

## II

(Non-legislative acts)

## REGULATIONS

## 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**

(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 Community and amending Council Directive 96/61/EC<sup>(1)</sup>, and in particular Article 19 thereof,

Having regard to Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol<sup>(2)</sup>, and in particular the first subparagraph, second sentence, Article 6(1) thereof,

Having regard to Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020<sup>(3)</sup>, and in particular Article 11(3) thereof,

Having consulted the European Data Protection Supervisor,

Whereas:

(1) The registries system ensures the accurate accounting of transactions under the Union emissions trading scheme

(ETS) set up by Directive 2003/87/EC, the Kyoto Protocol and Decision No 406/2009/EC. 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 resulting from Directive 2003/87/EC, the Protocol to the United Nations Framework Convention on Climate Change (the Kyoto Protocol) and Decision No 406/2009/EC.

(2) Article 19(1) of Directive 2003/87/EC requires that all allowances issued from 1 January 2012 onwards are held in a Union Registry on accounts managed by the Member States. Commission Regulation (EU) No 920/2010 of 7 October 2010 for a standardised and secured system of registries 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<sup>(4)</sup> provided for such a Union Registry.

(3) Directive 2003/87/EC has been substantially amended by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community<sup>(5)</sup>, requiring major changes to the registries system. The amendments apply from the trading period starting in 2013. At present, there is no international agreement replacing the Kyoto Protocol in force that would apply to Member States after 2012. Aviation allowances were auctioned from 2012 on the basis of Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances

<sup>(1)</sup> OJ L 275, 25.10.2003, p. 32.

<sup>(2)</sup> OJ L 49, 19.2.2004, p. 1.

<sup>(3)</sup> OJ L 140, 5.6.2009, p. 136.

<sup>(4)</sup> OJ L 270, 14.10.2010, p. 1.

<sup>(5)</sup> OJ L 140, 5.6.2009, p. 63.

pursuant to Directive 2003/87/EC <sup>(1)</sup>, in the same way as general allowances. Therefore, 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 <sup>(2)</sup> was adopted pursuant to Article 19 of Directive 2003/87/EC and applies to the trading period of the Union emissions trading scheme commencing on 1 January 2013 and to subsequent periods. It also applies to aviation allowances auctioned in 2012.

- (4) In order to ensure that Kyoto units and allowances can be held on the same Union Registry accounts, the Union Registry must conform to the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol, adopted by Decision 12/CMP.1 of the Conference of the Parties to the UNFCCC serving as the Meeting of the Parties to the Kyoto Protocol (Decision 12/CMP.1).
- (5) Article 20 of Directive 2003/87/EC requires that an independent transaction log, the European Union Transaction Log (EUTL) is established to record the issue, transfer and cancellation of allowances. Article 6(2) of Decision No 280/2004/EC requires that information on the issue, holding, transfer, acquisition, cancellation and withdrawal of assigned amount units, removal units, emission reduction units and certified emission reductions and the carryover of assigned amount units, emission reduction units and certified emission reductions is made available to the transaction log.
- (6) The Union Registry should contain the accounts in which the processes and operations needed to apply the provisions of Directive 2003/87/EC should be registered. Each account should be created in accordance with standardised procedures to ensure the integrity of the registries system and public access to information held in this system. Allowances should be issued in the Union Registry.
- (7) Transactions with allowances within the Union Registry should be carried out through a communication link involving the EUTL, whereas transactions with Kyoto units should be carried out through a communication link involving both the EUTL and the United Nations Framework Convention on Climate Change (UNFCCC) International Transaction Log (ITL).
- (8) As allowances and Kyoto units exist only in dematerialised form and are fungible, the title to an allowance or Kyoto unit should be established by their existence in the account of the Union Registry in which they are held. Moreover, to reduce the risks associated with the reversal of transactions entered in a registry, and the consequent disruption to the system and to the market that such reversal may cause, it is necessary to ensure that allowances and Kyoto units are fully fungible. In particular, transactions cannot be reversed, revoked or unwound, other than as defined by the rules of the registry, after a moment set out by those rules. Nothing in this Regulation should prevent an account holder or a third party from exercising any right or claim resulting from the underlying transaction that they may have in law to recovery or restitution in respect of a transaction that has entered a system, such as in case of fraud or technical error, as long as this does not lead to the reversal, revocation or unwinding of the transaction. Furthermore, the acquisition of an allowance or Kyoto unit in good faith should be protected.
- (9) The central administrator's main responsibilities are to provide, operate and maintain the Union Registry and the EUTL, to manage central accounts and to perform operations which are carried out centrally. The national administrators' main responsibilities are to be the contact point with their respective account holders in the Union Registry and perform all operations involving direct contact with them, including the opening, suspension and closure of accounts.
- (10) Where Member States allocate allowances free of charge on the basis of Article 10c of Directive 2003/87/EC, these allowances should be issued in accordance with Article 10c of that Directive and Commission Decisions adopted pursuant to it. To this end, the relevant national allocation tables should take into account the applications pursuant to Article 10c(5) of Directive 2003/87/EC of Member States concerned as well as the relevant Commission Decisions pursuant to Article 10c(6) of that Directive.
- (11) Where a Member State, taking into account its application pursuant to Article 10c(5) of Directive 2003/87/EC and the relevant Commission Decision pursuant to Article 10c(6) of that Directive, delays the issuance of the allowances to be granted free of charge on the basis of Article 10c of Directive 2003/87/EC (ex-post issuance of allowances), that Member State should include in its national allocation table pursuant to Article 51(1) of this Regulation the allocation to be granted free of charge on the basis of investments already undertaken or financial transfers already made at the time of the notification of the table.

<sup>(1)</sup> OJ L 302, 18.11.2010, p. 1.

<sup>(2)</sup> OJ L 315, 29.11.2011, p. 1.

- (12) Where a Member State, taking into account its application pursuant to Article 10c(5) of Directive 2003/87/EC and the relevant Commission Decision pursuant to Article 10c(6) of that Directive, issues the allowances to be granted free of charge on the basis of Article 10c of Directive 2003/87/EC irrespective of investments already undertaken (ex-ante issuance of allowances), the Member State should include in the national allocation table the allocation to be granted free of charge in accordance with Article 10c of Directive 2003/87/EC for the period 2013 to 2019, when notifying the national allocation table to the Commission pursuant to Article 51(1) of this Regulation.
- (13) Based on the reports to be submitted to the Commission pursuant to Article 10c(1) of Directive 2003/87/EC, Member States should make changes to the national allocation tables to reflect the advancement of investments undertaken and the status of financial transfers made in accordance with Article 10c of Directive 2003/87/EC and corresponding Commission decisions respectively.
- (14) Article 11 of Directive 2003/87/EC provides that competent authorities are to issue by 28 February of each year allowances that are to be allocated that year. Where an operator has submitted information pursuant to Article 24 of Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council<sup>(1)</sup> that affects the number of allowances to be allocated to that operator, the allocation of the operator will need to be recalculated and notified pursuant to Article 24(2) of that Decision before a transfer of the allowances to the operator can occur pursuant to Article 53(2) of this Regulation.
- (15) Nothing in this Regulation should prevent a competent authority from requiring an operator to transfer a number of allowances, received in excess of its adjusted allocation for the relevant year, to the EU Allocation Account in cases where there has been an over allocation of allowances, including as a result of an error in the original allocation or the operator having failed to correctly or completely submit to the competent authority information pursuant to Article 24 of Decision 2011/278/EU by the date set out in that Article, provided that the central administrator has made a change to the national allocation table of the Member State pursuant to Article 52(2) of this Regulation to adjust the allocation accordingly.
- (16) Article 11b of Directive 2003/87/EC forbids the issuance of certified emissions reductions (CERs) and emission reduction units (ERUs) after 31 December 2012 that result in double counting of greenhouse gas emission reductions. However, Article 5(2) of Commission Decision 2006/780/EC of 13 November 2006 on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC of the European Parliament and of the Council<sup>(2)</sup> allows allowances in the set-asides established pursuant to Article 3 of that Decision to be converted into assigned amount units (AAUs) or to be sold as 2008-2012 period allowances. Moreover, Member States should be able to issue until 30 April 2013 ERUs from projects involving activities only included in the scope of Directive 2003/87/EC from 1 January 2013 in respect of emission reductions which took place until 31 December 2012.
- (17) The Union, the Member States and a number of third countries have taken economy-wide reduction commitments for emissions during the period 2008-2012. Member States have legally binding economy-wide emission reduction targets from 2013 to 2020, as established in Directive 2003/87/EC and Decision No 406/2009/EC. An amendment of the Kyoto Protocol should put in place internationally legally binding quantified emission targets from 2013 to 2020 for parties listed in its Annex B once it has entered into force for those parties. Decision 13/CMP.1 of the Conference of the Parties to the UNFCCC serving as the Meeting of the Parties to the Kyoto Protocol (Decision 13/CMP.1) requires that ERUs only be issued by converting AAUs or removal units (RMUs), which have a serial number comprising the commitment period for which they are issued. ERUs cannot be issued if the commitment period marked in the relevant serial number does not match the period during which the emissions reductions took place. Emission trading scheme (ETS) accounts in the Union Registry should not hold ERUs inconsistent with these rules. To this end, ERUs issued by third countries which do not have legally binding quantified emission targets from 2013 to 2020 as set out within an amendment to the Kyoto Protocol pursuant to its Article 3, paragraph 9, or that have not deposited an instrument of ratification relating to such an amendment to the Kyoto Protocol, should only be held in the Union Registry if they have been certified to relate to emission reductions verified as having taken place before 2013. Such ERUs transferred to the Union Registry after 1st May 2013 are expected to be issued pursuant to the verification procedure under the Joint Implementation Supervisory Committee set out in Decision 9/CMP.1 of the Conference of the Parties to the UNFCCC serving as the Meeting of the Parties to the Kyoto Protocol (Decision 9/CMP.1) (pursuant to the so-called 'track 2 procedure').
- (18) Article 11a of Directive 2003/87/EC provides for the use of CERs and ERUs from project activities before the entry into force of an international agreement on climate change, by setting up the possibility for operators to exchange such units against allowances.

<sup>(1)</sup> OJ L 130, 17.5.2011, p. 1.

<sup>(2)</sup> OJ L 316, 16.11.2006, p. 12.

- (19) Third countries or their sub-federal or regional entities should be able to open accounts in the Union Registry once modalities to link the ETS to another mandatory greenhouse gas emissions trading system with an absolute emission cap have been agreed with a third country.
- (20) Article 11 of Decision No 406/2009/EC provides that the accurate accounting of transactions under that Decision be ensured in the registries system.
- (21) Annual emission allocation units should be issued in the Effort Sharing Decision (ESD) Compliance Accounts in the Union Registry in the quantities determined pursuant to Article 3(2) and 10 of Decision No 406/2009/EC. Annual emission allocation units (AEAs) may only be held in in the ESD Compliance Accounts in the Union Registry.
- (22) The Union Registry should enable the implementation of the annual compliance cycle under Decision No 406/2009/EC by providing the processes for the introduction in the ESD Compliance Accounts of the annual reviewed greenhouse gas emissions, for the determination of the compliance status figure for each Member State's ESD Compliance Account for each year and for the application of corrective action pursuant to Article 7 of Decision No 406/2009/EC if necessary.
- (23) The Union Registry should ensure the accurate accounting of transactions provided by Article 3(3), (4), and (5) and Article 5 of Decision No 406/2009/EC.
- (24) The EUTL should perform automated checks on all processes in the registries system concerning allowances, verified emissions, accounts, annual emission allocation units, the credit entitlement and Kyoto units, and the ITL should perform automated checks on processes concerning Kyoto units to ensure that there are no irregularities. Processes that fail these checks should be terminated in order to ensure that transactions in the Union registries system comply with the requirements of Directive 2003/87/EC, Decision No 406/2009/EC and the requirements elaborated pursuant to the UNFCCC and the Kyoto Protocol.
- (25) Adequate and harmonised requirements on opening of accounts, authentication and access rights should be applied to protect the security of information held in the integrated registries system and to avoid fraud. The review of these requirements should be considered in the future with a view to ensuring their effectiveness while taking into account proportionality. Records concerning all processes, operators and persons in the registries system should be kept.
- (26) The central administrator should ensure that interruptions to the operation of the registries system are kept to a minimum by taking all reasonable steps to ensure the availability of the Union Registry and the EUTL and by providing for robust systems and procedures to safeguard relevant information.
- (27) Since it may be desirable to provide for additional account types or other means that would facilitate the holding of allowances or Kyoto units on behalf of third parties, or the taking of a security interest in them, these issues should be examined in the context of a future review of this Regulation.
- (28) In accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC<sup>(1)</sup> and Decision 13/CMP.1, specific reports should be made public on a regular basis to ensure that the public has access to information held within the integrated system of registries, subject to certain confidentiality requirements.
- (29) National administrators, the central administrator and the Commission should comply with Union and national legislation concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(2)</sup> and the national law implementing it, and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(3)</sup>, where these are applicable to information held and processed pursuant to this Regulation for which they are the controllers.
- (30) Commission Regulation (EU) No 920/2010 of 7 October 2010 for a standardised and secured system of registries 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<sup>(4)</sup> should apply until all operations required in relation to the trading period between 2008 and 2012 are completed. It should be amended to provide for the replacement of aviation allowances held by users at the end of the trading period between 2008 and 2012 by aviation allowances valid for the trading period starting in 2013, with immediate effect. Regulation (EU) No 920/2010 should therefore be repealed with effect from 1 October 2013.

<sup>(1)</sup> OJ L 41, 14.2.2003, p. 26.

<sup>(2)</sup> OJ L 281, 23.11.1995, p. 31.

<sup>(3)</sup> OJ L 8, 12.1.2001, p. 1.

<sup>(4)</sup> OJ L 270, 14.10.2010, p. 1.

- (31) Regulation (EU) No 1193/2011 should therefore be repealed and replaced by a Regulation including the provisions required by Directive 2003/87/EC, Decision No 280/2004/EC and Decision No 406/2009/EC with immediate effect.
- (32) Regulation (EU) 1193/2011 provided deadlines for the terms of cooperation between the central administrator and national administrators to be agreed and for the notification of national allocation tables and national aviation allocation tables. While Regulation (EU) 1193/2011 is repealed, those obligations should be maintained.
- (33) It is appropriate that this Regulation enters into force as a matter of urgency.
- (34) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

#### TITLE I

### COMMON GENERAL PROVISIONS

#### CHAPTER 1

### *Subject matter, scope and definitions*

#### Article 1

#### **Subject matter**

This Regulation lays down general, operational and maintenance requirements concerning the Union Registry for the trading period commencing on 1 January 2013 and subsequent periods, concerning the independent transaction log provided for in Article 20(1) of Directive 2003/87/EC, and concerning registries provided for in Article 6 of Decision No 280/2004/EC.

This Regulation also provides for a communication system between the Union Registry and the ITL.

#### Article 2

#### **Scope**

This Regulation applies to allowances created for the trading period of the Union emissions trading scheme commencing on 1 January 2013 and subsequent periods, annual emission allocation units and Kyoto units.

This Regulation also applies to aviation allowances to be auctioned that were created for the trading period from 1 January 2012 to 31 December 2012.

#### Article 3

#### **Definitions**

Unless otherwise indicated, terms used in Title II of this Regulation have the same meaning as under Directive 2003/87/EC. Moreover, the definitions set out in Article 3 of Regulation (EU) No 1031/2010 and in Article 3 of Commission Decision 2011/278/EU apply. The following definitions also apply:

- (1) 'account holder' means a natural or legal person that holds an account in the registries system;
- (2) 'central administrator' means the person designated by the Commission pursuant to Article 20 of Directive 2003/87/EC;
- (3) 'competent authority' means the authority or authorities designated by a Member State pursuant to Article 18 of Directive 2003/87/EC;
- (4) 'external trading platform' means any type of multilateral exchange that brings together or facilitates the bringing together of multiple third-party buying and selling interests as defined in Article 4 of Directive 2004/39/EC of the European Parliament and of the Council <sup>(1)</sup>, where the interests bought and sold are in allowances or Kyoto units;
- (5) 'verifier' means a verifier as defined in Article 3(3) of Commission Regulation (EU) No 600/2012 <sup>(2)</sup>;
- (6) 'assigned amount units' ('AAUs') means units issued pursuant to Article 7(3) of Decision No 280/2004/EC;
- (7) 'aviation allowances' means allowances created pursuant to Article 3c(2) of Directive 2003/87/EC;
- (8) 'general allowances' means all other allowances created pursuant to Directive 2003/87/EC;
- (9) 'long-term certified emission reductions' ('lCERs') means units issued for an afforestation or reforestation project activity under the clean development mechanism ('CDM') which, subject to Decision 5/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, expire at the end of the emission reduction crediting period of the afforestation or reforestation project activity under the CDM for which they were issued;

<sup>(1)</sup> OJ L 145, 30.4.2004, p. 1.

<sup>(2)</sup> OJ L 181, 12.7.2012, p. 1.

