

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 IV **U.K.**

### ACCESS TO THE AUCTIONS

#### *[<sup>F1</sup> Article 15* **U.K.**

#### **Persons who may submit bids directly in an auction**

Only a person who is eligible to apply for admission to bid pursuant to Article 18 and is admitted to bid pursuant to Articles 19 and 20 may submit bids directly in an auction.]

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

#### *Article 16* **U.K.**

#### **Means of access**

1 An auction platform shall provide for the means to access its auctions on a non-discriminatory basis.

[<sup>F2</sup>1a Admission to the auctions shall not be dependent on becoming a member of or a participant in the secondary market organised by the auction platform or any other trading place operated by the auction platform or by any third party.]

[<sup>F3</sup>2 An auction platform appointed pursuant to Article 26(1) or 30(1) shall ensure that its auctions can be accessed remotely by means of an electronic interface accessible securely and reliably through the Internet.

[<sup>F1</sup>In addition, an auction platform appointed pursuant to Article 26(1) or 30(1) may offer bidders the option of accessing its auctions through dedicated connections to the electronic interface.]

[<sup>F4</sup>3 An auction platform may offer, and Member States may require an auction platform to offer, one or more alternative means of accessing its auctions, should the main means of access be inaccessible for whatever reason, provided that such alternative means of access are secure and reliable and their use does not lead to any discrimination between bidders.]]

**Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 1031/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### 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** Inserted 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** 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).
- F4** 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).

[<sup>F3</sup> Article 17 **U.K.**]

### Training and helpline

An auction platform appointed pursuant to Article 26(1) or 30(1) shall offer a practical web-based training module on the auction process it is conducting, including guidance on how to complete and submit any forms and a simulation of how to bid in an auction. It shall also make available a helpline service accessible by telephone, facsimile and electronic mail at least during the working hours of each trading day.]

### Textual Amendments

- F3** 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).

Article 18 **U.K.**

### Persons eligible to apply for admission to bid

1 The following persons shall be eligible to apply for admission to bid directly in auctions:

- [<sup>F4</sup>a an operator or an aircraft operator having an operator holding account or an aircraft operator holding account, bidding on its own account, including any parent undertaking, subsidiary undertaking or affiliate undertaking forming part of the same group of undertakings as the operator or the aircraft operator;]
- [<sup>F1</sup>b investment firms authorised under Directive 2014/65/EU bidding on their own account or on behalf of their clients;

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- c credit institutions authorised under Directive 2013/36/EU of the European Parliament and of the Council<sup>(1)</sup> bidding on their own account or on behalf of their clients;]
- d business groupings of persons listed in point (a) bidding on their own account and acting as an agent on behalf of their members;
- e public bodies or state-owned entities of the Member States that control any of the persons listed in point (a).

[<sup>F12</sup> Without prejudice to the exemption in Article 2(1)(j) of Directive 2014/65/EU, persons covered by this exemption and authorised pursuant to Article 59 of this Regulation shall be eligible to apply for admission to bid directly in the auctions either on their own account or on behalf of clients of their main business provided that a Member State where they are established has enacted legislation enabling the relevant competent national authority in that Member State to authorise them to bid on their own account or on behalf of clients of their main business.]

<sup>F53</sup> .....

4 Where the persons referred to in paragraph 1(b) and (c) and paragraph 2 bid on behalf of their clients, they shall ensure that those clients are themselves eligible to apply for admission to bid directly under paragraphs 1 or 2.

Where the clients of the persons referred to in the first subparagraph are themselves bidding on behalf of their own clients, they shall ensure that those clients are also eligible to apply for admission to bid directly under paragraphs 1 or 2. The same shall apply to all further clients down the chain bidding indirectly in the auctions.

5 The following persons shall not be eligible to apply for admission to bid directly in auctions nor may they participate in auctions through one or more persons admitted to bid pursuant to Articles 19 and 20, whether for their own account or on behalf of any other person, where they fulfil their role with respect to the auctions in question:

- a the auctioneer;
- b the auction platform including any clearing system and any settlement system connected to it;
- c persons who are in a position to exercise, directly or indirectly, significant influence over the management of the persons under points (a) and (b);
- d persons working for persons under points (a) and (b).

<sup>F56</sup> .....

7 The option made available pursuant to Articles 44 to 50 for an auction platform, including any clearing system or settlement system connected to it, to accept payment, make delivery or take collateral, from a successor in title to a successful bidder shall not undermine the application of Articles 17 to 20.

**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** 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](#)

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Community in particular to list an auction platform to be appointed by Germany (Text with EEA relevance).

- F5** 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 19 U.K.

### Requirements for admission to bid

[<sup>F61</sup> Members or participants of the secondary market organised by an auction platform appointed pursuant to Article 26(1) or 30(1) that are eligible persons pursuant to Article 18(1) or (2) shall be admitted to bid directly in the auctions conducted by that auction platform without any further admission requirements, provided that all of the following conditions are fulfilled:

- a the requirements for admission of the member or participant to trade allowances through the secondary market organised by the auction platform appointed pursuant to Article 26(1) or 30(1) are no less stringent than those listed under paragraph 2 of this Article;
- b the auction platform appointed pursuant to Article 26(1) or 30(1) receives any additional information necessary to verify the fulfilment of any requirements referred to in paragraph 2 of this Article that have not been previously verified.]

[<sup>F32</sup> Persons, who are not members or participants of the secondary market organised by an auction platform appointed pursuant to Article 26(1) or 30(1), and that are eligible persons pursuant to Article 18(1) or (2) shall be admitted to bid directly in the auctions conducted by that auction platform provided that they:

- a are established in the Union, an operator or an aircraft operator;
- b hold a nominated holding account;
- c hold a nominated bank account;
- d appoint at least one bidder's representative as defined in the third subparagraph of Article 6(3);
- e satisfy the auction platform concerned in line with applicable customer due diligence measures as to their identity, the identity of their beneficial owners, integrity, business and trading profile having regard to the means of establishing the relationship with the bidder, the type of bidder, the nature of the auctioned product, the size of prospective bids, and the means of payment and delivery;
- f satisfy the auction platform concerned of their financial standing, in particular, that they are able to meet their financial commitments and current liabilities as they fall due;
- g have in place or are able to put in place when requested, the internal processes, procedures and contractual agreements necessary to give effect to a maximum bid-size imposed pursuant to Article 57;
- h fulfil the requirements of Article 49(1).]

[<sup>F7</sup> . . . . .]

3 Persons falling under the scope of Article 18(1)(b) and (c) or Article 18(2) submitting bids on behalf of their clients shall be responsible for ensuring that all of the following conditions are fulfilled:

- (a) their clients are eligible persons pursuant to Article 18(1) or (2);

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- (b) they have or will have in good time before the opening of the bidding window adequate internal processes, procedures and contractual agreements necessary to:
- (i) enable them to process bids from their clients including the submission of bids, collection of payment and transfer of allowances;
  - (ii) prevent the disclosure of confidential information from that part of their business responsible for receiving, preparing and submitting bids on behalf of their clients to that part of their business responsible for preparing and submitting bids on their own account;
  - (iii) ensure that their clients who themselves are acting on behalf of clients bidding in the auctions apply the requirements set out in paragraph 2 of this Article and in this paragraph and that they require the same of their clients and of the clients of their clients as provided for in Article 18(4).

The auction platform concerned may rely on reliable checks carried out by the persons referred to in the first subparagraph of this paragraph, their clients, or the clients of their clients as provided for in Article 18(4).

Persons referred to in the first subparagraph of this paragraph shall be responsible for ensuring that they are able to demonstrate to the auction platform whenever requested to do so by the auction platform pursuant to Article 20(5)(d) that the conditions in points (a) and (b) of the first subparagraph of this paragraph are fulfilled.

#### Textual Amendments

- F3** 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).
- F6** 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).
- F7** Deleted by Commission Regulation (EU) 2017/1902 of 18 October 2017 amending Commission Regulation (EU) No 1031/2010 to align the auctioning of allowances with Decision (EU) 2015/1814 of the European Parliament and of the Council and to list an auction platform to be appointed by the United Kingdom (Text with EEA relevance).

#### Article 20 **U.K.**

##### Submission and processing of applications for admission to bid

[<sup>F31</sup> Before submitting their first bid directly through any auction platform appointed pursuant to Article 26(1) or 30(1), persons eligible under Article 18(1) or (2) shall apply to the auction platform concerned for admission to bid.

[<sup>F6</sup> Members of or participants in the secondary market organised by the auction platform concerned fulfilling the requirements of Article 19(1) shall be admitted to bid without applying under the first subparagraph of this paragraph.]]

[<sup>F42</sup> An application for admission to bid made under paragraph 1 shall be made by submitting a completed application form to the auction platform. The application form and its access through the internet shall be provided and maintained by the auction platform concerned.]

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3 An application for admission to bid shall be supported by duly certified copies of all supporting documents required by the auction platform to show that the applicant satisfies the requirements of Article 19(2) and (3). An application for admission to bid shall at least include the elements listed in Annex II.

[<sup>F14</sup> An application for admission to bid, including any supporting documents, shall upon request be made available for inspection by the competent national law enforcement authorities of a Member State conducting an investigation, referred to in Article 62(3)(e) and any competent Union bodies involved in investigations conducted on a cross-border basis.]

[<sup>F35</sup> An auction platform appointed pursuant to Article 26(1) or 30(1) may refuse admission to bid in its auctions if the applicant refuses any of the following:

- a to comply with requests made by the auction platform for additional information or clarification or substantiation of information provided;
- b to attend an invitation made by the auction platform to interview any officers of the applicant including at its business premises or elsewhere;
- c to allow investigations or verifications, requested by the auction platform including on-site visits or spot-checks at the applicant's business premises;
- d to comply with requests made by the auction platform for any information required from an applicant, the clients of an applicant or the clients of their clients as provided for in Article 18(4) to check compliance with the requirements of Article 19(3);
- e to comply with requests made by the auction platform for any information required to check compliance with the requirements of Article 19(2).

[<sup>F56</sup> .....

7 An auction platform appointed pursuant to Article 26(1) or 30(1) shall require an applicant for admission to bid in its auctions to ensure that clients of the applicant comply with any request made pursuant to paragraph 5 and that any client of the applicant's clients as provided for in Article 18(4) does the same.]

8 An application for admission shall be deemed to be withdrawn if the applicant fails to submit information requested by an auction platform within a reasonable period specified in a request for information made pursuant to point (a), (d) or (e) of paragraph 5, by the auction platform concerned, which shall not be less than five trading days from the date of the request for information, or fails to respond or submit to or cooperate in an interview or any investigations or verifications under point (b) or (c) of paragraph 5.

[<sup>F39</sup> An applicant shall not provide any auction platform appointed pursuant to Article 26(1) or 30(1), with false or misleading information. An applicant shall notify the auction platform concerned fully, frankly and promptly of any changes in its circumstances that could affect its application for admission to bid in auctions conducted by that auction platform or any admission to bid already granted to it.

10 An auction platform appointed pursuant to Article 26(1) or 30(1) shall decide on an application submitted to it and notify its decision to the applicant.

The auction platform concerned may:

- a grant unconditional admission to the auctions for a period not exceeding the term of its appointment, including any extension or renewal of that appointment;
- b grant conditional admission to the auctions for a period not exceeding the term of its appointment, subject to fulfilment of the specified conditions, by a given date, which shall be duly verified by the auction platform concerned;
- c refuse to grant admission.]

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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).
- F3** 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).
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- F5** 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).
- F6** Substituted by Commission Regulation (EU) 2017/1902 of 18 October 2017 amending Commission Regulation (EU) No 1031/2010 to align the auctioning of allowances with Decision (EU) 2015/1814 of the European Parliament and of the Council and to list an auction platform to be appointed by the United Kingdom (Text with EEA relevance).

### Article 21 **U.K.**

#### Refusal, revocation or suspension of admission

[<sup>F3</sup>1 An auction platform appointed pursuant to Article 26(1) or 30(1) shall refuse to grant admission to bid in its auctions, revoke or suspend any admission to bid already granted to any person who:

- a is not or is no longer eligible to apply for admission to bid under Article 18(1) or (2);
- b does not or no longer meets the requirements of Articles 18, 19 and 20;
- c is wilfully or repeatedly in breach of this Regulation, the terms and conditions of its admission to bid in the auctions conducted by the auction platform concerned or any other related instructions or agreements.

2 An auction platform appointed pursuant to Article 26(1) or 30(1) shall refuse to grant admission to bid in its auctions, revoke or suspend any admission to bid already granted, if it suspects money laundering, terrorist financing, criminal activity or market abuse in relation to an applicant, provided that such refusal, revocation or suspension is unlikely to frustrate efforts by the competent national authorities, to pursue or apprehend the perpetrators of such activities.

[<sup>F1</sup>In such a case, the auction platform concerned shall report to the financial intelligence unit referred to in Article 32 of Directive (EU) 2015/849 ('FIU') in accordance with Article 55(2) of this Regulation.]

3 An auction platform appointed pursuant to Article 26(1) or 30(1) may refuse to grant admission to bid in its auctions, revoke or suspend any admission to bid already granted, to any person:

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- a who is negligently in breach of this Regulation, the terms and conditions of its admission to bid in the auctions conducted by the auction platform concerned or any other related instructions or agreements;
- b who has otherwise behaved in a manner that is prejudicial to the orderly or efficient conduct of an auction;
- c who is referred to in Article 18(1)(b) or (c) or Article 18(2) and has not bid in any auction during the preceding 220 trading days.]

4 Persons referred to in paragraph 3 shall be notified of the refusal to grant admission, or the revocation or suspension of admission, and be given a reasonable period, specified in the decision of refusal to admit, revocation or suspension of admission, to respond in writing.

After considering the person's written response, the auction platform concerned shall if warranted:

- a grant or reinstate admission with effect from a given date;
- b grant conditional admission or conditional reinstatement of admission subject to fulfilment of the specified conditions by a given date, which shall be duly verified by the auction platform concerned;
- c confirm the refusal to grant admission, the revocation or suspension of admission with effect from a given date.

The auction platform shall notify the person in question of its decision.

5 Persons whose admission to bid is revoked or suspended pursuant to paragraphs 1, 2 or 3 shall take reasonable steps to ensure that their removal from the auctions:

- a is orderly;
- b does not prejudice the interests of their clients or interfere with the efficient functioning of the auctions;
- c does not affect their obligations to comply with any payment provisions, the terms and conditions of their admission to bid in the auctions or any other related instructions or agreements;
- d does not compromise their obligations regarding the protection of confidential information pursuant to Article 19(3)(b)(ii) which shall remain in force for 20 years following their removal from the auctions.

The refusal to grant admission, the revocation or suspension of admission, referred to in paragraphs 1, 2 and 3, shall specify any measures needed to comply with this paragraph and the auction platform shall verify compliance with such measures.

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



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- (1) [<sup>F1</sup>Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).]

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

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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))