraft operator holding account to the EU International Credit Account for aircraft operators in the Union Registry.

2 Upon a request, the central administrator shall ensure that the Union Registry carries out a transfer of international credits to the relevant EU International Credit Account if:

- a the transfer is allowed by the status of the initiating account;
- b the relevant international credit entitlement table has been entered into the EUTL and the operator or aircraft operator has an entry in the table pursuant to Article 59;
- c the number of units proposed in the transfer does not exceed the remaining credit entitlement pursuant to Article 61;
- d all units proposed in the transfer are eligible for use pursuant to Articles 11a and 11b of Directive 2003/87/EC, Article 58 of this Regulation and any measures adopted pursuant to Article 11a(9) of Directive 2003/87/EC.

3 Upon completion of the transfer pursuant to the first subparagraph of paragraph 1, the central administrator shall ensure that the Union Registry creates an equivalent number of general allowances on the EU Credit Exchange Account for operators and transfers, on behalf of the relevant competent authority, an equivalent number of general allowances to the operator holding account from which the transfer was initiated.

Upon completion of the transfer pursuant to the second subparagraph of paragraph 1, the central administrator shall ensure that the Union Registry creates an equivalent number of aviation allowances as appropriate on the EU Credit Exchange Account for aircraft operators and transfers, on behalf of the relevant competent authority, an equivalent number of aviation allowances to the aircraft operator holding account from which the transfer was initiated.

Article 61

Calculation of remaining international credit entitlement

1 The central administrator shall ensure that the Union Registry automatically determines the remaining international credit entitlement for each operator or aircraft operator by subtracting from the total initial international credit entitlement indicated pursuant to Article 59:

- a the sum of all CERs and ERUs surrendered by an operator or aircraft operator pursuant to Article 11a of Directive 2003/87/EC as amended by Regulation (EC) No 219/2009;

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b the sum of all CERs and ERUs transferred to the EU International Credit Account pursuant to Article 60 of this Regulation.

2 The central administrator shall ensure that the Union Registry corrects the remaining international credit entitlement to reflect reversals pursuant to Article 70.

Section 7

Auction

Article 62

Entry of auction tables into the EUTL

1 Within one month of the determination and publication of an auction calendar pursuant to Articles 11(1), 13(1), 13(2) or 32(4) of Regulation (EU) No 1031/2010, the relevant auction platform shall provide the Commission with the corresponding auction table. The auction platform shall provide two auction tables for each calendar year from 2012, one for the auction of general allowances and one for the auction of aviation allowances and shall ensure that the auction tables includes the information set out in Annex XIII.

2 The Commission shall instruct the central administrator to enter the auction table into the EUTL if it considers that the auction table is in conformity with Regulation (EU) No 1031/2010. It shall otherwise reject the auction table within a reasonable period and inform the auction platform without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. The auction platform shall submit a revised auction table to the Commission within three months.

Article 63

Changes to the auction tables

1 The relevant auction platform shall immediately notify the Commission of any necessary amendment to the auction table.

2 The Commission shall instruct the central administrator to enter the revised auction table into the EUTL if it considers that the revised auction table is in conformity with Regulation (EU) No 1031/2010. It shall otherwise reject the changes within a reasonable period and inform the auction platform without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.

3 The Commission may instruct the central administrator to suspend the transfer of allowances as specified in an auction table if it becomes aware of a necessary amendment to the auction table that the auction platform has failed to notify.

Article 64

Auctioning of allowances

1 The Commission shall instruct the central administrator, in a timely manner, to transfer on request of the relevant auctioneer, appointed in accordance with Regulation (EU) No 1031/2010, general allowances from the EU Auction Account, and/or aviation allowances

from the EU Aviation Auction Account to the relevant auction delivery account in accordance with the auction tables. For allowances created in view of auctions pursuant to Article 10(1) of Regulation (EU) No 1031/2010, the Commission shall instruct the central administrator, in a timely manner, to transfer allowances, on request of the relevant auctioneer, from the account in which the allowances were created to the account established for auction delivery as indicated in the relevant auction table. The provision of the auction table in accordance with Article 62 shall constitute the request.

2 The account holder of the relevant auction delivery account shall ensure the transfer of the auctioned allowances to the successful bidders or their successors in title in accordance with Regulation (EU) No 1031/2010.

3 In accordance with Regulation (EU) No 1031/2010, the authorised representative of an auction delivery account may be required to transfer any allowances that were not delivered from the auction delivery account to the EU Auction Account.

Section 8

Trading

Article 65

Transfers of allowances or Kyoto units initiated by a holding account

1 Subject to paragraph 2, upon request of a holder of a holding account, the central administrator shall ensure that the Union Registry carries out a transfer of allowances or Kyoto units to any other account unless such a transfer is prevented by the status of the initiating or receiving account.

