

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 III

### AUCTION CALENDAR

#### *Article 8*

#### **Timing and frequency**

1 An auction platform shall conduct auctions separately through its own regularly recurring bidding window. The bidding window shall be opened and closed on the same trading day. The bidding window shall be kept open for no less than two hours. The bidding windows of any two or more auction platforms may not overlap and there shall be at least a two-hour delay between two consecutive bidding windows.

2 The auction platform shall determine the dates and times of the auctions taking account of public holidays that affect international financial markets and any other relevant events or circumstances that, in view of the auction platform, might affect the proper conduct of the auctions necessitating changes. No auctions shall be held in the two weeks over Christmas and New Year of each year.

[<sup>F13</sup> In exceptional circumstances, any auction platform may, after consulting the Commission, change the times of any bidding window, by giving notice to all persons likely to be affected. The auction platform concerned shall take the utmost account of the Commission's opinion, where delivered.

4 As from the sixth auction or earlier, the auction platform appointed pursuant to Article 26(1) of this Regulation shall conduct auctions of allowances covered by Chapter III of Directive 2003/87/EC at least on a weekly basis and auctions of allowances covered by Chapter II of Directive 2003/87/EC at least on a two-monthly basis.

No other auction platform shall conduct an auction on any of a maximum of two days a week during which an auction platform appointed pursuant to Article 26(1) conducts an auction. Where the auction platform appointed pursuant to Article 26(1) conducts auctions on more than two days a week, it shall determine and publish on which two days no other auctions may take place. It shall do so no later than when it makes the determination and publication referred to in Article 11.

5 The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned on the auction platform appointed pursuant to Article 26(1) of this Regulation shall be distributed evenly over the auctions held in a given year, except that volumes auctioned in August of each year shall be half of the volume auctioned in auctions held in other months of the year.

The volume of allowances covered by Chapter II of Directive 2003/87/EC to be auctioned on the auction platform appointed pursuant to Article 26(1) of this Regulation

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shall in principle be distributed evenly over the auctions held in a given year, except that volumes auctioned in August of each year shall be half of the volume auctioned in auctions held in other months of the year.

Where the annual auction volume of allowances of a Member State may not be distributed evenly over the auctions in a given year in lots of 500 allowances in accordance with Article 6(1), the relevant auction platform shall distribute that volume over fewer auction dates, ensuring that the volume is at least auctioned on a quarterly basis.

6 Additional provisions on the timing and frequency of the auctions conducted by any auction platform other than the auction platforms appointed pursuant to Article 26(1) are set out in Article 32.]

#### 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>F2</sup>Article 9*

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

[<sup>F1</sup>Without prejudice to the application of the rules referred in Article 58 where appropriate, an auction platform may cancel an auction where the proper conduct of that auction is disrupted or is likely to be disrupted. The volume of allowances of the cancelled auctions shall be distributed pursuant to Article 7(8).]]

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

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

#### 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 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 \(Text with EEA relevance\).](#)
- 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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## Article 10

### Annual volumes of the auctioned allowances covered by Chapter III of Directive 2003/87/EC

[<sup>F1</sup> The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned in any given calendar year as from 2019 shall be the quantity of allowances established in accordance with Articles 10(1) and 10(1a) of that Directive.

2 The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned in any given calendar year by each Member State shall be based on the volume of allowances pursuant to paragraph 1 of this Article and the share of allowances of that Member State determined pursuant to Article 10(2) of that Directive.

3 The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned each calendar year by each Member State pursuant to paragraphs 1 and 2 of this Article shall take into account Article 10a(5a) of Directive 2003/87/EC, the changes to be made pursuant to Articles 1(5) and (8) of Decision (EU) 2015/1814 of the European Parliament and of the Council<sup>(1)</sup>, the changes pursuant to Articles 10c, 12(4), 24, 27 and 27a of Directive 2003/87/EC, and pursuant to Article 6 of Regulation (EU) 2018/842 of the European Parliament and of the Council<sup>(2)</sup>.

4 Without prejudice to Decision (EU) 2015/1814, any subsequent change to the volume of allowances to be auctioned in a given calendar year shall be accounted for in the volume of allowances to be auctioned in the subsequent calendar year.