- (10) 'removal units' ('RMUs') means units issued pursuant to the relevant provisions in the annex to Decision 13/CMP.1;
- (11) 'temporary certified emission reductions' ('tCERs') means units issued for an afforestation or reforestation project activity under the CDM which, subject to Decision 5/CMP.1, expire at the end of the Kyoto Protocol commitment period following the one during which they were issued;
- (12) 'Kyoto units' means AAUs, emission reduction units ('ERUs'), certified emission reductions ('CERs'), RMUs, ICERs and tCERs.
- (13) 'process' means an automated technical means to carry out an action relating to an account, a unit or a portion of the credit entitlement in a registry;
- (14) 'transaction' means a process in the Union registry that includes the transfer of an allowance, a Kyoto unit, an annual emission allocation unit or a portion of the credit entitlement from one account to another account;
- (15) 'surrender' means the accounting of an allowance by an operator or aircraft operator against the verified emissions of its installation or aircraft;
- (16) 'cancellation' means the definitive disposal of a Kyoto unit by its holder without accounting it against verified emissions;
- (17) 'deletion' means the definitive disposal of an allowance by its holder without accounting it against verified emissions;
- (18) 'retirement' means the accounting of a Kyoto unit by a party to the Kyoto Protocol against the reported emissions of that Party;
- (19) 'money laundering' means money laundering as defined in Article 1(2) of Directive 2005/60/EC of the European Parliament and the Council <sup>(1)</sup>;
- (20) 'serious crime' means serious crime as defined in point (5) of Article 3 of Directive 2005/60/EC;
- (21) 'terrorist financing' means terrorist financing as defined in Article 1(4) of Directive 2005/60/EC;
- (22) 'national administrator' means the entity responsible for administering on behalf of a Member State a set of user accounts under the jurisdiction of a Member State in the Union Registry, designated in accordance with Article 8;
- (23) 'directors' means the persons effectively directing the day-to-day operations of a legal person
- (24) 'Central European Time' means Central European Summer Time during the summer-time period as defined in Articles 1, 2 and 3 of Directive 2000/84/EC;
- (25) 'national administrative platform' means an external system operated by a national administrator or a competent authority that is securely connected to the Union Registry for the purposes of automating functions related to the administering of accounts and of compliance obligations in the Union Registry;
- (26) 'international credits' means CERs, ERUs and credits from projects or other emission reducing activities which may be used pursuant to Article 11a(5) of Directive 2003/87/EC;
- (27) 'annual emission allocation unit' ('AEA') means a subdivision of a Member State's annual emission allocation as determined pursuant to Article 3(2) and Article 10 of Decision No 406/2009/EC equal to one tonne of carbon dioxide equivalent;
- (28) 'credit entitlement' means the right of a Member State, expressed as a number equal to a percentage of its 2005 greenhouse gas emissions as specified in Article 5(4) of Decision No 406/2009/EC, to use credits referred to in Article 5 of Decision No 406/2009/EC in order to comply with its obligations under Article 3 of Decision No 406/2009/EC;
- (29) 'unused credit entitlement' means a Member State's credit entitlement less the sum of international credits, tCERs or ICERs held in the ESD Compliance Account at the moment of determination of the compliance status figures pursuant to Article 79 of this Regulation.
- (30) 'compliance period' means the period from 1 January 2013 to 31 December 2020 during which the Member States shall limit their greenhouse gas emissions pursuant to Article 3 of Decision No 406/2009/EC.

<sup>(1)</sup> OJ L 309, 25.11.2005, p. 15.

## CHAPTER 2

**The registries system**

## Article 4

**Union Registry**

1. A Union Registry for the trading period of the Union emissions trading scheme commencing on 1 January 2013 and subsequent periods is established.

2. The central administrator shall operate and maintain the Union Registry, including its technical infrastructure.

3. Member States shall use the Union Registry for the purposes of meeting their obligations under Article 19 of Directive 2003/87/EC and Article 11 of Decision No 406/2009/EC and to ensure accurate accounting of allowances, AEAs and to the credit entitlement within the scope of this Regulation. The Union Registry shall provide national administrators and account holders with the processes set out in this Regulation.

4. The central administrator shall ensure that the Union Registry conforms to the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol elaborated pursuant to Decision 12/CMP.1 and have regard to the hardware, network, software and security requirements set out in the data exchange and technical specifications provided for in Article 105 of this Regulation.

## Article 5

**National and Union KP registries**

1. For the purposes of meeting their obligations as Parties to the Kyoto Protocol and under Article 6 of Decision No 280/2004/EC to ensure the accurate accounting of Kyoto units, each Member State and the Union shall operate a Kyoto Protocol registry (KP registry) in the form of a standardised electronic database that have regard to the UNFCCC's requirements concerning registries, and in particular the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol elaborated pursuant to Decision 12/CMP.1, and to the hardware, network, software and security requirements set out in the data exchange and technical specifications provided for in Article 105 of this Regulation.

2. The central administrator shall ensure that the Union Registry also function as a KP registry for the Union as a Party to the Kyoto Protocol. The central administrator shall also act as the administrator of the Union's KP registry, which is part of the Union registry.

## Article 6

**European Union transaction log**

1. A European Union Transaction Log (EUTL), to take the form of a standardised electronic database, is established, pursuant to Article 20 of Directive 2003/87/EC, for transactions within the scope of this Regulation. The EUTL shall also serve to record all information relating to the holdings and transfers of Kyoto units made available in accordance with Article 6(2) of Decision No 280/2004/EC.

2. The central administrator shall operate and maintain the EUTL in accordance with the provisions of this Regulation.

3. The central administrator shall ensure that the EUTL is capable of checking and recording all processes referred to under this Regulation, and has regard to the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol elaborated pursuant to Decision 12/CMP.1 and complies with the hardware, network and software requirements set out in the data exchange and technical specifications provided for in Article 105 of this Regulation.

4. The central administrator shall ensure that the EUTL is capable of recording all processes described in Chapters 3 of Title I and Titles II, III and IV.

## Article 7

**Communication links between registries, the ITL and the EUTL**

1. The central administrator and Member States shall ensure that the Union Registry and KP registries maintain a communication link with the ITL for the purposes of communicating transactions with Kyoto units.

2. The central administrator shall ensure that the EUTL maintains a communication link with the ITL for the purposes of recording and checking transfers referred to in paragraph 1. All proposed transfers involving a KP registry shall be processed and checked by the EUTL before the transfer is recorded.

3. The central administrator shall ensure that the Union Registry maintains a direct communication link with the EUTL for the purposes of checking and recording transactions with allowances, AEAs or portions of the credit entitlements and the account management processes set out in Chapter 3 of Title I. All transactions involving allowances, AEAs or portions of the credit entitlement shall take place within the Union Registry, and shall be recorded and checked by the EUTL.

The central administrator may establish a restricted communication link between the EUTL and the registry of a third country which signed a treaty concerning its accession to the Union for the purposes of enabling such registries to communicate with the ITL through the EUTL and to record verified emissions data of operators in the EUTL. Those registries must successfully complete all testing and initialisation procedures required of registries before the establishment of this communication link.

#### Article 8

##### National administrators and KP registry administrators

1. Each Member State shall designate a national administrator. Notwithstanding Article 13(2), the Member State shall access and administer pursuant to Article 11 its own accounts and the accounts in the Union Registry under its jurisdiction through its national administrator as defined in Annex I. Each Member State's national administrator shall also act as the administrator of its KP registry in accordance with the provisions of this Regulation.

2. The Member States and the Commission shall ensure that there is no conflict of interest amongst national administrators, the central administrator and account holders.

3. Each Member State shall notify the Commission of the identity and contact details of its national administrator, including an emergency telephone number to be used in the case of a security incident.

4. The Commission shall coordinate the implementation of this Regulation with the national administrators of each Member State and the central administrator. In particular, the Commission shall consult the Administrators' Working Group of the Climate Change Committee on issues and procedures related to the operation of registries regulated under this Regulation and the implementation of this Regulation. By 31 March 2012, the Administrators' Working Group shall agree on the terms of cooperation between the central administrator and the national administrators that shall include common operational procedures for the implementation of this Regulation and change and incident management procedures for the Union registry and technical specifications for the functioning and reliability of the Union registry and the EUTL. The terms of cooperation may include the modalities of the consolidation of the external communication links, the information technology infrastructure, user account access procedures, and the mechanisms for managing KP accounts of the Union registry with those of other KP registries into a consolidated system of European registries, maintained by the central administrator. Rules of procedure for the Administrators' Working Group shall be adopted by the Climate Change Committee.

5. The central administrator, the competent authorities and national administrators shall only perform processes necessary to carry out their respective functions as set out in Directive 2003/87/EC, Decision No 280/2004/EC and Decision No 406/2009/EC and the measures adopted pursuant to their provisions.

#### CHAPTER 3

##### Accounts

#### Section 1

##### General provisions applicable to all accounts

#### Article 9

##### Accounts

1. Member States and the central administrator shall ensure that each KP registry and the Union Registry contain accounts as specified in Annex I.

2. Each account type may hold the unit types as set out in Annex I.

#### Article 10

##### Account status

1. Accounts shall be in one of the following status: open, blocked, excluded or closed.

2. No processes may be initiated from blocked accounts, except for the processes specified in Articles 25, 31, 35, 67, 77, 81 and 82.

3. No processes may be initiated from closed accounts. A closed account may not be re-opened, and may not acquire units.

4. Upon exclusion of an installation from the Union scheme pursuant to Article 27 of Directive 2003/87/EC, the national administrator shall set the corresponding operator holding account to excluded status for the duration of the exclusion.

5. Upon notification from the competent authority that an aircraft operator's flights are no longer included in the Union scheme in accordance with Annex I to Directive 2003/87/EC in a given year, the national administrator shall set the corresponding aircraft operator holding account to excluded status, after giving prior notice to the aircraft operator concerned and until notification from the competent authority that an aircraft operator's flights are again included in the Union scheme.

6. No processes may be initiated from excluded accounts, except for the processes specified in Articles 25 and 68 and the processes specified in Articles 35 and 67 corresponding to the period where the account status was not set to excluded.

#### Article 11

##### **The administering of accounts**

1. Every account shall have an administrator who shall be responsible for administering the account on behalf of a Member State or on behalf of the Union.

2. The administrator of an account shall be determined for each account type as set out in Annex I.

3. The administrator of an account shall open, suspend, limit access to, or close an account, change its status, approve authorised representatives, permit changes to account details that require the approval of the administrator, and initiate transactions as requested by the account holder in accordance with Article 23(5), in accordance with the provisions of this Regulation.

4. The administrator may require the account holders and its representatives to agree to comply with reasonable terms and conditions consistent with this Regulation having regard to the issues set out in Annex II.

5. Accounts shall be governed by the laws and fall under the jurisdiction of the Member State of their administrator and the units held in them shall be considered to be situated in that Member State's territory.

#### Article 12

##### **Notifications from the central administrator**

The central administrator shall notify the account representatives and the national administrator of the initiation and completion or termination of any process related to the account, and of the change of status of the account, through an automated mechanism described in the data exchange and technical specifications provided for in Article 105.

### Section 2

#### **Opening and updating accounts**

##### Article 13

##### **Opening accounts administered by the central administrator**

1. The central administrator shall open all ETS management accounts in the Union Registry, the Union's KP accounts, the EU AEA Total Quantity Account, the ESD Deletion Account and one ESD Compliance Account for each Member State for each

year of the compliance period within 20 working days of the receipt of the information set out in Annex III.

2. The national administrator designated pursuant to Article 8(1) shall act as authorised representative of the ESD Compliance Accounts, unless the relevant Member State nominates another person.

3. Each Member State shall provide the central administrator the information set out in Table VIII-I of Annex VIII for each authorised representative and additional representative of the ESD Compliance Accounts.

#### Article 14

##### **Opening national administrative platform accounts in the Union Registry**

1. From 1 January 2014, a national administrator may submit a request for opening a national administrative platform account in the Union Registry. This request shall be submitted to the central administrator. The national administrator shall provide information as required by the central administrator. This information shall include, at a minimum, the information set out in Annex III and evidence that the national administrative platform ensures a level of security equivalent or higher than the security ensured by the Union Registry in accordance with this Regulation, having regard to the technical and security requirements described in the data exchange and technical specifications provided for in Article 105.

2. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1, the central administrator shall open a national administrative platform account in the Union Registry or shall inform the national administrator of the refusal to open the account if the level of security ensured by the national administrative platform is not sufficient compared to the requirements of paragraph 1.

3. The national administrator designated pursuant to Article 8(1) shall act as the authorised representative of the national administrative platform account.

#### Article 15

##### **Opening an auction delivery account in the Union Registry**

1. An auctioneer, a clearing system or a settlement system as defined in the Regulation (EU) No 1031/2010 or an auction platform appointed pursuant to Article 26 or Article 30 of that Regulation may submit to a national administrator a request for an auction delivery account in the Union Registry. The person requesting the account shall provide the information set out in Annex IV.

2. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 24, the national administrator shall open the auction delivery account in the Union Registry or inform the person requesting the account of the refusal to open the account, pursuant to Article 22.

#### Article 16

##### **Opening operator 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 operator shall provide the relevant national administrator with the information set out in Annex VI and shall request the national administrator to open an operator 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 24, the national administrator shall open an operator 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 22.

#### Article 17

##### **Opening aircraft operator holding accounts in the Union Registry**

1. Within 20 working days from the approval of the monitoring plan of an aircraft operator, the competent authority or aircraft operator shall provide the relevant national administrator with the information set out in Annex VII and shall request the national administrator to open an aircraft operator holding account in the Union Registry.

2. Each aircraft operator shall have one aircraft operator holding account.

3. Aircraft operators performing aviation activities with total annual emissions lower than 25 000 tonnes of carbon dioxide equivalent per year or operating fewer than 243 flight per period for three consecutive four-month period may mandate a natural person or a legal entity to open an aircraft operator holding account and to surrender the allowances pursuant to Article 12(2a) of Directive 2003/87/EC on their behalf. Responsibility for compliance still remains with the aircraft operator. When mandating the natural person or the legal entity, the aircraft operator shall ensure that there is no conflict of interest amongst the mandated person or entity and competent authorities, national administrators, verifiers or other bodies subject to the provisions of Directive 2003/87/EC and the acts adopted for its implementation. In this case, the

natural person or legal entity mandated shall provide the information required in accordance with paragraph 1.

4. Within 40 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 24, the national administrator shall open an aircraft operator holding account for each aircraft operator in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 22.

5. The status of aircraft operator holding accounts shall be changed from blocked to open following the entry of verified emissions pursuant to paragraphs 1 to 5 of Article 35 and a compliance status figure greater than or equal to 0 calculated pursuant to Article 37(1). The status of the account shall also be changed to open at an earlier date between the date of opening of the account and the date when verified emissions are entered in the Union Registry for the first time following receipt by the national administrator of a request by the account holder to activate its account for trading, provided that such a request contains, at a minimum, any required elements specified in the data exchange and technical specifications provided for in Article 105.

#### Article 18

##### **Opening person holding and trading accounts in the Union Registry**

1. A request for opening a person holding account or trading account in the Union Registry shall be submitted to the national administrator by the prospective account holder. The prospective account holder shall provide information as required by the national administrator, which shall include, at a minimum, the information set out in Annex IV.

2. The Member State of the national administrator may require as a condition for opening a person holding or trading account that the prospective account holders have their permanent residence or registration in the Member State of the national administrator administering the account.

3. The Member State of the national administrator may require as a condition for opening a person holding or trading account that prospective account holders are registered for value added tax (VAT) in the Member State of the national administrator of the account.

4. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 24, the national administrator shall open a person holding account or trading account in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 22.

*Article 19***Opening national holding accounts in the Union Registry**

The competent authority of a Member State shall instruct the national administrator to open a national holding account in the Union Registry within 20 working days of the receipt of the information set out in Annex III.

*Article 20***Opening external trading platform accounts in the Union Registry**

1. External trading platforms may submit a request for opening an external trading platform account in the Union Registry. This request shall be submitted to the national administrator. The person requesting the account shall provide information as required by the national administrator. This information shall include, at a minimum, the information set out in Annex IV and evidence that the external trading platform ensures a level of security equivalent or higher than the security ensured by the Union Registry in accordance with this Regulation and that it has security arrangements in place that offer at least a level of protection equivalent to the approval of an additional account representative required in Article 23(3).

2. National administrators shall ensure that external trading platforms have regard to the technical and security requirements described in the data exchange and technical specifications provided for in Article 105.

3. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 24, the national administrator shall open an external trading platform account in the Union Registry or inform the central administrator or the person requesting the account of the refusal to open the account, pursuant to Article 22. The national administrator concerned shall notify the Commission of the opening of such accounts without delay.

4. The approval of an additional authorised representative shall not be required pursuant to Article 23(3) to initiate a transaction for transactions initiated by external trading platforms.

*Article 21***Opening verifier accounts in the Union Registry**

1. A request for opening a verifier account in the Union Registry shall be submitted to the national administrator. The person requesting the account shall provide information as required by the national administrator including the information set out in Annexes III and V.

2. Within 20 working days of the receipt of a complete set of information in accordance with paragraph 1 of this Article and Article 24, the national administrator shall open the verifier account in the Union Registry or inform the prospective account holder of the refusal to open the account, pursuant to Article 22.

*Article 22***Refusal to open an account**

1. The national administrator shall verify whether the information and documents provided for account opening are complete, up-to-date, accurate and true.

2. A national administrator may refuse to open an account:

(a) if the information and documents provided are incomplete, out-of-date or otherwise inaccurate or false;

(b) if the prospective account holder, or, if it is a legal person, any of the directors of the prospective account holder, is under investigation or has been convicted in the preceding five years for fraud involving allowances or Kyoto units, money laundering, terrorist financing or other serious crimes for which the account may be an instrument;

(c) if the national administrator has reasonable grounds to believe that the accounts may be used for fraud involving allowances or Kyoto units, money laundering, terrorist financing or other serious crimes;

(d) for reasons set out in national law.