2 Operator holding accounts, aircraft operator holding accounts and person holding accounts may only transfer allowances or Kyoto units to an account on the trusted list set up pursuant to Article 26, except for:

- a the exchange of international credits pursuant to Article 60;
- b the surrender of allowances pursuant to Article 67;
- c the deletion of allowances pursuant to Article 68;
- d the cancellation of Kyoto units pursuant to Article 69.

Article 66

Transfers of allowances or Kyoto units initiated by a trading account

Upon request of a holder of a trading account, the central administrator shall ensure that the Union Registry shall carry out a transfer of allowances or Kyoto units to a holding or trading account in the Union Registry unless such a transfer is prevented by the status of the initiating account.

Section 9

Surrender of allowances

Article 67

Surrender of allowances

- 1 An operator or aircraft operator shall surrender allowances by proposing to the Union Registry to:
 - a transfer a specified number of allowances created for compliance in the same trading period from the relevant operator holding account or aircraft operator holding account into the Union allowance deletion account;
 - b record the number and type of transferred allowances as surrendered for the emissions of the operator's installation or the emissions of the aircraft operator in the current period.
- 2 Aviation allowances may only be surrendered by aircraft operators.
- 3 An allowance that was already surrendered may not be surrendered again.

Section 10

Deletion of allowances and cancellation of Kyoto units

Article 68

Deletion of allowances

- 1 The central administrator shall ensure that the Union Registry carries out any request from an account holder pursuant to Article 12(4) of Directive 2003/87/EC to delete allowances held in the accounts of the account holder by:
 - a transferring a specified number of allowances from the relevant account into the Union allowance deletion account;
 - b recording the number of transferred allowances as deleted for the current year.
- 2 Deleted allowances shall not be recorded as surrendered for any emissions.

Article 69

Cancellation of Kyoto units

The central administrator shall ensure that the Union Registry carries out any request from an account holder pursuant to Article 12(4) of Directive 2003/87/EC to cancel Kyoto units held in its accounts by transferring a specified type and number of Kyoto units from the relevant account into the cancellation account of the account administrator's KP registry or the cancellation account of the Union Registry.

Section 11

Transaction reversal

Article 70

Reversal of finalised processes initiated in error

1 If an account holder or a national administrator acting on behalf of the account holder unintentionally or erroneously initiated one of the transactions referred to in paragraph 2, the account holder may propose to the administrator of its account to carry out a reversal of the completed transaction in a written request. The request shall be duly signed by the authorised representative or representatives of the account holder that are authorised to initiate the type of transaction to be reversed and shall be posted within five working days of the finalisation of the process. The request shall contain a statement indicating that the transaction was initiated erroneously or unintentionally.

2 Account holders may propose the reversal of the following transactions:

- a surrender of allowances;
- b deletion of allowances;
- c exchange of international credits.

3 If the administrator of the account establishes that the request fulfils the conditions under paragraph 1 and agrees with the request, it may propose the reversal of the transaction in the Union Registry.

4 If a national administrator unintentionally or erroneously initiated one of the transactions referred to in paragraph 5, it may propose to the central administrator to carry out a reversal of the completed transaction in a written request. The request shall contain a statement indicating that the transaction was initiated erroneously or unintentionally.

5 National administrators may propose the reversal of the following transactions:

- a allocation of general allowances;
- b allocation of aviation allowances.

6 The central administrator shall ensure that the Union Registry accepts the proposal for reversal made pursuant to paragraphs 1 and 4, blocks the units that are to be transferred by the reversal and forwards the proposal to the central administrator provided that all of the following conditions are met:

- a a transaction surrendering or deleting allowances to be reversed was not completed more than 30 working days prior to the account administrator's proposal in accordance with paragraph 3;
- b no operator would become non-compliant for a previous year as a result of the reversal;
- c the destination account of the transaction to be reversed still holds the amount of units of the type that were involved in the transaction to be reversed;
- d the allocation of general allowances to be reversed was carried out after the expiry date of the installation's permit.

7 The central administrator shall ensure that the Union Registry completes the reversal with units of the same unit type on the destination account of the transaction that is being reversed.

CHAPTER 3

Links with other greenhouse gas emission trading schemes

Article 71

Implementation of linking arrangements

The central administrator may create accounts and processes and undertake transactions and other operations at appropriate times to implement arrangements made pursuant to Article 25(1b) of Directive 2003/87/EC.

Status: This is the original version (as it was originally adopted).

- (1) OJ L 290, 6.11.2010, p. 39.
- (2) OJ L 87, 31.3.2009, p. 109.
- (3) OJ L 140, 5.6.2009, p. 63.