ESG, Finance & Shipping Briefing: Special Edition

EU ETS and Shipping in Greece: Transposition of the ETS Directive through a Ministerial Decision

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A. EU ETS and Maritime Transports

1. The Emissions Trading System Directive (the **ETS Directive**)[1] established an EU greenhouse gas emission allowance trading system in order to 'promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner'[2]. As one of the largest carbon emissions markets globally, the EU ETS is an important component of the EU climate strategy, critical to obtaining the target of at least 55% emission reductions by 2030. The EU ETS is a 'cap-and-trade' system meaning that emission allowances may be traded as long as they do not exceed the set cap.

2. In May 2023, two pieces of legislation were adopted in the EU in order to bring maritime transport emissions within the scope of the EU ETS. These are:

a. a new Regulation[3] on the inclusion of maritime transport in the EU ETS and on the monitoring, reporting and verification of emissions from maritime transport (the **MRV Regulation**); and

b. a new Directive[4] amending the ETS Directive.

[1] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC.
[2] Article 1 of the ETS Directive.
[3] Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023 amending Regulation (EU) 2015/757 in order to provide for the incl-usion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types.
[4] Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC.

B. Application in Greece

1. The MRV Regulation is directly applicable in Greece without national implementing legislation, while the Directive is not effective until transposed. The Directive was expected to be transposed by 31 December 2023. With a delay of several months, it was transposed in Greece via a Common Ministerial Decision (the **Decision**)[5] which states that the allocation of allowances and the application of surrender requirements apply in respect of:
   a. 50% of the emissions from ships performing voyages departing from a port of call within the jurisdiction of a Member State and arriving at a port of call outside the jurisdiction of a Member State or vice-versa; and
   b. 100% of the emissions from ships performing voyages from a port of call within the jurisdiction of a Member State to a port of call within the jurisdiction of another Member State, or within a port of call within the jurisdiction of a Member State.
2. Shipping companies must surrender (i.e. give up or return) allowances in accordance with Article 24 of the Decision in a phased sequence:
   a. 40% of verified emissions will be reported for 2024 and will be subject to surrender requirements;
   b. 70% of verified emissions will be reported for 2025 and will be subject to surrender requirements; and
   c. 100% of verified emissions will be reported for 2026 and each year thereafter will be subject to surrender requirements.
3. When the ultimate responsibility for the purchase of fuel, the operation of the ship or both is assumed by an entity other than the shipping company pursuant to a contractual arrangement, the shipping company is entitled to reimbursement for surrender costs.
4. Administering authorities must ensure that:
   a. shipping companies monitor and report the parameters of emissions from maritime transport activities during a reporting period and submit aggregated emissions data at company level; and
   b. the reporting of aggregated emissions data is verified in accordance with specific verification and accreditation rules[6].

C. Allowances as Financial Instruments

1. Emission allowances constitute financial instruments in accordance with MiFID II[7] and the Greek

establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system.

[5] Common Ministerial Decision ΥΠΕΝ/ΔΚΑΠΑ/86227/2245/2024, Official Gazette 4674/B/9-8-2024.

[6] These are set out in Chapter III of Regulation (EU) 2015/757.

[7] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

MiFID Law. Therefore, trading in emission allowances and similar services are investment services subject to the financial regulation which governs the provision of investment services and the broader financial services space. Provision of investment services requires a license unless an exemption (e.g. the ancillary activities exemption) applies.

D. Certain Reporting Obligations of the Issuers and Corporate Actions

1. The classification of these allowances as financial instruments brings shipping firms within the broader ambit of financial services regulation, which is for most a new, highly regulated area requiring close monitoring and navigation.
2. Shipping companies will need to make a significant investment in terms of time, effort and cost. Strategic planning with the aid of technical and legal experts specialising in financial regulation is essential in order to ensure compliance in an effective and cost-conscious way.



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