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

of 25.10.2023

amending Delegated Regulation (EU) 2019/1122 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The Union Registry is established pursuant to Article 19(1) of Directive 2003/87/EC¹. The rules on the function of the Union Registry were established in Commission Regulation (EU) No 1193/2011² and by Commission Regulation (EU) No 389/2013³ for the third trading period of the EU Emissions Trading System (EU ETS) (2013-2020). The Union Registry rules were adapted to the new legal context set for the fourth trading period of the EU ETS (2021-2030) by the Commission Delegated Regulation (EU) 2019/1122⁴ that is applicable as of 1 January 2021. The latter has repealed the former in most parts. However, the fulfilment of requirements of the second period of the Kyoto Protocol is still governed by Regulation (EU) No 389/2013.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission established the Expert Group on Climate Change Policy on 27 March 2018. For the preparation of this Delegated Regulation, meetings of the Expert Group on Climate Change Policy were held on 15 March, 5 April and 27 April 2023.

The documents relevant to the meetings have been transmitted simultaneously to the European Parliament and the Council, as foreseen in the Common Understanding on Delegated Acts annexed to the Interinstitutional Agreement on Better Law Making⁵. The observations expressed by the expert group were taken into account when preparing the draft Delegated Regulation.

Furthermore, online feedback on the text of the Delegated Regulation was collected on the Better Regulation Portal for four weeks between 31 July and 28 August 2023. 15 contributions were submitted, 2 from citizens, 4 from companies, 1 from trade unions, 2 from public authorities, 5 from business associations and 1 on behalf of academic institutions. On the maritime Registry timeline, relevant comments received from the industry were taken into account.

¹ 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 (OJ L 275, 25.10.2003, p. 32).

² Commission Regulation (EU) No 1193/2011 of 18 November 2011 establishing a Union Registry for the trading period commencing on 1 January 2013, and subsequent trading periods, of the Union emissions trading scheme pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council and amending Commission Regulations (EC) No 2216/2004 and (EU) No 920/2010 (OJ L 315, 29.11.2011, p. 1).

³ Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ L 122, 3.5.2013, p.1).

⁴ Commission Delegated Regulation (EU) 2019/1122 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry (OJ L 177, 2.7.2019, p. 3).

⁵ 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).

The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725⁶ and delivered an opinion on 25 September 2023.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Directive (EU) 2023/959 of the European Parliament and of the Council has introduced new sectors (maritime transport) in the EU ETS as of 2024 and has created an adjacent ETS system for buildings, road transport and additional sectors as of 2027. These changes need to be reflected in the Registry Regulation, in order to give shipping companies and regulated entities the rules and tools to enrol in the Union Registry for their ETS compliance.

During the negotiations on the revision of Directive 2003/87/EC under the Fit for 55 package, the Commission has committed to enhance the transparency and integrity of the European carbon market by measures that need to be reflected in Commission Delegated Regulation (EU) 2019/1122. The mandatory marking of bilateral transactions for the execution of transactions and allowing market regulators⁷ to receive regular and timely information from the Union Registry will provide better information on the monitoring and reporting of emission allowances.

The revised Directive 2003/87/EC has changed the compliance date for operators to surrender allowances. This change needs to be reflected in Commission Delegated Regulation (EU) 2019/1122.

A new Union Registry account type is established for third-country governments that have entered into a non-binding arrangement with the EU as provided by Article 25(1b) of Directive 2003/87/EC.

This amendment of Commission Delegated Regulation (EU) 2019/1122 provides an opportunity to introduce some elements of simplification that have emerged from the past experience as well as the need to remove references to legal provisions that have been deleted from the ETS Directive.

⁶ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁷ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

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(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/EC⁸, and in particular Article 19(3) thereof, Whereas:

- (1) Commission Delegated Regulation (EU) 2019/1122⁹ lays down general, operational and maintenance requirements concerning the Union Registry provided for in Directive 2003/87/EC and applies to allowances created for the purposes of the European Union Emissions Trading System (EU ETS).
- (2) Directive 2003/87/EC has been amended to include as of 2024 emissions from maritime transport in the EU ETS. Shipping companies will thus be subject to a requirement to surrender emission allowances corresponding to a certain share of its greenhouse gas emissions, which will gradually increase until 2026. It is therefore appropriate to establish specific rules for the opening and closure of maritime operator holding accounts by shipping companies. Several derogations from the surrender requirement have been introduced that apply to maritime transport emissions. They should be reflected in the calculation of the compliance status figure for shipping companies.
- (3) Directive 2003/87/EC has also been amended to include as of 2027 a separate but parallel emissions trading system to be applied to fuels used for combustion in the buildings and road transport sectors as well as in additional sectors of industrial activities not covered by Annex I to that Directive. Therefore, specific rules should be established for holding accounts and for surrender of allowances in respect of regulated entities carrying out an activity referred to in Annex III of Directive 2003/87/EC. Since the new emissions trading system remains separate from the existing system for stationary installations and aviation, this distinction should be reflected with regard to allowances issued for the sectors concerned in the Union Registry.

