EU Emissions Trading Scheme (ETS) – Consultation on design and organisation of emissions allowance auctions

This document is the questionnaire for this consultation. The survey contains **4** initial questions (A-D) to identify respondents, **86** questions for which responses will be made public and **4** questions that are classified confidential, must be sent directly to the European Commission and will not be made public. The questions that are classified potentially confidential are on two separate pages (2 questions on each page) and highlighted in green boxes.

Period of consultation

From 3 June 2009 to 3 August 2009 inclusive

How to submit your contribution

This consultation seeks to obtain feedback from all categories of stakeholders regarding the different aspects of auction design and implementation covered in the Consultation Paper.

We are sorry for the inconvenience, but the web-based survey is not available yet. If participants wish to complete the survey on this document and send their contributions back to **contact_ets_auctions_consultation@icfi.com** their responses can be accepted in this format. The web-based survey will be available as soon as possible if participants wish to wait till that is available.

Received contributions will be published on the Internet. It is important to read the specific privacy statement attached to this consultation for information on how your personal data and contribution will be dealt with.

Specific privacy statement

"Received contributions, together with the identity of the contributor, will be published on the Internet, unless the contributor objects to publication of his or her personal data on the grounds that such publication would harm his or her legitimate interests. In such cases the contribution may be published in an anonymous form. Otherwise, the contribution will not be published nor will, in principle, its content be taken into account. Responses for questions deemed confidential in the consultation will not be available for view on the website irrespective of contributor objecting or not. "

Instructions to filling out the questionnaire

- Questions may only be answered in designated response fields

- For certain multiple choice questions, simply click on box to indicate choice ☐

- Answer [Y/N] questions by typing “y” / “Y” or “n” / “N” on underlined area (___)

- Some responses require explanations, additional comments and detailed answers. These will either by identified by underline (___) or an answer section (A:____). The amount of text that can be entered here is unlimited.

- After completing the survey, please save and send to contact_ets_auctions_consultation@icfi.com

- If any questions seem unclear in context or for method of response, please mail contact_ets_auctions_consultation@icfi.com to clarify

Thank you

Section 1: Questions to categorize participants

Question A

Name of Company/Organization: EEX Eurex Cooperation

Principal nature of activities:

General Remarks

Background on EEX and Eurex

European Energy Exchange (EEX) and Eurex welcome the opportunity to provide comments to the EU Commission consultation on the Technical Aspects of EU Emission Allowances Auctions.

As of December 2007, EEX and Eurex cooperate in emissions trading and clearing. The alliance combines EEX's energy market membership and connectivity to the European power trading community with Eurex's financial market membership and global derivatives trading community. Optimized trading and clearing processes set new standards with respect to market efficiency and global distribution in emissions trading.

About EEX

EEX operates spot and derivatives markets for European energy and related products. With currently 234 trading participants from 21 countries, EEX is the exchange with the largest number of participants and the highest turnover volumes in the European electricity markets. Clearing of exchange and over-the-counter transactions (OTC Clearing) for all products listed on EEX is provided by European Commodity Clearing AG (ECC). ECC is a subsidiary of EEX.

About Eurex

Eurex, a subsidiary of Deutsche Börse AG and SWX Swiss Exchange, is one of the world’s leading financial derivatives exchanges. Eurex offers a wide range of international benchmark products in single equity, equity index and interest rate derivatives. Eurex operates a global trading network with 404 member firms in 24 countries. Eurex has a very strong presence in the US and UK market. Eurex Clearing AG is the fully owned clearinghouse for Eurex’ markets. Eurex Clearing operates clearing links with North-American clearinghouses to support transatlantic access to its markets.

Both exchanges are Regulated Markets according to the Markets in Financial Instruments Directive (MiFID).

We appreciate that there are practical benefits associated with an online questionnaire as a means to collect responses and evaluate those quickly. However, we wish to put

forward some general considerations and principles that are important to be discussed before the individual questions are raised. Therefore, our answers to the questions below are to be read in the light of the general remarks laid down here.

Starting Position: Secondary Markets and Large-Scale Auctioning

Whilst it is imperative for any market to function efficiently and to protect market confidence, it is of particular importance for politically founded cap and trade markets like the EU Emission Trading Scheme (EU ETS). Thus, maintaining the functioning and integrity of the secondary markets as lead venues for price discovery and efficient allocation should continue to enjoy highest priority when designing a comprehensive auctioning scheme for the third trading period 2013-2020 (Phase III).

Today, secondary carbon spot and derivatives markets arising from the EU ETS provide a continuously accessible source of liquidity and immediacy for hedging and directional trading activities of industrial as well as financial participants. Secondary markets and trading products are a pivotal element of risk management in the European energy markets. There is a well established, competitive and cost-efficient market infrastructure comprising on- and off-exchange trading venues and clearinghouses. For the most part, this market infrastructure is shared with adjacent European financial and energy trading markets, thereby allowing for cost-efficient trading and hedging across correlated asset classes and products.

Against this background, all further developments related to carbon markets should be implemented by reflecting above principles; hence considering auctioning not only as tool to allocate allowances to compliance buyers but as further market instrument relevant for all players involved.

With regard to carbon markets regulation and supervision, we are glad to see that work is underway to enhance the regulatory framework to match financial market standards. In particular, the interplay between existing prudent financial markets regulation, efforts to enhance spot markets regulation and filling in gaps by the upcoming regulation on auctioning where necessary will make the overall carbon market framework, both on-exchange and off-exchange, robust and well equipped for the future. In this respect, we deem an EU-wide harmonized applicability and enforceability of rules crucial. Convergence of supervisory practices by regulators would further enhance the market functioning. As auctions become a new and integral part of the carbon markets they should indeed be governed consistently by the very same harmonized supervisory practices as secondary market activities.

The magnitude of the envisaged auctioning volumes in relation to secondary market liquidity makes auctioning design in Phase III a unique venture. It is new territory since neither financial nor commodity markets have yet experienced and probed a comparable challenge. Whilst there is indeed a fund of theoretical work and practical experience with public and private auctioning, there is no instance dealing comprehensively with the issues at hand for Phase III. In particular, liquidity shocks and distortions to efficient

price discovery which could be the impact of a wrongly designed large scale auctioning scheme are absolutely critical and need careful consideration in order to get the implementation of auctions right.

Against this background, secondary market operators like Regulated Markets and clearinghouses do have a fundamental interest in a smooth and effective supply of liquidity through auctions. Indeed, they also have a valid commercial interest in protecting market confidence, transparency and integrity to generate trading interest and liquidity. Consequently, secondary market operators would be pleased to contribute to the preparing of the legislation on auctioning for Phase III. Their closeness with the market, their technical and functional experience in deploying trading and auctioning models in financial and commodity markets, and finally their role as operators of vital parts of the established market infrastructure provides them with a comprehensive approach to the issues at hand.

Core Principles: Auction Design for Phase III

Regulated Markets and operators of secondary markets infrastructures have an inherent interest in a well functioning EU emissions trading scheme. We believe that auctioning as primary allocation method in Phase III, if well designed, has the potential to strengthen EU leadership in a rapidly developing global carbon market. Therefore, we respond to the questions in this consultation paper based on and with reference to the following core principles:

1. Secondary markets functioning and integrity should enjoy highest priority

Auctions should be an integral part of the overall carbon market design – with continuous and efficient price discovery taking place in secondary markets, while smooth and effective supply of liquidity taking place through auctions. With this in mind, the auction design should meet three core requirements:

- Predictability: There needs to be a clear, timely and firm communication of auction rules, auction frequency and auction volumes. This holds in a decentralized setup just as well as in a hybrid or a fully centralized setup. Accordingly, there should be an immediate disclosure of auction results.

- Market Conformity: Large-scale auctioning should not create distortions of secondary market functioning, i.e. it should neither have adverse effects on the price discovery function and liquidity of secondary markets nor should it provide leeway for market abuse and wrongful arbitrage opportunities. This also holds when member states seek to maximize proceeds from auctioning in tailoring their auctioning rules and calendars.

- Arbitrage Corrective: Technical, functional and institutional design of auctioning needs to ensure that there is a frictionless interaction between auctioning and secondary

markets to ensure non-constraint arbitrage channels. This holds in particular with regard to access restrictions, privileges for certain participant groups and transaction costs.

2. Auctions should be implemented in a cost-efficient way

We note that one possibility to implement auctions in Phase III may be by setting up a single auctioning platform where all Member States may allocate their auctioning volumes. But such a start-from-scratch-approach would inevitably duplicate existing market infrastructures and networks which are already in place and which should be re-used to the broadest extent possible in order to minimise and control platform and operations costs of running large scale auctions of allowances. In fact, competition on all levels of the existing secondary market infrastructure ensures that services are offered in a cost efficient way. Against this background, we believe that setting up a dedicated single auctioning platform with direct access to all potential bidders may remain only a theoretical reference point but not a pragmatic, cost-efficient solution.

3. Access to auctions should be non-discriminatory and cost-efficient

The consultation paper comprehensively outlines the necessity of a non-discriminatory access to auctions in Phase III. With this in mind, we note that Regulated Markets already provide a non-discriminatory access to their infrastructures based on comprehensive and structured requirements. Such access is either direct by becoming a member or indirect by using intermediated market access to Regulated Markets.

Hereby, the well-regulated “know-your-customer” requirements and procedures apply which are shared cost-efficiently between Regulated Markets and direct members as well as between clearinghouses and direct clearing members. Market participants in turn could choose their most suitable and most efficient set-up for participating in auctions - regardless whether they participate in a financial or compliance capacity. Competition customer business between Regulated Markets as well as between members of Regulated Markets ensures cost efficiency, i.e. keeps access and transaction costs at competitive levels.

Using the indirect access channels provided by members of Regulated Markets in their capacity as financial intermediaries would as a matter of course provide for the strict regulation and oversight of the segregation of customer and proprietary dealings.

4. Auctions and secondary markets should be governed by a single harmonized regulatory framework

We welcome the fact that a comprehensive and effective EU-wide regulation, supervision and reporting framework for emissions markets exists based on the directive establishing the greenhouse gas scheme and the amending directives of 2007 and 2009.

However, due to interdependence of auctions and secondary markets, both spot and financial markets, we believe, that the regulatory approach needs to be holistic. This does not necessarily imply that the regulation on auctioning needs to cover all aspects of the holistic regulatory approach. It is the case that a comprehensive EU-wide regulatory framework for financial instruments (which includes futures) markets exist, with the Market in Financial Instruments Directive and the Market Abuse Directive. In this respect, efforts are underway to establish similar rules for spot markets as well which we warmly welcome.

Therefore, instead of doubling rules, the Regulation on auctioning should aim at filling in the gaps by establishing a clear and harmonised framework for auction design itself, meaning the rules on principle options for implementation, auction format, auction calendar, coordination among Member States, and alike. With such approach, a comprehensive, prudent and effective regulation for carbon markets auctioning would be implemented, enhancing regulatory certainty.

5. There should be no static price caps and floors in auctions

Politically set static price caps and floors would imply a severe interference into market functioning and would undermine confidence into carbon markets. We believe that auctions of allowances should neither be misused as a vehicle for industrial policy nor should they raise any suspicions on hidden subsidization and on putting forward privileges for certain sectors.

But then, if there is the political call for static price caps they would have to be enforced not just on auctions but also on secondary markets. In our opinion, this would call the entire cap-and-trade scheme into question. Instead, an EU-wide harmonised carbon market should be promoted where market mechanism and secondary markets are not distorted by any adverse measures such as static price caps and floors. Only this way, the EU ETS will retain its lead function and credibility.

6. Auctions should be implemented so as to enhance but not distort competition in European carbon markets

As outlined in our introductory remarks, the magnitude of the envisaged auctioning volumes in relation to secondary market liquidity makes auctioning design in Phase III a unique venture. The market impact of this venture would be minimised if the liquidity of auctions would be smoothly streamlined into secondary markets. The competitive environment of Regulated Markets and clearinghouses stands ready to absorb this.

Therefore, it would be prudent to use the competitive environment which secondary markets provide on the trading and clearing layer. It ensures the balance between infrastructure consolidation and economies of scale on the one side and competitive pricing and service innovation on the other side. With regard to auctioning, the competitive drivers should be the Member States themselves and the market participants

in choosing the Regulated Market at which to auction. Obviously, imposing and hardwiring a single platform for auctioning would not be supportive of competition.

7. Auctions should be for homogenous, fully fungible emission certificates only

As operators of futures markets we appreciate the demands for auctioning futures contracts as articulated by market participants in general – and large utilities in particular. Clearly, there is a need for futures trading in advance of the start of Phase III to accommodate for long-term hedging strategies to manage exposures across energy and emissions markets. But we are convinced that secondary futures markets are able to accommodate the demand and provide the required supply to do so without the addition of futures auctions. Their ability to bring directional investors, intermediaries and hedgers together well before the underlying emissions were made available has been demonstrated in previous phases of the EU ETS. There was always sufficient liquidity in futures markets – prior and post actual release.

With regard to futures auctioning, we would like to draw the attention to a set of implications and concerns to be considered in the debate:

- Localization of Futures Auctions: Even when fully standardized and harmonized in their specification across Regulated Markets and clearinghouses, futures contracts auctioned at different Regulated Markets and, accordingly, cleared via different clearinghouses are different products. Futures are not fungible. Governments and government agents, respectively, would have to assign their short positions resulting from auction sales to certain clearinghouses. In so doing, large auctioneers would create (and maintain to maturity) a significant share of the open interest in the chosen clearinghouses. This in turn, would direct all secondary market trading activity in futures to the chosen clearinghouse and associated exchange platform. Thereby, auctioning futures would massively impair secondary market competition in futures trading. The public stipulation of a particular auctioning and clearing platform for auctioned futures would indeed undermine competition and rather create monopolistic structures.

- Public Funding of Future Proceeds: Auctioning futures would imply that proceeds from auctioning will attain public budgets upon maturity of the futures contract. In contrast to spot auctioning where proceeds will be available all along, with futures sales governments would have to assume the respective funding costs for public spending. There would also be the need for governments and their agents, respectively, to pledge and maintain margin collateral with the clearinghouse – be it as direct member or as a customer of a clearing member.

8. Government revenues from auctioning should reflect secondary market prices

Auctioning of emissions allowances is obviously an important mean for governments to generate additional revenues and, hence, there is a natural interest to gain reasonable proceeds from auctioning. However, individual governments should stay away from playing the market to maximize proceeds. In our opinion, this is only achievable by

releasing a common and enforceable auctioning schedule providing for a uniform and unbroken sequence of auctions. Taking for granted that secondary market prices best reflect the fair value of emission allowances and that auction clearance prices conform to secondary market pricing, a balanced auctioning schedule would deliver on average a fair income stream to governments. The German experience in Phase II with evenly spread fixed volume daily sales into the market has shown that this way a government is able to generate a "fair revenue stream".

Response to Individual Questions

On the basis of the core principles introduced above we proceed in answering the questions of the consultation paper based on the following assumptions:

1. Auctioning as a primary allocation method should not distort the functioning of secondary markets. As such, the price formation should continue to take place in secondary markets and not in auctions.

2. Using the existing scalable market infrastructures and distribution networks of secondary markets will be the most cost efficient approach for implementing the large scale auctions in the EU. Consequently, we respond to selected individual questions assuming that auctioning would take place on existing emissions exchanges and the respective post-trade services to clear and settle transactions.

_____

Number of employees in 2008:

World-wide For Deutsche Börse Group under the umbrella of which Eurex is operating, the number of employees world-wide was 3115 in 2008.

For EEX, the number of employees was 67 at the end of 2008.

Europe-wide _____

Turnover in 2008:

World-wide For Eurex, the turnover in 2008 amounted to 3,172.3 million contracts

For EEX, the turnover in 2008 amounted to more than 125,000 trades.

Europe-wide _____

Question B

Type of respondent:

☐ Member State

☐ Company operating one or more installations covered by the EU ETS

- ☐ Electricity generators
- ☐ Energy companies other than electricity generators
- ☐ Industrial sectors
- ☐ Aviation
- ☐ Other. Please specify:_____

Approx Annual Emissions: _____ tCO_2

☐ Intermediary

- ☐ *Financial institution*
- ☐ *Trading arm of non-financial institution*
- ☐ *Other. Please specify* _____

☐ Trader on own account

- ☐ *Financial institution*
- ☐ *Trading arm of non-financial institution*
- ☐ *Other. Please specify* _____

☒ Regulated market

- ☐ Carbon only
- ☐ Carbon and electricity
- ☒ Carbon and other energy products

☐ Other carbon market

- ☐ Multilateral trading facility trading carbon derivatives
- ☐ Carbon exchange trading spot carbon
- ☐ Other. Please specify _____

☐ Clearing house

☐ Central counterparty

☐ Other (multiple choices apply)

- ☐ Non-governmental organisation
- ☐ Trade association
- ☐ Carbon analyst
- ☐ Carbon publication

☐ Academic

☐ Other. Please specify _____

Question C

Contact Persons Name: Sabina Salkic

Title:

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Contact details will not be made public.

Question D

Questions relating to the "Specific privacy statement" above.

o Do you object to publication of your personal data because it would harm your legitimate interests? [Y/N] N

If so, please provide an explanation of the legitimate interests that you think will be harmed:

A:

o Are any of your responses confidential? [Y/N] N

If so, please indicate which ones and provide an explanation:

A:

Section 2: Survey questions (86) and potentially confidential questions (4)

Question 1

As a general rule throughout the trading period, in your opinion, are early auctions necessary? [Y/N] _

If so, what should the profile of EUA auctions be?

☐ 5-10% in year n-2, 10-20% in year n-1, remainder in year n

☐ 10-20% in year n-2, 20-30% in year n-1, remainder in year n

☐ 20-30% in year n-2, 30-35% in year n-1, remainder in year n

☒ Other? Please specify: We as a market operator do not deem this question as applicable to us. We would follow the demand for early auctions by providing technical solutions for auctioning in time. However any decision should be based on the principle that secondary markets functioning and integrity should enjoy highest priority, hence that the quantities auctioned at any time should not impact secondary trading. With that in mind, we believe that in general auctioning volumes should be evenly distributed over the entire trading period, perhaps with moderate frontloading since banking makes it possible to even out over the different periods. With that, artificial shortages are easier to avoid.

Question 2

Do you think there is a need to auction futures? [Y/N] -

If so, why?

A: We acknowledge that there are calls for futures auctioning in advance of the start of Phase III to accommodate for long-term hedging strategies to manage exposures across energy and emissions markets. But we are convinced that secondary futures markets are able to accommodate the demand and provide the required supply to do so without the addition of futures auctions. The ability of secondary futures markets to bring directional investors, intermediaries and hedgers together well before the underlying emissions were made available has been demonstrated in previous phases of the EU ETS. There was always sufficient liquidity in futures markets – prior and post actual release. We from EEX/Eurex support in any case the market demand and would respond to market needs on the technical and implementation side. Nevertheless, we want to point out one complexity that is associated with auctioning futures (see also core principles in our introductory remarks): futures auctioned at the different Regulated Markets would not be fungible, so that the volumes auctioned at one Regulated Market would be "caught" in that Regulated Market's clearing house, making an unwinding of that particular position before the maturity expires e.g. at another Regulated Market impossible. We are convinced that to overcome such "stuck liquidity" issues which would arise from auctioning futures and the resulting implications on secondary markets competition

would be to auction a homogeneous product, which is to auction spot. Emissions allowances auctioned spot are fully fungible throughout the entire scheme, independent from at which Regulated Market they are purchased and through which clearance mechanisms they have been processed originally.

Question 3

What share of allowances should be auctioned spot and what share should be auctioned as futures for each year?

	SPOT	FUTURES
• year n :	___%	___%
• year n-1 :	___%	___%
• year n-2 :	___%	___%

Please provide evidence to support your case.

A: See answer to question 1 and 2. In principle, as an infrastructure operator we would leave that question to be answered by market participants. However, for issues regarding auctioning futures please refer to Question 1 above and to the core principles discussed above.

NB: The answer to this question will be published as part of the public consultation. Please do not submit confidential information as part of your answer to this question.

Question 4

Should the common maturity date used in futures auctions be in December (so the maturity date would be December in year n, both when auctioning in year n-2 as when auctioning in year n-1)? [Y/N] -

If not, please suggest alternative maturity dates and provide evidence to support your view.

A: See answers to 1 and 2 above. In principle, if futures are auctioned the contract specifications should neither divert from the currently traded contracts nor should the EU impose a harmonization as this would impair secondary market flexibility.

This page contains two questions that will not be made public. These questions cannot be completed on this document

Request for potentially confidential information 1

Please send the answer to this question in paper and electronic format, marked on the envelope "Strictly Private and Confidential – Auctioning consultation", directly to the European Commission, DG ENV, Directorate C, Unit C2, to the attention of the Head of Unit, Office BU-5 2/1, 1049 Brussels, Belgium. It will be treated confidentially and will not be disclosed publicly.

For ETS operators: what share of your expected emissions covered by the EU ETS in a given year n do you hedge and how much in advance?

- year n : _____%
- year n-1 : _____%
- year n-2 : _____%
- earlier years (please specify) : _____%

Request for potentially confidential information 2

Please send the answer to this question in paper and electronic format, marked on the envelope "Strictly Private and Confidential – Auctioning consultation", directly to the European Commission, DG ENV, Directorate C, Unit C2, to the attention of the Head of Unit, Office BU-5 2/1, 1049 Brussels, Belgium. It will be treated confidentially and will not be disclosed publicly.

What share of the annual quantity of allowances you intend to purchase *via* auctions would you wish to buy spot or futures respectively?

	SPOT	FUTURES
• year n :	_____%	_____ %
• year n-1 :	_____%	_____ %
• year n-2 :	_____%	_____ %

Please specify whether you are an:

- ETS operator; or
- Other participant.

Question 5

For spot auctions:

What should be the **optimum** frequency of auctions?

☐ Weekly?

☐ Fortnightly?

☐ Monthly?

☐ Quarterly?

☒ Other? Please specify: _____

What should be the **minimum** frequency of auctions?

☐ Weekly?

☐ Fortnightly?

☐ Monthly?

☐ Quarterly?

☐ Other? Please specify: _____

What should be the **maximum** frequency of auctions?

☐ Weekly?

☐ Fortnightly?

☐ Monthly?

☐ Quarterly?

☐ Other? Please specify: _____

Please provide arguments to support your case.

A: In principle, the frequency of auctions is a function of the level of consolidation and the resulting volumes secondary markets are to assume. In a consolidated auctioning scheme we would propose daily auctions. Due to the large volumes that will be injected into the market via auctions in the third trading phase or earlier in case of early auctioning, we believe that auctions should take place daily in order to minimize the impact on secondary markets and allow the secondary markets to absorb large primary allocation volumes smoothly.

Question 6

For spot auctions, what should be the:

- Optimum auction size? _____

- Minimum auction size? _____
- Maximum auction size? _____

If deemed appropriate, please indicate a range and/or distribution over different sizes.

Please provide arguments to support your case.

A: See answer to question 1. Volume evenly distributed over the period, possibly with slight front loading. Quantities should be fixed and announced in advance, thereby giving the secondary market visibility and certainty and avoiding price distortion.

Question 7

For futures auctions:

What should be the **optimum** frequency of auctions?

☐ Weekly?

☐ Fortnightly?

☐ Monthly?

☐ Quarterly?

☐ Other? Please specify: _____

What should be the **minimum** frequency of auctions?

☐ Weekly?

☐ Fortnightly?

☐ Monthly?

☐ Quarterly?

☐ Other? Please specify: _____

What should be the **maximum** frequency of auctions?

☐ Weekly?

☐ Fortnightly?

☐ Monthly?

☐ Quarterly?

☐ Other? Please specify: _____

Please provide arguments to support your case.

A: See answer to question 1 and 5 above.

Question 8

For futures auctions, what should be the:

- Optimum auction size? _____
- Minimum auction size? _____
- Maximum auction size? _____

If deemed appropriate, please indicate a range and/or distribution over different sizes.

Please provide evidence to support your case.

A:

Question 9

Should volumes of spot allowances be auctioned evenly throughout the year? [Y/N] Y

If not, how should volumes be distributed? (more than one answer possible) Please specify:

☐ A larger proportion in the first 4 months of the year?

☐ A larger proportion in December?

☐ A smaller proportion in July and August?

☐ Other? Please specify:

A: In particular, liquidity shocks and distortions to efficient price discovery which could be the impact of a wrongly designed large scale auctioning scheme are absolutely critical and need careful consideration in order to get the implementation of auctions right. Against this background, there is a fundamental interest in a smooth and effective evenly distributed supply of liquidity through auctions. See also the answer to question 5.

Question 10

In case futures are auctioned, should the volumes for spot and futures auctions be spread over the year in the same manner? [Y/N] _

If not, how should they differ? (more than one answer possible)

☐ No futures auctions less than six months before the maturity date.

☐ A larger proportion in December.

☐ A smaller proportion in July and August.

☐ Otherwise? Please specify how and comment:

A: See answer to 1.

Question 11

Does the Regulation need to have provisions to avoid holding auctions during a short period of time before the surrendering date (30 April each year)? [Y/N] N

If yes, how long should this period be:

One week ☐ 2 weeks ☐ 3 weeks ☐ 1 month ☐

In case futures are auctioned, should there be similar provisions with respect to the period immediately prior to the maturity date? [Y/N] _

If yes, how long should this period be:

One week ☐ 2 weeks ☐ 3 weeks ☐ 1 month ☐

Question 12

Which dates should be avoided? (more than one answer possible)

☐ Public holidays common in most Member States? _____

☐ Days where important relevant economic data is released? _____

☐ Days where emissions data are released? _____

☒ Other? Please specify: Auction schedules and days should be harmonized with secondary market trading days.

Please specify the dates you have in mind in your answers.

Question 13

Is a harmonised 10-12 hrs CET auction slot desirable? [Y/N] _

If not, what alternative(s) would you suggest?

A: Answer depends on the set up (fully decentralized, coordinated, harmonized). In principle, if auctions take place on different Regulated Markets there should be one slot so that an earlier auction in one venue does not influence prices on the other venue. However, if there are different auction venues, a harmonized time would make it more difficult for participants to take part in several auctions.

Question 14

How long in advance should each element of the calendar be determined?

Annual volumes to be auctioned:

☐ 1 year in advance

☐ 2 years in advance

☐ 3 years in advance

☐ more years in advance

Distribution of annual volumes over spot and futures (if applicable):

☐ 1 year in advance

☐ 2 years in advance

☐ 3 years in advance

☐ more years in advance

Dates of individual auctions:

☐ 1 year in advance

☐ 2 years in advance

☐ 3 years in advance

☐ more years in advance

Volume and product type for individual auctions:

☐ 1 year in advance

☐ 2 years in advance

☐ 3 years in advance

☐ more years in advance

Each auctioneer carrying out auction process (if more than one):

☐ 1 year in advance

☐ 2 years in advance

☐ 3 years in advance

☐ more years in advance

Please provide arguments to support your case.

A: Auction calendar should be published well in advance – preferably 3 years. As to auctioneer and the respective venue, details should be published at least 1 year in advance.

Question 15

What should be the volume of allowances to be auctioned in 2011 and 2012?

- in 2011:_____ % of the 2013 volume and _____% of the 2014 volume
- in 2012:_____% of the 2013 volume and _____% of the 2014 volume

What percentage of these shares should be auctioned as futures?

- in 2011: _____% of the 2013 share and _____% of the 2014 share
- in 2012: _____% of the 2013 share and _____% of the 2014 share

Please provide evidence to support your case.

A:

Question 16

What should be the rule with respect to allowances not auctioned due to *force majeure*?

☐ They should automatically be added to the next auction on the calendar, irrespective of the auction process.

☐ They should be auctioned within one month, though leaving flexibility as to which auction(s) the EUAs should be added.

☐ They should be auctioned within three months, though leaving flexibility as to which auction(s) the EUAs should be added.

☐ Other? Please specify: The Regulated Market should implement clear rules that would treat quantities not auctioned depending on the quantities left over. Simple solution could be to transfer open positions into continuous trading; or quantities can be left in the auction order book for the next auction; large quantities could also be auctioned equally spread over the next auctions to minimize the impact on the secondary market. There should be a known method for spreading the volume, it should not be discretionary. For example: spread over the next 3 auctions, 1/3 each.

Question 17

Is 1,000 allowances the most appropriate lot size? [Y/N] _

If not, why not?

A: For futures it is per definition this lot size as in secondary markets. For spot we deem no determination of lot size necessary.

Question 18

Is a single-round sealed-bid auction the most appropriate auction format for auctioning EU allowances? [Y/N] _

If not, please comment on your alternative proposal?

A: In principle, single-round sealed bid uniform price auctions are an appropriate and simple format. However, theoretical work and practical experiences with this type of auction has been made in the absence of secondary markets with efficient price discovery mechanisms. Taking into account our general considerations above on the arbitrage corrective between the price discovery in secondary markets and auctions, theory would tell that dynamic, multi-round single price double auctions would be the most effective tool to safeguard a consistent price discovery process whilst protecting against collusion and market abuse. Uniform price double auctions would open the auctions on the sellers/auctioneer side to any market participant to fill in if there is any unwarranted imbalance in the auction book. The auction book, of course, would need to be transparent or at least show indicative clearing prices during the call phase. The fundamental allocation rule for solving ties would be price-time-priority as in the respective secondary market trading. For an example of such a model and details please refer to XETRA Market Model Release 10 Equities at www.deutsche-boerse.com.

Question 19

What is the most appropriate pricing rule for the auctioning of EU allowances?

☐ Uniform-pricing.

☐ Discriminatory-pricing.

☐ Indifferent.

Please provide arguments to support your case.

A: See answer to 18.

Question 20

Should the rules for solving ties in the Regulation be:

☐ random selection; or

☐ pro-rata re-scaling of bids?

Please comment on your choice.

A: See answer to 18.

Question 21

Should a reserve price apply?

A: There should be no reserve price in absolute terms (static reserve price), except possibly a technical reserve price derived as a percentage of the secondary market price. Such a technical reserve price would safeguard the market conformity of the auction by ensuring that the price realized in the auction is not considerably deviating from the secondary market price.

Question 22

In case a reserve price would apply, should the methodology/formula for calculating it be kept secret? [Y/N] N

Please comment on your choice.

A: If a reserve price is to apply the methodology of its calculation should not be kept secret, otherwise it could be perceived as a potential means of manipulating market price.

Question 23

Is a maximum bid-size per single entity desirable in a Uniform-price auction?

[Y/N] _

Is a maximum bid-size per single entity desirable in a discriminatory-price auction?
[Y/N] _

Please comment on your choice.

A:

Question 24

If so, what is the desirable bid-size limit (as a percentage of the volume of allowances auctioned per auction – only one choice is possible):

10%: ☐ 15%: ☐ 20%: ☐

25%: ☐ 30%: ☐ More than 30%: ☐ Please specify: _____

Please comment on your choice.

A: 20-30% in order to prevent a single entity from cornering the market. However, it would need to be considered whether to treat related entities as one entity.

Question 25

In case only one of the two following options would be chosen, to limit the risk of market manipulation or collusion, which one would be preferable?

☐ A discriminatory-price auction format?

☐ A maximum bid-size per single entity?

Please comment on your choice.

A: See answer to 24.

Question 26

Are the following pre-registration requirements appropriate and adequate?

Identity:

☐ Natural or legal person;

☐ Name, address, whether publicly listed, whether licensed and supervised under the AML rules; membership of a professional association; membership of a chamber of commerce; VAT and/or tax number;

☐ Contact details of authorised representatives and proof of authorisation; and

☐ CITL-Registry account details.

☐ Anything else? Please specify:_____

Declarations with respect to the past 5 years on absence of:

☐ Indictment or conviction of serious crimes: check corporate officers, directors, principals, members or partners;

☐ Infringement of the rules of any regulated or unregulated market;

☐ Permits to conduct business being revoked or suspended;

☐ Infringement of procurement rules; and

☐ Infringement of disclosure of confidential information.

☐ Anything else? Please specify: _____

Declarations and submission of documentation relating to:

☐ Proof of identity;

☐ Type of business;

☐ Participation in EU ETS or not;

☐ EU ETS registered installations, if any;

☐ Bank account contact details;

☐ Intended auctioning activity;

☐ Whether bidding on own account or on behalf of another beneficial owner;

☐ Corporate and business affiliations;

☐ Creditworthiness;

☐ Collateral; and

☐ Whether it carries out transactions subject to VAT or transactions exempted from VAT.

☐ Anything else? Please specify: We note that Regulated Markets have very comprehensive, clear-cut rules for admission of new customers. Furthermore, KYC rules are efficiently spread over the intermediation chain of Regulated Markets' trading members and their customers in a cascade way, ensuring quality and suitability checks all the way down to end customers. If auctions are done by Regulated Markets, it would be the Regulated Market that would enforce its criteria and no pre registration for each auction as such would be necessary.

Question 27

Do you agree that the pre-registration requirements for admittance to EU auctions should be harmonised throughout the EU?

Yes ☐ No ☐

Please comment on your choice.

A: Assuming that auctions will be implemented by Regulated Markets, we would welcome mutual recognition of the respective admission rules on Regulated Markets throughout Member States, thereby ensuring harmonization.

Regulated Markets in their capacity as market operators should be allowed to set their rules.

Question 28

Should the amount of information to be supplied in order to satisfy the pre-registration requirements for admittance to EU auctions depend on the:

☐ means of establishing the trading relationship;

☐ identity of bidder;

☐ whether auctioning spot or futures;

☐ size of bid;

☐ means of payment and delivery;

☐ anything else? Please specify:_____

If so, what should the differences be?

A: See answer to 26 and 27; always according to criteria of the Regulated Market.

Question 29

Should the bidder pre-registration requirements under the Regulation apply in the same manner irrespective of whether or not the auctioneer is covered by the MiFID or AML rules? [Y/N] _

A: See above for 27 and 28.

If not, why not?

A:

Please provide arguments to support your case.

Question 30

Do you agree that the auctioneer(s) should be allowed to rely on pre-registration checks carried out by reliable third parties including: [Y/N] _

☐ Other auctioneers?

☐ Credit and/or financial institutions?

☐ Other? Please specify: _____

Please comment on your choice.

A: Depending on Regulated Market model; Regulated Markets and clearinghouses conduct their own vetting.

Question 31

In order to facilitate bidder pre-registration in their home country, should the auctioneer(s) be allowed to provide for pre-registration by potential bidders in other (or all) Member States than the auctioneer's home country e.g. by outsourcing this to a reliable third party?

Yes ☐ No ☐

Please comment on your choice:

A:

If so, should such entities be:

☐ Covered by the AML rules?

☐ Covered by MiFID?

☐ Covered by both?

☐ Other? Please specify: _____

Please comment on your choice:

A: We think that this complexity is obsolete if auctioning takes place on Regulated Markets as those are allowed to passport their services throughout the EU based on their initial authorization by the Regulated Market’s home member state competent authority.

Question 32

Should the Regulation prohibit the multiplicity of pre-registration checks in the case of Member States auctioning jointly?

Yes ☐ No ☐

Please comment on your choice.

A: Similarly to the reasoning provided above for question 31, if auctioning takes place on Regulated Markets the pre-registration would occur with Regulated Markets, thereby ruling out multiple pre-registration with Members States, independent on how many Member States decide to auction on a particular Regulated Market. So this seems to be no issue in a Regulated Market model.

Question 33

Do you agree that the *level* of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions? [Y/N] N

If so, how should they be harmonised?

A:

If not, why not?

A: We note that Regulated Markets have procedures of collateralization in place via subsequent central clearing of on-exchange trades. To that extent, all necessary infrastructure is in place if auctioning takes place on Regulated Markets.

Question 34

Do you agree that the *type* of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions? [Y/N] N

If so, how should they be harmonised?

A:

If not, why not?

A: In a Regulated Market model, Regulated Market and clearing house are risk taker in this respect and, therefore, should determine collateral procedures and types. Also, members of the Regulated Market act as intermediaries and risk takers toward end customers (i.e. bidders) and, thus, should determine the respective collateral procedures and types.

Question 35

Do you agree that 100% collateral in electronic money transfer ought to be deposited up-front at a central counterparty or credit institution designated by the auctioneer to access spot auctions? [Y/N] _

If not, why not?

A:

What alternative(s) would you suggest? Please provide arguments to support your case:

A: See answer to 34.

Question 36

In case futures are auctioned, should a clearing house be involved to mitigate credit and market risks? [Y/N] Y

If so, should specific rules – other than those currently used in exchange clearing houses – apply to:

☐ the level of the initial margin;

☐ the level of variation margin calls;

☐ the daily frequency of variation margin call payments?

If you have answered yes, please justify and elaborate on the rules that should apply and the mechanisms to implement them:

A: If futures are auctioned the existing specifications and procedures should be adopted.

Question 37

What are the most preferable payment and delivery procedures that should be implemented for auctioning EUAs?

☐ Payment before delivery.

☐ Delivery versus payment.

☐ Both.

Please comment on your choice.

A:

Question 38

Irrespective of the payment procedure, should the Regulation fix a maximum delay of time for payment and delivery to take place? [Y/N] Y

If yes; what should it be?

☐ 4 working days

☐ 5 working days

☐ 6 working days

☐ 7 working days

Other? Please specify: As the current practice of settlement in carbon markets of on-exchange trades seems to differ throughout different jurisdictions, rules harmonizing these practices may prove helpful. To ensure market discipline there should be a settlement period of two days maximum. There should also be fines as well as lending and replacement costs regulations.

Question 39

Should the Regulation provide any specific provisions for the handling of payment and delivery incidents or failures? [Y/N] _

If yes, what should they be?

A:

Question 40

Should the Regulation provide for all matters that are central to the very creation, existence and termination or frustration of the transaction arising from the EUA auctions? [Y/N] _

If not, why not?

A:

If so, are the matters enumerated below complete? [Y/N] _

- The designation of the parties' to the trade.
- The characteristics of the auctioned product:
  - Nature: EUAs or EUAAs, trading period concerned.
  - Date of delivery: date at which winning bidders will receive the allowances on their registry account.
  - Date of payment: date at which payment will be required from winning bidders.
  - Lot size: number of allowances associated with one unit of the auctioned good.
- Events of `force majeure' and resulting consequences.

- Events of default by the auctioneer and/or the bidder and their consequences.
- Applicable remedies or penalties.
- The regime governing the judicial review of claims across the EU.

If not, what additional matters should be foreseen in the Regulation and why?

A: This question touches upon the underlying fundamental question on the scope and regulation intensity the Regulation on auctioning aims for. We note that if auctioning takes place on Regulated Markets, there are procedures and regulations in place to address all the issues mentioned above. In particular, there are rules, regulations and supervisory institutions in place to ensure market integrity and discipline.

Question 41

Should the Regulation provide for rules on jurisdiction and the mutual recognition and enforcement of judgments? [Y/N] _

If so, should these be:

☐ specific to the Regulation;

☐ by reference to the Brussels I Regulation;

☐ by citing exceptions from the Brussels I Regulation;

☐ by citing additions to the Brussels I Regulation?

Please comment on your choice:

A:

If not, why not?

A:

Question 42

Which auction model is preferable?

☒ Direct bidding?

☐ Indirect bidding?

☐ Both?

Please comment on your choice.

A: We believe that direct bidding model is preferable. Direct bidding as currently implemented by Regulated Markets, meaning bidding either by the member of a Regulated Market or by non-member order routed through the Regulated Market's member, will most efficiently address the auctioning needs of market participants as those are already used to the practices applicable in secondary markets.

Question 43

If an indirect model is used, what share of the total volume of EU allowances could be auctioned through indirect bidding? _____

Please provide arguments to support your case.

A: See answer to 42.

Question 44

If the primary participants model is used, what provisions would be desirable for mitigating disadvantages of restricting direct access (more than one answer is possible):

☐ Allow direct access to largest emitters, even if they trade only on their own account?

If so, who should have direct access and what thresholds should apply?_____

☐ Disallow primary participants trading on their own account?

☐ Impose strict separation of own-account trading from trading on behalf of indirect bidders?

☐ Other? Please specify: See answer to 42.

Question 45

If the primary participants' model is used, what conflict of interest requirements should be imposed? (more than one answer possible)

☐ Separation of client registration and trading on behalf of clients from all own account trading activities.

☐ Separation of collateral management, payment and delivery on behalf of clients from all own account trading activities.

☐ Separation of anything else, please specify: See answer to 42.

Question 46

What obligations should apply to primary participants acting in EU-wide auctions as:

- Intermediaries? A:
- Market makers? A: It is our impression that there may be a misunderstanding here. We do not see a role for a market maker in the auction itself. The market maker model is rather a feature of secondary markets as a liquidity supporting measure.

Please provide arguments to support your case.

Question 47

Under what conditions should auctioning through exchanges be allowed (more than one answer possible):

☐ Only for futures auctions open to established members of the exchange?

☐ Also for spot auctions open to established members of the exchange?

☐ Only when the exchange-based auction is open to non-established members on a non-discriminatory cost-effective basis?

☐ Other? Please specify: _____

Please provide arguments to support your case.

A: Please see our introductory remarks on the rationale for using existing market infrastructures, i.e. Regulated Markets, for implementing auctions in Phase III. We note

that participation in auctions on Regulated Markets would be open to all market participants, be it directly as trading members of the Regulated Market or indirectly through trading members in their capacity as financial intermediaries.

Question 48

Should direct auctions be allowed through:

1) Third party service providers? [Y/N] _
2) Public authorities? [Y/N] _

Please comment on your selection:

A:

Question 49

Do the general rules for auctioning EUAs suffice for ensuring full, fair and equitable access to allowances to SMEs covered by the EU ETS and small emitters? [Y/N] _

If not, why not?

A: We note that a small emitter is defined acc. to recital 11 of the directive (Proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community (COM(2008)0016 – C6-0043/2008 – 2008/0013(COD)) as an installation emitting less than 25.000 T of Co2 per year. If this is the case and if we assume e.g. a 1,000 lot size for a future, it can be expected that no or a relative small number of SMEs would indeed participate in the auction and submit once a bid for 25 futures contract in order to cover his compliance, while not even knowing what price will materialise in a particular auction on a particular day. It can rather be expected that the SME would use an intermediary to purchase his compliance demand because he would know the price he would get for e.g. the 25 futures contracts. Furthermore, the SME would be better off to purchase allowances via an intermediary as the latter would assume a part of risk for the contract to be delivered, while participation in the auction would expose the SME to market and price risk.

Question 50

Is allowing non-competitive bids necessary for ensuring access to allowances to SMEs covered by the EU ETS and small emitters in case of:

- discriminatory-price auctions? A: See answer to 49.

- uniform-price auctions? A: See answer to 49.

Question 51

If non-competitive bids are provided for in spot auctions, what maximum share of allowances could be allocated through this route?

☐ 5%

☐ 10%

☐ Other? Please specify: _____

Please comment on your choice.

A: See answer to 49.

Question 52

What rule should apply for accessing non-competitive bids (more than one answer possible):

☐ Participants should only be allowed to use one of the two bidding routes?

☐ Non-competitive bids should be restricted to SMEs covered by the EU ETS and small emitters only?

☐ Other? Please specify: _____

Please comment on your choice.

A: See answer to 49.

Question 53

What should be the maximum bid-size allowed for SMEs covered by the EU ETS and small emitters submitting non-competitive bids?

☐ 5 000 EUAs

☐ 10 000 EUAs

☐ 25 000 EUAs

☐ Over 25 000 EUAs, please specify exact size and give reasons for your answer: See answer to 49.

Question 54

Are there any other specific measures not mentioned in this consultation that may be necessary for ensuring full, fair and equitable access to allowances for SMEs covered by the EU ETS and small emitters? [Y/N] _

If so, please specify:

A: Regulated Markets have very comprehensive rules in place for granting access to every interested entity all the way down to the retail client who can access the market via intermediaries. This is already an established practice both in commodity markets as well as in the well-developed financial markets. The competition between intermediaries and the fact that the client can switch its preferred service provider ensures that the services provided by intermediaries are cost-efficient.

Question 55

What should be the minimum period of time before the auction date for the release of the notice to auction?

2 weeks ☐ 1 month ☐ 2 months ☐

Other ☐ Please specify: _____

Please comment on your proposal.

A: In our opinion there should be an auction calendar with fixed dates for auctions published at the beginning for the whole remainder of the period, optimally daily auctions as outlined above due to their potential impact on secondary markets. Such a calendar would provide for maximum comprehensiveness and harmonization.

Question 56

What should be the minimum period of time before the auction date for the submission of the intention to bid?

1 week ☐ 2 weeks ☐ 1 month ☐

Other ☐ Please specify: _____

Please comment on your proposal.

A:

Question 57

Are there any specific provisions that need to be highlighted in:

☐ The notice to auction?

☐ The intention to bid?

☐ Both?

Please specify what they are.

A:

Question 58

What information should be disclosed after the auction:

☐ Clearing price (if allowances are awarded on a uniform-price basis or in the case of non-competitive bids being allowed)?

☐ Average price (if allowances are awarded on a discriminatory-price basis)?

☐ Any relevant information to solve tied bids?

☐ Total volume of EUAs auctioned?

☐ Total volume of bids submitted distinguishing between competitive and non-competitive bids (if applicable)?

☐ Total volume of allowances allocated?

☐ Anything else? Please specify: All of the above should be published if auctions are conducted on Regulated Markets.

Question 59

What should be the maximum delay for the announcement of auction results?

5 minutes ☐ 15 minutes ☐ 30 minutes ☐

1 hour ☐

Other ☒ Please specify: in real-time

Please comment on your proposal.

A: There should be no delay at all in announcing the auction results, i.e. those should be published real-time.

Question 60

Do you feel that any specific additional provisions should be adopted in the Regulation for the granting of fair and equal access to auction information? [Y/N] _

If so, what may they be? If auctioning takes place on Regulated Markets, an already very transparent environment with equal access to information would be provided to the broad public. Furthermore, various information providers are using Regulated Markets as primary source of information and collect, process and distribute packages of tailor-made information for investors needs on reasonable commercial terms.

Question 61

Should an auction monitor be appointed centrally to monitor all EU auctions?

[Y/N] _

If not, why not?

A: If auctioning takes place on Regulated Markets, we note that these are subject to clear and strict rules and supervision by Competent Authorities. We are currently not clear about the concrete scope of responsibilities of such a central monitoring body and how it would co-exist with existing supervision structures of Regulated Markets.

Question 62

Do you agree that the Regulation should contain general principles on [mark those that you agree with, ☒]:

☐ the designation and mandate of the auction monitor; and

☐ cooperation between the auctioneer(s) and the auction monitor?

If not, why not?

A:

Should these be supplemented by operational guidance, possibly through Commission guidelines? [Y/N] _

If not, why not?

A: See our response to 61.

Question 63

Is there a need for harmonised market abuse provisions in the Regulation to prevent insider dealing and market manipulation? [Y/N] _

If not, why not?

A:

Please comment on your choice outlining the provisions you deem necessary and stating the reasons why.

A: There is a strong need for such provision and they are well established and enforceable if auctions are conducted under the same regulations as secondary markets.

Question 64

Should the Regulation provide for harmonised enforcement measures to sanction [mark those that you agree with, ☒]:

☐ Non-compliance with its provisions?

☐ Market abuse?

Please provide arguments to support your case.

A:

Question 65

Should the enforcement measures include [mark those that you agree with, ☒]:

☐ The suspension of the auctioneer(s) and/or bidders from the EU-wide auctions? If so, for how long should such suspension last? _____

☐ Financial penalties?
If so, at what level should such penalties be fixed? _____

☐ The power to address binding interim decisions to the auctioneer(s) and/or bidders to avert any urgent, imminent threat of breach of the Regulation with likely irreversible adverse consequences?

☐ Anything else? Please specify: _____

Please provide arguments to support your case.

A:

Question 66

Should such enforcement measures apply at:

☐ EU level?

☐ National level?

☐ Both?

Please comment on your choice.

A:

Question 67

Who should enforce compliance with the Regulation (more than one answer is possible):

☐ The auction monitor?

☐ The auctioneer?

☐ A competent authority at EU level?

☐ A competent authority at national level?

☐ Other? Please specify: _____

Please provide evidence to support your case.

A:

Question 68

Which of the three approaches for an overall EU auction model do you prefer? Please rate the options below (1 being the most preferable, 3 being the least preferable)

_ Limited number of coordinated auction processes.

_ Full centralisation based on a single EU-wide auction process.

_ The hybrid approach where different auction processes are cleared through a centralised system.

Please give arguments to support your case.

A: Please see our introductory remarks.

Question 69

If a limited number of coordinated auction processes develops, what should be the maximum number?

☐ 2

☐ 3

☐ 5

☐ 7

☐ more than 7, please specify: _____

Please give arguments to support your case.

A: If auctions are done by Regulated Markets, it will gravitate naturally to a small but competitive number of platforms able to perform the auctions.

Question 70

Is there a need for a transitional phase in order to develop gradually the optimal auction infrastructure? [Y/N] _
If so, what kind of transitional arrangements would you recommend? _____

Question 71

Should the Regulation impose the following requirements for the auctioneer(s) and auction processes? [mark those that apply, ☒]:

Technical capabilities of auctioneers:

☐ capacity and experience to conduct auctions (or a specific part of the auction process) in an open, fair, transparent, cost-effective and non-discriminatory manner;

☐ appropriate investment in keeping the system up-to-date and in line with ongoing market and technological developments; and

☐ relevant professional licences, high ethical and quality control standards, compliance with financial and market integrity rules.

Integrity:

☐ guarantee confidentiality of bids, ability to manage market sensitive information in an appropriate manner;

☐ duly protected electronic systems and appropriate security procedures with regards to identification and data transmission;

☐ appropriate rules on avoiding and monitoring conflicts of interest; and

☐ full cooperation with the auction monitor.

Reliability:

☐ robust organisation and IT systems;

☐ adequate fallback measures in case of unexpected events;

☐ minimisation of the risk of cancelling an individual auction once announced;

☐ minimisation of the risk of failing functionalities (e.g. access to the bidding platform for certain potential bidders); and

☐ fallback system in case of IT problems on the bidder side.

Accessibility and user friendliness:

☐ fair, concise, comprehensible and easily accessible information on how to participate in auctions;

☐ short and simple pre-registration forms;

☐ clear and simple electronic tools;

☐ (option of) accessibility of platforms through a dedicated internet interface;

☐ ability of the auction platform to connect to and communicate with proprietary trading systems used by bidders;

☐ adequate and regular training (including mock auctions);

☐ detailed user guidance on how to participate in the auction; and

☐ ability to test identification and access to the auction.

Please elaborate if any of these requirements need not be included.

A: This would all be covered if existing Regulated Markets and clearing platforms are used for conducting auctions.

Please elaborate what additional requirements would be desirable.

A: This would all be covered if existing Regulated Markets and clearing platforms are used for conducting auctions.

Question 72

What provisions on administrative fees should the Regulation include (more than one answer is possible)?

☐ General principles on proportionality, fairness and non-discrimination.

☐ Rules on fee structure.

☐ Rules on the amount of admissible fees.

☐ Other? Please specify: _____

Please provide arguments to support your case.

A: See our remarks under General Remarks and Core Principles. If the Regulated Market model is implemented and competition between Regulated Markets is given, this in itself should ensure competitive fees.

Question 73

Should there be provisions for public disclosure of material steps when introducing new (or adapted) auction processes?

A: If the changes are material, yes.

Should new (or adapted) auction process be notified to and authorised by the Commission before inclusion in the auction calendar?

A: If the changes are material, yes.

Question 74

Which one of the following options is the most appropriate in case a Member State does not hold auctions (on time)?

☐ Auctions by an auctioneer authorised by the Commission.

☐ Automatic addition of the delayed quantities to those foreseen for the next two or three auctions.

What other option would you envisage? Please specify:

A:

Question 75

Should a sanction apply to a Member State that does not auction allowances in line with its commitments? [Y/N] _
If so, what form should that sanction take?

A:

Question 76

As a general rule throughout the trading period, in your opinion, are early auctions necessary? [Y/N] _

If so, what should the profile of EUAA auctions be:

☐ 5-10% in year n-2, 10-20% in year n-1, remainder in year n

☐ 10-20% in year n-2, 20-30% in year n-1, remainder in year n

☐ 20-30% in year n-2, 30-35% in year n-1, remainder in year n

☐ Other? Please specify: As regards the aviation industry, we believe that the situation is different compared to auctioning in Phase III. While Phase III is characterized by huge volumes to be auctioned, aviation industry should get allocated only 15% of aviation allowances which is rather comparable to the situation we have in Germany in the current trading period as of 2010. Apart from that, as regards the technical auction design we outlined above, the same applies for the aviation industry from our perspective. Therefore, we do not answer the remaining questions.

Question 77

Do you think there is a need to auction EUAA futures? [Y/N] _
If so, why?

A:

This page contains two questions that will not be made public. These questions cannot be completed on this document

Request for potentially confidential information 3

Please send the answer to this question in paper and electronic format, marked on the envelope "Strictly Private and Confidential – Auctioning consultation", directly to the European Commission, DG ENV, Directorate C, Unit C2, to the attention of the Head of Unit, Office BU-5 2/1, 1049 Brussels, Belgium. It will be treated confidentially and will not be disclosed publicly.

For aircraft operators covered by the EU ETS:

Have you determined a corporate hedging strategy for carbon needs?
Yes [ ] No [ ]

If so, what share of your expected emissions covered by the EU ETS in a given year n do you (intend to) hedge and how much in advance?

- year n : _____%
- year n-1 : _____%
- year n-2 : _____%

Request for potentially confidential information 4

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What share of the annual quantity of allowances you intend to purchase *via* auctions would you wish to buy spot or futures respectively?

	SPOT	FUTURES
• year n :	_____%	_____ %
• year n-1 :	_____%	_____ %
• year n-2 :	_____%	_____ %

Question 78

What should be the optimal frequency and size of EUAA auctions:

☐ 2 auctions per year of around 15 million EUAAs?

☐ 3 auctions per year of around 10 million EUAAs?

☐ More than 3 auctions per year? Please specify: _____

Please comment on your choice.

A:

Question 79

What would be your preferred timing for EUAA auctions:

☐ Equally spread throughout the year?

☐ November – March?

☐ Other? Please specify: _____

Question 80

Should any of the EUAA auction design elements be different compared to EUA auctions (see section 3)? [Y/N] _

If so, please specify and comment on your choice.

A:

Question 81

Do you agree there is no need for a maximum bid-size? [Y/N] _
If not, why not?

A:

Question 82

Is there any information regarding aircraft operators made available as part of the regulatory process to the competent authorities that could facilitate the KYC checks performed by the auctioneer(s)? [Y/N] _

If so, please describe what information is concerned and whether it should be referred to in the Regulation or any operational guidance published by the Commission.

A:

Question 83

In your opinion, is there a specific need to allow for non-competitive bids in EUAA auctions?

A:

Would this be the case even when applying a uniform clearing price format?

A:

Please provide arguments to support your case.

Question 84

Do you agree that there is no need for any specific provisions for EUAA auctions as regards [mark those that you agree with, ☒]:

☐ Involvement of primary participants, exchanges or third party service providers?

☐ Guarantees and financial assurance?

☐ Payment and delivery?

☐ Information disclosure?

☐ Auction monitoring?

☐ Preventing anti-competitive behaviour and/or market manipulation?

☐ Enforcement?

If not, please describe in detail what rules would be needed and why.

A:

Question 85

Taking into account the smaller volume of EUAA allowances to be auctioned compared to EUAs, which of the three approaches for an overall EUAA auctioning model do you prefer? Please rate the options below (1 being the most preferable, 3 being the least preferable)

_ Limited number of coordinated auction processes.

_ Full centralisation based on a single EU-wide auction process.

_ Hybrid approach where different auction processes are cleared through a centralised system.

Does your choice differ from the approach preferred for EUAs? [Y/N] _

Please provide arguments to support your case.

A:

Question 86

Do you agree that there is no need for any specific provisions for EUAA auctions as regards. [mark those that you agree with, ☒]:

☐ Requirements for the auctioneer(s) and auction processes?

☐ Administrative fees?

☐ Rules to ensure appropriate and timely preparation of the auctions?

If not, please describe in detail what rules would be needed and why.

A: