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STATUTORY INSTRUMENTS

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**2021 No. 494**

**The Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021**

**Market Abuse Regulation**

9.—(1) [Regulation \(EU\) No 596/2014](#) of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation)<sup>(1)</sup> is amended as follows.

(2) In paragraph 1 of Article 2 (scope), in the second subparagraph—

- (a) for “authorised as a regulated market” substitute “in relation to which a recognition order is in force under the Recognised Auction Platforms Regulations 2011<sup>(2)</sup>”;
- (b) omit “, including when auctioned products are not financial instruments,”;
- (c) for “[Regulation \(EU\) No 1031/2010](#)” substitute “the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021”.

(3) In Article 3 (definitions)—

(a) after point (19), insert—

“(19a) ‘UK emission allowance’ means an allowance created under the Greenhouse Gas Emissions Trading Scheme Order 2020;

(19b) ‘EU emission allowance’ means an emission allowance recognised for compliance with the requirements of [Directive 2003/87/EC](#);

(19c) ‘UK installation’, ‘UK aviation activities’, ‘EU installation’ and ‘EU aviation activities’ have the meanings given in Article 7(4);”;

(b) for point (20), substitute—

“(20) ‘emission allowance market participant’ means—

(a) a UK emission allowance market participant, and

(b) any person who would be treated as an emission allowance market participant under Article 3(20) of Regulation (EU) 596/2014<sup>(3)</sup> as it applies in the European Union;”;

(c) after point (20), insert—

“(20A) ‘UK emission allowance market participant’ means any person who—

(a) enters directly or indirectly into transactions, including the placing of orders to trade, in UK emission allowances, auctioned products based thereon, or derivatives thereof and

(b) does not benefit from an exemption based on the second subparagraph of Article 17(2) of this Regulation.”;

(d) in point (25), for “an emission” substitute “a UK emission”.

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<sup>(1)</sup> EUR 2014/596.

<sup>(2)</sup> [S.I. 2011/2699](#).

<sup>(3)</sup> O.J. L173, 12.6.2014, p.1.

(4) In Article 6 (exemption for monetary and public debt management activities and climate policy activities), after paragraph 2A, insert—

“**2B.** This Regulation does not apply to the activities of the Secretary of State, the Scottish Ministers, the Welsh Ministers, a Northern Ireland department or any other officially designated body, or of any person acting on their behalf, which concern UK emission allowances and are undertaken in pursuit of the climate policies of the United Kingdom or of any part of the United Kingdom or in accordance with any international agreement to which the United Kingdom is a party.”.

(5) In Article 7(4) (inside information)—

(a) in the second subparagraph—

- (i) for “emission allowance market” substitute “market for UK emission allowances”;
- (ii) after “physical operations”, insert “relating to UK installations or UK aviation activities”;

(b) after the second sub-paragraph, insert—

“In the case of participants in the market for EU emission allowances with aggregate emissions or rated thermal input at or below the threshold set in accordance with the second subparagraph of Article 17(2) of Regulation (EU) 596/2014 as that Regulation applies in the European Union, information about their physical operations relating to an EU installation or EU aviation activities shall be deemed not to have a significant effect on the price of emission allowances, or auctioned products based thereon, or of derivative financial instruments.”;

(c) after paragraph 4, insert—

“**4A.** For the purposes of this Article—

- (a) an installation is a “UK installation” if activities at that installation resulting in the emission of carbon dioxide, perfluorocarbons or nitrous oxide (“greenhouse gases”) are regulated under the Greenhouse Gas Emissions Trading Scheme Order 2020;
- (b) an installation is an “EU installation” if activities at that installation resulting in emissions of greenhouse gases are regulated under the national law of an EEA State which implements [Directive 2003/87/EC](#);
- (c) aviation activities are “UK aviation activities” if emissions of greenhouse gases resulting from those activities must be monitored under the Greenhouse Gas Emissions Trading Scheme Order 2020;
- (d) aviation activities are “EU aviation activities” if the emissions of greenhouse gases resulting from those activities must be monitored under the national law of an EEA State implementing [Directive 2003/87/EC](#).”.

(6) In paragraph 1 of Article 8 (insider dealing), for “[Regulation \(EU\) No 1031/2010](#)” substitute “the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021”.

(7) In Article 17 (public disclosure of inside information)—

(a) for point (c) of the third subparagraph of paragraph 1, substitute—

“(c) UK emission allowance market participants.”;

(b) after paragraph 1, insert—

“**1A.** A UK emission allowance market participant is only required to disclose inside information concerning EU emission allowances if that participant enters into transactions, including the placing of orders to trade, directly or indirectly, in EU emission allowances, or in auctioned products based thereon, or derivatives based thereof.”;

- (c) for the first sub-paragraph of paragraph 2, substitute—
- “A UK emission allowance market participant shall publicly, effectively and in a timely manner disclose inside information concerning emission allowances which it holds in respect of its business, including—
- (a) aviation activities as specified in Annex I to [Directive 2003/87/EC](#) or in paragraph 1 of Schedule 1 to the Greenhouse Gas Emissions Trading Scheme Order 2020 (“the Order”), or
  - (b) installations within the meaning of Article 3(e) of that Directive or paragraph 2 of Schedule 2 to the Order,
- which the participant concerned, or its parent undertaking or related undertaking, owns or controls, or for the operational matters for which the participant, or its parent undertaking or related undertaking, is responsible, in whole or in part.
- With regard to installations, such disclosure shall include information relevant to the capacity and utilisation of installations, including planned or unplanned unavailability of such installations.”;
- (d) in the second sub-paragraph of paragraph 2, for “the installations or aviation activities” substitute “the UK installations or UK aviation activities”;
- (e) after the second sub-paragraph of paragraph 2, insert—
- “For the purposes of the second sub-paragraph—
- (a) during the period beginning on the date on which the Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021 come into force and ending with 30th April 2022 (“the initial period”), the “preceding year” means the year ending with 31st December 2020;
  - (b) after the initial period, during any period beginning with 1st May and ending with 30th April, “the preceding year” means the year ending with the 31st December which falls before the 1st of May in the period in question.”;
- (f) in paragraph 4—
- (i) for “issuer or an emission”, each time it occurs, substitute “issuer or a UK emission”;
  - (ii) for “issuer or emission”, each time it occurs, substitute “issuer or UK emission”;
- (g) in paragraph 7, for “the emission allowance” substitute “the UK emission allowance”;
- (h) in paragraph 8, for “issuer or an emission” substitute “issuer or a UK emission”.
- (8) In Article 18 (insider lists), in paragraph 8—
- (a) in point (a)—
    - (i) at the beginning, insert “UK”;
    - (ii) omit “registered in the United Kingdom”;
    - (iii) for “that emission” substitute “that UK emission”;
  - (b) for point (b), substitute—

“(b) any auction platform and auctioneer in relation to auctions of emission allowances or other auctioned products based thereon that are held pursuant to the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021.”;
  - (c) after paragraph 8, insert—

“**8A.** A UK emission allowance market participant (“P”) is only required to draw up a list of persons who have access to inside information relating to EU emission allowances if—

- (a) P enters into transactions, including the placing of orders to trade, directly or indirectly, in EU emission allowances, auctioned products based thereon or derivatives thereof, and
  - (b) the emissions from P's EU installations and EU aviation activities exceed the minimum threshold referred to in the second sub-paragraph of Article 17(2) of Regulation (EU) 596/2014 as that Regulation applies in the European Union.”.
- (9) In Article 19 (managers' transactions)—
- (a) in paragraph 1—
    - (i) in the opening words, before “emission allowance”, insert “UK”;
    - (ii) for point (b) of the first subparagraph, substitute—
      - “(b) in respect of UK emission allowance market participants (“P”), of every transaction conducted on their own account relating to—
        - (i) UK emission allowances, auction products based thereon or derivatives relating thereto, and
        - (ii) if the conditions referred to in Article 18(8A) are satisfied by P, EU emission allowances, auction products based thereon or derivatives relating thereto.”;
  - (b) in paragraph 3, before “emission allowance”, both times it occurs, insert “UK”;
  - (c) in paragraph 4, in point (b)—
    - (i) at the beginning, insert “UK”;
    - (ii) omit “registered in the United Kingdom”;
  - (d) in paragraph 5, before “emission allowance”, both times it occurs, insert “UK”;
  - (e) in paragraph 6(c), after “issuer or” insert “UK”;
  - (f) for paragraph 10, substitute—
 

“**10.** This Article also applies to persons discharging managerial responsibilities within any auction platform or auctioneer involved in the auctions held under the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021 and to persons closely associated with such persons in so far as their transactions involve emission allowances, derivatives thereof or auctioned products based thereon.

Those persons must notify their transactions to the auction platforms and auctioneer, as applicable, and to the FCA.

The information that is so notified must be made public by the auction platforms and auctioneer in accordance with paragraph 3.”.
- (10) In Article 25 (obligation to cooperate), in the second subparagraph of paragraph 8—
- (a) omit point (a);
  - (b) in point (b)—
    - (i) after “registry administrators” insert “in the EU or the UK”;
    - (ii) after “Central Administrator” insert “in the EU”;
    - (iii) after “public bodies” insert “in the EU or the UK”;
    - (iv) at the end insert “or under the Greenhouse Gas Emissions Trading Scheme Order 2020 or the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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