3. If the national administrator refuses to open an account, the person requesting the account opening may object to the relevant authority under national law, who shall either instruct the national administrator to open the account or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

*Article 23***Authorised representatives**

1. Each account, with the exception of the verifier account, shall have at least two authorised representatives. A verifier account shall have at least one authorised representative. The authorised representatives shall initiate transactions and other processes on behalf of the account holder.

2. In addition to the authorised representatives specified in paragraph 1, accounts may also have authorised representatives with 'view only' access to the account.

3. Accounts may have one or more additional authorised representatives. The approval of an additional authorised representative is required, in addition to the approval of an authorised representative, in order to initiate a transaction, except for:

- (a) transfers to an account on the trusted account list in the Union Registry of the account holder;
- (b) transactions initiated by external trading platforms, whose accounts are opened pursuant to Article 20; and
- (c) the exchange of allowances pursuant to Article 60, the surrender of allowances pursuant to Article 67, the deletion of allowances pursuant to Article 68 and the cancellation of Kyoto units pursuant to Article 69, if no additional authorised representative has been nominated. In such a case, the transaction initiation shall be confirmed by another account representative.

4. Account holders may enable their accounts to be accessed through an external trading platform. Such account holders shall nominate a person who is already the authorised representative of an external trading platform account as an authorised representative.

5. If an authorised representative cannot access the Union Registry for technical or other reasons, the national administrator may initiate transactions on behalf of the authorised representative upon request, provided that the national administrator allows such requests and that access was not suspended in accordance with this Regulation.

6. The data exchange and technical specifications may set a maximum number of authorised representatives and additional authorised representatives for each account type.

7. Authorised representatives and additional authorised representatives shall be natural persons over 18 years of age. All authorised representatives and additional authorised representatives of a single account shall be different persons but the same person can be an authorised representative or an additional authorised representative on more than one account. The Member State of the national administrator may

require that at least one of the authorised representatives of an account shall be a permanent resident in that Member State, except for verifier accounts.

#### Article 24

#### **Nominating and approval of authorised representatives and additional authorised representatives**

1. When requesting the opening of an account, the prospective account holder shall nominate a number of authorised representatives and additional authorised representatives in accordance with Article 23.

2. When nominating an authorised representative or additional authorised representative, the account holder shall provide information as required by the administrator. That information shall include, at a minimum, the information set out in Annex VIII.

3. Within 20 working days of the receipt of a complete set of information required in accordance with paragraph 2, the national administrator shall approve an authorised representative or additional authorised representative, or inform the account holder of its refusal. Where evaluation of the nominee information requires more time, the administrator may extend the evaluation process by up to 20 additional working days, and notify the extension to the account holder.

4. The national administrator shall verify whether the information and documents provided for nominating an authorised representative or additional authorised representative are complete, up-to-date, accurate and true.

5. A national administrator may refuse to approve an authorised representative or additional authorised representative:

- (a) if the information and documents provided are incomplete, out-of-date or otherwise inaccurate or false;
- (b) if the prospective representative is under investigation or has been convicted in the preceding five years for fraud involving allowances or Kyoto units, money laundering, terrorist financing or other serious crimes for which the account may be an instrument;
- (c) for reasons set out in national law.

6. If the national administrator refused to approve an authorised representative or additional authorised representative, the account holder may object through the relevant authority under national law, who shall either instruct the national administrator to approve the representative or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

#### Article 25

##### **Updating of account information and information on authorised representatives**

1. All account holders shall notify the national administrator within 10 working days of changes to the information submitted for the opening of an account. In addition, account holders shall confirm to the national administrator by 31 December each year that the information for their account remains complete, up-to-date, accurate and true.

2. Aircraft operators shall notify the administrator of their account within 10 working days if they have undergone a merger involving two or more aircraft operators or if they have split into two or more aircraft operators.

3. The notification of change shall be supported by information as required by the national administrator in conformity with this Section. Within 15 working days of the receipt of such a notification and supporting information, the relevant national administrator shall approve the update of the information. The administrator may refuse to update the information in accordance with Article 24(4) and (5). The account holder shall be notified of any such refusal. Objections to such refusals may be raised with the competent authority or the relevant authority under national law in accordance with Article 22.

4. At least once every three years, the national administrator shall review whether the information submitted for the opening of an account remains complete, up-to-date, accurate and true, and shall request that the account holder notify any changes as appropriate.

5. The account holder of an operator holding account may only sell or divest of its operator holding account together with the installation linked to the operator holding account.

6. Subject to paragraph 5, no account holder may sell or divest of the ownership of its account to another person.

7. An authorised representative or additional authorised representative may not transfer its status as such to another person.

8. An account holder may request the removal of an authorised representative from an account. Upon receipt of the request the national administrator shall suspend the access of the authorised representative or additional authorised representative. Within 10 working days of the receipt of the request, the relevant administrator shall remove the authorised representative.

9. An account holder may nominate new authorised representatives or additional authorised representatives in accordance with Article 24.

10. If the administering Member State of an aircraft operator changes in accordance with the procedure set out in Article 18a of Directive 2003/87/EC or due to the enlargement of the Union, the central administrator shall update the national administrator of the corresponding aircraft operator holding account. Where the administrator of an aircraft operator holding account changes, the new administrator may require the aircraft operator to submit the account opening information that it requires in accordance with Article 17 and the information about authorised representatives that it requires in accordance with Article 24.

11. Subject to paragraph 10, the Member State responsible for managing an account shall not change.

#### Article 26

##### **Trusted account list**

1. Auction delivery accounts, holding accounts and trading accounts may have a trusted account list in the Union Registry.

2. Accounts held by the same account holder shall be automatically included on the trusted account list.

3. Changes to the trusted account list shall be initiated and completed through the procedure set out in Article 39 for transfers specified in Section 6 of Chapter 2 of Title II. The change shall be confirmed by an additional authorised representative, or, if no additional authorised representative has been nominated, by another authorised representative. The delay specified in Article 39(3) shall not apply for the deletion of accounts from the trusted account list; for all other changes to the trusted account list the delay shall be seven days.

## Section 3

**Closure of accounts***Article 27***Closure of accounts**

Subject to Article 32(1), within 10 working days of the receipt of a request from the account holder of an account other than those specified in Articles 28, 29, 30 and 31, the administrator shall close the account.

*Article 28***Closure of operator holding accounts**

1. The competent authority shall notify the national administrator within 10 working days of the revocation or suspension of a greenhouse gas emissions permit or knowledge of installation closure. Within ten working days of such a notification, the national administrator shall record the relevant date in the Union Registry.

2. The national administrator may close an operator holding account by 30 June of the year following the year of closure of the installation, revocation or suspension of the greenhouse gas emissions permit if the relevant installation has surrendered an amount of allowances equal to or greater than its verified emissions and is not excluded pursuant to Article 27 of Directive 2003/87/EC.

*Article 29***Closure of aircraft operator holding accounts**

Aircraft operator holding accounts shall only be closed by the national administrator if instructed by the competent authority to do so because the competent authority has discovered that the aircraft operator merged into another aircraft operator or the aircraft operator has ceased all its operations covered by Annex I of Directive 2003/87/EC, either through a notification by the account holder or through other evidence.

*Article 30***Closure of verifier accounts**

1. Within ten working days of the receipt of a request from a verifier to close its account, the national administrator shall close the verifier account.

2. The competent authority may also instruct the national administrator to close a verifier account where one of the following conditions is fulfilled:

- (a) the verifier's accreditation has expired or has been withdrawn,
- (b) the verifier ceased operation.

*Article 31***Closure of the ESD Compliance Account**

1. The central administrator shall close an ESD Compliance Account not earlier than one month after the determination of the compliance status figure for that account pursuant to Article 79 and not later than 21 December, and after prior notice to the account holder.

2. The central administrator shall ensure that the Union Registry carries out a transfer of all international credits, tCERs and ICERs used pursuant to Article 81 to the relevant KP retirement account.

3. Where the direct transfer to the relevant KP retirement account is prohibited by the rules on transactions applicable to the ITL elaborated under the Kyoto Protocol, the international credits, the tCERs and the ICERs which have been used for compliance shall be transferred first to a dedicated holding account created for this purpose by the national administrator.

4. On closure of the ESD Compliance Account, the central administrator shall ensure that the Union Registry transfers the AEAs remaining in the ESD Compliance Account to the ESD Deletion Account.

*Article 32***Positive balance on accounts under closure**

1. If there is a positive balance of allowances or Kyoto units on an account which an administrator is to close in accordance with Articles 27, 28 and 29, the administrator shall request the account holder to specify another account to which such allowances or Kyoto units shall be transferred. If the account holder has not responded to the administrator's request within 40 working days, the administrator shall transfer the allowances and Kyoto units to its national holding account.

2. If there is a positive balance of allowances or Kyoto units on an account to which access was suspended in accordance with Article 34, the competent authority may require that the allowances and Kyoto units are transferred immediately to the relevant national account.

## Article 33

**Closure of accounts and removal of authorised representative on the administrator's initiative**

1. If the situation giving rise to the suspension of access to accounts pursuant to Article 34 is not resolved within a reasonable period despite repeated notifications, the competent authority may instruct the national administrator to close, or in the case of operator holding accounts or aircraft operator holding accounts 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.

2. If a person holding account or trading account has a zero balance and no transactions have been recorded for a period of one year, the national administrator may notify the account holder that the person holding account or trading account will be closed within 40 working days unless the national administrator receives a request that the account be maintained. If the national administrator does not receive any such request from the account holder, the national administrator may close the account.

3. The national administrator shall close an operator holding account upon instruction from the competent authority on the basis that there is no reasonable prospect of further allowances being surrendered.

4. The national administrator may remove an authorised representative or an additional authorised representative if it considers that the approval of the authorised representative or an additional authorised representative should have been refused in accordance with Article 24(3), and in particular if it discovers that the documents and identification information provided upon nomination were incomplete, out-of-date or otherwise inaccurate or false.

5. The account holder may object to the change of account status of an account in accordance with paragraph 1 or the removal of an authorised representative or additional authorised representative in accordance with paragraph 4 with the authority competent under national law within 30 calendar days, who shall either instruct the national administrator to reinstate the account or the authorised representative or additional authorised representative or uphold the change of account status or removal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

## Section 4

**Suspension of access to accounts**

## Article 34

**Suspension of access to accounts**

1. An administrator may suspend the access of an authorised representative or an additional authorised representative to any

account in the registry or to processes to which that authorised representative would otherwise have access if the administrator has reasonable grounds to believe that the authorised representative has:

- (a) attempted to access accounts or processes for which he is not authorised;
- (b) repeatedly attempted to access an account or a process using an incorrect username and password; or
- (c) attempted to compromise the security, the availability, the integrity or the confidentiality of the Union Registry or the EUTL, or of the data handled or stored therein.

2. An administrator may suspend the access of all authorised representatives or additional authorised representatives of a specific account where one of the following conditions is fulfilled:

- (a) the account holder died without a legal successor or ceased to exist as a legal person;
- (b) the account holder did not pay fees;
- (c) the account holder violated the terms and conditions applicable to the account;
- (d) the account holder did not agree to changes in the terms and conditions set by the national administrator or the central administrator;
- (e) the account holder did not notify changes to account information or provide evidence concerning the changes to account information, or evidence concerning new account information requirements;
- (f) the account holder failed to maintain the required minimum number of authorised representatives for the account;
- (g) the account holder failed to maintain compliance with the Member State requirement to have an authorised representative with a permanent residence in the Member State of the national administrator;

(h) the account holder failed to maintain compliance with the Member State requirement that the account holder have a permanent residence or registration in the Member State of the administrator of the account.

3. An administrator may suspend the access of all authorised representatives or additional authorised representatives to a specific account and the possibility to initiate processes from that account:

(a) for a maximum period of four weeks if the administrator has reasonable grounds to believe that the account was used or will be used for fraud, money laundering, terrorist financing, corruption or other serious crimes, or

(b) on the basis of and in accordance with national law provisions that pursue a legitimate objective.

4. The national administrator may suspend access to an account if it considers that the opening of the account should have been refused in accordance with Article 22 or that the account holder no longer meets the requirements for the opening of the account.

5. The administrator of the account shall reverse the suspension immediately once the situation giving rise to the suspension is resolved.

6. The account holder may object to the suspension of its access in accordance with paragraphs 1 and 3 to the competent authority or the relevant authority under national law within 30 calendar days, who shall either instruct the national administrator to reinstate access or uphold the suspension in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

7. The competent authority or the Commission may also instruct the national administrator or central administrator to implement a suspension for one of the grounds set in paragraphs 1, 2, 3 and 4.

8. A national law enforcement authority of the Member State of the administrator may also request the administrator to implement a suspension on the basis of and in accordance with national law.

9. When access to an external trading platform account is suspended, the administrator shall also suspend access enabled for the external trading platform to user accounts in accordance with Article 23(4). When access of authorised representatives

and additional authorised representatives of an external trading platform account is suspended, the administrator shall also suspend the access of those representatives enabled by an account holder for the external trading platform in accordance with Article 23(4).

10. Where the holder of an operator holding account or aircraft operator holding account is prevented from surrendering in the 10 working days preceding the surrender time-limit laid down in Article 12(2a) and (3) 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.

## TITLE II

### SPECIFIC PROVISIONS FOR THE UNION REGISTRY FOR THE UNION EMISSIONS TRADING SCHEME

#### CHAPTER 1

#### *Verified emissions and compliance*

##### *Article 35*

#### **Verified emissions data for an installation or aircraft operator**

1. Whenever required by national law, each operator and aircraft operator shall select a verifier from the list of verifiers registered with the national administrator administering its account. If an operator or aircraft operator is also a verifier, it may not select itself as verifier.

2. The national administrator, the competent authority or, upon decision of the competent authority, the account holder or the verifier shall enter emissions data for the previous year by 31 March.

3. Annual emissions data shall be submitted using the format set out in Annex IX.

4. Upon the satisfactory verification in accordance with Article 15(1) of Directive 2003/87/EC of an operator's report on the emissions from an installation during a previous year, or of an aircraft operator's report on the emissions from all aviation activities it performed during a previous year, the verifier or the competent authority shall approve the annual verified emissions.

5. The emissions approved in accordance with paragraph 4 shall be marked as verified in the Union Registry by the national administrator or the competent authority. The competent authority may decide that instead of the national administrator, the verifier shall be responsible for marking emissions as verified in the Union Registry.

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

7. Where, on 1 May of each year, no verified emissions figure has been recorded in the Union Registry for an 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.

#### Article 36

#### **Blocking of accounts due to a failure to submit verified emissions**

1. If, on 1 April of each year, the annual verified emissions of an installation or aircraft operator for the preceding year have not been recorded in the Union Registry, the central administrator shall ensure that the Union Registry sets the corresponding operator holding account or aircraft operator holding account to a blocked status.

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

#### Article 37

#### **Calculation of compliance status figures**

1. The central administrator shall ensure that on 1 May of each year, the Union Registry indicates the compliance status figure for the preceding year for every installation and aircraft operator with an open or blocked operator or aircraft operator holding account by calculating the sum of all allowances surrendered for the current period less the sum of all verified emissions in the current period up to and including the current year, plus a correction factor.

2. The correction factor referred to in paragraph 1 shall be zero if the compliance status figure of the last year of the previous period was greater than zero, but shall remain the same as the compliance status figure of the last year of the previous period if this figure is less than or equal to zero.

3. The central administrator shall ensure that the Union Registry records the compliance status figure for every installation and aircraft operator for each year.

## CHAPTER 2

### **Transactions**

#### Section 1

#### **General**

##### Article 38

Only transactions expressly provided for in this Regulation for each account type shall be initiated by that account type.

##### Article 39

#### **Execution of transfers**

1. For all transactions specified in this Chapter that are not initiated by an external trading platform, an out of band confirmation shall be required by the Union Registry before the transaction can be initiated. A transaction shall only be initiated where an additional authorised representative or another account representative where appropriate, whose approval is required pursuant to Article 23(3), has confirmed the transaction out of band.

2. For all transfers specified in Article 64 and Section 8 of this Chapter, the transfer shall be initiated immediately if it is confirmed between 10:00 and 16:00 Central European Time between Monday and Friday inclusive, with the exception of public holidays in the Member States deciding to suspend the running of the delay pursuant to paragraph 3.

A transfer confirmed at any other time shall be initiated on the same day Monday to Friday with the exception of public holidays as referred to in the first subparagraph, at 10:00 Central European Time, if it is confirmed before 10:00 Central European Time, or on the following day, Monday to Friday with the exception of public holidays as referred to in the first subparagraph, at 10:00 Central European Time, if it is confirmed after 16:00 Central European Time.

3. For all transfers of allowances and Kyoto units specified in Articles 64 and 65, and for all transfers specified in Article 66 to accounts not indicated on the trusted list of the trading account holder, a delay of 26 hours shall apply between initiation and the transfer being communicated for finalisation pursuant to Article 104. The running of this delay shall be suspended between 00:00 and 24:00 Central European Time on Saturdays and Sundays. Member States may decide to also suspend the running of this delay between 00:00 and 24:00 Central European Time on national public holidays for a given year, subject to publication of that decision by 1 December of the previous year.

4. If an account representative suspects that a transfer was initiated fraudulently, at the latest two hours before the end of the delay provided in paragraph 3 the account representative may request the national administrator or the central administrator where appropriate to cancel the transfer on behalf of the account representative before the transfer is communicated for finalisation. The account holder shall report the suspected fraud to the competent national law enforcement authority immediately following the request. That report shall be forwarded to the national administrator or the central administrator where appropriate within 7 days.

5. Upon initiation pursuant to paragraphs 1 and 2, a notification shall be sent to all account representatives indicating the proposed initiation of the transfer.

#### Article 40

##### Nature of allowances and finality of transactions

1. An allowance or Kyoto unit shall be a fungible, dematerialised instrument that is tradable on the market.
2. The dematerialized nature of allowances and Kyoto units shall imply that the record of the Union Registry shall constitute prima facie and sufficient evidence of title over an allowance or Kyoto unit, and of any other matter which is by this Regulation directed or authorised to be recorded in the Union Registry.
3. The fungibility of allowances and Kyoto units shall imply that any recovery or restitution obligations that may arise under national law in respect of an allowance or Kyoto unit shall only apply to the allowance or Kyoto unit in kind.

Subject to Article 70 and the reconciliation process provided for in Article 103, a transaction shall become final and irrevocable upon its finalisation pursuant to Article 104. Without prejudice to any provision of or remedy under national law that may result in a requirement or order to execute a new transaction in the Union Registry, no law, regulation, rule or practice on the setting aside of contracts or transactions shall lead to the unwinding in the registry of a transaction that has become final and irrevocable under this Regulation.

An account holder or a third party shall not be prevented from exercising any right or claim resulting from the underlying transaction that they may have in law, including to recovery, restitution or damages, in respect of a transaction that has become final in the Union Registry, for instance in case of fraud or technical error, as long as this does not lead to the reversal, revocation or unwinding of the transaction in the Union Registry.

4. A purchaser and holder of an allowance or Kyoto unit acting in good faith shall acquire title to an allowance or Kyoto unit free of any defects in the title of the transferor.

#### Section 2

##### Creation of allowances

#### Article 41

##### Creation of allowances

1. The central administrator may create an EU Total Quantity Account, an EU Aviation Total Quantity Account, an EU Auction Account, an EU Aviation Auction Account, an EU Credit Exchange Account and an EU International Credit Account as appropriate, and shall create or cancel accounts and allowances as made necessary by acts of Union law, including as may be required by Articles 3e(3), 9, 9a, 10a(8) and 11a of Directive 2003/87/EC, Article 10(1) of Regulation (EU) No 1031/2010, or Article 41(1) of Regulation (EU) No 920/2010.

2. The Commission shall, at an appropriate time or at appropriate times, instruct the central administrator to create a number of general allowances in total equivalent to the number determined in accordance with Article 2(1) of Commission Decision 2010/670/EU<sup>(1)</sup> on, or for transfer to, accounts established for the purposes of Article 10a(8) of Directive 2003/87/EC.

3. The central administrator shall ensure that the Union Registry assigns each allowance a unique unit identification code upon its creation.

#### Section 3

##### Account transfers before auctions and allocation

#### Article 42

##### Transfer of general allowances to be auctioned

1. The central administrator shall, in a timely manner, transfer on behalf of the relevant auctioneer appointed in accordance with Regulation (EU) No 1031/2010, general allowances 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.

2. In case of adjustments to the annual volumes 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 Total Quantity Account to the EU Auction Account, or from the EU Auction Account to the EU Total Quantity Account, as the case may be.

<sup>(1)</sup> OJ L 290, 6.11.2010, p. 39.

*Article 43***Transfer of general allowances to be allocated free of charge**

The central administrator shall, in a timely manner, transfer general allowances 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 tables of each Member State.

*Article 44***Transfer of general allowances for the new entrant reserve**

1. The central administrator shall, in a timely manner, transfer general allowances from the EU Total Quantity Account to the EU New Entrant Reserve Account in a quantity corresponding to five percent of the Union-wide quantity of allowances determined by decisions adopted pursuant to Articles 9 and 9a of Directive 2003/87/EC, less by the number to be created pursuant to Article 41(2) of this Regulation.

2. If the Union-wide quantity of allowances is increased by a decision adopted pursuant to Articles 9 and 9a of Directive 2003/87/EC, the central administrator shall transfer further general allowances from the EU Total Quantity Account to the EU New Entrant Reserve Account in a quantity corresponding to five percent of the increase of the Union-wide quantity of allowances.

3. If the Union-wide quantity of allowances is decreased by a decision adopted pursuant to Articles 9 and 9a of Directive 2003/87/EC, the central administrator shall delete general allowances on the EU New Entrant Reserve Account in a quantity corresponding to five percent of the decrease of the Union-wide quantity of allowances.

4. In the case of allocation to new entrants or allocation to new entrants following a significant capacity extension pursuant to Articles 19 and 20 of Decision 2011/278/EU, the resulting final amount of allowances allocated free of charge to the operator for the whole trading period, which is entered into the EUTL in accordance with Article 51(2) of this Regulation, shall be transferred by the central administrator from the EU New Entrant Reserve Account to the EU Allocation Account.

*Article 45***Transfer of aviation allowances to be auctioned**

1. The central administrator shall, in a timely manner, transfer on behalf of the relevant auctioneer appointed in accordance with the Regulation (EU) No 1031/2010, aviation allowances from the EU Aviation Total Quantity Account to the EU Aviation Auction Account in a quantity corresponding

to the annual volumes determined pursuant to Article 12(1) of Regulation (EU) No 1031/2010.

2. In case of adjustments to the annual volumes in accordance with Article 14 of Regulation (EU) No 1031/2010, the central administrator shall transfer a corresponding quantity of aviation 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.

*Article 46***Transfer of aviation allowances to be allocated free of charge**

1. The central administrator shall, in a timely manner, transfer aviation allowances from the EU Aviation Total Quantity Account to the EU Aviation Allocation Account in a quantity corresponding to the number of aviation allowances to be allocated free of charge determined by the Commission's decision adopted on the basis of Article 3e(3) of Directive 2003/87/EC.

2. If the number of aviation allowances to be allocated free of charge is increased by a decision pursuant to Article 3e(3) of Directive 2003/87/EC, the central administrator shall transfer further aviation allowances from the EU Aviation Total Quantity Account to the EU Aviation Allocation Account in a quantity corresponding to the increase of the number of aviation allowances to be allocated free of charge.

3. If the number of aviation allowances to be allocated free of charge is decreased by a decision pursuant to Article 3e(3) of Directive 2003/87/EC, the central administrator shall delete aviation allowances on the EU Aviation Allocation Account in a quantity corresponding to the decrease of the number of aviation allowances to be allocated free of charge.

*Article 47***Transfer of aviation allowances to the special reserve**

1. The central administrator shall, in a timely manner, transfer aviation allowances from the EU Aviation Total Quantity Account to the EU Special Reserve Account in a quantity corresponding to the number of aviation allowances in the special reserve determined by the decision adopted pursuant to Article 3e(3) of Directive 2003/87/EC.

2. If the number of aviation allowances in the special reserve is increased by a decision adopted pursuant to Article 3e(3) of Directive 2003/87/EC, the central administrator shall transfer further aviation allowances from the EU Aviation Total Quantity Account to the EU Special Reserve Account in a quantity corresponding to the increase of the number of aviation allowances in the special reserve.

3. If the number of aviation allowances in the special reserve is decreased by a decision adopted on the basis of Article 3e(3) of Directive 2003/87/EC, the central administrator shall delete aviation allowances on the EU Special Reserve Account in a quantity corresponding to the decrease of the number of allowances in the special reserve.

4. In the case of allocation from the special reserve pursuant to Article 3f of Directive 2003/87/EC, the resulting final amount of aviation allowances allocated free of charge to the aircraft operator for the whole trading period, entered into the EUTL in accordance with Article 54(2) of this Regulation, shall be automatically transferred from the EU Special Reserve Account to the EU Aviation Allocation Account.

#### Article 48

#### **Transfer of general allowances to the EU Total Quantity-Account**

At the end of each trading period, the central administrator shall transfer all allowances remaining on the EU Allocation Account and on the EU New Entrant Reserve Account to the EU Total Quantity Account.

#### Article 49

#### **Transfer of aviation allowances to the EU Aviation Total Quantity Account**

At the end of each trading period, the central administrator shall transfer all allowances remaining on the EU Special Reserve Account to the EU Aviation Total Quantity Account.

#### Article 50

#### **Deletion of aviation allowances**

The central administrator shall ensure that, at the end of each trading period, all allowances remaining on the EU Aviation Allocation Account shall be transferred to the Union allowance deletion account.

### Section 4

#### **Allocation to stationary installations**

#### Article 51

#### **Entry of national allocation tables into the EUTL**

1. Each Member State shall notify its national allocation table for the period 2013-2020 to the Commission by 31 December 2012. Member States shall ensure that national allocation tables include the information set out in Annex X.

2. The Commission shall instruct the central administrator to enter the national allocation table into the EUTL if it considers

that the national allocation table is in conformity with Directive 2003/87/EC, Decision 2011/278/EU and decisions adopted by the Commission pursuant to Article 10c(6) of Directive 2003/87/EC. It shall otherwise reject the national allocation table within a reasonable period and inform the Member State concerned without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. That Member State shall submit a revised national allocation table to the Commission within three months.

#### Article 52

#### **Changes to the national allocation tables**

1. The national administrator shall carry out changes to the national allocation table in the EUTL where:

- (a) an installation's permit has been revoked or has otherwise expired;
- (b) an installation ceased operations;
- (c) an installation was split into two or more installations;
- (d) two or more installations were merged into one installation.

2. A Member State shall notify the Commission of changes to its national allocation table, concerning:

- (a) allocations to new entrants or allocations to new entrants following significant capacity extensions;
- (b) partial cessations of operations and significant capacity reductions;
- (c) allocation free of charge pursuant to Article 10c of Directive 2003/87/EC that is justified in the light of advancement of the investments that have been undertaken and reported to the Commission pursuant to Article 10c(1) of that Directive;
- (d) any other change not referred to in paragraph 1.

On receiving a notification pursuant to the first subparagraph, the Commission shall instruct the central administrator to make the corresponding changes to the national allocation table held in the EUTL. If it considers that the changes to the national allocation table are in conformity with Directive 2003/87/EC, Decision 2011/278/EU and decisions adopted by the Commission in accordance with Article 10c(6) of Directive 2003/87/EC. It shall otherwise reject the changes within a reasonable period and inform the Member State concerned without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.

*Article 53***Free allocation of general allowances**

1. The national administrator shall indicate in the national allocation table for each operator, 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. From 1 February 2013, the central administrator shall ensure that the Union Registry transfers general allowances automatically from the EU Allocation Account in accordance with the relevant national allocation table to the relevant open or blocked operator holding account, having regard to the modalities of the automatic transfer specified in the data exchange and technical specifications provided for in Article 105.

3. Where an excluded operator holding account does not receive allowances under paragraph 2, those allowances shall not be transferred to the account should it be subsequently set to open status.

4. The central administrator shall ensure that an operator can perform transfers returning excess allowances to the EU Allocation Account where the central administrator has made a change to the national allocation table of a Member State pursuant to Article 52(2) to correct for an over allocation of allowances to the operator, and the competent authority has requested the operator to return such excess allowances.

**Section 5****Allocation to aircraft operators***Article 54***Entry of national aviation allocation tables into the EUTL**

1. Each Member State shall notify its national aviation allocation table for the period 2013-2020 to the Commission by 30 September 2012. Member States shall ensure that national aviation allocation tables include the information set out in Annex XI.

2. The Commission shall instruct the central administrator to enter the national aviation allocation table into the EUTL if it considers that the national aviation allocation table is in conformity with Directive 2003/87/EC, in particular with the allocations calculated and published by Member States under Article 3e(4) of that Directive. It shall otherwise reject the national aviation allocation table within a reasonable period and inform the Member State concerned without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. That Member State shall submit a revised national aviation allocation table to the Commission within three months.

*Article 55***Changes to the national aviation allocation tables**

1. The national administrator shall carry out changes to the national aviation allocation table in the EUTL where:

- (a) an aircraft operator ceased all its operations covered by Annex I of Directive 2003/87/EC;
- (b) an aircraft operator was split into two or more aircraft operators;
- (c) two or more aircraft operators have merged into a single aircraft operator.

2. A Member State shall notify the Commission of changes to its national aviation allocation table, concerning:

- (a) any allocation from the special reserve pursuant to Article 3f of Directive 2003/87/EC;
- (b) any adjustment following the adoption of measures pursuant to Article 25a of Directive 2003/87/EC;
- (c) any other change not referred to in paragraph 1.

3. The Commission shall instruct the central administrator to make the corresponding changes to the national aviation allocation table held in the EUTL if it considers that the change to the national aviation allocation table is in accordance with Directive 2003/87/EC, in particular with the allocations calculated and published pursuant to Article 3f(7) of that Directive in case of allocations from the special reserve. It shall otherwise reject the changes within a reasonable period and inform the Member State without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.

4. If a merger between aircraft operators involves aircraft operators that are administered by different Member States, the change under point (c) of paragraph 1 shall be initiated by the national administrator administering the aircraft operator whose allocation is to be merged into the allocation of another aircraft operator. Before carrying out the change, consent shall be obtained from the national administrator administering the aircraft operator whose allocation will incorporate the allocation of the merged aircraft operator.

*Article 56***Free allocation of aviation allowances**

1. The national administrator shall indicate for each aircraft operator and for each year whether or not the aircraft operator should receive an allocation for that year in the national aviation allocation table.

2. From 1 February 2013 the central administrator shall ensure that the Union Registry transfers aviation allowances automatically from the EU Aviation Allocation Account to the relevant open or 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 105.

3. Where an excluded aircraft operator holding account does not receive allowances under paragraph 2, those allowances shall not be transferred to the account should it be subsequently set to open status.

*Article 57***Return of aviation allowances**

When a change to the national aviation allocation table is carried out pursuant to Article 25a of Directive 2003/87/EC after the transfer of allowances to the aircraft operator holding accounts for a given year in accordance with Article 56 of this Regulation, the central administrator shall execute any transfer required by any measure adopted pursuant to Article 25a of Directive 2003/87/EC.

**Section 6****Use of CERs and ERUs***Article 58***International credit holdings in the Union Registry**

1. The central administrator shall ensure that CERs and ERUs relating to projects hosted in Member States are only held in ETS accounts in the Union Registry if their issuance was not prohibited by Article 11b of Directive 2003/87/EC.

The central administrator shall ensure that ERUs issued in respect of emission reductions taking place until 31 December 2012 but relating to projects hosted in Member States involving activities not listed in Annex I of Directive 2003/87/EC as amended by Regulation (EC) No 219/2009 of the European Parliament and of the Council<sup>(1)</sup>, but listed in Annex I of Directive 2003/87/EC as amended by Directive 2009/29/EC of the European Parliament and of the Council<sup>(2)</sup>, shall only be held in ETS accounts in the Union Registry if they are issued before 30 April 2013.

<sup>(1)</sup> OJ L 87, 31.3.2009, p. 109.

<sup>(2)</sup> OJ L 140, 5.6.2009, p. 63.

2. The central administrator shall ensure that ERUs issued after 31 December 2012 in respect of emission reductions taking place until 31 December 2012 and relating to projects in third countries which do not have legally binding quantified emission targets from 2013 to 2020 as set out within an amendment to the Kyoto Protocol pursuant to its Article 3, paragraph 9, or that have not deposited an instrument of ratification relating to such an amendment to the Kyoto Protocol are only held in ETS accounts in the Union Registry where they relate to emission reductions verified in accordance with the verification procedure under the Joint Implementation Supervisory Committee set out in Decision 9/CMP.1 (pursuant to the so-called 'track 2 procedure'), or, if such verification is not possible, if they have been certified as having been issued in respect of emission reductions taking place until 31 December 2012 by an independent entity accredited pursuant to Decision 9/CMP.1.

3. The central administrator shall provide national administrators with a list of the ETS accounts holding international credits which cannot be held pursuant to paragraphs 1 and 2 after the dates therein. On the basis of this list, the national administrator shall request the account holder to specify a KP account to which such international credits shall be transferred.

If the account holder has not responded to the administrator's request within 40 working days, the administrator shall transfer the international credits to a national KP account.

*Article 59***Entry of international credit entitlement tables into the EUTL**

1. Each Member State shall notify its international credit entitlement table to the Commission within one month after the adoption of measures pursuant to Article 11a(8) of Directive 2003/87/EC. Member States shall ensure that the international credit entitlement table includes the total initial international credit entitlement for the period 2008-2020 for each operator and aircraft operator and the information set out in Annex XII.

2. The Commission shall instruct the central administrator to enter the international credit entitlement table into the EUTL if it considers that the international credit entitlement table is in conformity with Directive 2003/87/EC and measures adopted pursuant to Article 11a(8) of that Directive. The Commission shall otherwise reject the international credit entitlement table within a reasonable period and inform the Member State without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. A Member State shall submit a revised international credit entitlement table to the Commission within one month.

3. A Member State shall notify the Commission of changes to its international credit entitlement table, including entitlements to new entrants. The Commission shall instruct the central administrator to make the corresponding changes to the international credit entitlement table held in the EUTL if it considers that the changes to the international credit entitlement table are in conformity with Directive 2003/87/EC and measures adopted pursuant to Article 11a(8) of that Directive. The Commission shall otherwise reject the changes within a reasonable period and inform the Member State without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.

#### Article 60

##### Use of international credits through allowance exchange

1. An operator may request the exchange of an international credit for a general allowance pursuant to Article 11a(2) of Directive 2003/87/EC until 31 March 2015 and pursuant to Article 11a(3) and (4) of that Directive until 31 December 2020. It shall propose a transfer of international credits from the relevant operator holding account to the EU International Credit Account for operators in the Union Registry.

An aircraft operator may request the exchange of an international credit for an aviation allowance pursuant to Article 11a(2) of Directive 2003/87/EC until 31 March 2015 and pursuant to Article 11a(3) and (4) of that Directive until 31 December 2020. It shall propose a transfer of international credits from the relevant aircraft operator holding account to the EU International Credit Account for aircraft operators in the Union Registry.

2. Upon a request, the central administrator shall ensure that the Union Registry carries out a transfer of international credits to the relevant EU International Credit Account if:

- (a) the transfer is allowed by the status of the initiating account;
- (b) the relevant international credit entitlement table has been entered into the EUTL and the operator or aircraft operator has an entry in the table pursuant to Article 59;
- (c) the number of units proposed in the transfer does not exceed the remaining credit entitlement pursuant to Article 61;
- (d) all units proposed in the transfer are eligible for use pursuant to Articles 11a and 11b of Directive 2003/87/EC, Article 58 of this Regulation and any measures adopted pursuant to Article 11a(9) of Directive 2003/87/EC.

3. Upon completion of the transfer pursuant to the first subparagraph of paragraph 1, the central administrator shall ensure that the Union Registry creates an equivalent number of general allowances on the EU Credit Exchange Account for operators and transfers, on behalf of the relevant competent authority, an equivalent number of general allowances to the operator holding account from which the transfer was initiated.

Upon completion of the transfer pursuant to the second subparagraph of paragraph 1, the central administrator shall ensure that the Union Registry creates an equivalent number of aviation allowances as appropriate on the EU Credit Exchange Account for aircraft operators and transfers, on behalf of the relevant competent authority, an equivalent number of aviation allowances to the aircraft operator holding account from which the transfer was initiated.

#### Article 61

##### Calculation of remaining international credit entitlement

1. The central administrator shall ensure that the Union Registry automatically determines the remaining international credit entitlement for each operator or aircraft operator by subtracting from the total initial international credit entitlement indicated pursuant to Article 59:

- (a) the sum of all CERs and ERUs surrendered by an operator or aircraft operator pursuant to Article 11a of Directive 2003/87/EC as amended by Regulation (EC) No 219/2009;
- (b) the sum of all CERs and ERUs transferred to the EU International Credit Account pursuant to Article 60 of this Regulation.

2. The central administrator shall ensure that the Union Registry corrects the remaining international credit entitlement to reflect reversals pursuant to Article 70.

#### Section 7

##### Auction

#### Article 62

##### Entry of auction tables into the EUTL

1. Within one month of the determination and publication of an auction calendar pursuant to Articles 11(1), 13(1), 13(2) or 32(4) of Regulation (EU) No 1031/2010, the relevant auction platform shall provide the Commission with the corresponding auction table. The auction platform shall provide two auction tables for each calendar year from 2012, one for the auction of general allowances and one for the auction of aviation allowances and shall ensure that the auction tables includes the information set out in Annex XIII.

2. The Commission shall instruct the central administrator to enter the auction table into the EUTL if it considers that the auction table is in conformity with Regulation (EU) No 1031/2010. It shall otherwise reject the auction table within a reasonable period and inform the auction platform without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted. The auction platform shall submit a revised auction table to the Commission within three months.

#### Article 63

##### Changes to the auction tables

1. The relevant auction platform shall immediately notify the Commission of any necessary amendment to the auction table.
2. The Commission shall instruct the central administrator to enter the revised auction table into the EUTL if it considers that the revised auction table is in conformity with Regulation (EU) No 1031/2010. It shall otherwise reject the changes within a reasonable period and inform the auction platform without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent notification to be accepted.
3. The Commission may instruct the central administrator to suspend the transfer of allowances as specified in an auction table if it becomes aware of a necessary amendment to the auction table that the auction platform has failed to notify.

#### Article 64

##### Auctioning of allowances

1. The Commission shall instruct the central administrator, in a timely manner, to transfer on request of the relevant auctioneer, appointed in accordance with Regulation (EU) No 1031/2010, general allowances from the EU Auction Account, and/or aviation allowances from the EU Aviation Auction Account to the relevant auction delivery account in accordance with the auction tables. For allowances created in view of auctions pursuant to Article 10(1) of Regulation (EU) No 1031/2010, the Commission shall instruct the central administrator, in a timely manner, to transfer allowances, on request of the relevant auctioneer, from the account in which the allowances were created to the account established for auction delivery as indicated in the relevant auction table. The provision of the auction table in accordance with Article 62 shall constitute the request.
2. The account holder of the relevant auction delivery account shall ensure the transfer of the auctioned allowances to the successful bidders or their successors in title in accordance with Regulation (EU) No 1031/2010.
3. In accordance with Regulation (EU) No 1031/2010, the authorised representative of an auction delivery account may

be required to transfer any allowances that were not delivered from the auction delivery account to the EU Auction Account.

#### Section 8

##### Trading

#### Article 65

##### Transfers of allowances or Kyoto units initiated by a holding account

1. Subject to paragraph 2, upon request of a holder of a holding account, the central administrator shall ensure that the Union Registry carries out a transfer of allowances or Kyoto units to any other account unless such a transfer is prevented by the status of the initiating or receiving account.
2. Operator holding accounts, aircraft operator holding accounts and person holding accounts may only transfer allowances or Kyoto units to an account on the trusted list set up pursuant to Article 26, except for:
  - (a) the exchange of international credits pursuant to Article 60;
  - (b) the surrender of allowances pursuant to Article 67;
  - (c) the deletion of allowances pursuant to Article 68;
  - (d) the cancellation of Kyoto units pursuant to Article 69.

#### Article 66

##### Transfers of allowances or Kyoto units initiated by a trading account

Upon request of a holder of a trading account, the central administrator shall ensure that the Union Registry shall carry out a transfer of allowances or Kyoto units to a holding or trading account in the Union Registry unless such a transfer is prevented by the status of the initiating account.

#### Section 9

##### Surrender of allowances

#### Article 67

##### Surrender of allowances

1. An operator or aircraft operator shall surrender allowances by proposing to the Union Registry to:
  - (a) transfer a specified number of allowances created for compliance in the same trading period from the relevant operator holding account or aircraft operator holding account into the Union allowance deletion account;

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

2. Aviation allowances may only be surrendered by aircraft operators.

3. An allowance that was already surrendered may not be surrendered again.

#### Section 10

### Deletion of allowances and cancellation of Kyoto units

#### Article 68

#### Deletion of allowances

1. The central administrator shall ensure that the Union Registry carries out any request from an account holder pursuant to Article 12(4) of Directive 2003/87/EC to delete allowances held in the accounts of the account holder by:

(a) transferring a specified number of allowances from the relevant account into the Union allowance deletion account;

(b) recording the number of transferred allowances as deleted for the current year.

2. Deleted allowances shall not be recorded as surrendered for any emissions.

#### Article 69

#### Cancellation of Kyoto units

The central administrator shall ensure that the Union Registry carries out any request from an account holder pursuant to Article 12(4) of Directive 2003/87/EC to cancel Kyoto units held in its accounts by transferring a specified type and number of Kyoto units from the relevant account into the cancellation account of the account administrator's KP registry or the cancellation account of the Union Registry.

#### Section 11

### Transaction reversal

#### Article 70

#### Reversal of finalised processes initiated in error

1. If an account holder or a national administrator acting on behalf of the account holder unintentionally or erroneously

initiated one of the transactions referred to in paragraph 2, the account holder may propose to the administrator of its account to carry out a reversal of the completed transaction in a written request. The request shall be duly signed by the authorised representative or representatives of the account holder that are authorised to initiate the type of transaction to be reversed and shall be posted within five working days of the finalisation of the process. The request shall contain a statement indicating that the transaction was initiated erroneously or unintentionally.

2. Account holders may propose the reversal of the following transactions:

(a) surrender of allowances;

(b) deletion of allowances;

(c) exchange of international credits.

3. If the administrator of the account establishes that the request fulfils the conditions under paragraph 1 and agrees with the request, it may propose the reversal of the transaction in the Union Registry.

4. If a national administrator unintentionally or erroneously initiated one of the transactions referred to in paragraph 5, it may propose to the central administrator to carry out a reversal of the completed transaction in a written request. The request shall contain a statement indicating that the transaction was initiated erroneously or unintentionally.

5. National administrators may propose the reversal of the following transactions:

(a) allocation of general allowances;

(b) allocation of aviation allowances.

6. The central administrator shall ensure that the Union Registry accepts the proposal for reversal made pursuant to paragraphs 1 and 4, blocks the units that are to be transferred by the reversal and forwards the proposal to the central administrator provided that all of the following conditions are met:

(a) a transaction surrendering or deleting allowances to be reversed was not completed more than 30 working days prior to the account administrator's proposal in accordance with paragraph 3;

- (b) no operator would become non-compliant for a previous year as a result of the reversal;
- (c) the destination account of the transaction to be reversed still holds the amount of units of the type that were involved in the transaction to be reversed;
- (d) the allocation of general allowances to be reversed was carried out after the expiry date of the installation's permit.

7. The central administrator shall ensure that the Union Registry completes the reversal with units of the same unit type on the destination account of the transaction that is being reversed.

#### CHAPTER 3

##### *Links with other greenhouse gas emission trading schemes*

###### Article 71

##### **Implementation of linking arrangements**

The central administrator may create accounts and processes and undertake transactions and other operations at appropriate times to implement arrangements made pursuant to Article 25(1b) of Directive 2003/87/EC.

#### TITLE 3

##### **SPECIFIC PROVISIONS FOR KP REGISTRIES**

###### Article 72

##### **Opening of person holding accounts in KP registries**

A request for a person holding account in a KP registry shall be submitted to the national administrator by the prospective account holder. The prospective account holder shall provide the same information as required by the national administrator pursuant to Article 18.

###### Article 73

##### **Execution of transfers**

For all transfers from accounts in KP registries, Articles 38, 39, 65 and 66 shall apply.

#### TITLE 4

##### **SPECIFIC PROVISIONS FOR ACCOUNTING TRANSACTIONS UNDER DECISION No 406/2009**

###### Article 74

##### **Creation of AEA**

1. At the beginning of the compliance period, the central administrator shall create in the EU AEA Total Quantity Account a number of AEAs equal to the sum of the annual emission allocations for all Member States for all the years of

the compliance period as determined in the Decisions adopted pursuant to Article 3(2) and Article 10 of Decision No 406/2009/EC.

2. The central administrator shall ensure that the Union Registry assigns each AEA a unique unit identification code upon its creation.

###### Article 75

##### **Annual emission allocation units**

AEAs shall be valid only for the purpose of meeting the Member States' greenhouse gas emissions limitation requirements pursuant to Article 3 of Decision No 406/2009/EC and they shall be transferable only pursuant to conditions laid down in Article 3(3), (4), and (5) of that Decision.

###### Article 76

##### **Transfer of AEAs to each ESD Compliance Account**

At the beginning of the compliance period, the central administrator shall transfer a quantity of AEAs corresponding to the annual emission allocation for each Member State for each year as determined in the Decisions adopted pursuant to Articles 3(2) and 10 of Decision No 406/2009/EC, from the EU AEA Total Quantity Account into the relevant ESD Compliance Account.

###### Article 77

##### **Introduction of the relevant greenhouse gas emissions data**

1. In a timely manner, upon availability of the relevant greenhouse gas emissions data for a given year of the compliance period for the majority of Member States, the central administrator shall enter the total quantity of the relevant greenhouse gas emissions expressed in tonnes of carbon dioxide equivalent for each Member State in its ESD Compliance Account for that given compliance year.

2. The central administrator shall also enter the sum of the relevant greenhouse gas emissions data for all Member States for a given year in the EU AEA Total Quantity Account.

###### Article 78

##### **Calculation of the balance of the ESD Compliance Account**

1. Upon introduction of the relevant greenhouse gas emissions data pursuant to Article 77, the central administrator shall ensure that the Union Registry calculates the balance of the respective ESD Compliance Account by subtracting the total quantity of greenhouse gas emissions expressed in tonnes of carbon dioxide equivalent in the respective ESD Compliance Account from the sum of all AEAs in the same ESD Compliance Account.

2. The central administrator shall ensure that the Union Registry displays the balance of each ESD Compliance Account.

#### Article 79

##### **Determination of the compliance status figures**

1. The central administrator shall ensure that after the introduction of the relevant greenhouse gas emissions data pursuant to Article 77 and after a period of time as set out in Union legislation for the use of flexibilities pursuant to Articles 3 and 5 of Decision No 406/2009/EC, the Union Registry determines the compliance status figure for every ESD Compliance Account by calculating the sum of all AEs, international credits, tCERs and ICERs less the total quantity of greenhouse gas emissions expressed in tonnes of carbon dioxide equivalent in the same ESD Compliance Account.

2. The central administrator shall ensure that the Union Registry records the compliance status figure for each ESD Compliance Account.

#### Article 80

##### **Application of Article 7(1) (a) and (c) of Decision No 406/2009/EC**

1. Where the compliance status figure determined pursuant to Article 79 is negative, the central administrator shall ensure that the Union Registry transfers the exceeding quantity of greenhouse gas emissions expressed in tonnes of carbon dioxide equivalent multiplied by the abatement factor specified in Article 7(1) (a) of Decision No 406/2009/EC from a Member State's ESD Compliance Account for the given year to its ESD Compliance Account for the next year.

2. At the same time, the central administrator shall block the ESD Compliance Accounts corresponding to the remaining years of the compliance period, of the Member State concerned.

3. The central administrator shall change the ESD Compliance Account status from blocked to open for all the remaining years of the compliance period as of the year for which the compliance status figure determined pursuant to Article 79 shows compliance.

#### Article 81

##### **Use of international credits, tCERs and ICERs**

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of international credits, tCERs or ICERs to that Member State's ESD

Compliance Account for a given year of the compliance period. Such transfer shall not be carried out where:

- (a) the Member State's request is submitted before the calculation of the balance of the ESD Compliance Account or after the determination of the compliance status figure for the given year; or
- (b) the conditions laid down in Article 5 of Decision No 406/2009/EC are not complied with.

#### Article 82

##### **Carry forward of AEs**

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of AEs to that Member State's ESD Compliance Account for a given year of the compliance period from its ESD Compliance Account for the following year of the compliance period. Such transfer shall not be carried out where:

- (a) the Member State's request is submitted before the calculation of the balance of the ESD Compliance Account or after the determination of the compliance status figure for the given year; or
- (b) the transferred amount exceeds 5 percent of the following year's annual emission allocation as determined pursuant to Article 3(2) of Decision No 406/2009/EC, or a higher percentage if an increased carry forward has been granted by the Commission pursuant to the second subparagraph of Article 3(3) of No Decision 406/2009/EC.

#### Article 83

##### **Carry over of AEs**

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of AEs from that Member State's ESD Compliance Account for a given year of the compliance period to its ESD Compliance Account for any of the following years of the compliance period. Such transfer shall not be carried out where:

- (a) the Member State's request is submitted before the calculation of the balance of the ESD Compliance Account for the given year;
- (b) the transferred amount exceeds the positive balance of the account as calculated pursuant to Article 78; or
- (c) the status of the ESD Compliance Account initiating the transfer does not allow the transfer.

*Article 84***Carry over of the unused credit entitlement**

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of the whole or portions of the unused credit entitlement from that Member State's ESD Compliance Account for a given year of the compliance period to its ESD Compliance Account for any of the following years of the compliance period. Such transfer shall not be carried out where the transfer is initiated before the determination of the compliance status figure for the given year.

*Article 85***Transfers of up to 5 % of a Member State's annual emission allocation**

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of AEAs from the ESD Compliance Account for a given year of that Member State to the ESD Compliance account of another Member State. Such transfer shall not be carried out where:

- (a) the transferred amount exceeds five percent of the given year's annual emission allocation of the initiating Member State as determined pursuant to Article 3(2) of Decision No 406/2009/EC or the remaining amount available;
- (b) the Member State has requested the transfer to an ESD Compliance Account for a year previous than the given year, or
- (c) the status of the ESD Compliance Account initiating the transfer does not allow the transfer.

*Article 86***Transfers after the calculation of the balance of the ESD Compliance Account**

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of AEAs from the ESD Compliance Account for a given year of that Member State to the ESD Compliance Account of another Member State. Such transfer shall not be carried out where:

- (a) the Member State's request is submitted before the calculation of the balance of the account pursuant to Article 78;
- (b) the transferred amount exceeds the positive balance of the account as calculated pursuant to Article 78; or
- (c) the status of the ESD Compliance Account initiating the transfer does not allow the transfer.

*Article 87***Transfer of up to 3 % of the credit entitlement**

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of the whole or a portion of the credit entitlement from the ESD Compliance Account for a given year of that Member State to the ESD Compliance Account of another Member State. Such transfer shall not be carried out where:

- (a) the Member State's request is submitted before the calculation of the compliance status figure for the given year;
- (b) the transferred quantity exceeds a Member State's allowed quantity equal to three percent as specified pursuant to Article 5(6) of Decision No 406/2009/EC less the sum of international credits, tCERs or ICERs held in the ESD Compliance Account at the moment of determination of the compliance status figures pursuant to Article 79 of this Regulation; or
- (c) the status of the ESD Compliance Account initiating the transfer does not allow the transfer.

