

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

21 – 22 October 2009

Question: sbt 23

Topic: ETS – Process of Issuing Permits

Hansard Page: E143

Senator JOYCE asked:

Senator JOYCE—If we lose the debate on ETS and it actually comes in I am really applying my mind as to whether I should get back out and start getting into the business of issuing permits, because I reckon I would make a motza.

Senator CAMERON—Is that an official resignation!

Senator JOYCE—The issuing and prescribing of permits and the regulation of the permit market will obviously be covered by ASIC.

CHAIR—The legislation has not gone through the parliament yet.

Mr D’Aloisio—That has not been decided. That is a government matter and until such time as the

government indicate to us what they want to do in that area I am really not able to answer that question.

Senator JOYCE—Has any foreshadowed process been delivered to you? Without going into policy, have you had to go over a draft copy of the permit market? Have you gone through any formative process about how this permit market will work?

Mr D’Aloisio—I think it is a matter you should refer to the minister. What we are advised and what we are asked to advise on are matters between us and the government.

Senator JOYCE—Not so much advice, but have you looked at a formative plan on the process of the permit?

Senator Sherry—As Mr D’Aloisio said, that would constitute advice to the government. I do not know whether there is or not and I am happy to take it on notice for the minister. Senator Joyce, I do appreciate your many and varied critiques of, approaches to and angles on this issue, but I do not think—and certainly at the present time—this is a matter for ASIC.

Answer:

Surrender obligation

Under the Carbon Pollution Reduction Scheme (CPRS), liable entities will be obliged to surrender the number of eligible emissions units which equals their emissions number. In brief, an entity’s emissions number is derived from the total of their provisional emissions numbers. Provisional emissions numbers represent the number of tonnes of carbon dioxide equivalence of greenhouse gas for which a person is responsible during a financial year.

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Eligible emissions units

The units which a liable entity can surrender under the CPRS are Australian emissions units and eligible international emissions units. Australian emissions units will be issued by the Australian Climate Change Regulatory Authority on behalf of the Commonwealth. Current eligible international emissions units are issued by the Australian Government, foreign governments or the Clean Development Mechanism Executive Board. There is also capacity to prescribe units issued under an international agreement or under the law of a foreign country, and thus allow them also to be used for surrender.

Issue of Australian emissions units

Only the Australian Climate Change Regulatory Authority can issue Australian emissions units. These units are:

- To be sold at a fixed price of AUD10 in 2011-12, the first year of the CPRS
- To be sold at a floating price at auction from 2012-13 onwards
- Issued to entities which meet the criteria for emissions-intensive trade-exposed assistance
- Issued to coal-fired generators which meet the criteria for assistance under the Electricity Sector Adjustment Scheme
- Issued to entities which have earned units under the reforestation and destruction of synthetic greenhouse gas provisions.

These units will be entered into the account of the receiving entity in the Australian National Registry of Emissions Units.

The characteristics of Australian emissions units are specified in the Carbon Pollution Reduction Scheme Bill 2009 (No. 2). They will, for example, be personal property and will generally be transferable. Their ultimate use is surrender under the CPRS.

The number of Australian emissions units issued for each compliance year by auctioning and through administrative allocation for emissions-intensive trade-exposed activities and via the electricity sector assistance scheme will be capped. The cap will reduce over time.

The market in emissions units

The CPRS legislation specifies the characteristics of Australian emissions units and provides for their creation. It also specifies the emissions units which can be surrendered under the Scheme. In this sense it creates the preconditions for an economic market in emissions units in Australia.

However, in general, neither the Australian Climate Change Regulatory Authority nor the Commonwealth will be operating a market in emissions units in the sense that the Australian Securities Exchange operates a market.

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It will be left to commercial forces how emissions units are traded – whether ‘OTC’ or on financial exchanges – and what derivatives develop. Liable entities and investors may wish to buy emissions units.

Entities receiving administratively allocated Australian emissions units or buying them at auction may choose to leave them in their registry account in preparation for surrender, or may sell them.

Regulation of financial markets in emissions units

By virtue of an amendment included in the Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 (No. 2), eligible emissions units will be ‘financial products’ under the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*. This means that financial services relating to them and financial markets on which they are traded will be subject to regulation under the corporations legislation, administered by the Australian Securities and Investments Commission (ASIC). Derivatives over emissions units will also be ‘financial products’.

The Government has indicated that the corporations legislation regime will be adjusted to fit the characteristics of eligible emissions units and to ensure there is no undue regulatory burden. For this purpose, an issues paper on the adjustments that might be necessary was issued in April 2009 and draft amendments to the relevant regulations were issued for public exposure on 30 October 2009. ASIC has been consulted in the development of these draft regulations.

In addition, emissions units will be subject to the economy-wide competition and cartel provisions in the *Trade Practices Act 1974*, providing the Australian Competition and Consumer Commission with legal power to investigate and prosecute instances of anti-competitive behaviour in the carbon market.