

Commission Delegated Regulation (EU) 2019/1122 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry (Text with EEA relevance)

TITLE I

GENERAL PROVISIONS

CHAPTER 3

Accounts

Section 2

Opening and updating accounts

[^{F1}Article 12

Opening accounts administered by the central administrator

1 The central administrator shall open all ETS management accounts in the Union Registry, the EU ESR AEA Total Quantity Account, the Deletion Account under Regulation (EU) 2018/842 ('ESR Deletion Account'), the EU Annex II AEA Total Quantity Account, the EU ESR Safety Reserve Account and one ESR Compliance Account for each Member State for each year of the compliance period.

2 The national administrator designated pursuant to Article 7(1) shall act as authorised representative of the ESR Compliance Accounts.]

Textual Amendments

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2019/1124 of 13 March 2019 amending Delegated Regulation \(EU\) 2019/1122 as regards the functioning of the Union Registry under Regulation \(EU\) 2018/842 of the European Parliament and of the Council.](#)

Article 13

Opening an auction collateral delivery account in the Union Registry

1 A clearing system or a settlement system as defined in Regulation (EU) No 1031/2010 that is connected to an auction platform appointed pursuant to Article 26 or Article 30 of that Regulation may submit to a national administrator a request for the opening of an auction collateral delivery account in the Union Registry. The person requesting the account shall provide the information set out in Annex IV.

2 Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall open the auction

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2. (See end of Document for details)

collateral delivery account in the Union Registry or inform the person requesting the account of the refusal to open the account, pursuant to Article 19.

3 Allowances held in an auction collateral delivery account, shall constitute collateral security as defined in Article 2(m) of Directive 98/26/EC of the European Parliament and of the Council.

For the purposes of Article 9(2) of Directive 98/26/EC, an auction collateral delivery account held in the Union Registry shall constitute the relevant account and shall be deemed to be located in and governed by the laws of the Member State referred to in Article 10(5) of this Regulation.

Article 14

Opening operator holding accounts in the Union Registry

1 Within 20 working days of the entry into force of a greenhouse gas emissions permit, the relevant competent authority or the operator shall provide the relevant national administrator with the information set out in Annex VI and shall request the national administrator to open an operator holding account in the Union Registry.

2 Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall open an operator holding account for each installation in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 19.

3 A new operator holding account may be opened only if the installation does not already have an operator holding account that was opened based on the same greenhouse gas emissions permit.

Article 15

Opening aircraft operator holding accounts in the Union Registry

1 Within 20 working days from the approval of the monitoring plan of an aircraft operator, the competent authority or aircraft operator shall provide the relevant national administrator with the information set out in Annex VII and shall request the national administrator to open an aircraft operator holding account in the Union Registry.

2 Each aircraft operator shall have one aircraft operator holding account.

3 Aircraft operators performing aviation activities with total annual emissions lower than 25 000 tonnes of carbon dioxide equivalent per year or operating fewer than 243 flights per period for three consecutive four-month period may mandate a natural person or a legal entity to open an aircraft operator holding account and to surrender the allowances pursuant to Article 12(2a) of Directive 2003/87/EC on their behalf. Responsibility for compliance still remains with the aircraft operator. When mandating the natural person or the legal entity, the aircraft operator shall ensure that there is no conflict of interest amongst the mandated person or entity and competent authorities, national administrators, verifiers or other bodies subject to the provisions of Directive 2003/87/EC and the acts adopted for its implementation. In this case, the natural person or legal entity mandated shall provide the information required in accordance with paragraph 1.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2. (See end of Document for details)

4 Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall open an aircraft operator holding account for each aircraft operator in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 19.

5 An aircraft operator shall have only one aircraft operator holding account.

Article 16

Opening trading accounts in the Union Registry

1 A request for opening a trading account in the Union Registry shall be submitted to the national administrator by the prospective account holder. The prospective account holder shall provide information as required by the national administrator, which shall include, at a minimum, the information set out in Annex IV.

2 The Member State of the national administrator may require as a condition for opening a trading account that the prospective account holders have their permanent residence or registration in the Member State of the national administrator administering the account.

3 The Member State of the national administrator may require as a condition for opening a trading account that prospective account holders are registered for value added tax (VAT) in the Member State of the national administrator of the account.

4 Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall open a trading account in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 19.

Article 17

Opening national holding accounts in the Union Registry

The competent authority of a Member State shall instruct the national administrator to open a national holding account in the Union Registry within 20 working days of the receipt of the information set out in Annex III.

