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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

The Greenhouse Gas Emissions Trading  
Scheme Auctioning Regulations 2021

PART 3

Auction Calendar

**Calendar for individual auctions**

8.—(1) The auctioneer must 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 calendar year, and provide the auction calendar to the appointed auction platform.

(2) The appointed auction platform must publish the auction calendar for a year by 15 July of the preceding year or as soon as practicable after that date.

**Annual volumes of allowances**

9.—(1) The volume of allowances to be auctioned in any calendar year must be  $AC - ((AFA) + IC + RFS + NER)$ , where—

- (a) “AC” is the base for the scheme year, determined in accordance with article 22 of the Trading Scheme Order, multiplied by the hospital and small emitter reduction factor for that year, determined in accordance with article 21 of the Trading Scheme Order;
- (b) “AFA” is—
  - (i) total number of allowances to be allocated free of charge under article 34K of the Trading Scheme Order (the aviation free allocation) in the scheme year, or
  - (ii) if the number in paragraph (i) is not known, the notional number of allowances to be allocated in the scheme year in question as part of the aviation free allocation, determined in accordance with paragraph (9),
- (c) “IC” is the industry cap for that calendar year, determined in accordance with Article 16a(6) of the free allocation regulation,
- (d) RFS means the flexible share referred to in Article 16a(2)(b) of the free allocation regulation, and
- (e) “NER” is the total number of allowances to be allocated free of charge for that calendar year as approved by the UK ETS under article 34G of the Trading Scheme Order.

(2) Where AFA as determined during the calendar year under paragraph (1)(b)(i) (“AFA1”) is greater than the notional number of allowances determined under paragraph (1)(b)(ii) (“AFA2”), a number of allowances equal to AFA1 minus AFA2 is to be removed from the total number of allowances to be auctioned in that calendar year, and the auctioneer must adjust the number of allowances to be auctioned at the auctions to be held during the year after AFA1 has been established as the auctioneer considers appropriate.

(3) When AFA1 is less than AFA2, a number of allowances equal to AFA2 minus AFA1 is to be added to the total number of allowances to be auctioned in that calendar year, divided between the auctions which are to be held during that year after AFA1 has been established as the auctioneer considers appropriate.

(4) The auctioneer may not add additional allowances to any auction if doing so would increase the volume of allowances at that auction to more than 125% of the volume first proposed for that auction, unless the allowances are being added to an auction pursuant to paragraph (3).

(5) Any subsequent change to the volume of allowances to be auctioned in a given calendar year must be accounted for in the volume of allowances to be auctioned in a subsequent calendar year.

(6) In exceptional circumstances, in particular where the cumulative annual value of such changes does not exceed 50,000 allowances, these changes may be accounted for in the volume of allowances to be auctioned in any subsequent calendar year.

(7) Any volume of allowances that may not be auctioned in a given calendar year due to the rounding required by regulation 5(1) must be accounted for in the volume of allowances to be auctioned in the subsequent calendar year.

(8) Where the volume of allowances to be auctioned in a calendar year is increased under paragraph (3), the UK ETS authority may direct the registry administrator to create additional allowances for auction in that year.

(9) For the purposes of paragraph (1)(b)(ii), the notional number of allowances to be allocated as part of the aviation free allocation in the scheme year is set out in the following table.

<i>Scheme year</i>	<i>Notional aviation free allocation</i>
2021	5,181,021
2022	5,064,474
2023	4,947,928
2024	4,831,381
2025	4,714,835
2026	4,598,288
2027	4,481,742
2028	4,364,195
2029	4,248,649
2030	4,132,103

(10) For the purposes of this regulation, “the free allocation regulation” is Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules or harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council, as that regulation forms part of domestic law under section 3 of the European Union (Withdrawal Act) 2018.

### **Adjustments of the auction calendar**

**10.**—(1) The determinations and publications of the annual volumes to be auctioned and of the bidding windows, volumes, dates, auctioned product, payment and delivery dates in connection with individual auctions pursuant to regulations 8 and 9 may not be modified except for adjustments due to any of the following—

- (a) failure to sell all allowances at a preceding auction;
- (b) the cancellation of an auction pursuant to regulation 11;
- (c) any settlement failure referred to in regulation 28(5);
- (d) allowances remaining in the new entrants reserve provided for in article 34G of the Trading Scheme Order;
- (e) any measures authorised under regulation 12;
- (f) any withholding of allowances where it is not possible to hold an auction pursuant to regulation 20(5);
- (g) the necessity for an auction platform to avoid conducting an auction in breach of these Regulations or the Trading Scheme Order.

