



15 November 2017

Open letter

Sent by e-mail

Dear Climate Change Committee Members and Experts,

On 24 October, the European Commission presented to the Climate Change Committee a draft regulation amending the EU ETS Registry Regulation (Regulation No 389/2013). This draft regulation aims to implement safeguards to protect the EU ETS from potential negative effects of a hard Brexit<sup>1</sup>. It aims at marking and making ineligible for compliance EU ETS allowances issued by the United Kingdom from 1 January 2018.

We are concerned that the proposed safeguard measures will have significant negative consequences on the functioning of the emissions forward markets (existing OTC contracts for both forwards and options with delivery dates from 1 January 2018), by creating uncertainty with regard to delivery of allowances issued by the UK in 2018 and in the first quarter of 2019.

Master trading agreements developed by IETA, EFET and ISDA which are in common use do not currently reference the origin of the allowances to be delivered under the contracts. As a consequence, parties to existing forward contracts now face the risk of receiving allowances which would no longer be eligible for compliance (ie, those issued by the UK from 1 January 2018).

Such a fundamental change to the basis on which the contracts were struck is likely to result in significant cost to European industry as well as cause serious legal and administrative disruption to the market. This issue affects all EU ETS market participants party to forward contracts, not just those in the UK.

Moving forward, the prospect of a “two-tier” market creates significant uncertainty and will result in falling forward market liquidity. This will seriously undermine market confidence and trust in the market functioning.

**In our view, the proposals presented by the UK government (to bring forward EU ETS 2018 reporting and compliance deadlines for UK-regulated operators) and the German government (to repeal marking of allowances if national legislation of the withdrawing Member State guarantees that operators would have to report their emissions and surrender allowances sufficiently ahead of the withdrawal date) would alleviate the negative impacts of the non-eligibility of contracts for compliance purposes, as it would make sure that the UK obligations for 2018 compliance would not lapse.**

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<sup>1</sup> A scenario of the UK leaving the EU on 29 March 2019 with no compliance obligations for the UK installations.

Nevertheless, our preferred solution would be that the EU and the UK agree on a continued participation by UK companies in the EU ETS at least until the end of Phase III in 2020.

We call on you to take the above-mentioned potential risks into account when discussing the proposed regulation to safeguard the EU's carbon market from the impact of a hard Brexit.

We would be pleased to discuss in detail any of the issues raised in this letter.

With sincere regards,



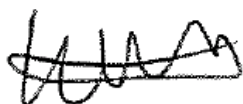
Dirk Forrister  
IETA President and CEO



Jan van Aken  
EFET Secretary General



Christian Baer  
Europex Secretary General



Peter Werner  
ISDA Senior Counsel

**International Emission Trading Association (IETA)** is a not-for-profit association dedicated to climate protection and the establishment of effective market-based mechanisms for greenhouse gas emission reductions. With over 130 member companies, including leading corporations in oil, electricity, cement, aluminium, and chemical sectors as well as firms in the data verification, certification, brokering, trading, legal, finance, and consulting industries, IETA is the leading voice of the business community on the subject of carbon markets.

**European Federation of Energy Traders (EFET)** promotes competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and a competitive economy. We currently represent more than 100 energy trading companies, active in over 27 European countries.

**Europex** is a not-for-profit association of European energy exchanges with 27 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

**International Swaps and Derivatives Association (ISDA)** since 1985 has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 875 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers.