

Arrangements on primary auctions of emission allowances on the spot market of the European Energy Exchange (EEX) under Commission Regulation (EU) No 1031/2010 and clearing and settlement of such transactions through European Commodity Clearing AG (ECC)

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1. Applicable rules

1.1. Specific German legislative framework (as amended from time to time)

- *Börsengesetz* (hereinafter "German Exchange Act"), related to auctioning and trading on the exchange (*Börsengesetz* of 16.07.2007, BGBl. I S. 1330, 1351, available on: http://www.gesetze-im-internet.de/b_rsg_2007/index.html).
- *Kreditwesengesetz* (hereinafter "German Banking Act"), related to clearing and settlement (*Kreditwesengesetz* of 9.09.1998, BGBl. I S. 2776, available on: <http://www.gesetze-im-internet.de/kredwg/index.html>).
- *Insolvenzordnung* (hereinafter "German Insolvency Statute"), related to protection of emission allowances held in escrow and cash payments (*Insolvenzordnung* of 5.10.1994 BGBl. I page 1885, available on: http://www.gesetze-im-internet.de/englisch_inso/index.html).

1.2. Specific European legislative framework (as amended from time to time)

- Directive No 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community, OJ L 275, 25.10.2003, p. 32, (hereinafter "ETS Directive"), available on: <http://eur-lex.europa.eu/en/index.htm>; transposed in Germany through the *Treibhausgas-Emissionshandelsgesetz*, available on: http://www.gesetze-im-internet.de/tehg_2011/index.htm.
- 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 scheme for greenhouse gas emission allowances trading within the Community, OJ L 302, 18.11.2010, p. 1, (hereinafter "Auctioning Regulation"), available on: <http://eur-lex.europa.eu/en/index.htm>; (see also e.g. *Gesetz über den Wertpapierhandel* (hereinafter "Securities Trading Act"), available on: <http://www.gesetze-im-internet.de/wphg/index.html>).
- Commission Regulation (EU) No 1193/2011 of 18 November 2011 establishing a Union Registry for the trading period commencing on 1 January 2013, and subsequent trading periods, of the Union emissions trading scheme pursuant to the ETS Directive and Decision 280/2004/EC of the European Parliament and of the Council and amending Regulations (EC) No 2216/2004 and (EU) No 920/2010, OJ L 315, 29.11.2011, p.1, (hereinafter "Registry Regulation"), available on: <http://eur-lex.europa.eu/en/index.htm>.
- Directive No 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, OJ L 145, 30.4.2004, p. 1, available on:

<http://eur-lex.europa.eu/en/index.htm>; transposed in Germany through e.g. *Börsengesetz* (hereinafter "German Exchange Act"), available on: http://www.gesetze-im-internet.de/b_rsg_2007/index.html.

- Directive No 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse), OJ L 96, 12.04.2003, p. 16-25, available on: <http://eur-lex.europa.eu/en/index.htm>; transposed in Germany through e.g. *Gesetz über den Wertpapierhandel* (hereinafter "Securities Trading Act"), available on: <http://www.gesetze-im-internet.de/wphg/index.html>.
- Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, OJ L 309, 25.11.2005, p. 15, available on: <http://eur-lex.europa.eu/en/index.htm>; implemented in Germany through e.g. *Geldwäschegesetz* (hereinafter "Money Laundering Act"), available on: http://www.gesetze-im-internet.de/gwg_2008/gesamt.pdf.
- Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, OJ L 166, 11.6.1998, p. 45-50 (hereinafter "Settlement Finality Directive") available on: <http://eur-lex.europa.eu/en/index.htm>; transposed in Germany through e.g. the German Banking Act.
- Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements, OJ L 168, 27.6.2002, p.43-50 available on: <http://eur-lex.europa.eu/en/index.htm>; transposed in Germany through e.g. the German Banking Act.

1.3. Rules and regulations

- EEX's rules and regulations shall apply and be adapted to take account of these Arrangements, (see www.eex.com , for currently available full texts to be further adapted):
 - Exchange Rules
 - Trading Conditions including contract specifications
- ECC's Clearing Conditions shall apply and be adapted to take account of these Arrangements (see www.ecc.de , for currently available full text).
- The said rules and regulations or clearing conditions may be amended from time to time by EEX or ECC in accordance with the general applicable legislative framework and the service contract
- The said rules and regulations shall be applied in line with these Arrangements. Auctioneers hereby waive any rights under the Exchange Rules that are not in line with these Arrangements. In the event of any conflict, these Arrangements shall prevail over EEX's Trading Conditions and ECC's Clearing Conditions.

2. Definitions

Auction calendar	Has the same meaning as in Chapter III of the Auctioning Regulation. The auction calendar will set out the dates, bidding windows, size and other details of each auction to be held in a calendar year.
Auction delivery account	Has the same meaning as in Article 13 of the Registry Regulation. An auctioneer, an auction platform, a clearing system or a settlement system as defined in the Auctioning Regulation may submit to a national administrator a request for an auction delivery account in the Union Registry.
Auction table	Has the same meaning as in Article 56 and 57 of the Registries Regulation. Its content is described in Annex XI of the Registries Regulation. Each auction platform will have two auction tables for each calendar year from 2012, one for the auction of general allowances and one for the auction of aviation allowances.
Auction process	Has the same meaning as in Article 3(16) of the Auctioning Regulation: Auction processes means <i>"the processes encompassing the setting of the auction calendar, the procedures for admission to bid, the procedures for submission of bids, the conduct of the auction, the calculation and announcement of the auction results, the arrangements for payment of the price due, delivery of the allowances and management of the collateral needed to cover any transaction risks, as well as the surveillance and monitoring of the proper conduct of the auctions by an auction platform."</i>
Allowance	Has the same meaning as under point (a) of Article 3 of the ETS Directive. Allowance means <i>"an allowance to emit one tonne of carbon dioxide equivalent during a specified period, which shall be valid only for the purposes of meeting the requirements of the ETS Directive and shall be transferable in accordance with the provisions of the ETS Directive."</i>
Arrangements	The present arrangements between EEX and the auctioneers appointed by the contracting Member States, and adopted by the Commission upon approval by the contracting Member States.
Aviation allowance	An aviation allowance or EUAA refers to an allowance which in accordance with Chapter II of the ETS Directive is valid for surrendering against emissions from aviation activities only from the start of the inclusion of aviation in the EU ETS, being 1 January 2012.
ECC	European Commodity Clearing AG, the clearing house of EEX.
ECC Lux	European Commodity Clearing Luxembourg S.a.r.l, a subsidiary of ECC (with the objective of providing physical settlement of all transactions for which ECC has assumed clearing).

ECC business day	The business days indicated in the ECC Clearing Conditions.
ECC system	The payment system of ECC as central counterparty and clearing house designated under Article 10 of the Settlement Finality Directive, including these Arrangements.
EU Auction Account	Account created by the central administrator in accordance with Article 38(1) of the Registries Regulation.
EU Aviation Account	EU Aviation Auction Account Account created by the central administrator in accordance with Article 38(1) of the Registries Regulation.
Framework contract	Has the same meaning as in Article 88(2) of the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 248, 16.9.2002, p. 1 ("Financial Regulation"). In the context of these arrangements: the contract concluded between the contracting Member States and the Commission, on one hand, and the auction monitor, on the other hand.
General allowance	Has the same meaning as in Article 3(8) of the Registry Regulation. A general allowance or an EUA is " <i>any allowance other than an aviation allowance that is created pursuant to the ETS Directive.</i> "
EEA	European Economic Area.
EEA EFTA States	EFTA States party to the EEA Agreement.
EFTA	European Free Trade Association.
Random algorithm	Algorithm referred to in Article 7(2) of the Auctioning Regulation, used for the random selection of bids with the same price.
Reserve price	It is the secondary market price referred to in Article 7(6) of the Auctioning Regulation.
Registry account	One of the accounts enumerated in Annex 1 of the Registry Regulation, held in accordance with the provisions of the Registry Regulation.
Opt-out Member States	The Member States that have informed the Commission of their decision not to participate in the joint action provided for in Article 26 of the Auctioning Regulation, in accordance with Article 30(4) of that Regulation, namely Germany, Poland and the United Kingdom.
Service contract	The contract concluded, in the meaning as in Article 88(1)(d) of the Financial Regulation, between the contracting Member States and the Commission on one hand, and the TCAP (EEX) on the other hand.

TCAP	Transitional common auction platform. Has the same meaning as in Article 26(2) of the Auctioning Regulation. TCAP was appointed to auction allowances pursuant to Article 28 of the Auctioning Regulation following a joint procurement procedure between the Commission and the Member States participating in the joint action.
TARGET2	TARGET is the Trans-European Automated Real-time Gross settlement Express Transfer system: the Eurosystem's real-time gross settlement system for the euro.
VAT	Value added tax

3. Auctioneer and access requirements

3.1. General requirements governing admission and recognition

- A public or private entity appointed as an auctioneer by a contracting Member State, pursuant to Article 22(1) of the Auctioning Regulation and with a mandate to auction emission allowances and receive the auction proceeds on its behalf, pursuant to Article 23(a) and (b) of the Auctioning Regulation, has to be admitted as an auctioneer on EEX and recognised as an auctioneer by ECC, subject to fulfilment of any requirement specified in the current arrangements.
- To qualify for admission as an auctioneer by EEX or recognition as an auctioneer by ECC, the entity appointed by the relevant contracting Member State(s) must be a "participant" within the meaning of Article 2(f) of the Settlement Finality Directive¹, which means that it shall either be:
 1. an institution within the meaning of Article 2(b) of the Settlement Finality Directive;
 2. a central counterparty within the meaning of Article 2(c) of the Settlement Finality Directive;
 3. a settlement agent within the meaning of Article 2(d) of the Settlement Finality Directive;
 4. a clearing house within the meaning of Article 2(e) of the Settlement Finality Directive;or
 5. a system operator within the meaning of Article 2(p) of the Settlement Finality Directive.
- EEX shall invite the auctioneers by letter to submit an application form to be admitted as auctioneers at EEX and to be recognised as auctioneers by ECC.
- Admission by EEX is an administrative act governed by German public law.
- By contrast, recognition by ECC is based on German private law. Such recognition is a precondition for admission as an auctioneer at EEX. Upon such recognition being granted, a letter from ECC recognising the auctioneer shall be sent by EEX.
- EEX's "Admissions Department" shall act as the single point of contact both for EEX and ECC. This means that the requirements for recognition by ECC shall be handled by EEX in the course of the admission process.
- The auctioneer must inform EEX immediately of any changes to any information provided during the admission process or any other circumstances potentially affecting the auctioneer's admission to EEX or recognition by ECC.
- In the event that an auctioneer is not admitted or recognised, prior to the publication of the auction calendar, the volume of allowances to be auctioned by the appointing contracting Member State shall be withheld from the relevant auction(s) pursuant to Article 22(5) of the

¹ Available on: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1998L0026:20120816:EN:PDF>.

Auctioning Regulation. The calendar shall be determined and published accordingly pursuant to section 4.2.

3.2. Specific requirements for the admission of auctioneers by EEX

- To be admitted by EEX, the auctioneer must:
 - provide the name and contact details of the person authorised to represent the auctioneer and sign legally binding documents;
 - provide a specimen signature of the authorised representative;
 - provide the name and contact details of a contact person appointed by the authorised representative for day-to-day business and to receive all correspondence, including legally binding documents;
 - provide a letter from the contracting Member State signed either by the authorised member representing the contracting Member State in the Joint Procurement Steering Committee established by the Joint Procurement Agreement to procure common auction platforms or by the Permanent Representative to the European Union ("EU") of the appointing contracting Member State attaching the act of appointment of the auctioneer (with a certified English or German language translation). In case that the relevant national act of appointment does not contain a specific reference to the appointment of the auctioneer, the letter should be sent by the Permanent Representative to the EU of the appointing contracting Member State and should attest as to the correctness of the identity of the auctioneer.;
 - declare that it accepts the full text of EEX's Exchange Rules and Trading Conditions as adapted to reflect these Arrangements as well as amended from time to time; successfully complete the know-your-customer (KYC) process for private entities only (if not a financial institution supervised by national authorities);
 - declare that persons working for the exercise of the functions of the auctioneers as provided for in the applicable legislation and these Arrangements:
 - do not have any interests of a financial nature with respect to the auctions that would undermine their integrity or impartiality in carrying out their functions;
 - shall keep all information regarding the auctions that are not publically available confidential;
 - will not use information regarding the auctions for purposes other than the exercise of the functions of the auctioneer;
- Admission at EEX must be refused if the above conditions are not fulfilled.
- The Management Board of the Exchange is entitled to withdraw the admission of an auctioneer, should it transpire that one or more of the above conditions were not fulfilled at the time of granting of the admission.
- The Management Board of the Exchange is entitled to revoke the admission of an auctioneer if one or more of the above conditions cease to be fulfilled.
- Upon reasonable grounds that one or more of the above conditions were not fulfilled at the time of granting the admission, or has/have subsequently ceased to be fulfilled, the Management Board of the Exchange may suspend the admission of an auctioneer.

3.3. Specific requirements for recognition as auctioneer by ECC

- To be recognised as auctioneer by ECC, the auctioneer must:
 - declare that it accepts the full text of ECC's Clearing Conditions as adapted to reflect these Arrangements as well as amended from time to time;
 - nominate a TARGET2 bank account for payment of the auction proceeds. Auctioneers have the following options:
 - a. use their own TARGET2 account;
 - b. use the TARGET2 account of a third party, which is not an ECC clearing member (see list of TARGET2 account holders as provided by the European Central Bank), <http://www.ecb.int/paym/t2/professional/participation/html/index.en.html>);
 - c. use the TARGET2 account of a third party, which is an ECC clearing member (see list of ECC clearing members, <http://www.ecc.de/en/about-ecc/partners-products/clearing-members>);
 - provide one or both of the following forms to nominate a TARGET2 account:
 - TARGET2 form No. 2002 “Debit Mandate for AS settlement” (http://www.centralbank.ie/paycurr/paysys/target2/Documents/2002_AS_Mandate.pdf) duly signed by the account holder (required for options a. and b.);
 - TARGET2 form “EU12 Authorisation of the TARGET2 Account Holder” (http://cdn.ecc.de/document/13429/20080603_CM12_Authorization_TARGET2.pdf) duly signed by the account holder in case of the nomination of a TARGET2 account of a third party (required for options b. and c.)

Neither TARGET2 form shall be used for any purpose other than to credit the nominated TARGET2 account of an auctioneer with the auction proceeds. The nomination of a third party TARGET2 account may require a bilateral agreement between the auctioneer and the TARGET2 account holder to use the account. That is a matter for the auctioneer and the relevant account holder to set up;

 - provide a VAT identification number and VAT classification² for private entities only (<http://www.ecc.de/en/access-to-ecc/non-clearing-members/ncm-forms>).
- Recognition by ECC must be refused if the above conditions are not fulfilled.
 - ECC can revoke its recognition of an auctioneer in case the above conditions for recognition have ceased to exist.

² It is needed for ECC's internal purposes only. It has no VAT impact for the auctioneers.

4. Auction Design

4.1. General rules

- Auctions shall be conducted *inter alia* in accordance with the principles of equal treatment, non-discrimination, proportionality, confidentiality and impartiality.
- No fees shall be charged to an auctioneer.
- An auctioneer shall not be entitled to enter sell orders into the EEX trading system. The auction calendar, established in accordance with Chapter III of the Auctioning Regulation as adjusted from time to time, pursuant to Article 14 of the Auctioning Regulation shall constitute the order by the auctioneer to EEX to auction allowances for the contracting Member State appointing the auctioneer.
- An auctioneer shall not be entitled to enter transfer orders into the ECC clearing system. The auction table, established in accordance with Articles 56 and 57 of the Registry Regulation as amended from time to time, pursuant to Article 58 of the Registry Regulation shall constitute the concrete order for ECC to request the transfer of allowances to ECC's auction delivery account, in accordance with Article 59(1) of the Registry Regulation.
- An auction does not take place unless the auctioned allowances have been successfully received by ECC Lux on its auction delivery account at the latest by noon one ECC business day before the day of the auction (T-1).

4.2. Establishment of the auction calendar

- EEX shall determine the auction calendar for individual auctions in accordance with Articles 11 and 13 of the Auctioning Regulation, and the service contract.
- The auction calendar must be determined and published by EEX, in good time prior to the commencement of the relevant auction(s).
- The Commission shall verify, approve or reject the auction calendar on behalf of the contracting Member States pursuant to Article 26 of the Auctioning Regulation.
- The auction calendar may also provide for those adjustments that EEX is allowed to make, pursuant to Article 14(1) of the Auctioning Regulation, without seeking any further approval or opinion under Article 14(2) of the Auctioning Regulation.
- Application for admittance as an auctioneer shall entail acceptance of all auction calendars determined and published by EEX in accordance with Chapter III of the Auctioning Regulation and the Service Contract, following the approval of the Commission acting as contracting authority on behalf of the contracting Member States and the notification of the Commission's opinion pursuant to Articles 11(1), 13(1) or 14(2) of the Auctioning Regulation.
- Such acceptance shall cover all adjustments made to an established auction calendar, which are allowed pursuant to an authority granted therein without the need for EEX to seek any further approval or opinion from the Commission. By virtue of this acceptance the auctioneer authorises EEX to auction the allowances on its behalf by entering sell orders in the auction system in accordance with the most recent validly established auction calendar.

- The volume of allowances withheld for each contracting Member State shall be identified in the auction calendar determined and published by EEX to denote that it has been withheld from the relevant auction(s) pending admission and/or recognition of the auctioneer appointed by the contracting Member State concerned.
- Where an auctioneer is later admitted by EEX or recognised by ECC, the auction calendar shall be modified by EEX pursuant to Article 14(1)(j) of the Auctioning Regulation, in accordance with the authority given to EEX to effect such adjustments contained in the auction calendar, to allow for the auctioning of the allowances to be auctioned on behalf of the appointing contracting Member State as from 14 days from the conclusion of the admission or as soon as practicable thereafter.

4.3. Establishment of the auction table

- Upon determination and publication of the auction calendar by EEX in accordance with the preceding subsection, EEX shall instruct ECC to determine the auction table in accordance with Articles 56 to 57 of the Registry Regulation and submit the same to the Commission. This moment shall constitute the moment of entry into the ECC system of the instructions relating to the delivery of the allowances and the payment of the auction proceeds as from that moment the said instructions are protected within the meaning of Article 3(3) of the Settlement Finality Directive.
- ECC shall determine and submit to the Commission the auction table in accordance with Articles 56 to 57 of the Registry Regulation and the service contract.
- ECC shall make changes to the auction table in accordance with Article 58 of the Registry Regulation, *inter alia*, to ensure that it is in line with the most recent validly established auction calendar, as modified from time to time.
- Any request made by ECC on behalf of the auctioneer for the transfer of allowances pursuant to Article 59(1) of the Registry Regulation to EEX Lux's auction delivery account by means of an auction table must be in accordance with the most recent validly established auction calendar, as modified from time to time.

4.4. Auction process

- The auction process shall be conducted in accordance with the service contract. More particularly:
 1. The auction window is opened by EEX's "Market Supervision" for 2 hours.
 2. EEX's "Market Supervision" will enter sell bids on behalf of the auctioneers in the auction system at the start of the bidding window, in accordance with the established auction calendar.
 3. Bidders place their own buy bids in the auction system via their trading screen. Where bidders use EEX's "order on behalf" facility EEX's "Market Supervision" will enter their buy bids in the auction system.
 4. EEX's "Market Supervision" checks the validity of all bids and applies the "reserve price" procedure.

5. The auction system determines the auction clearing price (in case of bids being tied at the same price the "random algorithm" is applied by the auction system). As from that moment the instructions entered into the ECC system on behalf of the auctioneers and by or on behalf of the successful bidders cannot be revoked in accordance with Article 5 of the Settlement Finality Directive.
6. EEX's "Market Surveillance" monitors the whole auction process including the auction results.

4.5. Extension of the bidding window

- EEX is not entitled to extend the bidding window without prejudice to the possibility to deviate from this in accordance with the flexibility clause in section 10 of these Arrangements.

4.6. Auction Results

- The auction results provided for in Article 61(2) of the Auctioning Regulation shall be available in the auction system, immediately after the auction.
- This includes the:
 - volume of the allowances auctioned;
 - auction clearing price in Euros;
 - revenue earned from the auction;
 - distribution of the revenue between the contracting Member States, in the case of auction platforms appointed pursuant to Article 26(1) or (2) of the Auctioning Regulation.
- The same auction results shall be published on www.eex.com, within 15 minutes of the close of the bidding window, together with the following information:
 - the total volume of bids submitted;
 - the total number of bidders and the number of successful bidders;
 - in case of cancellation of an auction, the auctions to which the volume of allowances will be carried over.
- Individual bidding data can be viewed by: EEX "Market Supervision" and "Market Surveillance" for all bidders; and by each bidder in relation to its own bidding.

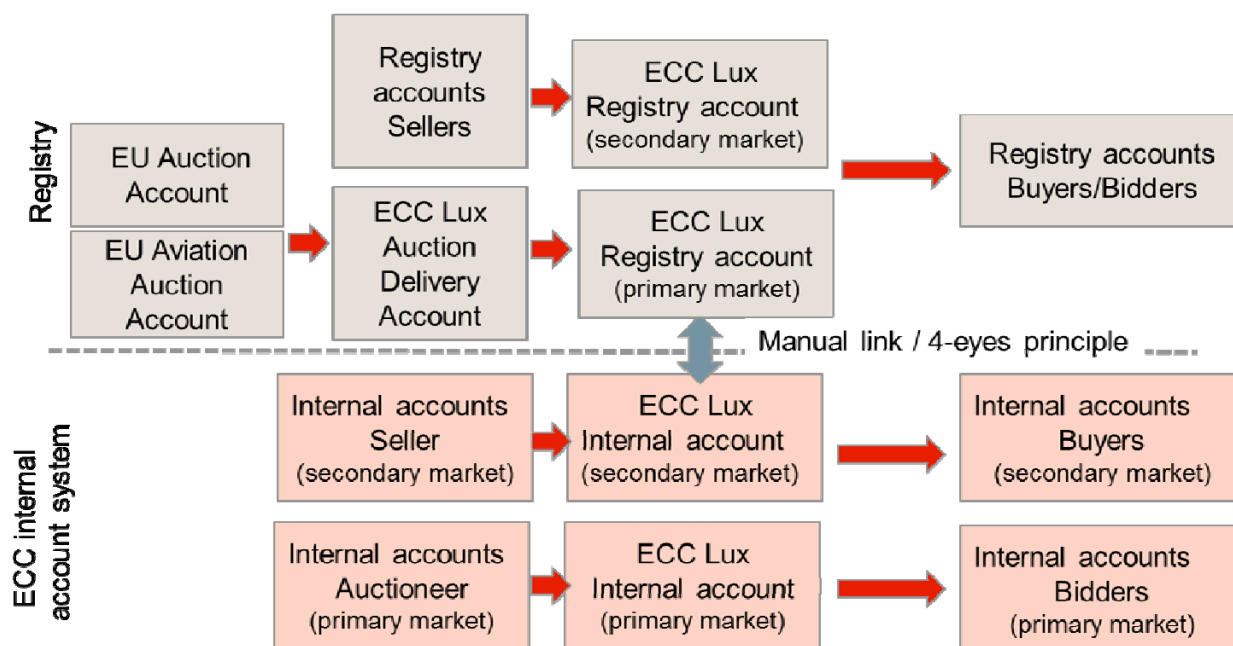
4.7. Cancellation of an auction

- If the total volume of allowances bid is less than the total volume of allowances auctioned or if the auction clearing price is not equal or more than the "reserve price", EEX shall cancel the auction according to Article 7(5) and (6) of the Auctioning Regulation.
- In the event of such cancellation, ECC shall transfer back any unused allowances to the EU Auction Account or the EU Aviation Auction Account if so decided by the Commission acting as contracting authority on behalf of the contracting Member States and notified to ECC.
- EEX's "Market Supervision" shall inform all trading participants on EEX including the auctioneers of its decision to cancel an auction *via*:
 - the auction system (trading participants and auctioneers);

- the market message service (trading participants only);
- e-mail (auctioneers only).

5. Clearing and Settlement

5.1. The account structure and the clearing and settlement process



Note: There is no segregation of beneficial ownership at the level of Registry accounts held by the EU or ECC Lux, but segregation of beneficial ownership is ensured by the ECC internal account system.

5-1: Physical delivery – Account structure overview

- The clearing and settlement process shall be conducted in accordance with these Arrangements and the service contract entered into between EEX on the one hand and the Commission and the contracting Member State(s) on the other hand.
- EU Auction Account and EU Aviation Auction Account: allowances to be auctioned are transferred into these accounts by the Commission on behalf of the relevant contracting Member State pursuant to Articles 39 and 42 respectively of the Registry Regulation.
- ECC Lux's auction delivery account: the Commission will be requested to transfer the auctioned allowances to ECC Lux's auction delivery account held in Germany, in accordance with Article 59(1) of the Registry Regulation, prior to each auction. The provision by ECC of the auction table to the Commission, in accordance with Articles 56 and 57 of the Registry Regulation, shall constitute the request to transfer.
- Internal account auctioneer: each auctioneer shall have an internal account in the ECC internal account system. Receipt of the auctioned allowances into ECC Lux's auction delivery account shall be mirrored in the ECC internal account system by booking them into the internal account of each auctioneer in the ECC internal account system.
- Internal accounts bidders (primary market): after cash collection of the total auction proceeds from the clearing members of the successful bidders and payment of the auction proceeds to each auctioneer, the auctioned allowances will be transferred by ECC from the

internal accounts of the auctioneers to the internal accounts of the successful bidders in the ECC internal account system, in accordance with the auction results.

- ECC Lux's holding/trading account (primary market): after cash collection from the clearing members of the successful bidders, payment of the auction proceeds to each auctioneer and the booking of the auctioned allowances into the internal accounts of the successful bidders in the ECC internal account system the auctioned allowances are transferred from ECC Lux's auction delivery account to ECC Lux's holding/trading account (primary market) held in Germany.
- Registry accounts of bidders (secondary market): upon request by a successful bidder after delivery has been effected in accordance 5.2. and 5.3 the auctioned allowances can be transferred either directly from ECC Lux's auction delivery account to the bidder's nominated registry account or from ECC Lux's holding/trading account (primary market) to the bidder's nominated registry account . This transfer is reflected in the ECC internal account system.

5.2. Escrow agreement regarding the auctioned allowances

- Allowances to be auctioned shall be held in escrow by ECC Lux in the ECC Lux auction delivery account as collateral security within the meaning of Article 2(m) of the Settlement Finality Directive as implemented in section 166 (3) 1 of the German Insolvency Statute.
- ECC Lux shall be the escrow agent holding legal title to the auctioned allowances until their delivery to the successful bidders after payment of the auction proceeds has been effected in accordance with these Arrangements; or until their return to the EU Auction Account or the EU Aviation Auction Account, whichever occurs earliest.
- During the term of the escrow agreement, neither ECC nor ECC Lux shall have any right to dispose of the allowances other than as stipulated in these Arrangements. ECC and ECC Lux shall be jointly and severally liable for any breach of this escrow agreement.
- During the term of the escrow agreement, no request for the transfer of allowances from the ECC Lux auction delivery account shall be initiated until after payment of all auction proceeds has been successfully effected by ECC in accordance with these Arrangements.
- Delivery of the allowances to the successful bidders shall occur in the ECC Lux auction delivery account by booking the auctioned allowances to the internal accounts (primary market) of the successful bidders in the ECC internal account system, in accordance with the auction results. From that moment onwards ECC Lux shall hold the auctioned allowances in the ECC Lux auction delivery account in escrow for the successful bidders.
- After delivery of the auctioned allowances to the successful bidders as set out in the preceding bullet point, the said allowances could either be transferred by ECC to the ECC Lux Registry account (primary market), where the allowances shall also be held in escrow for the relevant successful bidders; or may be transferred directly to the Registry account of the relevant successful bidders, at which point legal title shall transfer *prima facie* to the holder of the relevant Registry account.
- German law is applicable to this escrow agreement and only the German courts shall be competent.

5.3. Payment

- Payment of the auction proceeds to the auctioneers shall be conducted in accordance with these Arrangements and the service contract entered into between EEX on the one hand and the Commission and the contracting Member State(s) on the other hand.
- Payment by ECC of the auction proceeds to the nominated TARGET2 accounts of each auctioneer shall take place through the TARGET2 system in Euros only forthwith on the first ECC business day following the day of the auction (T+1), immediately after cash collection by ECC from the clearing members of the successful bidders has taken place.
- In the event of a failure of cash collection by ECC from one or more clearing members of one or more successful bidders, ECC shall apply collateral held by ECC and clearing fund contributions to satisfy ECC's payment obligations towards each auctioneer.
- Where transfer of payment to the nominated TARGET2 account of a given auctioneers is unsuccessful, due to circumstances outside ECC's control, ECC shall meet its payment obligation by transferring the amount payable to an alternative account if the relevant auctioneer has nominated such account. Where such alternative account is not provided or payment to that account is also unsuccessful, ECC shall effect its payment obligation by transferring the amount payable to a notary trust account (NOTAR-ANDERKONTO) in cleared funds for the benefit of the relevant auctioneer. In the case of transfer to such notary trust account, any cost pertaining to the holding of the funds shall be incurred by the relevant auctioneer. The arrangements entered to in between ECC and the notary shall provide that the notary make its best endeavors to execute without delay the transfer the amount payable to any account identified and notified by the auctioneer.
- Amount payable to each auctioneer shall be paid without any deductions being made, unless otherwise agreed in these Arrangements.
- The amount transferred to each auctioneer shall be equal to the number of allowances auctioned by that auctioneer multiplied by the auction clearing price announced in the results of the auction.
- By way of exception, where a valid invoice approved either by:
 - the Commission acting on behalf of one or more contracting Member State(s) participating in a joint action to appoint an auction monitor pursuant to Article 24(2) of the Auctioning Regulation; or by
 - one or more of the contracting Member States(s) acting on their own account ;is submitted to ECC by the auction monitor; the respective share of the invoice of each contracting Member State, as set out in the framework contract concluded with the auction monitor, shall be deducted from the next payment of the auction proceeds made to the relevant auctioneer and paid to the auction monitor in full and final settlement of the said invoice.

6. Contract Specifications

EU Emission Allowances (General Allowances)

ISIN code/ WKN/ Exchange Code/ Name	DE000A1CQ9U1	A1CQ9U	T2PA	EUA Primary Auction (2 nd Compl. Period)
	DE000A1N5HU0	A1N5HU	T3PA	EUA Primary Auction (3 rd Compl. Period)
EU Emission Allowance	Permits to emit one ton of carbon dioxide or one ton of a carbon dioxide equivalent within the meaning of Directive 2003/87/EC of 13 Oct. 2003 as last amended by Directive 2009/29/EC of 23 April 2009 in its valid version at the time of the conclusion of a contract which are kept by a register within the meaning of Article 19 of this Directive and which can be transferred at the respective delivery day within the scope of said directive or any respective succeeding rule (EU Emission Allowance).			
Subject of the Contract	1 EU Emission Allowance (EUA)			
Minimum Lot Size	500 contracts or a multiple thereof. The Management Board of the Exchange may different hereto set a divergent Minimum Lot Size for individual auctions.			
Form of Trading	Single side auction which means that the exchange participants can only act as buyers.			
Time of Trading	The exact dates and times are published in the auction calendar.			
Auction Volume	As published in the auction calendar.			
Pricing	EUR per EUA			
Minimum Price Change	EUR 0.01 per EUA			
Fulfilment Date	On the first ECC business day after the conclusion of the contract.			
Escrow Accounts	Auctioned allowances are held in escrow by ECC Lux in primary auction accounts as collateral security within the meaning of Article 2(m) of the Settlement Finality Directive as implemented in section 166 (3) 1 of the German Insolvency Statute.			
Fulfilment of the Contract	Fulfilment is carried out by delivering the purchased EUAs after payment: upon receipt of the payment by the auctioneer(s), ECC Lux transfers the purchased EUAs into the internal account of the successful bidders in the ECC internal account system and subsequently makes the corresponding changes in the ECC Lux escrow accounts held at the registry.			

Transfer of EUAs	Following fulfilment of the contract, successful bidders are entitled to demand the transfer of EUAs, held in escrow for them, in the ECC Lux escrow accounts at the registry, to a registry account specified by them. The demand is executed at the latest on the first ECC business day after it is made.
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Aviation Allowances

ISIN code/ WKN/ Exchange Code/ Name	DE000A1MLGB3	A1MLGB	EAA2	EUAA Primary Auction (2 nd Compl. Period)
	DE000A1N5HT2	A1N5HT	EAA3	EUAA Primary Auction (3 rd Compl. Period)
EU Aviation Allowance	Permits to emit one ton of carbon dioxide or one ton of a carbon dioxide equivalent within the meaning of Directive 2003/87/EC of 13 Oct. 2003 as last amended by Directive 2009/29/EC of 23 April 2009 in its valid version at the time of the conclusion of a contract which are kept by a register within the meaning of Article 19 of this Directive and which can be transferred at the respective delivery day within the scope of said directive or any respective succeeding rule (EU Aviation Allowances).			
Subject of the Contract	1 EU Aviation Allowances (EUAA)			
Minimum Lot Size	500 contracts or a multiple thereof. The Management Board of the Exchange may different hereto set a divergent Minimum Lot Size for individual auctions.			
Form of Trading	Single side auction which means that the exchange participants can only act as buyers.			
Time of Trading	The exact dates and times are published in the auction calendar.			
Auction Volume	As published in the auction calendar.			
Pricing	EUR per EUAA			
Minimum Price Change	EUR 0.01 per EUAA			
Fulfilment Date	On the first ECC business day after the conclusion of the contract.			
Escrow Accounts	Auctioned allowances are held in escrow by ECC Lux in primary auction accounts as collateral security within the meaning of Article 2(m) of the Settlement Finality Directive as implemented in section 166 (3) 1 of the German Insolvency Statute.			
Fulfilment of the Contract	Fulfilment is carried out by delivering the purchased EUAAs after payment: upon receipt of the payment by the auctioneer(s), ECC Lux transfers the purchased EUAAs into the internal account of the successful bidders in the ECC internal account system and subsequently makes the corresponding changes in the ECC Lux escrow accounts held at the registry.			

Transfer of EUAAs	Following fulfilment of the contract, successful bidders are entitled to demand the transfer of EUAAs, held in escrow for them, in the ECC Lux escrow accounts at the registry, to a registry account specified by them. The demand is executed at the latest on the first ECC business day after it is made.
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7. Communication and information sharing

- All communication regarding the auction process shall take place between EEX and/or ECC and the Commission, acting on behalf of the contracting Member States, especially with regard to the volume of allowances to be auctioned or transferred.
- By way of exception, communication between the auctioneer and EEX and/or ECC shall be limited to practical day-to-day operational matters on admission, cancellation of one or more auctions, the processing of payments or to inform them of any action taken under its market conduct rules pursuant to Article 58 of the Auctioning Regulation or where required by law.
- All communication sent to EEX and/or ECC regarding the auction process from the auctioneers shall be directed to the Commission, whereupon the Commission shall forward the same to the appointing Member State.
- All communication sent to EEX and/or ECC regarding the auction process from the contracting Member States shall be directed to the Commission.
- EEX and ECC are entitled to share all relevant information regarding an auctioneer and the auction process with the Commission, their national supervisory authorities and the auction monitor.

8. EEA EFTA States and Opt-out Member States

- All references to “Member States” shall be read as being references to EEA EFTA States, which have notified their intention to the Commission to use the TCAP for the auctioning of their allowances by aggregating such allowances to the allowances auctioned by EEX under the service contract for the TCAP.
- All references to “Member States” shall also be read as being references to opt-out Member States, which have notified their intention to the Commission, to use the TCAP for the auctioning of their allowances by aggregating them to the allowances auctioned by EEX under the service contract for the TCAP; in the absence of the listing of their own opt-out platform in Annex III of the Auctioning Regulation.

9. Amendment of these Arrangements

Any amendment to these Arrangements shall be made in accordance with Article II.7. of the service contract. The auctioneers shall be bound by any such amendment.

10. Flexibility clause

The auctioneers acknowledge that EEX and/or ECC may take any action required to ensure the proper conduct of the auctioning, clearing and settlement of the allowances pursuant to the first paragraph of Article 9, Article 45, Article 48, Article 58 or Article 65 of the Auctioning Regulation.

EEX and/or ECC shall consult the Commission in good time prior to taking any such action stating the reasons for such action. In cases of emergency, EEX and/or ECC may take such action at their own initiative subject to subsequent notification of the action and the reasons for taking that action to the Commission.

The foregoing paragraphs shall not affect the provisions of the Service Contract regarding the management of that contract entered into between EEX on the one hand and the Commission and the contracting Member States on the other hand, unless otherwise stated in these Arrangements.