



Brussels, **XXX**  
[...] (2025) **XXX** draft

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of XXX**

**amending Commission Delegated Regulation (EU) 2023/2830 as regards rules on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances.**

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.*

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

The European Union's (EU) Emissions Trading System (EU ETS) is at the heart of the EU's climate policy. It is the key tool to achieving its objective of reducing greenhouse gas (GHG) emissions cost-effectively. In 2023, Directive 2003/87/EC of the European Parliament and of the Council<sup>1</sup> (ETS Directive) was amended by Directive (EU) 2023/959 of the European Parliament and of the Council<sup>2</sup>, introducing under a new Chapter IVa of Directive 2003/87/EU establishing a separate emissions trading system for buildings, road transport and additional sectors.

Commission Delegated Regulation (EU) 2023/2830<sup>3</sup> sets out specific rules for the auctioning of allowances covered by Chapter IVa of Directive 2003/87/EU. To ensure a smooth start of the system and stable price development, this Regulation should be amended to allow for the early auctioning for allowances, and to reduce the potential risks of auction cancellations or unrepresentative auction clearing prices due to oversupply compared to the level of demand from regulated entities. This approach should ensure the good administration of auctions. It should be achieved by aligning the number of allowances supplied to the market through auctioning with the timing of Member States' transposition into national law of the obligation for regulated entities to surrender allowances.

Moreover, Commission Delegated Regulation (EU) 2023/2830 should be changed to provide additional flexibility in obtaining allowances for ETS operators, by allowing ETS operators to also bid on behalf of other operators. Those operators would therefore not have to resort to financial intermediaries for such operations. This flexibility will be important for regulated entities under Chapter IVa of Directive 2003/87/EU, a significant share of which are small and medium sized enterprises.

Furthermore, the rules on the appointment of auctioneers should be adjusted to clarify that it is possible to appoint more than one auctioneer and auction calendars can be adjusted if changes in the volumes assigned to individual auctioneers impact the auction calendars.

Directive 2003/87/EU establishes that the Commission is empowered to adopt delegated acts on the timing, administration and other aspects of auctioning. This possibility will be used to update the current auctioning rules for allowances under Chapter IVa of Directive 2003/87/EU and simplify procedural requirements for persons bidding on behalf of others.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The Commission consulted its Expert Group on Climate Change Policy ('CCEG') on the draft delegated regulation amending Commission Delegated Regulation (EU) 2023/2830 on auctioning rules on 12 November 2025.

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<sup>1</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

<sup>2</sup> Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023, p. 134).

<sup>3</sup> OJ L, 2023/2830.

The documents for the CCEG meetings were also sent to the European Parliament and the Council, in line with the Common Understanding on Delegated Acts annexed to the Interinstitutional Agreement on Better Law Making<sup>4</sup>. The observations made by the CCEG were taken into account when preparing the draft delegated regulation amending Regulation (EU) 2023/2830.

The draft delegated regulation was published on the Better Regulation portal for a four-week feedback period from [date] until [date]. Feedback was received from [xxx] organisations. As a result, [...].

### 3. LEGAL ELEMENTS OF THE DELEGATED ACT

The main amendments are as follows:

- (1) changes to the anticipated start of auctioning of allowances covered by Chapter IVa of Directive 2003/87/EU, for the start of auctions for these allowances in 2026;  
[...]
- (2) changes to ensure the good administration of auctions by balancing the number of allowances to be auctioned on behalf of Member States with the level of demand from regulated entities, taking into account the timing of Member States' transposition into national law of the obligation under Article 30e(2) of Directive 2003/87/EC to surrender allowances and the rules on penalties for excess emissions set out in Articles 16(1), 16(2), 16(3) and 16(4) for verified emissions reported under Chapter IVa of that Directive;  
[...]
- (3) changes related to the simplification of the procedural requirements for persons bidding on behalf of others;  
[...].
- (4) clarifications on the possibility to appoint more than one auctioneer.  
[...].

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<sup>4</sup> Interinstitutional Agreement Between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p.1).

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

**amending Commission Delegated Regulation (EU) 2023/2830 as regards rules on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances.**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC<sup>5</sup>, and in particular Article 10(4) thereof,

Whereas:

- (1) Chapter IVa of Directive 2003/87/EC provides for a separate emissions trading system for fuels used for combustion in buildings, road transport and additional sectors. Commission Delegated Regulation (EU) 2023/2830<sup>6</sup> lays down specific rules for the auctioning of emission allowances covered by Chapter IVa of Directive 2003/87/EC. To ensure a smooth start of the separate emissions trading system, several provisions on the timing and administration of the auctions for these allowances should be amended and clarified.
- (2) The start of auctions for allowances covered by Chapter IVa of Directive 2003/87/EC may result in more than one auction for allowances being held on a given day. While it is important to ensure that auctions organised by the common auction platform and auctions organised by opt-out platforms are not held on the same day, it should be possible to have auctions for allowances covered by Chapters II and III of Directive 2003/87/EC on one hand, and allowances covered by Chapter IVa of that Directive on the other hand, to take place on the same day.
- (3) The good functioning of the market for allowances covered by Chapter IVa of Directive 2003/87/EC will depend on ensuring adequate liquidity early on so that a clear and predictable price signal for market participants is provided from the start. Therefore, auctioning for allowances covered by Chapter IVa should start as from [2027]<sup>7</sup>. The method of establishing and adjusting the quantity of allowances to be auctioned for the Social Climate Fund should be updated in view of the start of early auctioning and experience of implementing the provisions of the second subparagraph of Article 10(6) of Regulation 2023/2830.
- (4) The participation of bidders in auctions for allowances covered by Chapter IVa of Directive 2003/87/EC is linked to the level of demand from regulated entities to

<sup>5</sup> OJ L 275, 25.10.2003, p. 32.

<sup>6</sup> Commission Delegated Regulation (EU) 2023/2830 of 17 October 2023 supplementing Directive 2003/87/EC of the European Parliament and of the Council by laying down rules on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances (OJ L, 2023/2830, 20.12.2023, ELI: [http://data.europa.eu/eli/reg\\_del/2023/2830/oj](http://data.europa.eu/eli/reg_del/2023/2830/oj)).

<sup>7</sup> Square brackets to be removed once the European Climate Law amendment is adopted.

surrender allowances in order to meet their compliance obligations. Where a Member State does not yet have national laws in place on the surrendering of allowances by regulated entities under Article 30e(2) of Directive 2003/87/EC and on penalties for excess emissions under Article 16(1) to (4) of that Directive for emissions reported under Chapter IVa of Directive 2003/87/EC, this can lead to auction cancellations or an unrepresentative auction clearing price due to oversupply of allowances and lack of bidder participation. To ensure the good administration of auctions in such situations, the number of allowances to be auctioned on behalf of Member States and the timing to turn into the Member States' national law the obligation to surrender allowances for emissions reported under Chapter IVa of Directive 2003/87/EC should be aligned. The extent to which the surrendering requirements have been applied should also be considered.

- (5) To simplify procedural requirements for persons bidding on behalf of others and to ensure consistency with the amended rules on exemptions in Directive 2014/65/EC of the European Parliament and of the Council<sup>8</sup> for persons providing, as ancillary activity, investment services to clients or suppliers of their main business, it is appropriate to remove the requirement to obtain an authorisation from competent national authorities for persons to be able to bid on behalf of others under the EU ETS framework.
- (6) Each Member State should appoint at least one auctioneer, who should be responsible for the auctioning of allowances on behalf of the appointing Member State. It should be possible for the same auctioneer to be appointed by more than one Member State. The auctioneer(s) should be responsible for auctioning the allowances on the auction platform and for receiving and disbursing the auction proceeds.
- (7) Delegated Regulation (EU) 2023/2830 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Delegated Regulation (EU) 2023/2830 is amended as follows:

- (1) Article 8 is amended as follows:
  - (a) in paragraph 4, the third and fourth subparagraphs are replaced by the following:

‘Where the common auction platform conducts auctions of the allowances referred to in Articles 10 and 11 in one or two days a week, no opt-out auction platform shall conduct an auction on those days.

Where the common auction platform conducts auctions of the allowances referred to in Articles 10 and 11 on more than two days a week, it shall choose two days on which no opt-out auctions may take place. It shall publish those days no later than at the publication of the auction calendar as referred to in Article 12(2).’
  - (b) paragraph 5 is replaced by the following:

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<sup>8</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast), OJ L 173 12.6.2014, p. 349.

‘5. The volume of allowances referred to in Articles 10 and 11 to be auctioned on a common auction platform shall in principle be distributed evenly over the auctions held in a given calendar year.

The volume of allowances referred to in Article 13 to be auctioned on a common auction platform shall in principle be distributed evenly over the auctions held in a given calendar year.

By way of derogation from the second subparagraph, the volume of allowances referred to in Article 13 to be auctioned for the first year of auctioning in accordance with Article 30d, point (2), of Directive 2003/87/EC, shall be distributed in the period from [1 January 2027] up to [31 December 2028].

Where the annual volume of allowances of a Member State cannot be distributed evenly over the auctions in a given calendar year in accordance with the rules for minimum volume bid set out in Article 6(1), the relevant auction platform shall distribute that volume over fewer auctions, ensuring that the volume is auctioned, in principle, at least every quarter.’;

(2) Article 13 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

‘1. The volume of allowances referred to in Article 30a of Directive 2003/87/EC to be auctioned for any given calendar year shall be the volume of allowances established in accordance with Articles 30c and 30d of that Directive.