⁸ OJ L 275, 25.10.2003, p. 32.

⁹ Commission Delegated Regulation (EU) 2019/1122 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry (OJ L 177, 2.7.2019, p. 3).

- (4) The new compliance dates for operators to surrender allowances set out in Directive 2003/87/EC should be reflected. The compliance date for stationary installations and aircraft operators should therefore be changed to 30 September. The compliance dates for maritime operators and regulated entities should also be changed to 30 September and 31 May respectively.
- (5) It is also necessary to delete references to legal provisions that have been removed from Directive 2003/87/EC and to address certain needs for simplification that have emerged from past experience. The rules on the return of excess allocation should be updated in order to allow such transaction from blocked accounts. The information on parent and subsidiary company should be at account holder level and not at company level.
- (6) A new account type should be established for third-country governments that have entered into a non-binding arrangement with the Union in accordance with Directive 2003/87/EC. This new account type should enable those third country governments to delete allowances acquired on the Union market.
- (7) A provision has been introduced in Directive 2003/87/EC giving the competent authority of a Member State the possibility to exempt a regulated entity that is subject to national carbon tax from the obligation to surrender allowances. A new account type should be established for Member States that decide to make use of that possibility. A Member State should thus be allowed to delete allowances relating to fuels used for combustion in the buildings and road transport sectors and in additional sectors, where its auction volumes are below the amount of allowances that have to be cancelled.
- (8) As of 1 January 2025, general allowances are to be issued also for the aviation sector, by means of free allocation and auctioning, thus covering emissions from the stationary, maritime and aviation sectors. However, in order to ensure a smooth transition and legal certainty for the users, aviation allowances issued before the end of 2024 should remain in the accounts and in circulation.
- (9) In order to enhance transparency, and improve market monitoring, of purely bilateral over-the-counter transactions of emission allowances, such transactions should be systematically marked in the Union Registry. To avoid data inconsistencies, the term bilateral transactions shall have the same meaning as in the relevant financial reporting frameworks. Moreover, in order to improve the quality of data available to market regulators for the so-called spot market of emission allowances, market regulators should be allowed to request access to data in the Union Registry with regular intervals depending on their monitoring needs.
- (10) Delegated Regulation (EU) 2019/1122 should therefore be amended accordingly.
- (11) In order to allow market participants time to adapt to the merging of general and aviation allowances and to prevent legal uncertainty regarding the use and the validity of allowances in the year 2024, the application of the provisions on the merging of general allowances and aviation allowances should be deferred.
- (12) In order to ensure the timely application of the EU ETS for maritime operators as of 1 January 2024, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*.

- (13) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁰ and delivered an opinion on 25 September 2023,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/1122 is amended as follows:

- (1) Article 3 is amended as follows:

- (a) points (6), (7) and (8) are replaced by the following:

‘(6) ‘verifier’ means:

- (a) in the case of stationary installations, aircraft operators and regulated entities, verifier as defined in Article 3, point (3), of Commission Implementing Regulation (EU) 2018/2067*;
- (b) in the case of maritime transport, verifier as defined in Article 3, point (f), of Regulation (EU) 2015/757**;

(7) ‘aviation allowances’ means allowances created pursuant to Articles 3c and 3d of Directive 2003/87/EC that were issued before 1 January 2025 and allowances, created for the same purpose, stemming from emission trading systems that are linked to the EU ETS under Article 25 of that Directive;

(8) ‘general allowances’ means allowances created pursuant to Chapter III of Directive 2003/87/EC, including allowances stemming from emission trading systems that are linked with the EU ETS pursuant to Article 25 of that Directive, and allowances created pursuant to Articles 3c and 3d of that Directive that were issued after 1 January 2025;

* Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council, C/2018/8589 (OJ L 334, 31.12.2018, p. 94).

** Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).’;

- (b) the following point is inserted:

‘(8a) ‘regulated entity allowances’ means allowances created pursuant to Chapter IVa of Directive 2003/87/EC’;

- (c) point (13) is replaced by the following:

¹⁰ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

‘(13) ‘surrender’ means the accounting of an allowance by an stationary installation, an aircraft operator, a shipping company or a regulated entity against the verified emissions of its installation, aircraft, or ship or against fuel released for consumption’;

(d) the following points are added:

‘(25) ‘operator accounts’ means stationary installation holding accounts, aircraft operator holding accounts, maritime operator holding accounts and regulated entity holding accounts;

(26) ‘operators’ means stationary installations, aircraft operators, shipping companies and regulated entities.