Article 18

Registering verifiers in the Union Registry

1 A request for registering a verifier in the Union Registry shall be submitted to the national administrator. The person requesting the registration shall provide information as required by the national administrator, including the information set out in Annexes III and V.

2 Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall register the verifier in the Union Registry or inform the prospective verifier of the refusal, pursuant to Article 19.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2. (See end of Document for details)

Article 19

Refusal to open an account or register a verifier

1 The national administrator shall verify whether the information and documents provided for account opening or registration are complete, up-to-date, accurate and true.

In the event of justified doubts, the national administrator may request assistance by another national administrator in carrying out the verification referred to in the first subparagraph. The administrator that has received such request may refuse it. The prospective account holder or verifier may explicitly ask the national administrator to request such assistance. The national administrator shall inform the prospective account holder or verifier of such assistance request.

- 2 A national administrator may refuse to open an account or register a verifier:
- a if the information and documents provided are incomplete, out-of-date or otherwise inaccurate or false;
 - b if a law enforcement authority provides information or if information is available by other means to a national administrator that the prospective account holder, or, if it is a legal person, any of the directors of the prospective account holder, is under investigation or has been convicted in the preceding five years for fraud involving allowances, money laundering, terrorist financing or other serious crimes for which the account may be an instrument;
 - c if the national administrator has reasonable grounds to believe that the accounts may be used for fraud involving allowances, money laundering, terrorist financing or other serious crimes;
 - d for reasons set out in national law.

3 Where the national administrator refuses to open an operator holding account or aircraft operator holding account in accordance with paragraph 2, the account may be opened upon instruction from the competent authority. All access to the account shall be suspended in accordance with Article 30(4) until the reasons for refusal listed in paragraph 2 are no longer present.

4 If the national administrator refuses to open an account, the person requesting the account opening may object to the competent authority or the relevant authority under national law, who shall either instruct the national administrator to open the account or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

Article 20

Authorised representatives

1 The central administrator shall ensure that authorised representatives of accounts in the Union Registry can access the relevant accounts and have one of the following rights on behalf of the account holder:

- a initiate processes;
- b approve processes, if required;
- c initiate processes and approve processes initiated by another authorised representative.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2. (See end of Document for details)

2 At the opening, each account shall have at least two authorised representatives with one of the following combination of rights:

- a one authorised representative with the right to initiate processes and one with right to approve processes;
- b one authorised representative with the right to initiate processes and approve processes initiated by another authorised representative and one with right to approve processes;
- c one authorised representative with right to initiate processes and one with the right to initiate processes and approve processes initiated by another authorised representative;
- d two authorised representatives with the right to initiate processes and approve processes initiated by another authorised representative.

3 Verifiers shall have at least one authorised representative who initiates relevant processes on behalf of the verifier. A representative of a verifier may not be representative of any account.

4 Account holders may decide that the approval of a second authorised representative is not necessary to propose transfers for execution to accounts on the trusted account list set up pursuant to Article 23. The account holder may withdraw such decision. The decision and the withdrawal of the decision shall be communicated in a duly signed statement submitted to the national administrator.

5 In addition to the authorised representatives specified in paragraphs 1 and 2, accounts may also have authorised representatives with ‘read only’ access to the account.

6 If an authorised representative cannot access the Union Registry for technical or other reasons, the national administrator, in accordance with the rights assigned to that authorised representative, may initiate or approve transactions on behalf of the authorised representative upon request, provided that the national administrator allows such requests and that the access of the authorised representative was not suspended in accordance with this Regulation.

7 If authorised representatives of an account cannot access the Union Registry, account holders may request the national administrator to propose a process for execution in their name, in accordance with this Regulation, provided that the national administrator allows such requests. Such requests may not be made for accounts in closed status.

8 The data exchange and technical specifications laid down in Article 75 may set a maximum number of authorised representatives for each account type.

9 Authorised representatives shall be natural persons over 18 years of age. All authorised representatives of a single account shall be different persons but the same person can be an authorised representative on more than one account. The Member State of the national administrator may require that at least one of the authorised representatives of an account shall be a permanent resident in that Member State, except for representatives of verifiers.

Article 21

Nominating and approval of authorised representatives

1 When requesting the opening of an account or the registration of a verifier, the prospective account holder or verifier shall nominate a number of authorised representatives in accordance with Article 20.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2. (See end of Document for details)

2 When nominating an authorised representative, the account holder shall provide information as required by the administrator. That information shall include, at a minimum, the information set out in Annex VIII.

If the prospective authorised representative has already been nominated to an account and if the account holder so requests, the national administrator may use the documentation that was submitted at the earlier nomination for the purposes of verification referred to in paragraph 4.

3 Within 20 working days of the receipt of a complete set of information required in accordance with paragraph 2, the national administrator shall approve an authorised representative, or inform the account holder of its refusal. Where evaluation of the nominee information requires more time, the administrator may extend the evaluation process by up to 20 additional working days, and notify the extension to the account holder.

4 The national administrator shall verify whether the information and documents provided for nominating an authorised representative are complete, up-to-date, accurate and true.

In the event of justified doubts, the national administrator may request assistance by another national administrator in carrying out the verification referred to in the first subparagraph. The administrator that has received such request may refuse it. The prospective account holder or verifier may explicitly ask the national administrator to request such assistance. The national administrator shall inform the prospective account holder or verifier of such assistance request.

5 A national administrator may refuse to approve an authorised representative:

- a if the information and documents provided are incomplete, out-of-date or otherwise inaccurate or false;
- b if a law enforcement authority provides information or if information is available by other means to a national administrator that the prospective representative is under investigation or has been convicted in the preceding five years for fraud involving allowances, money laundering, terrorist financing or other serious crimes for which the account may be an instrument;
- c for reasons set out in national law.

6 If the national administrator refused to approve an authorised representative, the account holder may object to the relevant authority under national law, who shall either instruct the national administrator to approve the representative or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

Article 22

Updating of account information and information on authorised representatives

1 All account holders shall notify the national administrator within 10 working days of changes to the account information. In addition, account holders shall confirm to the national administrator by 31 December each year that their account information remains complete, up-to-date, accurate and true.

2 Operators and aircraft operators shall notify the administrator of their account within 10 working days if they have undergone a merger or a split.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2. (See end of Document for details)

3 The notification of change shall be supported by information as required by the national administrator in conformity with this Section. Within 20 working days of the receipt of such a notification and supporting information, the relevant national administrator shall approve the update of the information. The administrator may refuse to update the information in accordance with Article 21(4) and (5). The account holder shall be notified of any such refusal. Objections to such refusals may be raised with the competent authority or the relevant authority under national law in accordance with Article 19(4).

4 At least once every three years, the national administrator shall review whether the account information remains complete, up-to-date, accurate and true, and shall request that the account holder notify any changes as appropriate. For operator holding accounts, aircraft operator holding accounts and verifiers, the review shall take place at least once every five years.

5 The account holder of an operator holding account may only sell or divest of its operator holding account together with the installation linked to the operator holding account.

6 Subject to paragraph 5, no account holder may sell or divest of the ownership of its account to another person.

7 Where the legal entity holding an account in the Union registry changes due to a merger or a split of account holders, the account holder shall be the legal successor of the previous account holder upon submission of the documentation required pursuant to Articles 14, 15 or 16.

8 An authorised representative may not transfer its status as such to another person.

9 An account holder or a verifier may request the removal of an authorised representative. Upon receipt of the request, the national administrator shall suspend the access of the authorised representative. Within 20 working days of the receipt of the request, the relevant administrator shall remove the authorised representative.

10 An account holder may nominate new authorised representatives in accordance with Article 21.

11 If the administering Member State of an aircraft operator changes in accordance with the procedure set out in Article 18a of Directive 2003/87/EC, the central administrator shall update the national administrator of the corresponding aircraft operator holding account. Where the administrator of an aircraft operator holding account changes, the new administrator may require the aircraft operator to submit the account opening information that it requires in accordance with Article 15 and the information about authorised representatives that it requires in accordance with Article 21.

12 Subject to paragraph 11, the Member State responsible for managing an account shall not change.

Article 23

Trusted account list

1 Accounts in the Union Registry may have a trusted account list.

2 Accounts held by the same account holder and administered by the same national administrator shall be automatically included on the trusted account list.

3 The EU Allocation Account and the Union Deletion Account shall be automatically included on the trusted account list

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2. (See end of Document for details)*

4 Changes to the trusted account list shall be proposed for execution and finalised through the procedure set out in Article 35. The change shall be initiated and approved by two authorised representatives entitled to initiate and approve processes respectively. The execution of the proposed change shall be immediate for the deletion of accounts from the trusted account list. For all other changes to the trusted account list the execution shall take place at 12.00 Central European Time (CET) on the fourth working day following the proposal.

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1122, Section 2.