Commission Delegated Regulation (EU) 2019/7 of 30 October 2018 amending Regulation (EU) No 1031/2010 as regards the auctioning of 50 million unallocated allowances from the market stability reserve for the innovation fund and to list an auction platform to be appointed by Germany (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/7

of 30 October 2018

amending Regulation (EU) No 1031/2010 as regards the auctioning of 50 million unallocated allowances from the market stability reserve for the innovation fund and to list an auction platform to be appointed by Germany

(Text with EEA relevance)

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[(1)], and in particular Articles 3d(3), 10(4) and 10a(8) thereof,

Whereas:

(1) Directive 2003/87/EC establishes a fund to provide financial support to innovation in low-carbon technologies within the territory of the Union by making 400 million allowances available from the total volume of allowances for the period 2021 to 2030 as part of the EU Emission Trading System (‘innovation fund’). In addition, 50 million unallocated allowances from the market stability reserve should supplement any remaining revenues from the 300 million allowances available in the period from 2013 to 2020 under Commission Decision 2010/670/EU[(2)], and should be used in a timely manner for the innovation fund before 2021.

(2) In order to ensure that the innovation fund is in a position to provide support before 2021, it is necessary to monetise the 50 million allowances for the innovation fund by means of auctions in accordance with the rules and modalities for auctions on the Common Auction Platform, which are established by Commission Regulation (EU) No 1031/2010[(3)].

(3) With the aim to reduce the administrative burden on Member States and to improve overall efficiency, the volume of 50 million allowances for the innovation fund should be added to the volumes of allowances to be auctioned at the Common Auction Platform in 2020 by the Member States that as at 1 January 2018 were participating in the joint action pursuant to Article 26 of Commission Regulation (EU) No 1031/2010.

(4) The participating Member States should auction their share of the 50 million allowances for the innovation fund through their auctioneers. In order to receive the respective

innovation fund proceeds, each auctioneer should designate, by 1 October 2019, an auctioneer's nominated bank account for the receipt of these auction proceeds. The auctioneers may designate their existing auctioneer's nominated bank account for the auction proceeds due to their Member State, a separate auctioneer's nominated bank account dedicated for the auction proceeds of the innovation fund, or the auctioneer's nominated bank account of another auctioneer of a Member State that will auction allowances for the innovation fund.

(5) The auctioneers appointed to conduct the auctioning of the 50 million allowances for the innovation fund should ensure that the auction proceeds for the innovation fund are disbursed in the account notified to them by the Commission for the purposes of that fund, at the latest 15 days following the end of the month within which the auction proceeds were generated.

(6) Any additional fees resulting from the holding of these auction proceeds in the auctioneer's nominated bank account and from their disbursement may be deducted by the auctioneer from the auction proceeds prior to their disbursement. Before the first deduction and before any change to such fees, the respective auctioneer's Member State should notify to the Commission and all other Member States the amount and the purpose of the additional fees its auctioneer intends to deduct.

(7) Article 61 of Regulation (EU) No 1031/2010 currently provides for the simultaneous announcement by the auction platform of the detailed results of each auction and the notification to the successful bidders of the individual results. However, the level of detail of the auction results to be announced does not allow for their publication simultaneously with the notification of the individual results to the successful bidders. In order to align this provision with market practice and to safeguard against market abuse, the auction platform may publish, prior to the announcement of the remaining auction result details, the volume of allowances auctioned and the auction clearing price, so that these are published simultaneously as the platform notifies the individual results of the auction to the successful bidders. The remaining auction results should be announced no later than 15 minutes after the closure of the bidding window.

(8) Regulation (EU) No 1031/2010 allows Member States not participating in the joint action as provided in paragraphs 1 and 2 of Article 26 of that Regulation to appoint their own auction platform for the auctioning of their share of the volume of allowances covered by Chapters II and III of Directive 2003/87/EC. The appointment of such auction platforms is subject to listing of the auction platform concerned in Annex III, in accordance with the third subparagraph of Article 30(5) of Regulation (EU) No 1031/2010.

(9) In accordance with Article 30(4) of Regulation (EU) No 1031/2010, Germany informed the Commission of its decision not to participate in the joint action as provided in paragraphs 1 and 2 of Article 26 of that Regulation, and to appoint its own auction platform.

(10) On 12 April 2018, Germany notified the Commission its intention to appoint European Energy Exchange AG as an auction platform referred to in Article 30(1) of Regulation (EU) No 1031/2010 for a maximum period of five years from the entry into force of

this Regulation. The term of appointment, the legal basis for the appointment and the applicable conditions and obligations for European Energy Exchange AG as the auction platform for Germany for that period should be listed in the Annex III to Regulation (EU) No 1031/2010.

(11) Regulation (EU) No 1031/2010 should therefore be amended accordingly.

(12) In order to ensure predictable and timely auctions by the auction platform to be appointed by Germany, this Regulation should enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1031/2010 is amended as follows:

(1) In Article 10, the following paragraph 5 is added:

5. The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned in 2020 shall also include the volume of 50 million unallocated allowances from the market stability reserve referred to in the second subparagraph of Article 10a(8) of that Directive. Those allowances shall be divided in equal amounts between the Member States participating in the joint action pursuant to Article 26(1) of this Regulation as at 1 January 2018 and shall be added to the volume of allowances to be auctioned for each of them. The volume of 50 million allowances shall in principle be distributed evenly over the auctions held in 2020.

(2) Article 23 is replaced by the following:

Article 23

The auctioneer's functions

1 The auctioneer shall carry out the following functions:

a auction the volume of allowances to be auctioned by each Member State appointing it;

b receive the auction proceeds due to each Member State appointing it;

c disburse the auction proceeds due to each Member State appointing it.

2 The auctioneer of each Member State auctioning allowances pursuant to Article 10(5) shall receive the auction proceeds from those allowances on an auctioneer's nominated bank account designated by it no later than 1 October 2019 for the receipt of payments due under Article 10(5). The auctioneer shall ensure that these auction proceeds are disbursed to the account notified to it by the Commission for the purposes of Article 10a(8) of Directive 2003/87/EC, at the latest 15 days following the end of the month within which the auction proceeds were generated. The auctioneer may deduct prior to disbursement any additional fees for their holding and disbursement, subject to the prior notification of the amount and the reason for these fees by its Member State to the Commission and all other Member States.

(3) Paragraph 2 of Article 61 is replaced by the following:

2. Pursuant to paragraph 1 the auction platform shall announce at least the following results of each auction:

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/7. (See end of Document for details)*

a the volume of the allowances auctioned;
b the auction clearing price in euros;
c the total volume of bids submitted;
d the total number of bidders and the number of successful bidders;
e in case of cancellation of an auction, the auctions to which the volume of allowances will be carried over;
f the total revenue earned from the auction;
g the distribution of the revenue between the Member States, in the case of auction platforms appointed pursuant to Article 26(1) or (2).

(4) Paragraph 3 of Article 61 is replaced by the following:

3. At the same time as the auction platform announces the results of each auction pursuant to points (a) and (b) of paragraph 2, the auction platform shall notify each successful bidder bidding through its systems:
a the total number of allowances to be allocated to that bidder;
b which of its tied bids, if any, were randomly selected;
c the payment due either in euros or in the currency of a Member State not member of the euro-zone, chosen by the bidder provided that the clearing system or settlement system is capable of handling the national currency in question;
d the date by which the payment due must be paid in cleared funds into the auctioneer's nominated bank account.;

(5) Annex III is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 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, 30 October 2018.

For the Commission

The President

Jean-Claude JUNCKER