In exceptional circumstances, in particular where the cumulative annual value of such changes does not exceed 50 000 allowances for a given Member State, these changes may be accounted for in the volume of allowances to be auctioned in subsequent calendar years, unless a Member State requests the Commission by 30 April 2020 that this threshold shall not apply to it for the period starting from 2021.

Any volume of allowances that may not be auctioned in a given calendar year due to the rounding required by Article 6(1) shall be accounted for in the volume of allowances to be auctioned in the subsequent calendar year.]

[<sup>F45</sup> The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned in 2020 shall also include the volume of 50 million unallocated allowances from the market stability reserve referred to in the second subparagraph of Article 10a(8) of that Directive. Those allowances shall be divided in equal amounts between the Member States participating in the joint action pursuant to Article 26(1) of this Regulation as at 1 January 2018 and shall be added to the volume of allowances to be auctioned for each of them. The volume of 50 million allowances shall in principle be distributed evenly over the auctions held in 2020.]

#### 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 \(Text with EEA relevance\).](#)
- F4** Inserted by [Commission Delegated Regulation \(EU\) 2019/7 of 30 October 2018 amending Regulation \(EU\) No 1031/2010 as regards the auctioning of 50 million unallocated allowances from the market](#)

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stability reserve for the innovation fund and to list an auction platform to be appointed by Germany (Text with EEA relevance).

### *[<sup>F1</sup>Article 11*

#### **Calendar for individual auctions of allowances covered by Chapter III of Directive 2003/87/EC auctioned by auction platforms appointed pursuant to Article 26(1) of this Regulation**

The auction platforms appointed pursuant to Article 26(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 covered by Chapter III of Directive 2003/87/EC to be auctioned in individual auctions each calendar year having previously consulted the Commission. The auction platforms concerned shall publish the auction calendar by 15 July of the previous year or as soon as practicable thereafter, provided that the Commission has instructed the central administrator of the European Union Transaction Log ('EUTL') to enter the auction table corresponding to the auction calendar into the EUTL in accordance with the delegated acts adopted pursuant to Article 19(3) of Directive 2003/87/EC.]

#### **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>F2</sup>Article 12*

#### **Annual volumes of auctioned allowances covered by Chapter II of Directive 2003/87/EC**

1 The volume of allowances covered by Chapter II of Directive 2003/87/EC to be auctioned each year shall be 15 % of the expected volume of those allowances in circulation for that year. Where the auctioned volume in a given year is more or less than 15 % of the volume actually put in circulation for that year, the volume to be auctioned in the subsequent year shall correct for the difference. Any allowances that remain to be auctioned after the last year of a trading period shall be auctioned in the first four months of the subsequent year. [<sup>F5</sup>Article 10(4) shall apply to any subsequent change to the volume of allowances to be auctioned.]

The volume of allowances to be auctioned in the final year of each trading period shall take account of allowances remaining in the special reserve referred to in Article 3f of Directive 2003/87/EC.

[<sup>F12</sup> For each calendar year in a given trading period, the volume of allowances covered by Chapter II of Directive 2003/87/EC to be auctioned by each Member State shall be determined on the basis of the volume pursuant to paragraph 1 of this Article and the share of that Member State determined in accordance with Article 3d(3) of Directive 2003/87/EC.]]

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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).
- F2** 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).
- F5** Inserted by Commission Delegated Regulation (EU) 2019/1868 of 28 August 2019 amending Regulation (EU) No 1031/2010 to align the auctioning of allowances with the EU ETS rules for the period 2021 to 2030 and with the classification of allowances as financial instruments pursuant to Directive 2014/65/EU of the European Parliament and of the Council (Text with EEA relevance).

*Article 13*

**[<sup>F1</sup>Calendar for individual auctions of allowances covered by Chapter II of Directive 2003/87/EC auctioned by auction platforms appointed pursuant to Article 26(1) of this Regulation]**

<sup>F3</sup><sub>1</sub> .....

[<sup>F12</sup> The auction platforms appointed pursuant to Article 26(1) of this Regulation shall determine the auction calendars, including the bidding windows, individual volumes, auction dates as well as the auctioned product, payment and delivery dates of the allowances covered by Chapter II of Directive 2003/87/EC to be auctioned in individual auctions for each calendar year, having previously consulted the Commission. The auction platforms concerned shall publish the auction calendar by 30 September 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 auction table corresponding to the auction calendar into the EUTL in accordance with the delegated acts adopted pursuant to Article 19(3) of Directive 2003/87/EC. Without prejudice to the deadline for publication of the auction calendar for allowances covered by Chapter III of Directive 2003/87/EC under Article 11 of this Regulation, the auction platforms concerned may simultaneously determine the auction calendars for allowances covered by Chapter II and Chapter III of Directive 2003/87/EC.]

The bidding windows, individual volumes, auction dates as well as the auctioned product, payment and delivery dates of the allowances covered by Chapter II of Directive 2003/87/EC to be auctioned in individual auctions for the final year of each trading period, may be adjusted by the auction platform concerned to take account of allowances remaining in the special reserve referred to in Article 3f of that Directive.

[<sup>F13</sup> The auction platforms appointed pursuant to Article 26(1) of this Regulation shall base their determinations and publications under paragraph 2 of this Article on the Commission's decision adopted pursuant to Article 3e(3) of Directive 2003/87/EC.

4 The provisions on the calendar for individual auctions of allowances covered by Chapter II of Directive 2003/87/EC conducted by an auction platform other than the auction

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platforms appointed pursuant to Article 26(1) of this Regulation shall be determined and published pursuant to Article 32 of this Regulation.

Article 32 shall also apply with respect to the auctions conducted pursuant to the second subparagraph of Article 30(7) by the 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).
- 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).

### Article 14

#### Adjustments of the auction calendar

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 Articles 10 to 13 and Article 32(4) shall not be modified except for adjustments due to any of the following:

- a the cancellation of an auction pursuant to Article 7(5) and (6), Article 9 and Article 32(5);
- [<sup>F1</sup>b any suspension of an auction platform other than the auction platforms appointed pursuant to Article 26(1) of this Regulation provided for in the delegated acts adopted pursuant to Article 19(3) of Directive 2003/87/EC;]
- c any decision by a Member State made pursuant to Article 30(8);
- d any settlement failure referred to in Article 45(5);
- e any allowances remaining in the special reserve referred to in Article 3f of Directive 2003/87/EC;
- [<sup>F1</sup>f allowances remaining in the reserve for new entrants provided for in Article 10a(7) of Directive 2003/87/EC and allowances not allocated pursuant to Article 10c of that Directive;]
- g any unilateral inclusion of additional activities and gases pursuant to Article 24 of Directive 2003/87/EC;
- h any measures adopted pursuant to Article 29a of Directive 2003/87/EC;
- i the entry into force of amendments to this Regulation or to Directive 2003/87/EC[<sup>F6</sup>;
- [<sup>F1</sup>j any withholding of allowances from the auctions pursuant to Article 22(5);]
- [<sup>F7</sup>k the necessity for an auction platform to avoid conducting an auction in breach of this Regulation or Directive 2003/87/EC;]
- [<sup>F1</sup>l adjustments necessary pursuant to Decision (EU) 2015/1814 which shall be determined and published by 15 July of the given year, or as soon as practicable thereafter;]
- [<sup>F5</sup>m cancellation of allowances pursuant to Article 12(4) of Directive 2003/87/EC.]

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[<sup>F12</sup> Where the manner in which a modification is to be implemented is not provided for in this Regulation, the auction platform concerned shall not implement that modification until it has previously consulted the Commission. Articles 11 and 13(2) shall apply.]

#### 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).
- F5** Inserted 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).
- F6** 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).
- F7** 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).



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- (1) [<sup>F1</sup>Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p. 1).]
- (2) [<sup>F1</sup>Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).]

#### 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 \(Text with EEA relevance\).](#)



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**Changes and effects yet to be applied to :**

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)
- Regulation revoked by [S.I. 2019/107 reg. 137](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2019/107 revoked immediately before IP completion day by S.I. 2020/1369, regs. 1(2), 43(a))