*Article 88***Adjustments**

1. In case of adjustments pursuant to Article 10 of Decision No 406/2009/EC or of any other modification of the sum specified in Article 74 of this Regulation that would lead to an increase of a Member State's annual emission allocation during the compliance period, the central administrator shall create the corresponding amount of AEAs in the EU AEAs Total Quantity Account and transfer it in the relevant ESD Compliance Account of the Member State concerned.

2. In case of adjustments pursuant to Article 10 of Decision No 406/2009/EC or of any other modification of the sum specified in Article 74 of this Regulation that would lead to a decrease of a Member State's annual emission allocation during the compliance period, the central administrator shall transfer the corresponding amount of AEAs from the Member State's relevant ESD Compliance Account to the ESD Deletion Account.

*Article 89***Replacement of tCERs and ICERs**

1. Where a tCER or a ICER must be replaced while in the Union Registry, the Member State concerned pursuant to Article 5(1) (d) of Decision No 406/2009/EC shall request the transfer of a Kyoto unit from its KP Registry to the relevant Party holding Account in the Union Registry.

2. An expired ICER shall not be considered in the determination of the compliance figure pursuant to Article 79.

3. The central administrator shall keep interruptions to the operation of the Union Registry and EUTL to a minimum.

#### Article 90

##### **Execution and reversal of transfers**

1. For all transfers specified in this Title, Articles 38, 39, 65 and 66 shall apply.

2. Transfers to the ESD Compliance Accounts initiated in error may be reversed at the request of the national administrator. In such cases, Article 70(4), (6) and (7) shall apply.

#### TITLE V

##### **COMMON TECHNICAL PROVISIONS**

###### CHAPTER 1

##### **Technical requirements of the registries system**

###### Section 1

##### **Availability**

###### Article 91

##### **Availability and reliability of the Union Registry and the EUTL**

1. The central administrator shall take all reasonable steps to ensure that:

(a) the Union Registry is available for access by account representatives and national administrators 24 hours a day, 7 days a week;

(b) the communication links referred to in Article 7 between the Union Registry, the EUTL and the ITL are maintained 24 hours a day, 7 days a week;

(c) backup hardware and software necessary in the event of a breakdown in operations of the primary hardware and software is provided for;

(d) the Union Registry and the EUTL respond promptly to requests made by account representatives.

2. The central administrator shall ensure that the Union Registry and EUTL incorporate robust systems and procedures to safeguard all relevant data and facilitate the prompt recovery of data and operations in the event of failure or disaster.

#### Article 92

##### **Helpdesks**

1. National administrators shall provide assistance and support to account holders and account representatives in the Union Registry that are administered by them through national helpdesks.

2. The central administrator shall provide support to national administrators through a central helpdesk for the purposes of helping them to provide assistance in accordance with paragraph 1.

#### Section 2

##### **Security and authentication**

###### Article 93

##### **Authentication of the Union Registry and national KP registries**

1. The identity of the Union Registry shall be authenticated by the EUTL having regard to the data exchange and technical specifications provided for in Article 105.

2. The Member States and the Union shall use the digital certificates issued by the Secretariat to the UNFCCC, or an entity designated by it, to authenticate their KP registries to the ITL for the purposes of establishing the communication link referred to in Article 7.

#### Article 94

##### **Accessing accounts in the Union Registry**

1. Account representatives shall be able to access their accounts in the Union Registry through the secure area of the Union Registry. The central administrator shall ensure that the secure area of the Union Registry website is accessible through the Internet. The website of the Union Registry shall be available in all official languages of the Union.

2. Following the opening of a platform account pursuant to Article 14(1) or Article 20(1), the central administrator shall establish the connectivity between the platform and the Union Registry. The central administrator shall ensure that accounts in the Union Registry, where access through external trading platforms in accordance with Article 21(4) is enabled and one authorised representative is also the authorised representative of an external trading platform account, are accessible to the external trading platform operated by the holder of that external trading platform account.

3. Communications between authorised representatives or platforms and the secure area of Union Registry shall be encrypted having regard to the security requirements set out in the data exchange and technical specifications provided for in Article 105.

4. The central administrator shall take all necessary steps to ensure that unauthorised access to the secure area of the Union Registry website does not occur.

5. If the security of the credentials of an authorised representative or additional authorised representative has been compromised, the authorised representative or additional authorised representative shall immediately suspend access to the relevant account, inform the administrator of the account thereof and request a replacement.

#### Article 95

##### **Authentication and authorisation of authorised representatives in the Union Registry**

1. The central administrator shall ensure that the Union Registry issues each authorised representative and additional authorised representative a username and password to authenticate them for the purposes of accessing the registry.

2. An authorised representative or additional authorised representative shall only have access to accounts in the Union Registry for which he is authorised and shall only be able to request the initiation of processes for which he is authorised pursuant to Article 23. That access or request shall take place through a secure area of the website of the Union Registry.

3. In addition to the username and password referred to in paragraph 1, an authorised representative or additional authorised representative shall use secondary authentication to access the Union Registry, having regard to the types of secondary authentication mechanisms set out in the data exchange and technical specifications provided for in Article 105.

4. The administrator of an account may assume that a user who was successfully authenticated by the Union Registry is the authorised representative or additional authorised representative registered under the provided authentication credentials, unless the authorised representative or additional authorised representative informs the administrator of the account that the security of his credentials has been compromised and requests a replacement of his credentials.

5. The authorised representative shall take all necessary measures to prevent the loss, theft or compromise of its

credentials. The authorised representative shall immediately report to the national administrator the loss, theft or compromise of its credentials.

#### Article 96

##### **Suspension of all access due to a security breach or a security risk**

1. The Commission may instruct the central administrator to suspend access to the Union Registry or the EUTL or any part thereof where it has a reasonable suspicion that there is a breach of security of the Union Registry or the EUTL or that there exists a serious security risk to the Union Registry or the EUTL that threatens the integrity of the system, which includes the back-up facilities referred to in Article 91.

2. In the event of a breach of security or a security risk that may lead to suspension of access, a national administrator who becomes aware of the breach or risk shall promptly inform the central administrator of any risks posed to other parts of the Union Registry. The central administrator shall inform all national administrators.

3. If a national administrator becomes aware of a situation that requires the suspension of all access to the accounts that it manages in accordance with this Regulation, it shall inform the central administrator and account holders with such prior notice of the suspension as is practicable. The central administrator shall inform all national administrators as soon as possible.

4. The notice referred to in paragraph 3 shall include the likely duration of the suspension and shall be clearly displayed on the public area of the EUTL's web site.

#### Article 97

##### **Suspension of access to allowances or Kyoto units in the case of a suspected fraudulent transaction**

1. A national administrator or a national administrator acting on request of the competent authority may suspend access to allowances or Kyoto units in the part of the Union Registry it administers:

(a) for a maximum period of four weeks if it suspects that the allowances or Kyoto units have been the subject of a transaction constituting fraud, money laundering, terrorist financing, corruption or other serious crime, or

(b) on the basis of and in accordance with national law provisions that pursue a legitimate objective.

2. The Commission may instruct the central administrator to suspend access to allowances or Kyoto units in the Union Registry or the EUTL for a maximum period of four weeks if it suspects that the allowances or Kyoto units have been the subject of a transaction constituting fraud, money laundering, terrorist financing, corruption or other serious crime.

3. The national administrator or the Commission shall immediately inform the competent law enforcement authority of the suspension.

4. A national law enforcement authority of the Member State of the national administrator may also instruct the administrator to implement a suspension on the basis of and in accordance with national law.

#### Article 98

#### **Cooperation with competent authorities and notification of money laundering, terrorist financing or criminal activity**

1. The national administrator, its directors and its employees shall cooperate fully with the relevant competent authorities to establish adequate and appropriate procedures to forestall and prevent operations related to money laundering or terrorist financing.

2. The national administrator, its directors and its employees, shall cooperate fully with the FIU referred to in Article 21 of Directive 2005/60/EC by promptly:

(a) informing the FIU, on their own initiative, where they know, suspect or have reasonable grounds to suspect that money laundering, terrorist financing or criminal activity is being or has been committed or attempted;

(b) providing the FIU, at its request, with all necessary information, in accordance with the procedures established by the applicable legislation.

3. The information referred to in paragraph 2 shall be forwarded to the financial intelligence unit (FIU) of the Member State of the national administrator. The national measures transposing the compliance management and communication policies and procedures, referred to in Article 34(1) of Directive 2005/60/EC, shall designate the person or persons responsible for forwarding information pursuant to this Article.

4. The Member State of the national administrator shall ensure that the national measures transposing Articles 26 to 29 and Articles 32 and 35 of Directive 2005/60/EC apply to the national administrator.

#### Article 99

#### **Suspension of processes**

1. The Commission may instruct the central administrator to temporarily suspend the acceptance by the EUTL of some or all processes originating from the Union Registry if it is not operated and maintained in accordance with the provisions of this Regulation. It shall immediately notify national administrators concerned.

2. The central administrator may temporarily suspend the initiation or acceptance of some or all processes in the Union Registry for the purposes of carrying out scheduled or emergency maintenance on the Union Registry.

3. A national administrator may request the Commission to reinstate processes suspended in accordance with paragraph 1 if it considers that the outstanding issues that caused the suspension have been resolved. If this is the case, the Commission shall instruct the central administrator to reinstate those processes. It shall otherwise reject the request within a reasonable period and inform the national administrator without delay, stating its reasons and setting out criteria to be fulfilled for a subsequent request to be accepted.

#### Section 3

#### **Automated checking, recording and completing of processes**

#### Article 100

#### **Automated checking of processes**

1. All processes must conform to the general IT-requirements of electronic messaging that ensure the successful reading, checking and recording of a process by the Union Registry. All processes must conform to the specific process-related requirements set out in this Regulation.

2. The central administrator shall ensure that the EUTL conducts automated checks having regard to the data exchange and technical specifications provided for in Article 105 for all processes to identify irregularities and discrepancies, where a proposed process does not conform to the requirements of Directive 2003/87/EC, Decision No 406/2009/EC and this Regulation.

*Article 101***Detection of discrepancies**

1. In the case of processes completed through the direct communication link between the Union Registry and the EUTL referred to in Article 7(3), the central administrator shall ensure that the EUTL terminates any processes where it identifies discrepancies upon conducting the automated checks referred to in Article 102(2), and informs thereof the Union Registry and the administrator of the accounts involved in the terminated transaction by returning an automated check response code. The central administrator shall ensure that the Union Registry immediately informs the relevant account holders that the process has been terminated.

2. In case of transactions completed through the ITL referred to in Article 7(1), the ITL shall terminate any processes where discrepancies are identified either by the ITL or the EUTL upon conducting the automated checks referred to in Article 102(2). Following a termination by the ITL, the central administrator shall ensure that the EUTL also terminates the transaction. The ITL informs the administrators of the registries involved of the termination of the transaction by returning an automated check response code. If one of the registries involved is the Union Registry, the central administrator shall ensure that the Union Registry also informs the administrator of the Union Registry accounts involved in the terminated transaction by returning an automated check response code. The central administrator shall ensure that the Union Registry immediately informs the relevant account holders that the process has been terminated.

*Article 102***Detection of discrepancies within the Union Registry and national KP registries**

1. The central administrator and Member States shall ensure that the Union Registry and other KP registries shall contain check input codes and check response codes to ensure the correct interpretation of information exchanged during each process. The check codes shall have regard to those contained in the data exchange and technical specifications provided for in Article 105.

2. The central administrator shall ensure that, prior to and during the execution of all processes, the Union Registry conducts appropriate automated checks to ensure that discrepancies are detected and incorrect processes are terminated in advance of automated checks being conducted by the EUTL.

*Article 103***Reconciliation - detection of inconsistencies by the EUTL**

1. The central administrator shall ensure that the EUTL periodically initiates data reconciliation to ensure that the EUTL's records of accounts, holdings of Kyoto units and allowances match the records of these holdings in the Union Registry. The central administrator shall ensure that the EUTL records all processes.

2. If during the data reconciliation process referred to in paragraph 1, an inconsistency is identified by the EUTL, whereby the information regarding accounts, holdings of Kyoto units and allowances provided by the Union Registry as part of the periodic reconciliation process differs from the information contained in the EUTL, the central administrator shall ensure that the EUTL prevents any further processes to be completed with any of the accounts, allowances or Kyoto units which are the subject of the inconsistency. The central administrator shall ensure that the EUTL immediately informs the central administrator and the administrators of the relevant accounts of any inconsistency.

*Article 104***Finalisation of processes**

1. All transactions communicated to the ITL in accordance with Article 7(1) shall be final when the ITL notifies the EUTL that it has completed the process.

2. All transactions and other processes communicated to the EUTL in accordance with Article 7(3) shall be final when the EUTL notifies the Union Registry that it has completed the processes. The central administrator shall ensure that the EUTL automatically aborts the completion of a transaction or process if it could not be completed within 24 hours of its communication.

3. The data reconciliation process referred to in Article 103(1) shall be final when all inconsistencies between the information contained in the Union Registry and the information contained in the EUTL for a specific time and date have been resolved, and the data reconciliation process has been successfully re-initiated and completed.

*Section 4***Specifications and change management***Article 105***Data exchange and technical specifications**

1. The Commission shall make available to national administrators data exchange and technical specifications necessary for exchanging data between registries and transaction logs, including the identification codes, automated checks, response codes and data logging requirements, as well as the testing procedures and security requirements necessary for the launching of data exchange.

2. The data exchange and technical specifications shall be drawn up in consultation with the Administrators' Working Group of the Climate Change Committee and shall be consistent with the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol elaborated pursuant to Decision 12/CMP.1.

*Article 106***Change and release management**

If a new version or release of the Union Registry software is required, the central administrator shall ensure that the testing procedures set out in the data exchange and technical specifications provided for in Article 105 are completed before a communication link is established and activated between the new version or release of that software and the EUTL or ITL.

*CHAPTER 2***Records, reports, confidentiality and fees***Article 107***Processing of information and personal data**

1. The central administrator and Member States shall ensure that the Union Registry, the EUTL and other KP registries only store and process the information concerning the accounts, account holders and account representatives as set out in Table III-I of Annex III, Tables VI-I and VI-II of Annex VI, Table VII-I of Annex VII, and Table VIII-I of Annex VIII.

2. No special categories of data as defined in Article 8 of Directive 95/46/EC and Article 10 of Regulation (EC) No 45/2001 shall be recorded in the Union Registry, the EUTL or other KP registries.

3. The central administrator and Member States shall ensure that only personal data related to transactions that transfer Kyoto units are transferred to the ITL.

*Article 108***Records**

1. The central administrator shall ensure that the Union Registry stores records concerning all processes, log data and account holders for five years after the closure of an account.

The central administrator and Member States shall ensure that the Union Registry and other KP registries store records concerning all relevant KP processes, log data and account holders of KP accounts for 15 years after the closure of the account or until any issue of implementation relating to them arising within the context of the UNFCCC bodies has been resolved, whichever is the later.

2. The central administrator shall ensure that national administrators are able to access, query and export all records

held in the Union Registry in relation to accounts that are or were administered by them.

*Article 109***Reporting**

1. The central administrator shall make available the information referred to in Annex XIV to the recipients set out in Annex XIV in a transparent and organised manner via the EUTL web site. The central administrator shall take all reasonable steps to make available the information referred to in Annex XIV at the frequencies set out in Annex XIV. The central administrator shall not release additional information held in the EUTL or in the Union Registry unless this is permitted under Article 110.

2. National administrators may also make available the part of the information referred to in Annex XIV that they have access to in accordance with Article 110 at the frequencies and to the recipients set out in Annex XIV in a transparent and organised manner on a site publicly accessible via the Internet. National administrators shall not release additional information held in the Union Registry unless this is permitted under Article 110.

*Article 110***Confidentiality**

1. Information, including the holdings of all accounts, all transactions made, the unique unit identification code of the allowances and the unique numeric value of the unit serial number of the Kyoto units held or affected by a transaction, held in the EUTL, the Union Registry and any other KP registry shall be considered confidential except as otherwise required by Union law, or by provisions of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

2. The central administrator or national administrator may provide data stored in the Union Registry and the EUTL to the following entities:

- (a) the law enforcement and tax authorities of a Member State;
- (b) the European Anti-fraud Office of the European Commission;
- (c) the European Court of Auditors;
- (d) Eurojust;

- (e) the competent authorities referred to in Article 11 of Directive 2003/6/EC of the European Parliament and of the Council <sup>(1)</sup> and in Article 37(1) of Directive 2005/60/EC;
- (f) competent national supervisory authorities;
- (g) the national administrators of Member States and the competent authorities referred to in Article 18 of Directive 2003/87/EC.

3. Data may be provided to the entities referred to in paragraph 2 upon their request to the central administrator or to a national administrator if such requests are justified and necessary for the purposes of investigation, detection, prosecution, tax administration or enforcement, auditing and financial supervision of fraud involving allowances or Kyoto units, or of money laundering, terrorism financing, other serious crime, market manipulation for which the accounts in the Union registry or the KP registries may be an instrument, or of breaches of Union or national law ensuring the functioning of the Union ETS.

4. An entity receiving data in accordance with paragraph 3 shall ensure that the data received is only used for the purposes stated in the request in accordance with paragraph 3 and is not made available deliberately or accidentally to persons not involved in the intended purpose of the data use. This provision shall not preclude these entities to make the data available to other entities listed in paragraph 2, if this is necessary for the purposes stated in the request made in accordance with paragraph 3.

5. Upon their request, the central administrator may provide access to transaction data which do not allow the direct identification of specific persons to the entities referred to in paragraph 2 for the purpose of looking for suspicious transaction patterns. Entities with such access may notify suspicious transaction patterns to other entities listed in paragraph 2.

6. Europol shall obtain permanent read-only access to data stored in the Union Registry and the EUTL for the purpose of the performance of its tasks in accordance with Council Decision 2009/371/JHA <sup>(2)</sup>. Europol shall keep the Commission informed of the use it makes of the data.

7. National administrators shall make available through secure means to all other national administrators and the central administrator the names and identities of persons for whom they refused to open an account in accordance with

points (a), (b) and (c) of Article 22(2), or whom they refused to nominate as an authorised representative or additional authorised representative in accordance with points (a) and (b) of Article 24(5), and the names and identities of the account holder, authorised representative or additional authorised representative of accounts to which access has been suspended in accordance with Article 34 or of accounts that have been closed in accordance with Article 33. National administrators shall inform the persons concerned.

8. National administrators may decide to notify to national law enforcement and tax authorities all transactions that involve a number of units above the number determined by the national administrator and to notify any account that is involved in a number of transactions within a period that is above a number determined by the national administrator.

9. The EUTL, the Union Registry and other KP registries shall not require account holders to submit price information concerning allowances or Kyoto units.

10. The auction monitor appointed pursuant to Article 24 of Regulation (EU) No 1031/2010 shall have access to all information concerning the auction delivery account held in the Union Registry.

#### Article 111

##### Fees

1. The central administrator shall not charge any fees to account holders in the Union Registry.

2. National administrators may charge reasonable fees to account holders administered by them.

3. National administrators shall notify the central administrator of the fees charged and of any changes in the fees within ten working days. The central administrator shall display fees on a public website.

#### Article 112

##### Interruption of operation

The central administrator shall ensure that interruptions to the operation of the Union Registry are kept to a minimum by taking all reasonable steps to ensure the availability and security of the Union Registry and the EUTL and by providing for robust systems and procedures to safeguard all information.

<sup>(1)</sup> OJ L 96, 12.4.2003, p. 16.

<sup>(2)</sup> OJ L 121, 15.5.2009, p. 37.

## TITLE IV

## TRANSITIONAL AND FINAL PROVISIONS

## Article 113

**Implementation**

Member States shall bring into force the laws, regulations and administrative provisions necessary to implement this Regulation, and in particular for national administrators to comply with their obligations to verify and review information submitted pursuant to Articles 22(1), 24(4) and 25(4).

## Article 114

**Further use of accounts**

Accounts, as specified in Chapter 3 of Title I of this Regulation, opened or used pursuant to Regulation (EU) No 920/2010 shall remain in use for the purposes of this Regulation.

Trading platform accounts opened pursuant to Regulation (EU) No 920/2010 shall remain in use as external trading platform accounts for the purposes of this Regulation.

## Article 115

**Entry into force of use restrictions**

The central administrator shall provide national administrators with a list of the ETS accounts holding international credits which cannot be used pursuant to measures adopted pursuant to Article 11a(9) of Directive 2003/87/EC after the date set by those measures. On the basis of this list, the national administrator shall request the account holder to specify a KP account to which such international credits shall be transferred.

If the account holder has not responded to the administrator's request within 40 working days, the administrator shall transfer the international credits to a national KP account.

## Article 116

**Amendments to Regulation (EU) No 920/2010**

Regulation (EU) No 920/2010 is amended as follows:

- (1) Articles 3 to 28 are deleted;
- (2) Article 32 is replaced by the following:

*'Article 32*

**Excluded aircraft operator holding accounts**

1. If, by the deadline set out in Article 12(2a) of Directive 2003/87/EC for surrendering allowances, a

verified emissions value of 0 is entered in the Union registry for an aircraft operator for the previous year in accordance with Article 29, the Union registry shall set the corresponding aircraft operator holding account to excluded status.

2. The Union registry shall set the account to open status when the verified emissions value for year before the current year is not 0.;

- (3) in Article 41, paragraph 4 is replaced by the following:

'4. Where an excluded aircraft operator holding account does not receive allowances under paragraph 1, those allowances shall not be created in the account should it be subsequently set to open status.;

- (4) Article 57 is replaced by the following:

*'Article 57*

**Banking between periods**

Within ten working days of the completion of the clearing transactions set out in Article 56, the Union registry shall delete Chapter II allowances valid for the 2008-2012 period held in user accounts in the Union registry and issue an equal amount of Chapter II allowances valid for the 2013-2020 period to the same accounts and delete Chapter III allowances valid for the 2008-2012 period held in user accounts in the Union registry and issue an equal amount of Chapter III allowances valid for the 2013-2020 period to the same accounts.;

- (5) in Article 52, paragraph 4 is replaced by the following:

'4. The central administrator shall carry out a deduction of a quantity from the minimum deposited quantity recorded in the EUTL after the clearing transactions in accordance with Article 56 have taken place. The deduction shall equal the total amount of Chapter III allowances surrendered by operator holding accounts administered by the national administrator of the Member State for the 2008-12 period; plus the clearing value calculated in accordance with Article 56(3).;

- (6) Articles 59 to 79 are deleted.

*Article 117***Repeal**

Regulation (EU) No 1193/2011 is repealed.

Regulation (EU) No 920/2010 is repealed with effect from 1 October 2013.

*Article 118***Entry into force**

This Regulation shall enter into force on the day following 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, 2 May 2013.

*For the Commission*  
*The President*  
José Manuel BARROSO

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## ANNEX I

Table I-I

## Account types and unit types that may be held in each account type (Article 9)

Account type name	Account holder	Account Administrator	No. of accounts of this type	Non-Kyoto units			Kyoto units				
				Allowances		AEAs	AAU	CER	ERU	iCER/tCER	RMU/ERU from RMU
				General allowances	Aviation allowances						
I. ETS management accounts in the Union Registry											
EU Total Quantity Account	EU	central administrator	1	<b>Yes</b>	No	No	No	No	No	No	No
EU Aviation Total Quantity Account	EU	central administrator	1	No	<b>Yes</b>	No	No	No	No	No	No
EU Auction Account	EU	central administrator	1	<b>Yes</b>	No	No	No	No	No	No	No
EU Allocation Account	EU	central administrator	1	<b>Yes</b>	No	No	No	No	No	No	No
EU New Entrant Reserve Account	EU	central administrator	1	<b>Yes</b>	No	No	No	No	No	No	No
EU Aviation Auction Account	EU	central administrator	1	No	<b>Yes</b>	No	No	No	No	No	No
EU Special Reserve Account	EU	central administrator	1	No	<b>Yes</b>	No	No	No	No	No	No
EU Aviation Allocation Account	EU	central administrator	1	No	<b>Yes</b>	No	No	No	No	No	No
Union Deletion Account	EU	central administrator	1	<b>Yes</b>	<b>Yes</b>	No	No	No	No	No	No

Account type name	Account holder	Account Administrator	No. of accounts of this type	Non-Kyoto units			Kyoto units					
				Allowances		AEAs	AAU	CER	ERU	ICER/tCER	RMU/ERU from RMU	
				General allowances	Aviation allowances							
Auction Delivery Account	Auctioneer, Auction platform, Clearing System or Settlement System	national administrator that has opened the account	one or more for each auction platform	<b>Yes</b>	<b>Yes</b>	No	No	No	No	No	No	No
EU International Credit Account	EU	central administrator	2	No	No	No	No	<b>Yes (**)</b>	<b>Yes (**)</b>	No	No	No
EU Credit Exchange Account	EU	central administrator	2	<b>Yes</b>	<b>Yes</b>	No	No	No	No	No	No	No
II. ETS holding accounts in the Union Registry												
Operator holding account	Operator	national administrator of the Member State where installation is located	one for each installation	<b>Yes</b>	No	No	No	<b>Yes (**)</b>	<b>Yes (**)</b>	No	No	No
Aircraft operator holding account	Aircraft operator	national administrator of the Member State administering the aircraft operator	one for each aircraft operator	<b>Yes</b>	<b>Yes</b>	No	No	<b>Yes (**)</b>	<b>Yes (**)</b>	No	No	No
Person holding account	Person	national administrator or central administrator that has opened the account	as approved	<b>Yes</b>	<b>Yes</b>	No	No	<b>Yes (**)</b>	<b>Yes (**)</b>	No	No	No
National holding account	Member State	national administrator of the Member State holding the account	one or more for each Member State	<b>Yes</b>	<b>Yes</b>	No	No	<b>Yes (**)</b>	<b>Yes (**)</b>	No	No	No

Account type name	Account holder	Account Administrator	No. of accounts of this type	Non-Kyoto units			Kyoto units				
				Allowances		AEAs	AAU	CER	ERU	ICER/tCER	RMU/ERU from RMU
				General allowances	Aviation allowances						
<b>III. ETS trading accounts in the Union Registry</b>											
Trading account	Person	national administrator or central administrator that has opened the account	as approved	<b>Yes</b>	<b>Yes</b>	No	No	<b>Yes (**)</b>	<b>Yes (**)</b>	No	No
<b>IV. Other ETS accounts in the Union Registry</b>											
External trading platform account	External trading platform	national administrator that has opened the account	one per Member State for each external trading platform	This account type does not hold any unit.							
Verifier account	Verifier	national administrator that has opened the account	one per Member State for each verifier	This account type does not hold any unit.							
National administrative platform account	Member State	central administrator	maximum one for each Member State	This account type does not hold any unit.							
<b>V. KP accounts in the consolidated system of European registries</b>											
Party holding Account	party to the Kyoto Protocol	KP registry administrator (in the Union Registry: the central administrator)	at least 1	No	No	No	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
Cancellation Account			1	No	No	No	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
Retirement Account			1	No	No	No	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
ETS AAU Deposit Account			1	No	No	No	<b>Yes</b>	No	No	No	No

Account type name	Account holder	Account Administrator	No. of accounts of this type	Non-Kyoto units			Kyoto units				
				Allowances		AEAs	AAU	CER	ERU	ICER/tCER	RMU/ERU from RMU
				General allowances	Aviation allowances						
tCER Replacement Account	EU	central administrator	1	No	No	No	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
ICER Replacement Account	EU	central administrator	1	No	No	No	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
Person holding account (***)	Person	national administrator or central administrator that has opened the account	1	No	No	No	by MS (*)	by MS (*)	by MS (*)	by MS (*)	by MS (*)
<b>VI. Accounts for the purpose of accounting transactions under Title 4</b>											
EU AEA Total Quantity Account	EU	central administrator	1	No	No	<b>Yes</b>	No	No	No	No	No
ESD Deletion Account	EU	central administrator	1	No	No	<b>Yes</b>	No	No	No	No	No
ESD Compliance Account	Member State	central administrator	1 for each of the 8 compliance years for each Member State	No	No	<b>Yes</b>	No	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	No

(\*) The MS national administrator can decide whether the account type may hold this type of unit.

(\*\*) Excluding units which are not eligible for use pursuant to Articles 11a and 11b of Directive 2003/87/EC, Article 58 of this Regulation and measures adopted pursuant to Article 11a(9) of Directive 2003/87/EC.

(\*\*\*) KP operator holding accounts existing in national KP registries before the consolidation referred to in Article 8(4) can hold the same unit types.

## ANNEX II

**Terms and conditions (Article 11)***Payment of fees*

1. The terms and conditions regarding any registry fees for establishing and maintaining accounts.

*Modification of core terms and conditions*

2. Modification of the core terms to reflect changes to this Regulation or changes to domestic legislation.

*Dispute resolution*

3. Provisions relating to disputes between account holders and choice of court for national administrator.

*Responsibility and liability*

4. The limitation of liability for the national administrator.
  5. The limitation of liability for the account holder.
-

## ANNEX III

**Information to be submitted with requests for opening an account (Articles 13, 14 and 19)**

1. The information set out in Table III-I.

Table III-I

**Account details for all accounts**

	A	B	C	D	E	F
Item No.	Account detail item	Mandatory or Optional?	Type	Can be updated?	Update requires the approval of the administrator?	Displayed on the EUTL public website?
1	Account ID (given by Union Registry)	M	Preset	No	n.a.	No
2	Account type	M	Choice	No	n.a.	Yes
3	Commitment period	M	Choice	No	n.a.	Yes
4	Account holder ID (given by Union Registry)	M	Free	Yes	Yes	No
5	Account holder name	M	Free	Yes	Yes	Yes
6	Account identifier (given by account holder)	M	Free	Yes	No	No
7	Account holder's address – country	M	Choice	Yes	Yes	Yes
8	Account holder's address - region or state	O	Free	Yes	Yes	Yes
9	Account holder's address – city	M	Free	Yes	Yes	Yes
10	Account holder's address – postcode	M	Free	Yes	Yes	Yes
11	Account holder's address – line 1	M	Free	Yes	Yes	Yes
12	Account holder's address – line 2	O	Free	Yes	Yes	Yes
13	Account holder's company registration number	M	Free	Yes	Yes	Yes
14	Account holder's telephone 1	M	Free	Yes	No	No
15	Account holder's telephone 2	M	Free	Yes	No	No
16	Account holder's email address	M	Free	Yes	No	No
17	Date of birth (for natural persons)	M for natural persons	Free	No	n.a.	No
18	Place of birth – city (for natural persons)	M for natural persons	Free	No	n.a.	No
19	Place of birth - country	O	Free	No	n.a.	No
20	Type of document supporting identity (for natural persons)	M	Choice	Yes	Yes	No

	A	B	C	D	E	F
Item No.	Account detail item	Mandatory or Optional?	Type	Can be updated?	Update requires the approval of the administrator?	Displayed on the EUTL public website?
21	Identity document number (for natural persons)	M	Free	Yes	Yes	No
22	Identity document expiry date	O	Free	Yes	Yes	No
23	VAT registration number with country code	M where assigned	Free	Yes	Yes	No
24	Account opening date	M	Preset	No	n.a.	Yes
25	Account closing date	O	Preset	Yes	Yes	Yes

2. The account identifier shall be unique within the registry system.
-

## ANNEX IV

**Information to be provided for opening an auction delivery account, a person holding account, a trading accounts or an external trading platform accounts (Articles 15, 18 and 20)**

1. The information set out in Table III-I of Annex III. (The account ID and the alphanumeric identifier are unique within the registry system.)
2. Proof that the person requesting the account opening has an open bank account in a Member State of the European Economic Area.
3. Evidence to support the identity of the natural person requesting the account opening, which may be a copy of one of the following:
  - (a) an identity card issued by a State that is a member of the European Economic Area or the Organisation for Economic Cooperation and Development;
  - (b) a passport.
4. Evidence to support the address of the permanent residence of the natural person account holder, which may be a copy of one of the following:
  - (a) the identity document submitted under point 3, if it contains the address of the permanent residence;
  - (b) any other government-issued identity document that contains the address of permanent residence;
  - (c) if the country of permanent residence does not issue identity documents that contain the address of permanent residence, a statement from the local authorities confirming the nominee's permanent residence;
  - (d) any other document that is customarily accepted in the Member State of the administrator of the account as evidence of the permanent residence of the nominee.
5. The following documents in case of a legal person requesting the account opening:
  - (a) a copy of the instruments establishing the legal entity and a copy of a document proving the registration of the legal entity;
  - (b) bank account details;
  - (c) a confirmation of VAT registration;
  - (d) information on the legal entity's beneficial owner as defined in Directive 2005/60/EC including the type of ownership or control they are exercising;
  - (e) list of directors;
  - (f) a copy of the annual report or of the latest audited financial statements, or if no audited financial statements available, a copy of the financial statements stamped by the tax office or the financial director.
6. Evidence to support the registered address of the legal person account holder, if this is not clear from the document submitted in accordance with point 5.

7. The criminal record of the natural person requesting the account opening or if it is a legal person, of its directors.
  8. Any copy of a document submitted as evidence under this annex must be certified as a true copy by a notary public or other similar person specified by the national administrator. Regarding documents issued outside the Member State requesting a copy, the copy must be legalised. The date of the certification or legalisation must not be more than three months prior to the date of application.
  9. The administrator of the account may require that the documents submitted are accompanied with a certified translation into a language specified by the administrator.
  10. Instead of obtaining paper documents, the administrator of the account may use electronic mechanisms to check the evidence to be submitted in accordance with this Annex.
- 

#### ANNEX V

##### **Additional information to be provided for opening a verifier account (Article 21)**

1. A document proving that the person requesting the account opening is accredited as a verifier in accordance with Article 15 of Directive 2003/87/EC.
-

## ANNEX VI

**Information to be provided for opening an operator holding account (Article 16)**

1. The information set out in Table III-I of Annex III.
2. Under the data provided in accordance with Table III-I of Annex III, the operator of the installation shall be named the account holder. The name provided for the account holder should be identical to name of the natural or legal person that is the holder of the relevant greenhouse gas permit.
3. The information set out in Table VI-I and VI-II of this Annex.