(2) Article 9 is amended as follows:

(a) paragraph 5 is replaced by the following:

‘5. Upon exclusion of an installation from the EU ETS pursuant to Articles 27 or 27a of Directive 2003/87/EC, the national administrator shall set the corresponding stationary installation holding account to excluded status for the duration of the exclusion.’;

- (b) the following paragraph is inserted:
- ’6a. Where a regulated entity is exempt from the obligation to surrender allowances in accordance with Article 30e(3) of Directive 2003/87/EC, the national administrator shall set the corresponding regulated entity holding account to excluded status for the duration of the exemption.’;
- (c) in paragraph 7, ‘Articles 22 and 57’ is replaced by ‘Article 22, Article 48(4), Article 50(6) and (8), Article 55(2) and (3) and Article 57’;

- (3) Article 14 is replaced by the following:

Article 14

Opening stationary installation holding accounts in the Union Registry

1. Within 20 working days of the entry into force of a greenhouse gas emissions permit, the relevant competent authority or the stationary installation shall provide the relevant national administrator with the information set out in Annex VI and shall request the national administrator to open an stationary installation holding account in the Union Registry provided that the stationary installation has an obligation to surrender allowances pursuant to Article 12 of Directive 2003/87/EC.
2. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall open a stationary installation holding account for each installation in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 19.
3. A new stationary installation holding account may be opened only if the installation does not already have a stationary installation holding account that was opened based on the same greenhouse gas emissions permit.’;

- (4) Article 15 is amended as follows:

- (a) paragraph 2 is replaced by the following:

’2. Each aircraft operator shall have no more than one aircraft operator holding account.’;

- (b) paragraph 5 is deleted.

- (5) the following articles are inserted:

Article 15a

Opening maritime operator holding accounts in the Union Registry

1. Within 40 working days of the publication of the list referred to in Article 3gf(2), point (a), of Directive 2003/87/EC, or, for shipping companies not included in that list, within 65 working days of the first voyage falling within the scope of Article 3ga of that Directive, the shipping company shall provide the relevant national administrator with the information set out in Annex VIIa to this Regulation and shall request the national administrator to open a maritime operator holding account in the Union Registry.
2. Each shipping company shall have no more than one maritime operator holding account.

3. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall open a maritime operator holding account for each shipping company in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 19.

By way of derogation from the first subparagraph, for the requests referred to in paragraph 1 of this Article and submitted in 2024, the deadline for the national administrator to open a maritime operator holding account shall be 40 working days from the receipt of a complete set of information.

Article 15b

Opening regulated entity holding accounts in the Union Registry

1. Within 20 working days of the entry into force of a greenhouse gas emissions permit, the regulated entity falling within the scope of Chapter IVa of Directive 2003/87/EC shall provide the relevant national administrator with the information listed in Annex VIIb to this Regulation and shall request the national administrator to open a regulated entity holding account in the Union Registry.
2. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 21, the national administrator shall open a regulated entity holding account for each regulated entity in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 19.
3. Each regulated entity shall have no more than one regulated entity holding account.
4. By way of derogation from the first subparagraph, for the requests referred to in paragraph 1 of this Article and submitted in 2025, the deadline for the national administrator to open a regulated entity holding accounts shall be 40 working days from the receipt of a complete set of information.
5. A new regulated entity holding account may be opened only if the regulated entity does not already have a regulated entity holding account that was opened based on the same greenhouse gas emissions permit.
6. Where the national administrator already acquired information for the purposes of national measures in the sectors falling within the scope of Annex III to Directive 2003/87/EC, it may use this information for the purpose of opening of the regulated entity holding accounts, provided that the information fulfils the requirements set out in Article 15b of this Regulation.

Article 15c

Opening third country government deletion accounts in the Union Registry

1. Following the signature of a non-binding arrangement referred to in Article 25(1b) of Directive 2003/87/EC, the government of the third country or the sub-federal or regional entity may, by an official letter, request the central administrator to open a third country government deletion account in the Union Registry.
2. The third country concerned shall have no more than one single third country government deletion account.

Article 15d

Opening tax derogation deletion accounts in the Union Registry

1. Where a Member State notifies the Commission of the application of the exemption in accordance with Article 30e(3) of Directive 2003/87/EC and the Commission does not raise an objection to the application of that derogation, the Member State concerned shall, by an official letter, request the central administrator to open a tax derogation deletion account in the Union Registry.
2. The Member State concerned shall have no more than one tax derogation deletion account.
3. Only regulated entity allowances may be transferred to the tax derogation deletion account. Regulated entity allowances held in the tax derogation deletion account shall be deleted by the end of the year after the reference year in accordance with Article 30e(3), point (g), of Directive 2003/87/EC.
4. The tax derogation deletion account shall be used only to fulfil the requirements set out in Article 30e(3), point (g), of Directive 2003/87/EC and the amount of allowances sent to that account in any given year shall not be higher than the difference between the amount of allowances that remains to be auctioned in the reference year following application of Article 30e(3), point (f), of that Directive and the amount of allowances to be cancelled under Article 30e(3), point (g), of Directive 2003/87/EC.';
- (6) In Article 19(3), the first sentence is replaced by the following:
'Where the national administrator refuses to open an operator account in accordance with paragraph 2, the account may be opened upon instruction from the competent authority.'
- (7) Article 22 is amended as follows:
 - (a) paragraph 2 is replaced by the following:
'2. Operators shall notify the administrator of their account within 10 working days if they have undergone a merger or a split.';
 - (b) paragraph 4 is replaced by the following:
'4. At least once every three years, the national administrator shall review whether the account information remains complete, up-to-date, accurate and true, and shall request that the account holder notify any changes as appropriate. For operator accounts and verifiers, the review shall take place at least once every five years. The national administrators shall by the last day of the month following 12 months after the date of entry into force of this Regulation and at least once every year thereafter, review the accounts which do not contain information on the Legal Entity Identifier or status of trading venue or central counterparty referred to in Table III-I of Annex III.';
 - (c) in paragraph 7, 'Articles 14, 15 or 16' is replaced by 'Articles 14, 15, 15a, 15b or 16';
 - (d) the following paragraph is inserted:
'11a. If the administering authority in respect of a shipping company changes in accordance with the procedure set out in Article 3gf of Directive 2003/87/EC, the central administrator shall update the national administrator of the corresponding maritime operator holding account. Where the administrator

of a maritime operator holding account changes, the new administrator may require the shipping company to submit account opening information in accordance with Article 15a and information about authorised representatives in accordance with Article 21.’;

(e) paragraph 12 is replaced by the following:

‘12. Subject to paragraphs 11 and 11a, the Member State responsible for managing an account shall not change.’;

(8) the following Article is inserted:

’Article 24a

Closure of third country government deletion accounts

The central administrator shall close a third country government deletion account within 10 working days of the end of the time period set out in the non-binding arrangement referred to in Article 25(1b) of Directive 2003/87/EC.’;

(9) Article 25 is amended as follows:

(a) the title is replaced by the following:

’Closure of stationary installation holding accounts’;

(b) in paragraph 2, the first sentence is replaced by the following:

’The national administrator may close a stationary installation holding account if the following conditions are fulfilled:’

(c) paragraph 2 point c is replaced by ’verified emissions were registered for all years when the stationary installation was included in the EU ETS;’ ;

(10) the following articles are inserted:

’Article 26a

Closure of maritime operator holding accounts

1. The competent authority shall notify the national administrator within 10 working days of notification by the account holder, or of discovering after examining other evidence, that the shipping company merged into another shipping company or the shipping company has ceased all its operations covered by Annex I to Directive 2003/87/EC.

2. The national administrator may close a maritime operator holding account if the following conditions are fulfilled:

(a) notification pursuant to paragraph 1 has been made;

(b) the year of last emission is registered in the Union Registry;

(c) verified emissions subject to surrender requirements in accordance with Articles 3gb and 12 of Directive 2003/87/EC were registered for all years when the shipping company was included in the EU ETS;

(d) the shipping company has surrendered an amount of allowances equal to or greater than its verified emissions subject to surrender requirements in accordance with Articles 3gb and 12 of Directive 2003/87/EC.

Article 26b

Closure of regulated entity holding accounts

1. Where the competent authority withdraws a greenhouse gas emissions permit or receives a notification by the account holder, or discovers after examining other evidence, that the regulated entity has merged into another regulated entity or has ceased all its operations covered by Annex III to Directive 2003/87/EC, it shall notify the national administrator within 10 working days of the withdrawal, the notification by the account holder or the discovery, as applicable.
 2. The national administrator may close a regulated entity holding account if the following conditions are fulfilled:
 - (a) notification from the competent authority pursuant to paragraph 1 has been received;
 - (b) the year of last emission is registered in the Union Registry;
 - (c) verified emissions were registered for all years when the regulated entity was included in the EU ETS;
 - (d) the regulated entity has surrendered an amount of allowances equal to or greater than its verified emissions.’;
- (11) Article 28 is amended as follows:
- (a) in paragraph 1, the second subparagraph is replaced by the following:

’In the case of operator accounts, the competent authority or the relevant law enforcement authority may instruct the national administrator to set to blocked status those accounts for which access is suspended until the competent authority determines that the situation giving rise to the suspension no longer subsists.’;
 - (b) paragraph 3 is replaced by the following:

’3. The national administrator shall close an operator account upon instruction from the competent authority on the basis that there is no reasonable prospect of further allowances being surrendered or excess allowances being returned.’
- (12) in Article 30, paragraph 10 is replaced by the following:
- ’10. Where the holder of an operator account is prevented from surrendering in the 10 working days preceding the surrender time-limit laid down in Article 12(3) and Article 30e(2), respectively, of Directive 2003/87/EC due to suspension in accordance with this Article, the national administrator shall, if so requested by the account holder, surrender the number of allowances specified by the account holder.’;
- (13) Article 31 is amended as follows:
- (a) the title is replaced by the following:

’Verified emissions data for operators;
 - (b) paragraph 1 is replaced by the following:

’1. Whenever required by national law, each operator shall select a verifier from the list of verifiers registered with the national administrator administering its account.’;
 - (c) paragraph 4 is replaced by the following:

'4. Upon satisfactory verification in accordance with Article 15 of Directive 2003/87/EC of an operator's report on the emissions from an installation during a previous year, of an aircraft operator's report on the emissions from all aviation activities it performed during a previous year, or of the regulated entity's report on its emissions during a previous year, the verifier or the competent authority shall approve the annual emissions data.

For shipping companies, the verifier or the competent authority shall approve the annual emission data upon satisfactory verification of a shipping company's aggregated emissions data at company level in accordance with Article 3ge of that Directive. For regulated entities, the verifier or the competent authority shall approve the annual emissions data upon satisfactory verification in accordance with Article 15 of Directive 2003/87/EC.';

- (d) in paragraph 5, the last sentence is replaced by the following:

'All approved emissions shall be marked verified by the deadlines set in Article 32.';

- (e) paragraph 6 is replaced by the following:

'6. The competent authority may instruct the national administrator to correct the annual verified emissions for any operator to ensure compliance with Articles 3gd, 3ge, 14 and 15 of Directive 2003/87/EC, by entering the corrected verified or estimated emissions for that operator for a given year in the Union Registry.';

- (f) paragraph 7 is amended as follows:

- (i) the first subparagraph is replaced by the following:

'Where, on 1 May of each year, no verified emissions figure has been recorded in the Union Registry for a stationary installation or an aircraft operator for a previous year or the verified emissions figure was proven to be incorrect, any substitute emissions figure estimate entered in the Union Registry shall be calculated as closely as possible in accordance with Articles 14 and 15 of Directive 2003/87/EC.;

- (ii) the following subparagraphs are added:

'Where, on 1 May of each year, no verified emissions figure has been recorded in the Union Registry for a shipping company for a previous year or the verified emissions figure was proven to be incorrect, any substitute emissions figure estimate entered in the Union Registry shall be calculated as closely as possible in accordance with Articles 3gd and 3ge of Directive 2003/87/EC.

Where, on 1 June of each year, no verified emissions figure has been recorded in the Union Registry for a regulated entity for a previous year or the verified emissions figure was proven to be incorrect, any substitute emissions figure estimate entered in the Union Registry shall be calculated as closely as possible in accordance with Articles 14 and 15 of Directive 2003/87/EC.';

- (14) Article 32 is replaced by the following:

Article 32

Blocking of accounts due to a failure to submit verified emissions

1. If, on 1 April of each year, the annual emissions for the preceding year of a stationary installation, an aircraft operator or a shipping company, or, on 1 May of each year, the annual emissions corresponding to the amount of fuel released for consumption for the preceding year by a regulated entity, have not been entered and marked as ‘verified’ in the Union Registry, the central administrator shall ensure that the Union Registry sets the corresponding operator account to a blocked status.

2. When all overdue verified emissions of an operator for that year have been recorded in the Union Registry, the central administrator shall ensure that the Union Registry sets the corresponding operator account to open status.’;

(15) Article 33 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the first subparagraph is replaced by the following:

‘The central administrator shall ensure that on 1 October of each year, the Union Registry indicates the compliance status figure for the preceding year for every stationary installation holding account, aircraft operator holding account and maritime operator holding account that is not in a closed status by calculating the sum of all allowances surrendered for the current period less the sum of all verified emissions in the current period and including the preceding year, plus a correction factor.’;

(ii) in the second subparagraph, ‘Articles 25 and 26’ is replaced by ‘Articles 25, 26, 26a and 26b’;

(b) the following paragraphs are inserted:

’1a. For the period from 2024 to 2030, derogations pursuant to Article 12(3-e) to 12(3-b) of Directive 2003/87/EC shall be taken into account in the calculation of the compliance status for shipping companies.

1b. For 2024 and 2025, the rules laid down in Article 3gb of Directive 2003/87/EC shall be taken into account in the calculation of the compliance status for shipping companies.

1c. From 2026, the verified emissions of shipping companies shall also include methane and nitrous oxide.’;

(16) the following article is inserted:

‘Article 33a

Calculation of compliance status figures for regulated entities

1. From 2028, the central administrator shall ensure that on 1 June of each year, the Union Registry indicates the compliance status figure for the preceding year for every regulated entity with a regulated entity holding account that is not in a closed status. This shall be done by calculating the sum of all allowances surrendered for the current period less the sum of all verified emissions corresponding to their fuel released for consumption in the current period and including the preceding year. The compliance status figure shall not be calculated for accounts that had their previous compliance status figure zero or positive and the year of last emissions was set to a year before the preceding year.

2. The central administrator shall ensure that the Union Registry calculates the compliance status figure before the closure of the account pursuant to Article 26b.
3. The central administrator shall ensure that the Union Registry records the compliance status figure for every regulated entity for each year.’;

(17) in Article 36, the following paragraph is added:

’5. Allowances falling within the scope of Chapter IVa of Directive 2003/87/EC shall not be fungible with allowances falling within the scope of Chapters II and III of that Directive. Allowances falling within the scope of Chapter IVa of Directive 2003/87/EC shall not be held on stationary installation holding accounts, aircraft operator holding accounts, maritime operator holding accounts or third country government deletion accounts.’;

(18) Article 37 is amended as follows:

(a) paragraph 1 is replaced by the following:

’1. The central administrator may create an EU Total Quantity Account, an EU Aviation Total Quantity Account, an EU Allocation Account, an EU Aviation Allocation Account, an EU Auction Account, an EU Aviation Auction Account, an EU Regulated Entity Total Quantity Account and an EU Regulated Entity Auction Account as appropriate, and shall create or cancel accounts and allowances as made necessary by Union acts, including as may be required by Directive 2003/87/EC or Article 10(1) of [Regulation (EU) No 1031/2010].’;

(b) in paragraph 2, the following sentence is added:

’Regulated entity allowances shall be made distinguishable at all times from general allowances.’;

(19) Article 38 is amended as follows:

(a) the title is replaced by the following:

’Transfer of general allowances for stationary installations and maritime operators to be auctioned’;

(b) paragraph 1 is replaced by the following:

’1. The central administrator shall, in a timely manner, transfer on behalf of the relevant auctioning Member State, as well as for the innovation fund established pursuant to Article 10a(8) of Directive 2003/87/EC, for the modernisation fund established pursuant to Article 10d of Directive 2003/87/EC, for the Recovery and Resilience Facility established pursuant to Regulation (EU) 2021/241 of the European Parliament and of the Council*, and for the Social Climate Fund established by Regulation (EU) 2023/955 of the European Parliament and of the Council**, as represented by their auctioneer appointed in accordance with [Regulation (EU) No 1031/2010], general allowances for stationary installations and maritime operators from the EU Total Quantity Account into the EU Auction Account in a quantity corresponding to the annual volumes determined pursuant to Article 10 of that Regulation.

* Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 1)

** Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 (OJ L 130, 16.5.2023, p. 1).’;

- (20) Article 39 is replaced by the following:

‘Article 39

Transfer of general allowances for stationary installations to be allocated free of charge

The central administrator shall, in a timely manner, transfer general allowances for stationary installations from the EU Total Quantity Account into the EU Allocation Account in a quantity corresponding to the sum of the allowances allocated free of charge according to the national allocation table of each Member State.’;

- (21) Article 40 is replaced by the following:

‘Article 40

Transfer of general allowances for aviation to be auctioned

1. The central administrator shall, in a timely manner, transfer on behalf of the relevant auctioning Member State as represented by its auctioneer appointed in accordance with [Regulation (EU) No 1031/2010], general allowances for aviation from the EU Aviation Total Quantity Account to the EU Aviation Auction Account in a quantity corresponding to the annual volumes determined pursuant to that Regulation.

2. In case of adjustments of the annual volumes of allowances in accordance with Article 14 of [Regulation (EU) No 1031/2010], the central administrator shall transfer a corresponding quantity of general allowances from the EU Aviation Total Quantity Account to the EU Aviation Auction Account or from the EU Aviation Auction Account to the EU Aviation Total Quantity Account, as the case may be.’;

- (22) Article 41 is replaced by the following:

‘Article 41

Transfer of general allowances to be allocated free of charge to aircraft operators

The central administrator shall, in a timely manner, transfer general allowances from the EU Aviation Total Quantity Account into the EU Aviation Allocation Account in a quantity corresponding to the sum of the allowances allocated free of charge according to the national aviation allocation table of each Member State.’;

- (23) Article 42 is deleted;

- (24) the following article is inserted:

‘Article 42a

Transfer of regulated entity allowances to be auctioned

1. The central administrator shall, in a timely manner, transfer on behalf of the relevant auctioning Member State and for the Social Climate Fund established by Regulation

(EU) 2023/955, as represented by their auctioneer appointed in accordance with [Regulation (EU) No 1031/2010], regulated entity allowances from the EU Regulated Entity Total Quantity Account into the EU Regulated Entity Auction Account in a quantity corresponding to the annual volumes determined pursuant to Article 13 of that Regulation.

2. In case of adjustments of the annual volumes of allowances in accordance with Article 14 of [Regulation (EU) No 1031/2010], the central administrator shall transfer a corresponding quantity of regulated entity allowances from the EU Regulated Entity Total Quantity Account to the EU Regulated Entity Auction Account or from the EU Regulated Entity Auction Account to the EU Regulated Entity Total Quantity Account, as the case may be.;

(25) Articles 44 and 45 are deleted;

(26) Article 48 is replaced by the following:

‘1. The national administrator shall indicate in the national allocation table for each stationary installation, for each year and for each legal basis set out in Annex X, whether or not an installation should receive an allocation for that year.

