Commission Regulation (EU) 2018/208 of 12 February 2018 amending Regulation (EU) No 389/2013 establishing a Union Registry (Text with EEA relevance)

COMMISSION REGULATION (EU) 2018/208

of 12 February 2018

amending Regulation (EU) No 389/2013 establishing a Union Registry

(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 scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC[(1)], and in particular Articles 12 and 19 thereof,

Whereas:

(1) The registries system ensures the accurate accounting of transactions under the EU emissions trading system (EU ETS) set up by Directive 2003/87/EC, the Kyoto Protocol and Decision No 406/2009/EC of the European Parliament and of the Council[(2)]. Registries are standardised and secured electronic databases containing common data elements to track the issue, holding, transfer and cancellation of the relevant units, to provide for public access and confidentiality as appropriate and to ensure that there are no transfers which are incompatible with the obligations.

(2) Where necessary and for as long as necessary in order to protect the environmental integrity of the EU ETS, aviation operators and other operators in the EU ETS may not use allowances that are issued by a Member State which has notified the European Council of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union ('TEU'). In the light of the negotiations pursuant to Article 50 TEU, and pursuant to Article 12(3) of Directive 2003/87/EC, the Commission should regularly assess whether prohibiting the use of allowances is still necessary, in particular in situations where Union law does not yet cease to apply in that Member State or where it is sufficiently ensured that the surrender of allowances takes place in a legally enforceable manner before the Treaties cease to apply.

(3) This Regulation should enter into force as a matter of urgency and apply from 1 January 2018 in order for the measures to take effect for allowances to be allocated for free, received in exchange of international credits or auctioned in 2018. The provisions therein are without prejudice to any future agreement with such a Member State.

(4) Appropriate technical measures should be put in place to ensure the effectiveness of this Regulation at the time of its application.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2018/208. (See end of Document for details)*

(5) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EU) No 389/2013[(3)] is amended as follows:

(1) in Article 41, the following paragraph 4 is inserted:

4. Allowances which are created as from 1 January 2018 pursuant to the National Allocation Table or the international credit entitlement table of a Member State which has notified the European Council of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union, or to be auctioned by an Auction Platform appointed by such a Member State, shall be identified by a country code and shall be made distinguishable according to the year of creation. Allowances created for 2018 shall not be identified with a country code where Union law does not yet cease to apply in that Member State by 30 April 2019 or where it is sufficiently ensured that the surrender of allowances must take place by no later than 15 March 2019 in a legally enforceable manner before the Treaties cease to apply in that Member State. The Member State concerned shall immediately after 15 March 2019 report on compliance to the Member States and the Commission.;

(2) in Article 67, the following paragraph 4 is inserted:

4. Allowances which have a country code pursuant to Article 41(4) may not be surrendered.;

(3) in Article 99, the following paragraphs 4 and 5 are inserted:

4. The Commission may instruct the central administrator to temporarily suspend the acceptance by the EUTL of relevant ETS processes from 1 January 2018 until the measures foreseen in Article 41(4), Article 67(4) and Annex XIV points 4(c) and 5(a) have been implemented.

5 The Commission may, including at the request of a Member State which has notified the European Council of its intention to withdraw from the Union pursuant to Article 50 TEU, instruct the central administrator to temporarily suspend the acceptance by the EUTL of relevant processes for that Member State relating to free allocation, auctioning and the exchange of international credits.;

(4) in Annex XIV, point 4(c) is replaced by the following:

(c) the amount of allowances or Kyoto units involved in the transaction, including the country code but without unique unit identification code of the allowances and the unique numeric value of the unit serial number of the Kyoto units;;

(5) in Annex XIV, point 5(a) is replaced by the following:

(a) current holdings of allowances and Kyoto units, including the country code but without the unique unit identification code of the allowances and the unique numeric value of the unit serial number of the Kyoto units;.