Table VI-I

**Account details for operator holding accounts**

	A	B	C	D	E	F
Item No.	Account detail item	Mandatory or Optional?	Type	Can be updated?	Update requires the approval of the administrator?	Displayed on the EUTL public website?
1	Installation ID	M	Preset	<b>No</b>	—	Yes
2	Permit ID	M	Free	Yes	Yes	Yes
3	Permit entry into force date	M	Free	No	—	Yes
4	Permit expiry date	O	Free	Yes	Yes	Yes
5	Installation name	M	Free	Yes	Yes	Yes
6	Installation activity type	M	Choice	Yes	Yes	Yes
7	Installation address – country	M	Preset	Yes	Yes	Yes
8	Installation address - region or state	O	Free	Yes	Yes	Yes
9	Installation address – city	M	Free	Yes	Yes	Yes
10	Installation address – postcode	M	Free	Yes	Yes	Yes
11	Installation address – line 1	M	Free	Yes	Yes	Yes
12	Installation address – line 2	O	Free	Yes	Yes	Yes
13	Installation telephone 1	M	Free	Yes	No	No
14	Installation telephone 2	M	Free	Yes	No	No
15	Installation email address	M	Free	Yes	No	No
16	Parent company	O	Free	Yes	No	Yes
17	Subsidiary company	O	Free	Yes	No	Yes
18	EPRTTR identification number	M where assigned	Free	Yes	No	Yes
19	Latitude	O	Free	Yes	No	Yes
20	Longitude	O	Free	Yes	No	Yes

Table VI-II

**Details of the installation contact person**

	A	B	C	D	E	F
Item No.	Account detail item	Mandatory or Optional?	Type	Can be updated?	Update requires the approval of the administrator?	Displayed on the EUTL public website?
1	Verifier	O	Choice	Yes	No	No
	Company name	O	Free	Yes	No	No
	Company department	O	Free	Yes	No	No
2	Contact person within Member State first name	O	Free	Yes	No	No
3	Contact person within Member State last name	O	Free	Yes	No	No
4	Contact person address – country	O	Preset	Yes	No	No
5	Contact person address - region or state	O	Free	Yes	No	No
6	Contact person address – city	O	Free	Yes	No	No
7	Contact person address – postcode	O	Free	Yes	No	No
8	Contact person address – line 1	O	Free	Yes	No	No
9	Contact person address – line 2	O	Free	Yes	No	No
10	Contact person telephone 1	O	Free	Yes	No	No
11	Contact person telephone 2	O	Free	Yes	No	No
12	Contact person email address	O	Free	Yes	No	No

## ANNEX VII

**Information to be provided for opening an aircraft operator holding account (Article 17)**

1. The information set out in Table III-I of Annex III and VII-I of Annex VII.
2. Under the data provided in accordance with Table III-I, the aircraft operator shall be named as the account holder. The name recorded for the account holder shall be identical to the name in the Monitoring Plan. In case the name in the Monitoring Plan is obsolete, the name in the trading registry or the name used by Eurocontrol shall be used.

Table VII-I

**Account details for aircraft operator holding accounts**

	A	B	C	D	E	F
Item No.	Account detail item	Mandatory or Optional?	Type	Can be updated?	Update requires the approval of the administrator?	Displayed on the EUTL public website?
1	Aircraft operator ID (assigned by Union Registry)	M	Free	No	—	Yes
2	Unique code under Commission Regulation 748/2009	M	Free	Yes	Yes	Yes
3	Call sign (ICAO designator)	O	Free	Yes	Yes	Yes
4	Monitoring plan ID	M	Free	Yes	Yes	Yes
5	Monitoring plan – first year of applicability	M	Free	No	—	Yes
6	Monitoring plan – year of expiry	O	Free	Yes	Yes	Yes

3. The call sign is International Civil Aviation Organisation (ICAO) designator in box 7 of the flight plan or, if not available, the registration marking of the aircraft.

## ANNEX VIII

**Information concerning authorised representatives and additional authorised representatives to be provided to the administrator of the account (Article 24)**

1. The information set out in Table VIII-I of Annex VIII.

Table VIII-I

**Authorised representative details**

	A	B	C	D	E	F
Item No.	Account detail item	Mandatory or Optional?	Type	Can be updated?	Update requires the approval of the administrator?	Displayed on the EUTL public website?
1	Person ID	M	Free	No	n.a.	No
2	Type of account representative	M	Choice	Yes	No	No
3	First name	M	Free	Yes	Yes	No
4	Last name	M	Free	Yes	Yes	No
5	Title	O	Free	Yes	No	No
6	Job title	O	Free	Yes	No	No
	Company name	O	Free	Yes	No	No
	Company department	O	Free	Yes	No	No
7	Country	M	Preset	No	n.a.	No
8	Region or state	O	Free	Yes	Yes	No
9	City	M	Free	Yes	Yes	No
10	Postcode	M	Free	Yes	Yes	No
11	Address – line 1	M	Free	Yes	Yes	No
12	Address – line 2	O	Free	Yes	Yes	No
13	Telephone 1	M	Free	Yes	No	No
14	Mobile phone	M	Free	Yes	Yes	No
15	E-mail address	M	Free	Yes	Yes	No
16	Date of birth	M	Free	No	n.a.	No
17	Place of birth – city	M	Free	No	n.a.	No
18	Place of birth – country	M	Free	No	n.a.	No
19	Type of document supporting identity	M	Choice	Yes	Yes	No
20	Identity document number	M	Free	Yes	Yes	No
21	Identity document expiry date	O	Free	Yes	Yes	No
22	Preferred language	O	Choice	Yes	No	No
23	Confidentiality level	O	Choice	Yes	No	No
24	Rights as additional account representative	M	Multiple Choice	Yes	Yes	No

2. A signed statement from the account holder indicating that it wishes to nominate a particular person as authorised representative or additional authorised representative, confirming that the authorised representative has the right to initiate or that additional authorised representative has the right to approve transactions on behalf of the account holder and indicating any limitations to that right.
  3. Evidence to support the identity of the nominee, which may be a copy of one of the following:
    - (a) an identity card issued by a state that is a member of the European Economic Area or the Organisation for Economic Cooperation and Development;
    - (b) a passport.
  4. Evidence to support the address of the permanent residence of the nominee, which may be a copy of one of the following:
    - (a) the identity document submitted under point 3., if it contains the address of the permanent residence;
    - (b) any other government-issued identity document that contains the address of permanent residence;
    - (c) if the country of permanent residence does not issue identity documents that contain the address of permanent residence, a statement from the local authorities confirming the nominee's permanent residence;
    - (d) any other document that is customarily accepted in the Member State of the administrator of the account as evidence of the permanent residence of the nominee;
  5. Criminal record of the nominee.
  6. Any copy of a document submitted as evidence under this annex must be certified as a true copy by a notary public or other similar person specified by the national administrator. Regarding documents issued outside the Member State requesting a copy, the copy must be legalised. The date of the certification or legalisation must not be more than three months prior to the date of application.
  7. The administrator of the account may require that the documents submitted are accompanied with a certified translation into a language specified by the national administrator.
  8. Instead of obtaining paper documents, the administrator of the account may use electronic mechanisms to check the evidence to be submitted in accordance with this Annex.
-

## ANNEX IX

**Formats for submitting annual emissions data (Article 35)**

1. Emissions data for operators shall contain the information set out in Table IX-I, having regard to the electronic format for submitting emissions data described in the data exchange and technical specifications provided for in Article 105.

Table IX-I

**Emissions data for operators**

1	Installation ID or aircraft operator ID:		
2	Reporting year		
Greenhouse Gas Emissions			
		in tons	in tons of CO <sub>2</sub> eq
3	CO <sub>2</sub> emissions		
4	N <sub>2</sub> O emissions		
5	PFC emissions		
6	Total emissions	—	$\Sigma (C2 + C3 + C4)$

## ANNEX X

## National allocation table for the 2013-2020 period (Article 51)

Row No		Quantity of general allowances allocated free of charge				Total	
		Pursuant to Art. 10a(7) of Directive 2003/87/EC	Pursuant to Art. 10c of Directive 2003/87/EC (transferrable)	Pursuant to another provision of Directive 2003/87/EC			
1	Country code of Member State						Manual input
2	Installation ID						Manual input
3	Quantity to be allocated:						
4	in year 2013						Manual input
5	in year 2014						Manual input
6	in year 2015						Manual input
7	in year 2016						Manual input
8	in year 2017						Manual input
9	in year 2018						Manual input
10	in year 2019						Manual input
11	in year 2020						Manual input

Rows No 2 to 11 shall be repeated for each installation.

## ANNEX XI

**National aviation allocation table for the 2013-2020 period (Article 54)**

Row No		Quantity of aviation allowances allocated free of charge			
		Pursuant to Art. 3e of Directive 2003/87/EC	Pursuant to Art. 3f of Directive 2003/87/EC	In Total	
1	Country code of Member State				Manual input
2	Aircraft operator ID				Manual input
3	Quantity to be allocated				
4	in year 2013				Manual input
5	in year 2014				Manual input
6	in year 2015				Manual input
7	in year 2016				Manual input
8	in year 2017				Manual input
9	in year 2018				Manual input
10	in year 2019				Manual input
11	in year 2020				Manual input

Rows No 2 to 11 shall be repeated for each aircraft operator.

## ANNEX XII

**National international credit entitlement table for the 2008-2020 period (Article 59)**

Row No		International credit entitlement			
		Pursuant to third subparagraph Article 11a(8) of Directive 2003/87/EC	Pursuant to another provision of Article 11a(8) of Directive 2003/87/EC	Total	
1	Country code of Member State				Manual input
2	Installation ID				Manual input
3	Initial international credit entitlement				Manual input
4	Aircraft operator ID				Manual input
5	Initial international credit entitlement				Manual input

Rows 2 to 3 shall be repeated for each installation.

Rows 4 to 5 shall be repeated for each aircraft operator.

—

## ANNEX XIII

**Auction table (Article 63)**

Row No	Information on the auction platform			
1	Identification code of the auction platform			
2	Identity of the auction monitor			
3	The Auction Delivery Account number			
4	Information on individual auctions of (general allowances / aviation allowances)			
5	Individual volume of the auction	Date and time of delivery to the Auction Delivery Account	Identity of the auctioneer(s) connected to each auction	Manual input
6				Manual input
7				Manual input
8				Manual input
9				Manual input
10				Manual input
11				Manual input
12				Manual input
13				Manual input
14				Manual input
15				Manual input
16				Manual input
17				Manual input
18				Manual input
19				Manual input

## ANNEX XIV

**Reporting requirements of the central administrator (Article 109)**

## I. UNION REGISTRY INFORMATION RELATED TO THE UNION EMISSIONS TRADING SCHEME

**Information available to the public**

1. The EUTL shall display on the public website of the EUTL the following information for each account:
  - (a) all information indicated as to be 'displayed on the EUTL public website' in Tables III-I of Annex III, Table VI-I of Annex VI, and Table VII-I of Annex VII. This information shall be updated every 24 hours;
  - (b) allowances allocated to individual account holders pursuant to Article 43 and Article 44. This information shall be updated every 24 hours;
  - (c) the status of the account in accordance with Article 10(1). This information shall be updated every 24 hours;
  - (d) the number of allowances surrendered in accordance with Article 67.
  - (e) the verified emissions figure, along with its corrections for the installation related to the operator holding account for year X shall be displayed from 1 April onwards of year (X+1);
  - (f) a symbol and a statement indicating whether the installation or aircraft operator related to the operator holding account surrendered a number of allowances by 30 April that is at least equal to all its emissions in all past years. The symbols and the statements to be displayed are set out in Table XIV-I. The symbol shall be updated on 1 May and, except for the addition of a \* in cases described under row 5 of Table XIV-I, it shall not change until the next 1 May.

Table XIV-I

**Compliance statements**

Row No.	Compliance status figure according to Article 34	Verified emissions are recorded for last complete year?	Symbol	Statement
			to be displayed on the EUTL public website	
1	0 or any positive number	Yes	A	'The number of allowances surrendered by 30 April is greater than or equal to verified emissions'
2	any negative number	Yes	B	'The number of allowances surrendered by 30 April is lower than verified emissions'
3	any number	No	C	'Verified emissions for preceding year were not entered until 30 April'
4	any number	No (because the allowance surrender process and/or verified emissions update process being suspended for the Member State's registry)	X	'Entering verified emissions and/or surrendering was impossible until 30 April due to the allowance surrender process and/or verified emissions update process being suspended for the Member State's registry'
5	any number	Yes or No (but subsequently updated by the competent authority)	* [added to the initial symbol]	'Verified emissions were estimated or corrected by the competent authority.'

2. The EUTL shall display on the public website of the EUTL the following general information, and shall update it every 24 hours:
  - (a) the national allocation table of each Member State, including indications of any changes made to the table in accordance with Article 52;

- (b) the national aviation allocation table of each Member State, including indications of any changes made to the table in accordance with Article 55;
  - (c) the international credit entitlement table of each Member State;
  - (d) the total number of allowances, ERUs and CERs held in the Union Registry in all user accounts on the previous day;
  - (e) a listing of the types of Kyoto units other than CERs and ERUs that can be held in user accounts in KP registries administered by a particular national administrator in accordance with Annex I;
  - (f) up-to-date information regarding the eligibility of international credits pursuant to Articles 11a and 11b of Directive 2003/87/EC, Article 58 of this Regulation and any measure adopted pursuant to Article 11a(9) of Directive 2003/87/EC;
  - (g) the fees charged by national administrators in accordance with Article 111.
3. The EUTL shall display on its public website the following general information, on 30 April of each year:
- (a) the sum of verified emissions by Member State entered for the preceding calendar year as a percentage of the sum of verified emissions of the year before that year;
  - (b) the percentage share belonging to accounts administered by a particular Member State in the number and volume of all allowance and Kyoto unit transfer transactions in the preceding calendar year;
  - (c) the percentage share belonging to accounts administered by a particular Member State in the number and volume of all allowance and Kyoto unit transfer transactions in the preceding calendar year between accounts administered by different Member States.
4. The EUTL shall display on the public website of the EUTL the following information about each completed transaction recorded by the EUTL by 30 April of a given year on 1 May three years later.
- (a) account holder name and Account identifier of the transferring account;
  - (b) account holder name and Account identifier of the acquiring account;
  - (c) the amount of allowances or Kyoto units involved in the transaction, without unique unit identification code of the allowances and the unique numeric value of the unit serial number of the Kyoto units;
  - (d) transaction identification code;
  - (e) date and time at which the transaction was completed (in Central European Time);
  - (f) type of the transaction.

#### **Information available to account holders**

5. The Union Registry shall display on the part of the Union Registry's website only accessible to the account holder the following information, and shall update it in real time:
- (a) current holdings of allowances and Kyoto units, without the unique unit identification code of the allowances and the unique numeric value of the unit serial number of the Kyoto units;
  - (b) list of proposed transactions initiated by that account holder, detailing for each proposed transaction
    - (i) the elements in point 4 of this Annex;
    - (ii) the date and time at which the transaction was proposed (in Central European Time);
    - (iii) the current status of that proposed transaction;
    - (iv) any response codes returned consequent to the checks made by the registry and the EUTL

- (c) a list of allowances or Kyoto units acquired by that account as a result of completed transactions, detailing for each transaction the elements in point 4;
- (d) list of allowances or Kyoto units transferred out of that account as a result of completed transactions, detailing for each transaction the elements in point 4 of this Annex;

#### **Information available to national administrators**

6. The Union Registry shall display on the part of the Union Registry's website only accessible to national administrators: account holders and authorised representatives whose access to any account in the Union Registry was suspended by any national administrator in accordance with Article 34.

## II. INFORMATION RELATED TO ACCOUNTING OF TRANSACTIONS UNDER DECISION No 406/2009/EC

#### **Information available to the public**

7. The central administrator shall make publicly available the following information for each account and update it within 24 hours when relevant:
- (a) all information indicated as to be 'displayed on the EUTL public website' in Table III-I of Annex III;
  - (b) Annual Emission Allocations as determined pursuant to Article 3(2) of Decision No 406/2009/EC and any further adjustment pursuant to Article 10 of Decision No 406/2009/EC;
  - (c) the status of each ESD Compliance Account in accordance with Article 10;
  - (d) the total number of ERUs, CERs, tCERs and lCERs used pursuant to Article 81;
  - (e) the relevant greenhouse gas emissions data pursuant to Article 77;
  - (f) the compliance status figure pursuant to Article 79 for each ESD Compliance Account as follows:
    - (i) A for compliance,
    - (ii) I for noncompliance;
  - (g) the quantity of greenhouse gas emissions introduced pursuant to Article 80;
  - (h) the following information about each completed transaction recorded by the EUTL:
    - (i) account holder name and account holder ID of the transferring account;
    - (ii) account holder name and account holder ID of the acquiring account;
    - (iii) the amount of AEAs or credit entitlement involved in the transaction, without unique unit identification code of the AEA;
    - (iv) transaction identification code;
    - (v) date and time at which the transaction was completed (in Central European Time);
    - (vi) type of the transaction.

#### **Information available to account holders**

8. The Union Registry shall display on the part of the Union Registry's website only accessible to the account holder the following information, and shall update it in real time:
- (a) current holdings of AEAs, credit entitlement and Kyoto units, without the unique unit identification code of the AEAs and the unique numeric value of the unit serial number of the Kyoto units;

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- (b) list of proposed transactions initiated by that account holder, detailing for each proposed transaction;
- (i) the elements in point 7(f)(i) of this Annex;
  - (ii) the date and time at which the transaction was proposed (in central European time);
  - (iii) the current status of that proposed transaction;
  - (iv) any response codes returned consequent to the checks made by the registry and the EUTL;
- (c) a list of AEAs, Kyoto units and credit entitlement acquired by that account as a result of completed transactions, detailing for each transaction the elements in point 7(f) (i) of this Annex;
- (d) a list of AEAs and credit entitlement transferred out of that account as a result of completed transactions, detailing for each transaction the elements in point 7(f)(i) of this Annex.
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