(2) Where the manner in which a modification is to be implemented is not provided for in these Regulations, the auction platform concerned may not implement that modification until it has consulted the FCA and auctioneer.

### **Circumstances preventing the conduct of auctions**

**11.**—(1) Where appropriate, the appointed auction platform may cancel an auction where the proper conduct of that auction is disrupted or is likely to be disrupted.

(2) Where an auction is cancelled under paragraph (1), the volume of allowances of the cancelled auction must—

- (a) be added to the next four auctions to be held by the appointed auction platform, evenly distributed, so that a quarter of the allowances which would have been sold at the cancelled auction is added at each subsequent auction; or
- (b) if doing so would increase the volume of any of the next four auction to more than 125% of the volume first proposed for that auction (“the 125% volume”), any allowances in excess of the 125% volume at that auction must—
  - (i) be added to any other of the four auctions for which that would not be the case, or
  - (ii) if all the next four auctions would be increased to more than 125% of their first proposed volume, be added to the market stability mechanism account held by the UK ETS Authority.

### **Cost containment mechanism**

**12.**—(1) If this regulation applies the Treasury may authorise one or more of the following measures—

- (a) changing the distribution of allowances to be auctioned at auctions within a calendar year;
- (b) increasing the volume of allowances to be auctioned in a calendar year by bringing forward part of the volume of allowances to be auctioned in a subsequent calendar year;
- (c) the release of up to 25% of the allowances held in the new entrants reserve provided for in article 34G of the Trading Scheme Order for auction in that calendar year;
- (d) the release of allowances from the market stability mechanism account held by the UK ETS Authority for auction in that calendar year.

(2) This regulation applies if the average price for one allowance (the “average carbon price”) is more than—

- (a) during year one, an amount equal to  $2 \times A$  for three consecutive months;
- (b) during year two, an amount equal to  $2.5 \times A$  for three consecutive months;

(c) during year three, and in subsequent years, an amount equal to 3 x A for six consecutive months.

(3) Where the Treasury authorises an increase in the volume of allowances to be auctioned in a calendar year under paragraph (1), the UK ETS Authority may direct the registry administrator to create additional allowances for auction in that year.

(4) When there is no end of day settlement prices for December futures contracts relating to allowances, the end of day settlement prices for December futures contracts relating to EU emission allowances may be used to calculate the average carbon price in the United Kingdom in relation to any date before 31st December 2020.

(5) For the purposes of this regulation—

- (a) “A” is the average carbon price in effect in the United Kingdom during the period of two years ending on the day immediately before the first month in which the carbon price increased as referred to in paragraph (2);
- (b) “year one”, means the year starting on the day on which these Regulations come into force, and “year two” and “year three” are to be construed accordingly;
- (c) the average carbon price in effect in the United Kingdom on a day (“the relevant day”) is the average end of day settlement price, calculated over the period (“the relevant period”) of—
  - (i) three months preceding the relevant day, when the calculation is made during year two, or
  - (ii) six months preceding the relevant day, when the calculation is made during year three,

of December futures contracts, as traded on the relevant carbon market exchange.

- (d) the “average” end of day settlement price is calculated by dividing the sum of the end of day settlement price for each day in the relevant period for which an end of day settlement price is published by the number of days in the relevant period for which an end of day settlement price is published.
- (e) a “December futures contract” is a futures contract for allowances, or (if paragraph (4) applies), EU emissions allowances, deliverable in December of the calendar year in which the contract is made;
- (f) “EU emissions allowances” means an allowance to emit one tonne of carbon dioxide equivalent during a specified period, which is valid for the purposes of meeting the requirements of [Directive 2003/87/EC](#) of the European Parliament and of the Council of 13th October 2003 establishing a system for greenhouse gas emission allowances trading within the Community<sup>(1)</sup>, and which is transferable in accordance with the provisions of that directive;
- (g) “end of day settlement price”, in relation to futures contract, means the end of day settlement price per tonne of carbon dioxide equivalent published by the carbon market exchange on which the futures contract is traded;
- (h) “relevant carbon market exchange” in relation to any calendar year, or part of a calendar year, means the largest carbon market exchange as determined by volume of sales in that calendar year of the December futures contracts for the calendar year traded on the exchange.

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(1) OJ L 275, 25.10.2003, p. 32.