2. The central administrator shall ensure that the Union Registry transfers general allowances for stationary installations automatically from the EU Allocation Account in accordance with the relevant national allocation table to the relevant open stationary installations holding account with compliance status A, as set out in Table XIV-I of Annex XIII, or to the relevant blocked stationary installation holding account, having regard to the modalities of the automatic transfer specified in the data exchange and technical specifications provided for in Article 75.

3. Where an excluded stationary installation holding account does not receive allowances under paragraph 2, allowances for the years of exclusion shall not be transferred to the account, should it be set to open status for subsequent years.

4. The central administrator shall ensure that a stationary installation can perform transfers returning excess allowances to the EU Allocation Account where the national allocation table of a Member State has been changed pursuant to Article 47 to correct for an over allocation of allowances to the stationary installation, and the competent authority has requested the stationary installation to return such excess allowances.

5. The competent authority may instruct the national administrator to transfer returning excess allowances to the EU Allocation Account where the over allocation of allowances is a consequence of allocation after a stationary installation ceased the activities carried out in the installation to which the allocation relate, without informing the competent authority. ’;

(27) in Article 49, paragraph 2 is replaced by the following:

‘2. The Commission shall instruct the central administrator to make the corresponding changes to the national aviation allocation tables in the Union Registry if it considers that the change to the national aviation allocation table is in accordance with Directive 2003/87/EC. It shall otherwise reject the changes within a reasonable period of time and inform the Member State without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.’;

(28) Article 50 is amended as follows:

- (a) the title is replaced by the following:
‘Free allocation of allowances to aircraft operators’;
- (b) paragraph 2 is replaced by the following:
‘The central administrator shall ensure that the Union Registry transfers aviation allowances, and from 1 January 2025 general allowances, automatically from the EU Aviation Allocation Account to the relevant open aircraft operator holding account with compliance status A, as set out in Table XIV-I of Annex XIII, or to the relevant blocked aircraft operator holding account in accordance with the relevant allocation table, having regard to the modalities of the automatic transfer specified in the data exchange and technical specifications provided for in Article 75.’;
- (c) paragraph 3 is replaced by the following:
‘Where an agreement pursuant to Article 25 of Directive 2003/87/EC is in force and requires transferring aviation allowances to aircraft operators holding accounts in the registry of another greenhouse gas emissions trading system, the central administrator, in cooperation with the administrator of the other registry, shall ensure that the Union Registry transfers general allowances from the EU Aviation Allocation Account to the corresponding accounts in the other registry.’;
- (d) the following paragraph 8 is added:
‘8. The competent authority may instruct the national administrator to transfer returning excess allowances to the EU Allocation Account where the over allocation of allowances is a consequence of an annual allocation issued for a year for which the aircraft operator holding account has been subsequently changed to excluded status.’;

(29) in Article 51, the title is replaced by the following:

‘Return of allowances from aircraft operators’;

(30) Article 52(1) is amended as follows:

(a) the second subparagraph is replaced by the following:

‘The settlement system or clearing system referred to in the first subparagraph shall provide a single auction table for each calendar year for the auctioning of general allowances, and for the auctioning of aviation allowances in the period until 31 December 2024, and shall ensure that the auction table includes the information set out in Annex XII.’;

(b) the following subparagraph is added:

‘The settlement system or clearing system referred to in the first subparagraph shall provide a single auction table for each calendar year for the auctioning of allowances falling within the scope of Chapter IVa of Directive 2003/87/EU and shall ensure that the auction table includes the information set out in Annex XII.’

(31) Article 54 is replaced by the following:

‘Article 54

Auctioning of allowances

1. The Commission shall instruct the central administrator, in a timely manner, to transfer, on request of the auctioning Member State and with regard to the Innovation fund, the Modernisation fund, the Recovery and Resilience Facility or the Social Climate Fund, as represented by its auctioneer appointed in accordance with [Regulation (EU) No 1031/2010], the following to the relevant auction collateral delivery account in accordance with the relevant auction table:
 - (a) general allowances from the EU Auction Account;
 - (b) until 31 December 2024, aviation allowances from the EU Aviation Auction Account;
 - (c) from 1 January 2025, general allowances for aviation from the EU Aviation Auction Account;
 - (d) from 1 January 2027, regulated entity allowances from the EU Regulated Entity Auction Account.
 2. The account holder of the relevant auction collateral delivery account shall ensure the transfer of the auctioned allowances to the successful bidders or their successors in title in accordance with Article 47(2) of [Regulation (EU) No 1031/2010].
 3. The authorised representative of an auction collateral delivery account may be required to transfer any allowances that were not delivered from the auction collateral delivery account to the EU Auction Account, the EU Aviation Auction Account or the EU Regulated Entity Auction Account respectively.’;
- (32) in Article 55, paragraphs 2, 3 and 4 are replaced by the following:
- ‘2. Operator accounts may only transfer allowances to an account on the trusted account list set up pursuant to Article 23.
 3. Holders of operator accounts may decide that transfers are possible from their account to accounts not on the trusted account list set up pursuant to Article 23. Holders of operator accounts may withdraw such decision. The decision and withdrawal of the decision shall be communicated in a duly signed statement submitted to the national administrator.
 4. The central administrator shall ensure that the Union Registry indicates if the transfer represents a bilateral transaction. The transfer shall be considered a bilateral transaction, unless that transaction has been executed through a market venue’s systems and reported pursuant to Article 26(5) of Regulation (EU) No 600/2014 of the European Parliament and of the Council*, or has been cleared at a central counterparty pursuant to Regulation (EU) No 648/2012.

* Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 Text with EEA relevance (OJ L 173, 12.6.2014, p. 84.’;

- (33) Article 56(1) is amended as follows:
- (a) the introductory sentence is replaced by the following:
‘An operator shall surrender allowances by proposing to the Union Registry to:’;

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

'(a) transfer a specified number of allowances from the relevant operator account into the Union Deletion Account;';

(c) point (b) is replaced by the following:

'(b) record the number and type of transferred allowances as surrendered for the emissions of the operator in the current period.';

(34) in article 58(6) point (b) is replaced by the following: 'after the reversal of surrendering transaction no operator would become non-compliant as a result of the reversal.';

(35) the following article is inserted:

'Article 59-a

Authorised transactions for third country government deletion accounts

Allowances held in third country government deletion accounts shall be deleted. Allowances shall not be transferred from third country government deletion accounts. No other transactions shall be possible from those accounts.'

(36) in Article 68, the following paragraphs are added:

‘5. Where, pursuant to Article 53(1), the clearing system of the auction platform notifies the Commission of an amendment to an auction table due to the withholding of allowances in accordance with Article 22(5) of [Regulation (EU) No 1031/2010], the central administrator shall enter that notified revised auction table in the Union Registry and shall not transfer the allowances concerned.

6. Where the clearing system of the relevant auction platform fails to notify an amendment to an auction table pursuant to paragraph 5, and if such a notification has been made by an auctioneer appointed in accordance with Article 22 of [Regulation (EU) No 1031/2010], the central administrator shall suspend the transfer of allowances for that Member State.

7. Where, following a new appointment of an auctioneer in accordance with Article 22 of [Regulation (EU) No 1031/2010], the clearing system of the auction platform notifies the Commission of an amendment to an auction table regarding the identity and the contact details of the new auctioneer, the central administrator shall enter the revised auction table in the Union Registry and shall transfer the allowances on behalf of the new auctioneer to the auction collateral delivery account of the clearing system of the relevant auction platform.

8. Except where an auction has been cancelled in accordance with Article 7(5) or (6) or Article 9 of [Regulation (EU) No 1031/2010], the central administrator shall suspend the transfer of allowances as specified in the respective auction table entered in the Union Registry in any of the following cases:

(a) the relevant auction platform is not able to conduct the auctions pursuant to Article 27(1), point (b), of [Regulation (EU) No 1031/2010];

(b) the required auction proceeds generated pursuant to Article 10a(9), Article 10e and Article 30d(4) of Directive 2003/87/EC have been reached.

In the cases referred to in the first subparagraph, the clearing system of the auction platform shall submit, with utmost urgency, the revised auction table to the central administrator, who shall enter it in the Union Registry.';

- (37) in Article 80, the following paragraph is inserted:
‘4a. The competent authorities referred to in Article 22 of Regulation (EU) No 596/2014 shall receive, upon request to the central administrator if and as long as such requests are justified and necessary for the purposes referred to in paragraph 4, first subparagraph, data stored in the Union Registry at regular intervals determined in consultation with the central administrator.’;
- (38) Annex I is replaced by the text in Annex I to this Regulation;
- (39) Annex III is amended in accordance with Annex II to this Regulation
- (40) Annex VI is amended in accordance with Annex III to this Regulation;
- (41) a new Annex VIIa, as set out in Annex IV to this Regulation, is inserted;
- (42) a new Annex VIIb, as set out in Annex V to this Regulation, is inserted;
- (43) Annex IX is amended in accordance with Annex VI to this Regulation;
- (44) Annex XIII is amended in accordance with Annex VII to this Regulation.

Article 2

Entry into force and application

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

Article 1, points (21), (22), (25) and (28)(c), shall apply from 1 January 2025 and Article 1, point (30)(b), shall apply from 1 January 2027.

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

Done at Brussels, 25.10.2023

For the Commission
The President
Ursula VON DER LEYEN