2. The volume of allowances to be auctioned by each Member State for any given calendar year shall be based on the volume of allowances established pursuant to paragraph 1 of this Article and the share of allowances of that Member State determined pursuant to Article 30d(5) of Directive 2003/87/EC.’;

(b) paragraphs 5 and 6 are replaced by the following:

‘5. The annual auction volumes of allowances referred to in Article 30d(3) and (4) of Directive 2003/87/EC shall be auctioned together with the respective annual volumes of allowances referred to in paragraph 1 of this Article. The initial volume of allowances to be auctioned from [1 January 2027] up to [31 December 2028] pursuant to Article 30d(3) and (4) of Directive 2003/87/EC shall be 450 000 000 allowances.

6. The annual volume of allowances to be auctioned to reach the revenue referred to in Article 30d(4) of Directive 2003/87/EC may be adjusted to ensure that the objectives set out in Article 30d of that Directive are met. For the purposes of that adjustment, the revenue already obtained, the average auction clearing price for the six preceding calendar months, and the time remaining until 31 December 2032 shall be taken into account. As a result of that adjustment, the auction calendars shall be adjusted in accordance with Article 14(1), point (p) of this Regulation.

If the auction revenue referred to in Article 30d of Directive 2003/87/EC is reached before the date of the last auction scheduled for the Social Climate Fund, the subsequent auctions of allowances for that Fund shall be suspended in line with the relevant provisions for suspension of such auctions set out in Delegated Regulation (EU) 2019/1122. The relevant auction calendars shall be

adjusted accordingly in accordance with Article 14(1), point (e) of this Regulation.’;

(c) paragraph 7 is added:

‘7. The volume of allowances to be auctioned on behalf of a Member State pursuant to paragraph 2 of this Article shall only be auctioned once that Member State has implemented national legislation on the obligation of regulated entities to surrender the amount of allowances set out in Article 30e(2) of Directive 2003/87/EC and on the penalties for excess emissions under Article 16(1) to (4) of Directive 2003/87/EC for emissions reported under Chapter IVa that Directive.

Once the legislation referred to in the first subparagraph has been implemented, the volume of allowances referred to in the first subparagraph which was withheld for the period between the year from when emissions are subject to such legislation and the date of application of that legislation shall be added to the auction calendars.

Where the volumes of allowances referred to in the second subparagraph is added back to the auction volumes, it shall be distributed over a period of time equivalent to the period of time during which those allowances were not auctioned.’;

(3) in Article 14, paragraph 1 is amended as follows:

(a) point (j) is replaced by the following:

‘(j) changes to the appointed auctioneer(s) pursuant to Article 22(1) or withholding of allowances from the auctions pursuant to Article 22(4);’;

(b) the following point (q) is added:

‘(q) adjustments of the volume of allowances pursuant to Article 13(7).’;

(4) in Article 18, paragraph 2 is replaced by the following:

‘2. By way of derogation from paragraph 1, persons covered by the exemption in Article 2(1), point (j), of Directive 2014/65/EU shall be eligible to apply for admission to bid directly in the auctions either on their own account or on behalf of clients of their main business.’

(5) in Article 22, paragraph 1 is replaced by the following:

‘1. Each Member State shall appoint at least one auctioneer. No Member State shall auction allowances without appointing an auctioneer. The same auctioneer may be appointed by more than one Member State.’.

(6) in Article 50, paragraphs 4, 5 and 6 are replaced by the following:

‘4. The competent national authorities designated in accordance with Regulation (EU) No 596/2014 and Directive (EU) 2015/849 by the Member States where the persons referred to in paragraph 1 are established shall be responsible for monitoring and enforcing compliance by such persons with the conduct rules set out in paragraphs 2 and 3, including the handling of any complaints made for non-compliance with such conduct rules.

5. The persons referred to in paragraph 1 shall fulfil the following conditions:

- (a) they are of sufficiently good repute and sufficiently experienced as to ensure proper respect of the conduct rules provided for in paragraphs 2 and 3;
  - (b) they have put in place the necessary processes and checks to manage conflicts of interest and to serve the best interests of their clients;
  - (c) they comply with the requirements of Directive (EU) 2015/849;
  - (d) they comply with any other measures deemed necessary having regard to the nature of the bidding services being offered and the level of sophistication of the clients in question in terms of their investor or trading profile as well as any risk-based assessment of the likelihood of money laundering, terrorist financing or criminal activity.
6. The competent national authorities of the Member State where the persons referred to in paragraph 1 are established shall monitor and enforce the conditions set out in paragraph 5. The Member State shall ensure that:
- (a) its competent national authorities have at their disposal investigative powers and sanctions that are effective, proportionate and dissuasive;
  - (b) a mechanism is established for the handling of complaints and to allow its competent national authorities to prohibit the persons referred to in paragraph 1 from bidding on behalf of clients where those persons have seriously and systematically breached their obligations under paragraphs 2, 3 and 5.'

#### *Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*