
Harmonised Allocation Rules for Forward Capacity Allocation Summary of the assessment of the comments from the public consultation

29 June 2016

Disclaimer

This explanatory document is submitted by the relevant TSOs to the relevant NRAs for information and clarification purposes only accompanying the proposal for the EU Harmonised Allocation Rules for Forward Capacity Allocation.

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1. Executive Summary

The draft Regulation on [Forward Capacity Allocation \(FCA\) received a positive vote by the Electricity Cross Border Committee in October 2015 and has now been submitted to the European Parliament and Council for scrutiny, scheduled to finish in July 2016](#) (hereinafter “FCA”). The FCA sets out rules regarding the type of long term transmission rights that can be allocated via explicit auction, and the way holders of transmission rights are compensated in case their right is curtailed. The overarching goal is to promote the development of liquid and competitive forward markets in a coordinated way across Europe, and provide market participants with the ability to hedge their risk associated with cross-border electricity trading. In order to deliver these objectives, a number of steps are required. In coordination with regulators and interested stakeholders, ENTSO-E has decided to begin the early implementation of a number of projects before the FCA is adopted. One of these projects is the Harmonisation of the long term Allocation Rules (hereinafter “EU HAR”).

The first EU HAR was submitted and approved by the relevant NRAs in 2015 and applied for the auctions of 2016 (hereinafter “2016 EU HAR”). After the ECBC’s positive vote on the FCA the relevant TSOs in coordination with regulators and interested stakeholders decided to update the EU HAR to further align with the NC FCA even before its entry into force this year and even before the FCA enters into force and poses obligations on TSOs to do so.

According to the FCA, the project has been estimated for 6 months from the start of the drafting until the submission of the EU HAR for NRA approvals. This project has included the cooperation with the Harmonised Allocation Rules Stakeholder Advisory Group (“HAR SAG”) where selected Stakeholders were able to provide feedback and review the updates of the EU HAR and provide comments and express their views (before and during the public consultation). In line with the FCA a public consultation was organised lasting for 4 weeks from 18 April until 18 May 2016. Through this public consultation each interested party has been able to submit comments on the EU HAR. In the middle of the public consultation, ENTSO-E organised a public workshop in a form of a webinar where the participants received general information on the EU HAR which intended to help them in providing their comments and they were also able to ask their questions. During the public consultation nearly 70 comments from different 10 respondents were received that have been duly considered by the involved TSOs. This document includes all of these comments in Annex 1 and clearly describes in Section 2 how they have been assessed and how the relevant chapters have been adjusted where appropriate. In the framework of the public consultation, the border or regional specific annexes were also published. In case of interest parties are invited to contact the relevant TSOs to access the comments provided on those annexes and their assessment by the concerned TSOs. Accordingly, it is noted that this document deals only with the comments and the content of the main body of the EU HAR.

1.1. Document structure

The document is structured in two parts:

- Section 1 is the executive summary describing the process in general; and
- Section 2 is the detailed summary of the assessment of the comments on each chapter of the EU HAR.

The document has 1 Annex, i.e. the detailed comments received by ENTSO-E on the main body of the EU HAR during the public consultation held from 18 April till 18 May 2016.

2. Summary of the assessment to the comments from the public consultation

The structure of the document follows the chapters of the EU HAR.

2.1. Chapter 1 – General provisions

Regarding Article 2 a respondent asked for the deletion of the foreseen balancing problem in the definition of the reduction period. When defining the products in advance TSOs have to take into account several factors, including the ones related to balancing problems (e.g. in case of high renewable production associated with low consumption period). By deleting foreseen balancing problems for this definition, the volume of cross-border capacities offered to the market on long term timeframe would risk to not be optimized.

Regarding the regional specificities provisions of Article 4, a respondent mentioned that these provisions should be moved to a transitional arrangements article. The comment has been assessed and it was concluded that FCA gives the possibility for regional specificities even after its entry into force and not only for a transitional period. Since the FCA has not entered into force yet, the range for regional specificities is defined a bit wider than in EU HAR. After entry into force of the FCA, Article 4(3) will be amended to only allow for regional and border specific annexes on caps as stated in FCA. In addition, a respondent suggested to remove paragraph 4 of Article 4. In light of this comment TSOs concluded to delete the respective paragraph.

Concerns were raised regarding the exact effective date of the updated EU HAR. After assessment of this request no amendment of the initial wording was included. The exact entry into force depends on the approval process under the national regulatory regime and thus, it cannot be fixed in the EU HAR. Furthermore, the respective time period that EU HAR covers is viewed as straightforward. The application of EU HAR to rights allocated prior the entry into force of the EU HAR with delivery date after the 1 January 2017 is maintained in the text.

2.2. Chapter 3 – Collaterals

The provision giving the right to the Allocation Platform to change the required rating for a limited period of time in case of industry-wide downgrades of financial institutions (Article 21) is a matter of concern and is proposed that any such change should be allowed only after NRAs' approval. It is noted that this right of the Allocation Platform is specifically related solely to an eventual major financial crisis where already recent historical experience from other sectors showed that quick, almost immediate, decision has to be made in order to minimize negative financial impacts. Any delay in decision making (due to e.g. either just additional formal-time consuming approval from all NRAs or even discussion among them to which level the required rating should be changed) might significantly increase risk of higher negative financial consequence for the Allocation Platform, respectively TSOs. Since these costs typically pass through costs for TSOs, this means that these potentially higher costs would be borne by the end-consumers. Even though the 2016 EU HAR contained this wording already, the EU HAR version for 2017 includes a new obligation for the Allocation Platform to inform TSOs in such cases. TSOs shall then inform NRAs. A comment was made around renewal of bank guarantees, suggesting that they should be valid as soon as processed by the Allocation Platform rather than there being a defined cut-off for when they must be received to be valid for an auction. While this change may be beneficial for some stakeholders, it may lead to Registered Participants being treated differently on different occasions leading to disputes or perceived discrimination. For this reason no change has been proposed for the EU HAR in article 21 compared to the 2016 EU HAR.

One response queried compliance of Article 21 with Annex 1 in Regulation No 153/2013 (the EMIR Implementation Act) particularly the Allocation Platform's acceptance of non-fully backed bank guarantees, which is not permitted from March 2016 for non-financial members of a Central Counterparty Clearing House (CCP) when clearing financial instruments. It was suggested that this raises issues of discrimination and distortion of the market as similar financial instruments would have different bank guarantee requirements. Let us point out to Commission Regulation of 25.4.2016 (supplementing Directive 2014/65/EU of the European Parliament and of the Council – MIFID II), where in Article 8 capacity rights

allocated by Allocation Platform on primary market are exempted from the definition of derivatives and thus, from obligations related to EMIR/MIFID:

„c) transmission or transportation capacity relating to commodities, whether cable, pipeline or other means with the exception of transmission rights related to electricity transmission cross zonal capacities when they are, on the primary market, entered into with or by a transmission system operator or any persons acting as service providers on their behalf and in order to allocate the transmission capacity; “

For this reason no change has been proposed for the EU HAR 2017 in article 21 compared to the 2016 EU HAR.

One responded acknowledged that the requirements for the validity periods of bank guarantees has been reduced since the very first draft version of the auction rules in 2015. Nonetheless, they suggest to reduce it even more to 2 weeks (10 or 12 working days) starting from the payment deadline. This proposal (related to Article 22) did not define the term ‘payment deadline’ that is not known in advance so any change would likely lead to confusion as to when it would be. As it is better to have clarity of specific deadlines to avoid any confusion, no change is proposed for the EU HAR 2017 compared to the 2016 EU HAR.

2.3. Chapter 4 – Auctions

Regarding Article 28 the addition of the list of other products was in general welcomed by stakeholders. Nevertheless, as it was meant to be rather an indicative (and non-exhaustive list), it is deleted from the final version of the EU HAR and added in this document for information purposes only.

Thus, the following are additional timeframes and/or additional form of products that may be offered (indicative list):

- a. quarterly timeframe: it starts on the first day and ends on the last day of a calendar quarter (3 months);
- b. weekly timeframe: it starts on the first day of a week (Monday) and ends on the last day of a week (Sunday);
- c. peak product: a capacity profile covering peak hours and/or peak days, e.g. 08:00-20:00 from Monday to Friday; and
- d. off-Peak product: a capacity profile covering off-peak hours and/or off-peak days, e.g. 00:00-08:00 and 20:00-24:00 from Monday to Friday and 00:00-24:00 from Saturday to Sunday.

Regarding Article 29, one respondent suggested to have the deadline the publication of Auction Specification for shorter capacity changed to three (3) Working Days before the end of the Bidding Period of the Auction. Considering this request, it should be remarked that the final auction specification is published 2 days before the end of the bidding period in order to take into account last updates on tie lines maintenance/reduction. Any longer time span could lead to a reduction of the offered capacity to the market since TSOs would act in a conservative way in order to avoid potential situations in which Operational Security Limits would be jeopardized. Thus, no change to this Article was introduced.

Regarding Article 30, one respondent requested not to take into account foreseen balancing problems in reduction periods, but when defining the products in advance TSOs have to take into account several factors, including the ones related to balancing problems (e.g. in case of high renewable production associated with low consumption period); by not considering foreseen balancing problems in the reduction period, the volume of cross-border capacities offered to the market on long term timeframe will risk not to be optimized.

Regarding Article 35(4)(d) the wording has been clarified by deleting the text “or at the Bid Price of Bids for which the quantity of the allocated Long Term Transmission Rights is determined according to Article 35(5)”.

2.4. Chapter 5 – Return of Long Term Transmission Rights

The chapter deals with the return process of LTRs which gives the possibility for the LTR holders that they can return their LTRs and the allocation platform would offer them on the subsequent forward capacity allocation.

One party requested to have the possibility to return yearly transmission rights to the Allocation Platform for reallocation at a monthly auction independently of the reduction periods of the yearly product. TSOs considered this request, however, allowing to return the LTRs with reduction period would create new reduction periods on subsequent auctions which is in contradiction with general principle that the reduction periods should be avoided if possible.

2.5. Chapter 6 – Transfer of Long Term Transmission Rights

With regard to the remarks raised on Article 43 and 44, it is worth mentioning that the intention of the provision is not to establish a secondary market; the notice board serves only the exchange of information, it does not serve as a secondary platform where transactions take place. C Article 43 just ensures that the new LTR holder is assuming all rights (important for the remuneration/compensation) as well the obligations (re suspension, termination etc.) in connection to the HAR (apart from the initial payment obligation). The legal framework refers to the relationship between the allocation platform and each LTR holder, irrespective of whether the new holder is the initial one or a new one. Transfers can take place on which ever secondary platform suits the market participants and the allocation platform does not offer a secondary trading platform..

2.6. Chapter 7 – Use and remuneration of Long Term Transmission Rights

The wording of Article 45 only reflects what is written in draft Guideline Electricity balancing where the possibility to have Cross Zonal Capacity for balancing services exists. The Article only refers to those borders where this is approved by NRAs presenting an individual solution for each respective border. It is a general statement that in cases where it is used UIOSI does not apply and there is no remuneration for this type of Cross Zonal Capacity/PTRs reserved for the exchange of balancing energy.

Article 48(1) deals with the remuneration of Long Term Transmission Rights holders for non-nominated Physical Transmission Rights and Financial Transmission Rights Options when non-nominated PTR's and FTR's can be fully offered at day-ahead market. In such case, non-nominated PTR and FTR holders will be entitled to remuneration calculated in line with Article 35 of FCA (in case of implicit allocation on day-ahead market remuneration is calculated based on market spread, in case of explicit allocation on day-ahead market remuneration is calculated based on clearing price of the daily auction). In extraordinary cases, when determination of aforementioned prices is impossible remuneration is calculated based on price paid on the initial auction. Articles 48(2) and 48(3) deal with a situation, when due to triggering events described in Article 59 or other events TSOs are not able to offer enough capacities to cover non nominated PTR's and FTR's (FCA predicts such a situation – Article 35(4)). In that case, despite the fact that PTR's and FTR's are not fully re-allocated, Long Term Transmission Right holders are entitled to receive full remuneration which (for the not re-allocated part) is calculated the same as in the case of curtailment.

One respondent mentioned the remuneration of the non-nominated capacities should not be adjusted for losses. Where allocation constraints such as losses are taken into account in day-ahead allocation, the market spread may be adjusted according to FCA (Article 35(4)); by not taking into account the losses, the daily congestion income would not cover the remuneration of the non-nominated long term transmission rights.

2.7. Chapter 9 – Curtailment

Regarding Article 56 following comments received, a new wording is added in paragraphs 1 and 3.

Regarding article 57, some respondents requested to ensure a rapid disclosure of the triggering events; according to paragraphs 2 and 3 the allocation platform shall notify the affected holders of long terms

transmission rights as soon as possible via email, including the triggering event, and publish the triggering events for curtailment on the web site, therefore these paragraphs have not been changed. Regarding paragraph 4, following some requests of clarification, wording has been reformulated, in order to clarify how curtailment is applied, i.e. that the pro-rata ratio will apply to the curtailment of both nominated and non-nominated Physical Transmission Rights. Before the nomination deadline, the curtailment shall be applied to all Long Term Transmission Rights of the concerned periods on a pro rata basis, which means in proportion to the held Long Term Transmission Rights, regardless of the time of allocation. In case of Physical Transmission Rights after the nomination deadline, and as long as the capacity has not been reallocated in the day-ahead allocation, the ratio of the allocated Physical Transmission Rights after the curtailment to the Physical Transmission Rights before the curtailment shall be applied to both nominated and non-nominated Physical Transmission Right.

Paragraph 57(5) deals with the remuneration of Long Term Transmission Rights holders for non-nominated Physical Transmission Rights and Financial Transmission Rights Options when non-nominated PTR's and FTR's can be fully offered at day-ahead market due to a lower day ahead Cross zonal capacity. In such case, non-nominated PTR and FTR are compensated as curtailments.

Regarding Article 59 the EU HAR have not changed as the provisions are in line with the Commission Regulation 2015/1222 which defines that the DAFD shall not be shorter than half an hour before the day ahead gate closure time. Any changes of this DAFD will depend on future developments during the implementation of Commission Regulation 2015/1222. The DAFD deals with the firmness of LTR's and their compensation. The Cross Zonal Capacity will be published earlier to allow physical position adjustments of the market participants. The Cross Zonal Capacity will not change unless a serious incident occurs.

Comments were received on Article 59 and how it reflects the future FCA. TSOs have considered the various approaches when defining the cap. Currently the EU HAR depicts the situation for many borders and as the FCA is not yet in force, having a cap will be the case for most of the Bidding Zone borders and TSOs. Thus, the TSOs follow a pragmatic approach to reduce as much as possible the number of the border and regional specific annexes in this version of the EU HAR. On top, the possibility always exists according to the EU HAR for the TSOs and the relevant NRAs may introduce a border or regional specific annex to define that no cap will apply on a border.

Regarding the comments on the content of the congestion income, it is stressed that the congestion income covers ("total") all incomes from allocation in all timeframes and both directions of the bidding zone borders.

Comments received on Article 61 have been assessed and the provision has not been changed as curtailments after DAFD fall under the scope of Commission Regulation 2015/1222. Thus, the EU HAR cannot provide for a different rule that allows compensation based on the FCA which would be non-compliant with a legal act of higher legal value.

2.8. Chapter 10 – Invoicing and Payment

With regard to the remark on Article 65, TSOs welcome the idea of monthly interim caps with annual regularisation. This possibility is introduced in paragraphs 6 and 7 provide a balance between the interest of market participants and the reduction of risk for the allocation platform. Cost recovery for TSOs in the event of default of a market participant shall be ensured in accordance with applicable legislation.

2.9. Chapter 11 – Miscellaneous

One of the respondents raised concerns on the proposed wording in article 69(2) which does not allow Registered Participants to propose amendments to the EU HAR. This wording is the same as for the 2016 EU HAR and is not changed since according to the FCA to enter into force the final responsibility for such amendments proposals remains with the TSOs and the NRAs. The Allocation Platform and the relevant

TSOs still have to periodically review the EU HAR at least every two years involving the Registered Participants who have in this way the possibility to express their views.

Annex: Summary of the comments received

This section presents the comments received during the public consultation indicating the respective Article and the respondent's organization.

Article	Comment	Respondent's Organisation
1	This article should include a reference to the buy-back of transmission rights. TSOs have many instruments at hand to ensure system security such as re-dispatching and counter-trading, or financial compensation and reimbursement of market participants for curtailment of cross-zonal capacity. An alternative solution consists in a buy-back regime where TSOs can purchase previously allocated rights in the secondary market. Under a market-based buyback regime, TSOs will always, by definition, be paying the market valuation of the capacity. This can then sensibly be assessed as an alternative to other firmness tools.	EFET
1	This article should include a reference to the buy-back of transmission rights. TSOs have many instruments at hand to ensure system security (e.g. re-dispatching and counter-trading, financial compensation and reimbursement of market participants for curtailment of cross-zonal capacity). An alternative solution consists in a buy-back regime where TSOs can purchase previously allocated rights in the secondary market. Under a market-based buyback regime, TSOs will always, by definition, be paying the market valuation of the capacity. This can then sensibly be assessed as an alternative to other firmness tools.	VERBUND Trading GmbH
2	In Art. 2.2, Definition of "Reduction Period", delete the reference to "foreseen balancing problems", so that the text reads: "Reduction Period means a period of time, i.e. specific calendar days and/or hours, within the Product Period in which Cross Zonal Capacities with a reduced amount of MW are offered taking into account a foreseen specific network situation (e.g. planned maintenance, long-term outages);" It is very unclear what could be considered by the TSOs as a foreseen balancing problem. The reduction periods should strictly relate to line maintenance and outage.	EFET
2	In Art. 2.2, Definition of "Reduction Period", delete the reference to "foreseen balancing problems", so that the text reads: "Reduction Period means a period of time, i.e. specific calendar days and/or hours, within the Product Period in which Cross Zonal Capacities with a reduced amount of MW are offered taking into account a foreseen specific network situation (e.g. planned maintenance, long-term outages);" It is very unclear what could be considered by the TSOs as a foreseen balancing problem. The reduction periods should strictly relate to line maintenance and outage.	VERBUND Trading GmbH
2	EDF Group welcomes the deletion of the notion of "Emergency Situation" and "Long Term Firmness Deadline" being in favour of a unique firmness deadline (as recalled in ACER Framework Guidelines on Capacity Allocation and Congestion Management for Electricity, p.14). We recommend also the deletion of all references to "Emergency Situation" in the rest of the text as well. "Allocation Platform": The draft allocation rules provide for a plurality of allocation platforms (either the	EDF Group

	TSOs or a regional platform or a single allocation platform), while the FCA Guidelines voted in comitology in October 2015 foresee the establishment of a single allocation platform within 12 months after the approval for a common set of requirements. We recommend therefore the following amendment: “until the single allocation platform would be fully operational, in accordance with the guideline on forward capacity allocation”.	
4	Regional specificities and regional annexes should be part of a specific “Transitional Arrangements” title. This is the harmonisation logic of the FCA Guideline. We don’t think that regional specificities should be an integral part of the enduring rules. The objective in the medium to long term should be full harmonisation. While we acknowledge that Art. 52.3 does not foresee a time limit for the regional annexes, the harmonisation of the rules, and hence the disappearance of the regional annexes, should be included in this article, at least as an objective.	EFET
4	Regional specificities and regional annexes should be part of a specific “Transitional Arrangements” title. This is the harmonisation logic of the FCA Guideline. We don’t think that regional specificities should be an integral part of the enduring rules. The objective in the medium to long term should be full harmonisation. While we acknowledge that Art. 52.3 does not foresee a time limit for the regional annexes, the harmonisation of the rules, and hence the disappearance of the regional annexes, should be included in this article, at least as an objective.	VERBUND Trading GmbH
4	- To move towards the harmonization targeted by FCA Guidelines, regional specificities should not include explicit derogations. - Article 4, Paragraph 3 (b) and (c) provides the possibility to propose a remuneration regime and fall-back solution “in derogations” to respectively the rules of chapter 5 or chapter 8 of the allocation rules. Compliance with the FCA Guidelines should be checked, as far as Article 52 (3) of FCA creates the possibility to include regional or bidding zone border “specific requirements”, but it does not include the right to integrate explicit derogation to the adequate provision of FCA. We recommend therefore: to delete “in derogation to” and replace it by “in addition to”.	EDF Group
5	In Article 5(1), the reference to the “date announced by the Allocation Platform” is not satisfactory for participants. Paragraphs 2 and 3 provide namely that it applies for the LTRs with the delivery period from 1 January 2017, including for rights “acquired before the entry into force of these Allocation Rules but with the delivery dates after 1 January 2017”. As concerns Article 68 on the entry into force of an amendment, we have the same concerns of lack of visibility and transparency for participants, as it refers to “the date and time specified in the amendment notice”. A clear implementation timeline and clear date of entry into force would be preferable in terms of visibility.	EDF Group
7	We welcome the new paragraph 4 of Art. 7, which will provide greater transparency in the market.	EFET
7	We welcome the new paragraph 4 of Art. 7, which will provide greater transparency in the market	VERBUND Trading

		Iberdrola Generacion
21	The credit rating should be the same across all interconnectors. In Art. 21.3, we suggest not to limit the use of bank guarantees entered fewer than two days before the bidding period closure of an auction to subsequent auctions only. Provided that the Allocation Platform can process them in due course, Bank Guarantees delivered after the 2-working day deadline should be accepted and the Platform operator should update the credit limit of the market participant in line with such guarantee.	EFET
21	In Art. 21.3, we suggest not to limit the use of bank guarantees entered fewer than two days before the bidding period closure of an auction to subsequent auctions only. Provided that the Allocation Platform can process them in due course, Bank Guarantees delivered after the 2-working day deadline should be accepted and the Platform operator should update the credit limit of the market participant in line with such guarantee.	VERBUND Trading GmbH
21	Form of Bank Guarantee. It seems it is allowed to use non-fully backed bank guarantees for PTR/FTRs. However, according to section 2.1, point h) in Annex 1 in Regulation No 153/2013 (the EMIR Implementation Act), bank guarantees need to be fully backed from March 2016 for non-financial members of a CCP, when clearing financial instruments. Having different collateral terms for clearing similar financial electricity contracts is discriminatory, creating artificial and unreasonable distortions of the market. We would prefer that bank guarantees was an acceptable form of collateral for all these broadly similar instruments.	Europex
21	As a general point, we do not agree with the comment that TSOs will decide themselves what the level of the credit rating needs to be. The credit rating level MUST be the same across all interconnectors and secondly the NRAs should agree it as it could distort competition / the market if it is set too high or too low. However, on an interim basis NRA approved rates may suffice provided that there is a sunset clause after which the rating must be the same across all interconnectors.	Eurelectric
22	In Art. 22.1, we acknowledge that the requirements for the validity periods of bank guarantees has been reduced since the very first draft version of the rules in 2015. Nonetheless, we suggest to reduce it to 2 weeks (10 or 12 working days) starting from the payment deadline. This solution would reduce costs for market participants and fits with the settlement procedure detailed in Art. 65 (putting no additional risks on the Allocation Platform).	EFET
22	In Art. 22.1, we acknowledge that the requirements for the validity periods of bank guarantees has been reduced since the very first draft version of the rules in 2015. Nonetheless, we suggest to reduce it to 2 weeks (10 or 12 working days) starting from the payment deadline. This solution would reduce costs for market participants and fits with the settlement procedure detailed in Art. 65 (putting no additional risks on the Allocation Platform).	VERBUND Trading GmbH
28	We welcome the additional details in paragraph 4 of Art. 28.	EFET
29	Article 29, point 2, should read as follows: For yearly Auctions the Allocation Platform shall publish the provisional and the final Auction Specification no later than one (1) week and for any other shorter Capacity	Gen-i d.o.o.

	<p>Allocation timeframe no later than three (3) Working Days before the end of the Bidding Period of an Auction.</p> <p>Explanation: with reference to Article 29, point 2, we consider the deadline of three (3) Working Days for the publication of Auction Specification for shorter capacity allocation as too late. The existing deadline of two (2) Working Days before the end of the Bidding Period represents an obstacle for proper calculation and provision of the credit deposit needed to attend an auction. Thus we propose to move the deadline for the publication of Auction Specification for shorter capacity allocation to three (3) Working Days before the end of the Bidding Period of an Auction.</p>	
29	We welcome the addition of paragraph 5 in Art. 29.	EFET
30	In line with our comment on Art. 2.2, we believe that 'foreseen balancing problems' should not be a valid reason for reduction of capacity. Also, reasons for Reduction Periods should be outlined in the Auction Specification announcement.	EFET
30	In line with our comment on Art. 2.2, we believe that 'foreseen balancing problems' should not be a valid reason for reduction of capacity. Also, reasons for Reduction Periods should be outlined in the Auction Specification announcement.	VERBUND Trading GmbH
35	We welcome the addition of the last sentence of paragraph 7 in Art. 35.	EFET
38	<p>Transmission Right Holders shall always have the possibility to return if they want their yearly rights to the Allocation Platform for reallocation at a monthly auction (independently of the reduction periods of their product).</p> <p>Several monthly auctions may be organized to allow the return of different yearly products (one auction for products with reduction periods and other auction for products without reduction periods).</p> <p>According to FCA Article 43(2): "Long term transmission right holders willing to return their long-term transmission rights for subsequent forward capacity allocation shall notify this, directly or indirectly through a third party, to the single allocation platform (i.e. JAO) as set out in the harmonized allocation rules." In order to be in line with FCA NC, the article 39 (1) of the EU HAR was updated to allow for indirect notification: "Long Term Transmission Right holder(s) wishing to return their Long Term Transmission Rights shall send a notification, directly or indirectly through a third party, via the Auction Tool...". Similar change was introduced for the transfer of LTRs (Art 42 of the EU HAR): "The transferor shall send a notification, directly or indirectly through a third party, of the transfer to the Allocation Platform via the Auction Tool".</p> <p>The fact that the Registered Participant may authorize a third party to send notifications of the return or transfer on its behalf through a dedicated section of the Auction Tool is a positive add-in.</p>	Iberdrola Generacion
39	In line with our comment on Art. 2.2, we believe that 'foreseen balancing problems' should not be a valid reason for reduction of capacity.	Eurelectric
30	Also, reasons for Reduction Periods should be outlined in the Auction Specification announcement.	EFET

30	<p>In line with our comment on Art. 2.2, we believe that 'foreseen balancing problems' should not be a valid reason for reduction of capacity. Also, reasons for Reduction Periods should be outlined in the Auction Specification announcement.</p>	<p>VERBUND Trading GmbH</p>
43	<p>Original text: All rights and obligations resulting from these Allocation Rules, with exception of the payment obligation of the original Long Term Transmission Right holder regarding the allocation of Long Term Transmission Right pursuant to Article 62(1), shall be transferred together with the Long Term Transmission Right. Amendment proposal: All rights and obligations resulting from these Allocation Rules shall be transferred together with the Long Term Transmission Right. Comments/motivation: HAR should not establish a monopoly for organising auctions and a secondary market for long term transmission rights or other similar products. We expect that all financial instruments can be introduced on a platform preferred by the market participants with hedging needs. The current proposal would however monopolize the LTTR hedging markets, which are currently under free competition, and this seems an unintended and negative consequence.</p>	<p>Europex</p>
44	<p>Current text: The notice board shall facilitate only the exchange of information between the Registered Participants regarding their interest in buying and/or selling Long Term Transmission Rights. No agreements may be concluded via this notice board. Use of the notice board is free of charge. Amendment proposal: A notice board shall only be established if similar or more elaborated solutions are not provided by commercial entities. The notice board shall then be organised at arm's length from the Allocation Platform's transfer notification systems and on the same basis as for entities providing similar services. It shall facilitate only the exchange of information between the Registered Participants regarding their interest in buying and/or selling Long Term Transmission Rights. No agreements may be concluded via this notice board. Comments/motivations: Although Europex welcomes the fact the notice board does not seem to be exclusive we do not consider it is an Allocation Platform's role to organise or facilitate the secondary market of long term transmission rights. The fact the service is offered for free while it has underlying costs, is considered unfair competition to the (potential) providers of such facilitation services. A notice board should be established only if the market (exchanges, brokers,...) doesn't provide adequate solutions for facilitating the secondary market of Long Term Transmission Rights. Such notice board should then be organised at arm's length from the TSOs' registration systems and on the same basis as for entities providing similar services.</p>	<p>Europex</p>
45	<p>Paragraph 5 of Art. 45 should be deleted: As a matter of principle, there should there be no reservation of cross-zonal capacity for balancing purposes by any party, whether by TSOs or market participants. Any outright reservation of cross- border capacity should not be allowed, as this seriously impacts the ability of</p>	<p>EFET</p>

	<p>market participants to self-balance their portfolios. Besides, the HAR should not introduce rules that will have an impact on the balancing market before the Balancing Guideline has been adopted.</p>	
<p>45</p>	<p>Art. 45 (3) and (5) Current text: 3. In case the Registered Participant does not nominate its Physical Transmission Rights, the Allocation Platform shall make the underlying Cross Zonal Capacity of the non-nominated Physical Transmission Rights available for the relevant daily allocation. The Physical Transmission Right holders who do not nominate their Physical Transmission Rights for physical use of their rights or has not reserved its Physical Transmission Rights for the exchange of balancing energy shall be entitled to receive remuneration in accordance with Article 48. 5. In case the Long Term Transmission Rights holder reserves its Physical Transmission Rights for the exchange of balancing energy, such Cross Zonal Capacity shall be excluded from the application of the Use It Or Sell It principle. The process of notification of such reservation where applicable shall be subject to the relevant rules as published by the responsible Allocation Platform.</p> <p>Amendment proposal: 3. In case the Registered Participant does not nominate its Physical Transmission Rights, the Allocation Platform shall make the underlying Cross Zonal Capacity of the non-nominated Physical Transmission Rights available for the relevant daily allocation. The Physical Transmission Right holders who do not nominate their Physical Transmission Rights for physical use of their rights shall be entitled to receive remuneration in accordance with Article 48.</p> <p>5. (TO BE DELETED)</p> <p>Comments/motivations: As already expressed in the several consultations on the draft network code on electricity balancing, Europex is opposed to any reservation of cross-zonal capacity for the exchange of balancing energy. There are concerns that such set up might have negative implications like: a) price effects on other market timeframes; b) lack of transparency of valuation methods used for capacity reservations; c) overall reduced predictability and transparency of Day Ahead and Intraday markets.</p>	<p>Europex</p>
<p>48</p>	<p>In our opinion, this article should be written in a more clear and precise way in order to avoid misunderstandings.</p> <p>We understand that paragraph 1, section a) applies only to borders with market coupling, including the fall back allocation when market coupling is not possible (i.e. shadow auction, or other allocation such as pro-rata). Non-nominated Long Term Transmission Rights are remunerated with the daily Market Spread. We also understand that paragraph 1, section b) applies only to borders without market coupling where there are still daily explicit auctions. Non-nominated Long Term Transmission Rights are remunerated with the marginal price of the daily auction. However the application of paragraph 1, section c) is not clear for us. Does it apply to both market coupling borders and non-market coupling borders? Marginal Price of initial auction should be only applied in case of Force Majeure. Daily market spread should be applied in all other cases. In our opinion, it's not clear if paragraph 2 and paragraph 3 apply to both market coupling borders and non-market coupling borders. It should be clearly specified in the text. On the other hand, we understand that</p>	<p>Iberdrola Generacion</p>

	<p>paragraph 2 applies in case one of the triggering events listed in Article 56 for curtailment are activated: Force Majeure, to ensure operation remains within Operational Security Limits or emergency situation, while paragraph 3 applies in case non-nominated Long Term Transmission Rights are not reallocated at the relevant daily allocation “for other reasons”. These “other reasons” should be more explained in the text as it’s a very broad concept. In the IFE border, national legislation establishes that in the exceptional case in which a shadow auction can’t be organized, the daily capacity shall be allocated in the first explicit intraday auction (IFE intraday explicit auctions have a temporary status). In this case, it should be clearly stated in the HAR (IFE Annex) that non-nominated Long Term Transmission Rights shall receive the day-ahead Market Spread. In case other remuneration is established, Long Term Transmission Right Holders would bear a relevant economic risk depending on the organization/not organization of the shadow auction. In cases in which market coupling is not possible, it must be ensured that Long Term Transmission Rights Holders don’t bear either operational or economic risks, therefore Long Term Transmission Rights shall receive the day-ahead Market Spread. In all scenarios covered in Article 48 and different from the “usual ones” (market coupling in the borders with market coupling and daily explicit auction in borders without market coupling), the Allocation Platform shall immediately notify the affected holders of Long Term Transmission Rights of the triggering event, its consequences and the type of remuneration of the non-nominated Long Term Transmission Rights via email and on the webpage of the Allocation Platform.</p>	
48	<p>Delete the last sentence of Art. 48.1(a): "If applicable this price shall be adjusted to reflect transmission losses on interconnections between Bidding Zones, where these losses are included in the day- ahead Cross Zonal Capacity allocation process." Transmission rights should be remunerated at market spread without adjustments or taking account of allocation constraints/losses.</p>	EFET
48	<p>Delete the last sentence of Art. 48.1(a): "If applicable this price shall be adjusted to reflect transmission losses on interconnections between Bidding Zones, where these losses are included in the day- ahead Cross Zonal Capacity allocation process." Transmission rights should be remunerated at market spread without adjustments or taking account of allocation constraints/losses.</p>	VERBUND Trading GmbH
48	<p>- It is not correct to refer to LTRs that are “reallocated” in daily auctions, in particular in the case of Flow Based market coupling where it is not possible to directly link the NTC in long term to the Flow based parameters calculated in D-2. The first sentence of Article 48 Paragraph 1 should thus be amended as follows: “1. The Allocation Platform shall remunerate the Long Term Transmission Rights holder in accordance with the following principles. The Allocation Platform shall remunerate [...] “ - Paragraph 2 and 3 introduce a distinction between the compensation in case of triggering events of article 56 and the compensation for “other reasons”. But such distinction create confusion as far as article 56 now refers to all possible events to curtail. We recommend therefore the following amendment: “[...] 2. The Allocation Platform shall compensate the</p>	EDF Group

	<p>Long Term Transmission Rights holder for the Financial Transmission Rights Options and the non-nominated Long Term Transmission Rights which are curtailed in accordance with Articles 59 and 60 before the DAFD and according to Article 61 after the DAFD”. 3. DELETE paragraph 3</p> <p>Art. 48 (2) Current text: The Allocation Platform shall compensate the Long Term Transmission Rights holder for the non-nominated Long Term Transmission Rights which are not reallocated at the relevant daily allocation in accordance with CHAPTER 9 in case of the triggering event listed Article 56. Amendment proposal: (TO BE DELETED)</p> <p>Comments/motivations: This article creates an artificial incentive for the holders of PTRs to nominate them in order to avoid not being fully compensated in case of non-nominated PTRs' curtailment. This could result on market parties' side in a useless increase of the complexity of the day-ahead processes. Such incentive would also reduce the capacity made available to the market coupling mechanism which could damage the liquidity on the markets to be coupled through the single day-ahead coupling, with a possible impact on transparency, on the quality of the day-ahead price formation and the efficiency of generation and demand dispatch.</p>		
48		Europex	
56	<p>Regarding to paragraph 2, after the Day Ahead Firmness Deadline Long Term Transmission Rights should be firm. As the FCA regulation doesn't include the trigger “emergency situation”, we think this should be deleted from the HAR.</p>	Iberdrola Generacion	
56	<p>The wording of paragraph 1 of Art. 56 is possibly confusing. Consider amending the structure or punctuation of the paragraph to make it clearer.</p>	EFET	
56	<p>- It is not correct to refer to “Emergency Situation” in the HAR, as far as the FCA regulation authorizes TSOs to curtail long term rights only in two situations: i) in the event of Force majeure and ii) “to remain with Operational Security Limits” before the DAFD.</p> <p>Article 56 Paragraph 1 should thus be amended accordingly: “1. Long Term Transmission Rights irrespectively of the Product Period may be curtailed to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline or in the event of Force Majeure after the Day Ahead Firmness deadline according to applicable legislation.” - Article 56 Paragraph 3 foresees that LTR shall not be curtailed after DAFD except for Force Majeure and Emergency Situation, referring to Article 72 of CACM. It also provides that LTR shall be curtailed and compensated in the same way as DA and ID capacity. As mentioned above, it is not correct to refer to CACM as far as it does not apply to long term rights, which should be framed by FCA firmness and compensation regime and which does not contain any reference to Emergency situations. Article 56 Paragraph 3 should thus be modified as follows:</p> <p>“3. Long Term Transmission Rights shall not be curtailed after the Day Ahead Firmness Deadline except in the case of Force Majeure” [DELETE the rest of paragraph 3].</p>	EDF Group	
56	<p>The EU HAR have been revised as follows in the Art 56 (1): “Long Term Transmission Rights irrespectively of the Product Period may be curtailed in the event of Force Majeure, or to ensure operation remains within</p>	Eurelectric	

	<p>Operational Security Limits before the Day Ahead Firmness Deadline or in the event of Force Majeure or in the event of emergency situation after the Day Ahead Firmness deadline”</p> <p>The proposed version of EU HAR is including a third case which is curtailment of long term transmission rights in case of “Emergency situation” after the DAFD. We recognize and welcome the fact that the emergency situation before the DAFD is not considered any more as a possible trigger for curtailment but we don’t agree that the reference to emergency situation remains for curtailment after the DAFD. As already explained in our comments on the version of EU HAR 2015, Emergency situation is much broader and less clearly defined from a legal point of view than Force Majeure. According to EURELECTRIC only the event of Force Majeure should enable TSOs to curtail the long-term transmission rights after the DAFD.</p> <p>One additional point of concern is the lack of definition of the “within operational security limits”. How can we measure? Who will monitor this? To ensure a full monitoring of curtailments events to remain within “Operational security limits”, we should ensure that “the factual reasons that lead to the curtailments” shall be published in due time and reported to the regulatory authorities, as imposed by Article 53(1) of FCA Regulation, to avoid any preventive curtailment and ensure that curtailment is really the last resort measure to guarantee operational security.</p>	
57	<p>Paragraph 5 explains that the compensations that apply in case of curtailment (articles 59, 60 and 61) shall also apply if offered day-ahead Cross Zonal Capacities are lower than the amount of non-nominated Long Term Transmission Rights. We don’t understand why this case is not considered as a curtailment case. Anyway Long Term Transmission Right Holders should be immediately informed of this situation, as it is stated in paragraph 2 for curtailments:</p> <p>“Allocation Platform shall notify the affected holders of Long Term Transmission Rights as soon as possible of a curtailment of Long Term Transmission Rights including the triggering event via email and on the webpage of the Allocation Platform. The notification shall identify the affected Long Term Transmission Rights, the affected volume in MW per hour for each concerned period, the triggering events for curtailment as described in Article 56 and the amount of Long Term Transmission Rights that remain after the curtailment.”</p>	Iberdrola Generacion
57	<p>Art. 57.3: The reason for curtailment should be included in the notification mentioned in Art. 57.2 to ensure timeliness of disclosure of the triggering events. This is currently often a problem, information on the reason for curtailment is often not disclosed unless requested by market participants.</p>	EFET
57	<p>Art. 57.3: The reason for curtailment should be included in the notification mentioned in Art. 57.2 to ensure timeliness of disclosure of the triggering events. This is currently often a problem, information on the reason for curtailment is often not disclosed unless requested by market participants.</p>	VERBUND Trading GmbH
57	<p>- In accordance with Article 53(1) of FCA regulation and to ensure the transparency towards market participants, TSOs should publish “the factual reasons that lead to curtailments”, we therefore recommend the following amendment in Article 57(2):</p>	EDF Group

	<p>“2. Allocation Platform shall notify the affected holders of Long Term Transmission Rights as soon as possible of a curtailment of Long Term Transmission Rights including the triggering event and the factual reasons that lead to curtailment via email and publish it on the webpage of the Allocation Platform. The notification and publication shall identify the affected Long Term Transmission Rights, the affected volume in MW per hour for each concerned period, the triggering events as described in Article 56 as well as the factual reasons that lead to curtailment and the amount of Long Term Transmission Rights that remain after the curtailment.”</p>	
57	<p>Art. 57(5) Current text: Compensation rules according to Articles 58 to 60 and where applicable Article 61 also apply if offered day-ahead Cross Zonal Capacities are lower than the amount of non-nominated Long Term Transmission Rights in case of Physical Transmission Rights and the total amount of Long Term Transmission Rights in the case of Financial Transmission Rights Options. Amendment proposal: (TO BE DELETED) Comments/motivations: See comment on article 48(2).</p>	Europex
58	<p>The DAFD should be 1h30 before the respective Day Ahead Market Gate Closure Time. This is to allow sufficient time to market participants to adjust their orders in case there is a curtailment which would have financial impact on them.</p>	EDF Group
59	<p>In the definition of cap in paragraph 2, it should be useful if the components of the total amount of congestion income collected by the concerned TSOs were listed (long-term, daily, intraday timeframes), and it should be specified that it's the amount of congestion income collected in both directions of the interconnector.</p>	Iberdrola Generacion
59	<p>We generally welcome the updated provisions on curtailment and compensation of market participants for curtailed rights. However, we note that paragraph 2 of Art. 59 foresees the cap on congestion income as a standard in the EU HAR. We believe this is not in the spirit of the FCA GL, which foresees the possibility to introduce a cap as an option, not an obligation. With the proposed wording, TSOs that would not see the necessity of a cap at a specific border would need to introduce a border-specific annex. In view of the improved level of firmness that the FCA GL is trying to reach, we would rather encourage the disclosure of borders where a cap is applied, rather than where a cap is not applied. To avoid the burden of creating border-specific annexes, this could information could be included in the table of Annex 1.</p>	EFET
59	<p>We generally welcome the updated provisions on curtailment and compensation of market participants for curtailed rights. However, we note that paragraph 2 of Art. 59 foresees the cap on congestion income as a standard in the EU HAR. We believe this is not in the spirit of the FCA GL, which foresees the possibility to introduce a cap as an option, not an obligation. With the proposed wording, TSOs that would not see the necessity of a cap at a specific border would need to introduce a border-specific annex. In view of the improved level of firmness that the FCA GL is trying to reach, we would rather encourage the disclosure of borders where a cap is applied, rather than where a cap is not applied. To avoid the burden of creating border-specific annexes, this could information could be included in the table of Annex 1.</p>	VERBUND Trading GmbH

59	EDF Group welcomes the evolution introduced in Article 59, providing a compensation regime to ensure that operation remains within Operational Security Limits before DAFD, with a compensation set at market spread with a cap based on total congestion Income collected by the concerned TSOs on the respective bidding zone borders in a calendar year (or monthly for DC interconnectors), which is in line with FCA regulation (art. 53(2) and 54).	EDF Group
59	Compensation and caps: Annual caps were introduced in updated HAR (art 59(2)) for AC interconnectors to be in line with art. 54(2) of the FCA Guidelines. “The cap shall be determined as the total amount of Congestion Income collected by the concerned TSOs on the respective Bidding Zone border in a calendar year” EURELECTRIC welcomes this positive evolution in the updated version which is in line with the FCA Guideline. However for the avoidance of doubt, it could be written more explicitly that the cap is set by the total congestion income over the year in both directions and across all timeframes at the relevant bidding zone border. Monthly caps are introduced in updated HAR for DC interconnectors (art 59(3)) in line with article 54.1 of FCA Guidelines. In case of Direct Current (DC) interconnectors, TSOs may propose a cap not lower than the total congestion income collected by the concerned TSOs on the bidding zone border in the relevant calendar month. We consider that the distinction of caps for DC and AC interconnectors (monthly cap instead of annual cap) could create distortions on the market and on congestion management, in particular on bidding zone borders where both types of interconnectors are operated. We therefore welcome the proposal to apply, where relevant (e.g. on IFE border), a unique annual cap for both types of interconnectors.	Eurelectric
60	Article 60 foresees a reimbursement at Marginal Price of the initial Auction in case of Force Majeure before DAFD (in line with Art. 56(3) of FCA).	EDF Group
61	In this article, instead of specifying directly in HAR text the compensation of Long Term Transmission Rights in case of emergency or Force Majeure, HAR refers to CACM guideline. We think that, for simplicity and clarity, HAR should explain in the main text the compensations and not refer to other regulation. Anyway, as stated in our comment to Article 56, we think that “emergency situation” should be deleted from the HAR, as it’s not included in FCA regulation.	Iberdrola Generacion
61	Article 61 deals with curtailments after the DAFD in case of Emergency Situation and Force Majeure, and refers to Reimbursement or Compensation in accordance with Art. 72 CACM. As mentioned above, for the forward long-term rights, the FCA rules should be applied. Article 61 Paragraph 3 should thus be modified as follows: “In the event of Force Majeure after the Day Ahead Firmness Deadline, holders of curtailed Long Term Transmission Rights shall be entitled to receive a reimbursement at Marginal Price of the initial Auction in accordance with Article 56(3) of FCA Regulation.”	EDF Group
65	In paragraph 5, a new sentence has been included to explain that the settlement shall be done with the first invoice after the end of the period of the cap. Instead of waiting until the following year to settle the compensations due to curtailments of the current year, we propose to perform monthly settlements and a final re-settlement after the year that re-adjust the final settlements taking into account the yearly cap. The cap	Iberdrola Generacion

	<p>observed in each monthly settlement should be the total amount of Congestion Income collected by TSOs in that month and in the previous months of the current year. We think that with this proposal TSOs and Long Term Transmission Right Holders achieve a more balanced financial position during the whole settlement process.</p>	
65	<p>It has been inserted in the current version of EU HAR that the settlement is to be done with the first invoice after the end of the period of the cap (to limit risk of exposure). Art 65(5) “Where compensations are due to the Registered Participant in respect of curtailment of Long Term Transmission Rights, such compensations shall be settled with the first invoice to be issued after the end of the relevant period over which caps on compensation are calculated in accordance with Article 59(2).” Instead of waiting until the following year to settle the compensations due to curtailments of the current year, we propose to perform monthly settlements and a final re-settlement after the year that re-adjust the final settlements taking into account the yearly cap. The cap observed in each monthly settlement should be the total amount of Congestion Income collected by TSOs in that month and in the previous months of the current year. We think that with this proposal TSOs and Long Term Transmission Right Holders achieve a more balanced financial position during the whole settlement process.</p>	Eurelectric
69	<p>As already mentioned in our comment’s to ENTSO-E’s draft HAR (in May 2015), the proposed wording in article 69.2 does not allow Registered Participants to propose amendments. We therefore suggest the following wording: “The Allocation Rules and the border and /or regional specific annexes included thereto shall be periodically reviewed by the Allocation Platform and the relevant TSOs at least every two years involving the Registered Participants. In case amendments are proposed by the relevant TSOs or Registered Participants as a result of this review, the procedure described in this Article shall apply.”</p>	Eurelectric
List BZ borders	<p>Reference to PTRs or FTR Options on some borders (FR-DE; IFE; DK-DE; DE-NL) is new. (see our general remarks on this point)</p>	EDF Group
General	<p>Iberdrola welcomes this early implementation of the FCA Regulation by the TSOs. Harmonization of Transmission Rights allocation on the forward timeframe and also on other timeframes (day-ahead, intraday) is a key issue for the achievement of the Internal Energy Market. Therefore regional specificities shall be allowed only for a limited period of time in order not to affect the competition across the European power market Additionally, harmonization of nomination rules and splitting rules (sharing the capacity among different timeframes) is also necessary for the achievement of a real and effective Internal Energy Market</p>	Iberdrola Generacion
General	<p>The European Federation of Energy Traders (EFET) welcomes the ENTSO-E consultation on the updated EU Harmonised Allocation Rules (HAR). We thank ENTSO-E and ACER for their effort in convincing TSOs and NRAs to work on this new set of EU HAR as a pre-implementation project of the Forward Capacity Allocation Guideline (FCA GL). This will enable the issuance of fully financially firm transmission rights at</p>	EFET

	<p>EU borders as of 2017 already.</p> <p>In general, we note that the new EU HAR are broadly in line with the FCA GL and match market participants' expectations in terms of improvement of the firmness conditions under which forward transmission rights are issued by TSOs. Curtailment and compensation rules are now mostly in line with the FCA GL.</p> <p>Regarding the regional annexes, we note with satisfaction that there is no annex for CWE borders. We understand that the full harmonisation of allocation rules will take some time at certain borders, and we know that Art. 52.3 of the FCA GL foresees the possibility of regional annexes without time limitation. However, we urge TSOs to work fast towards full alignment of all border-specific allocation rules with the FCA GL by way of adopting the EU HAR without border-specific annexes.</p>	
<p>General</p>	<p>In general, we welcome the proposal of harmonized allocation rules. They constitute an important step towards an internal energy market in the EU and formulate clear rules for all market participants. However, the proposed degree of harmonization is still insufficient in order to achieve a truly harmonized internal market. The number of border annexes to the document is a clear indicator for numerous implementation options. We suggest to add a clear timeline indicating the path to full harmonization of all border annexes. In addition, we would have appreciated a more resolute move towards using financial transmission rights instead of physical transmission rights. In our view, a system based on financial transmission rights constitutes the most suitable compromise between the hedging of long-term risks and an efficient short-term allocation for the limited cross-border capacities.</p> <p>Furthermore, an instrument which is supposed to hedge long-term risks but at the same time introduces a cap for compensation of those risks is falling short in addressing the reason for its introduction. As regards market access, chapter 3 includes a number of challenging provisions, e.g. the timeframes to provide or increase collaterals. Those challenges represent a market entry barrier for small and medium-sized companies. Thus, the proposed rules will clearly result in participation of very large market players only, thereby also restricting competition and market liquidity.</p>	<p>bne - German Association of Energy Market Innovators</p>
<p>General</p>	<p>Enel welcomes the opportunity to express its views on one of the cornerstone elements of the future European electricity market.</p> <p>In order to achieve its 2020 and 2030 decarbonisation goals, the European Union must introduce long term price signals, now absent, and improve the efficiency of the current short-term electricity markets. The introduction of a harmonized allocation rules for forward capacity allocation is one of the issues for early implementation of European Network Codes and Guidelines that can bring conspicuous benefits for producers, traders, customers, TSOs and Power Exchanges.</p> <p>On this element, Enel would like to recognize that the last versions of the Harmonised Allocation Rules have seen additional improvements. In fact, now the compensation cap is equal to the total amount of Congestion Income collected by the concerned TSOs on the respective Bidding Zone border in a calendar year.</p>	<p>Enel S.p.A.</p>

<p>General</p>	<p>Since the entry into force of the Forward Capacity Allocation (FCA) Guidelines has been postponed to July 2016 at the earliest, hence late for application in 2017, EURELECTRIC highly appreciated that TSOs have been working on an update of the EU Harmonised Allocation Rules (EU HAR) as an early implementation project. By anticipating this work, the revised EU HAR can apply for the allocated long term transmission rights with delivery date as from January 2017, which is considered by market participants as a good evolution. Indeed, the alignment of the EU HAR with the FCA Guidelines as voted upon by Member States in October 2015 in terms of firmness and curtailment regimes would make the rules more valuable EURELECTRIC is therefore pleased that the proposed allocation rules include some improvements, namely concerning the level of caps in case of curtailments before the Day-Ahead Firmness Deadline. However, we could regret that TSOs did not take this opportunity to fully align the EU HAR with FCA provisions, which could result in a postponement of the full FCA implementation to 2018 (although FCA provides that TSOs shall propose EU HAR within 6 month of its entry into force, thus probably for next January 2017). We also question the fact that the new EU HAR still maintains more than ten (10) specific annexes with specific regimes per borders or regions derogating to the general rules. We therefore encourage ENTSO-E to work closely with TSOs to further harmonize the firmness regime on as many borders as possible and fully in line with FCA regulation principles. EURELECTRIC recalls that it is essential to provide market participants with the ability to hedge their risk associated with cross-border trading. The FCA Regulation aims namely at promoting the development of liquid and competitive forward markets and at enabling market participants to hedge against the uncertainty of electricity prices on short term markets. In consideration to these objectives, full financial firmness of long term transmission rights is necessary to guarantee to market participants the effectiveness of their long term hedging strategies, in accordance with the target model approved by regulators and ACER.</p> <p>Other general comments:</p> <p>1. Deletion of LTFD</p> <p>FCA art 53(2): “The concerned TSOs on the bidding zone border where LTRs have been curtailed shall compensate the holders of the curtailed LTRs with the market spread”.</p> <p>The long-term firmness deadline (LTFD) has been removed from the updated version of EU HAR and there is a separate proposal for the DAFD (cf. other consultation).</p> <p>EURELECTRIC welcomes the fact that all references to the long-term firmness deadline were removed from the new version. This makes the LTRs stronger products in term of firmness and reduces the risks for market participants compared to the previous version of EU HAR.</p> <p>However, beyond firmness, one of the TSOs tasks should also be to maximize the available capacity on forward timeframes on the basis of technical calculation and safety considerations only. One should thus ensure that improved firmness on some borders (such as Italian borders) does not lead to lower allocated volumes of forward rights by the TSOs or to preventive curtailments. Here as well, we believe that regulators</p> <p>Eurelectric</p>
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	<p>(NRAs) could have a role in monitoring this.</p> <p>2. Annex 2 for CWE region will no longer exist This means that EU HAR fully apply for CWE borders. In EURELECTRIC's view this is of course a very positive evolution for CWE markets.</p> <p>We noted that there are still ten (10) annexes in the proposal (and we know two other annexes will be consulted upon separately) which means that there are at least 13 different sets of rules in Europe. In our views it is important to limit the number of annexes as much as possible to avoid to have different sets of rules across European markets.</p> <p>We also noticed that a paragraph has been added in the article 4 to give examples of elements on which TSOs might differ in annexes. The list is not exhaustive which makes the scope of deviation very large. Furthermore, as already mentioned in our comment's to ENTSO-E's draft HAR (in May 2015), we would like to have limit on when the annexes will lapse. Such a limit should be introduced and should be as short as possible to ensure they all move over to the truly 'Harmonised Allocation Rules'.</p>	
<p>General</p>	<p>As members of EFET, we welcome the ENTSO-E consultation on the updated EU Harmonised Allocation Rules (HAR) and this new set of EU HAR as a pre-implementation project of the Forward Capacity Allocation Guideline (FCA GL). This will enable the issuance of fully financially firm transmission rights at EU borders as of 2017 already.</p> <p>In general, we note that the new EU HAR are broadly in line with the FCA GL and match our expectations in terms of improvement of the firmness conditions under which forward transmission rights are issued by TSOs. Curtailment and compensation rules are now mostly in line with the FCA GL.</p> <p>Regarding the regional annexes, we note with satisfaction that there is no annex for CWE borders. We understand that the full harmonisation of allocation rules will take some time at certain borders, and we know that Art. 52.3 of the FCA GL foresees the possibility of regional annexes without time limitation. However, we expect fast work towards full alignment of all border-specific allocation rules with the FCA GL by way of adopting the EU HAR without border-specific annexes.</p>	<p>VERBUND Trading GmbH</p>
<p>General</p>	<p>EDF Group welcomes the opportunity to provide comments on the ENTSO-E consultation on the draft Harmonized Allocation Rules (HAR) for Forward Capacity Allocation. Once approved by national regulators, these amended Rules will apply for forward capacity allocation and for allocated long term transmission rights (LTR) with delivery date on 1st of January 2017 or later.</p> <p>The amendment of the current version of HAR should be considered as an important step for the implementation of the Forward Capacity Allocation (FCA) Regulation adopted in comitology by EU Member States on 30th October 2015. The FCA Regulation aims namely at promoting the development of liquid and competitive forward markets and at enabling market participants to hedge against the uncertainty of electricity prices on short term markets. In particular, the allocation of long term transmission rights facilitates cross-border competition in the forward markets by allowing market participants to hedge against</p>	<p>EDF Group</p>

the volatility of price differentials between bidding zones and thus becoming an essential component of their asset or portfolio risk management strategies

In consideration to these objectives, full financial firmness of long term transmission rights is absolutely necessary to guarantee to market participants the effectiveness of their long term hedging strategies. Full financial firmness is namely the target model approved by regulators and ACER, while agreeing to apply the cap based on yearly congestion incomes in order to mitigate TSOs financial risk.

Concerning the new version of EU HAR, EDF Group welcomes some improvements, in particular concerning the level of compensation of LTR holders before the Day Ahead Firmness Deadline (DAFD). However, EDF Group wishes to stress that the reference to “Emergency Situation” is not appropriate and that the CACM firmness regime should not apply to long term transmission rights curtailment and compensation regimes.

EDF Group wishes also to recall that FCA regulation will most probably be published in July 2016 and that within six months of its entry into force (probably January 2017), all TSOs will have to jointly develop a proposal for EU Harmonized Allocation Rules. Even if it is not yet legally binding, we could regret that TSOs did not propose a new set of rules for 2017 fully compliant with the existing FCA, resulting de facto in a postponement of FCA implementation until the allocation of capacity for 2018. We regret in particular that the new EU HAR still maintain more than ten (10) specific annexes with specific regimes per borders or regions derogating to the general rules, while having a ready framework for that which anyway has to be implemented a year later. The harmonization of forward Capacity Allocation Rules at EU level, is namely necessary to create a level playing field at EU level and to ensure an equal access to electricity markets to all market participants irrespective of their location, with positive effects in terms of liquidity and efficiency of wholesale electricity markets. We should therefore encourage ENTISO-E to work closely with TSOs to further harmonize the firmness regime on as many borders as possible and fully in line with FCA regulation principles.

Positive improvements on Firmness regime before the DAFD

EDF Group considers that the principle of total compensation of long-term rights holders in case of curtailment of capacities should be the principle, to ensure the full financial firmness of capacities. If a cap of compensation may be proposed, it should be fixed at a level which does not endanger the financial equilibrium of TSOs and which ensure that TSOs are also incentivized to use curtailment as a last resort measure after having activated all other available means (such as re-dispatching and countertrading for example).

Concerning the level of caps, EDF Group supports also the evolution introduced in Article 59(2) in line with the FCA Regulation, providing a cap for compensation based on the total congestion incomes of TSOs in a calendar year across all timeframes.

Furthermore, the distinction of caps for DC and AC interconnectors (monthly cap for DC instead of annual

cap) does not seem to be justified and could create distortions on the market and on congestion management, in particular on bidding zone borders where both types of interconnectors are operated. EDF Group welcomes therefore the proposal to apply on the border between France and Spain (Annex 5 of HAR) a unique annual cap for all types of interconnectors without distinction between DC or AC interconnectors. For the avoidance of doubt, it should be clarified that it includes all congestion incomes collected “across all timeframes”. Finally, EDF Group welcomes the removal of all references to the long-term firmness deadline, being in favour of a unique firmness deadline (as recalled in ACER Framework Guidelines, p.14). This point is however subject to a separate public consultation concerning the DAFD proposal.

Remove references to CACM provisions and “Emergency Situation”

Article 61 of the revised EU HAR links the compensation in case of curtailment after the DAFD to the CACM Guidelines regime of compensation. In our view, it is not in line with FCA Regulation, considering that long term transmission rights should be framed by the FCA Guidelines and not by the CACM dealing with short term markets only. In this sense, long term rights should not be curtailed or compensated in the same way as DA and ID capacity.

Concerning the curtailment events listed in the proposed HAR, Article 56(1) and (3) where TSOs are allowed to curtail long term rights only in two situations: i) in the event of Force Majeure (article 56 of FCA); ii) or to ensure operation remain within “Operational security limits” before the DAFD (article 53 of FCA). FCA Regulation does not include any reference to “Emergency Situation” which is included in Article 56. Referring to the CACM regime and in particular “Emergency Situation” after the DAFD, is therefore not in line with FCA regulation. We should thus call for the removal of all reference to Emergency Situation in the new EU HAR to be in line with FCA Regulation.

Furthermore, concerning the level of compensation after DAFD, it seems also that the reference to the CACM firmness regime would not be satisfactory. In particular, the compensation of long term rights (LTR) holders in case of curtailment should normally be set at the “market spread”, corresponding to the expected value of LTRs held by market participants to cover their potential risk, in line with their long term hedging strategies. It is also the explicit meaning of Article 53(2) of FCA Regulation, providing that: “The concerned TSOs on the bidding zone border where long-term transmission rights have been curtailed shall compensate the holders of curtailed long term transmission rights with the market spread”.

We consider in that sense that, even in the case of day-ahead market coupling, LTR holders should be compensated at the market spread in accordance with the principle of full financial firmness of LTR. We could therefore question the reference to article 72(3)(a) of CACM, which only foresees – in case of implicit allocation – a compensation of the central counter parties or shipping agents for their potential financial damages/imbances, without integrating any explicit compensation of LTR holders. This could create a risk for LTR holders, while the purpose of LTR is precisely to ensure the effectiveness of Market participants’ long term hedging strategies to cover their short term risk exposure.

NRAs monitoring on curtailments events and on volumes of available capacity

EDF Group wishes to recall as well that a high level of firmness is also meant to incentivize TSOs to use curtailment as a very last resort measure after having activated all other available means (such as re-dispatching and countertrading for example). TSOs are namely the best placed to minimize curtailments, with their capacity to optimize congestion management and their good visibility on future availability of cross-border capacity.

In this perspective, there should be a clear regulatory oversight from regulatory authorities on the triggering events but also on the volumes of capacity made available to forward markets.

To ensure a full monitoring of curtailments events to remain within “Operational security limits”, we should ensure that “the factual reasons that lead to the curtailments” shall be published in due time and reported to the respective regulatory authorities, as imposed by Article 53(1) of FCA Regulation, to avoid any preventive curtailment and ensure that curtailment is really the last resort measure to guarantee operational security. The obligation to publish “factual reasons that lead to curtailment” should thus also be explicitly included in HAR and NRAs should have a clear monitoring role in this respect.

Beyond Firmness, one of the objectives of the TSOs should also be to maximize the available capacity on forward timeframes. NRAs should namely ensure that improved firmness does not lead to lower allocated volumes of forward rights by the TSOs or to preventive curtailments. Here as well, we believe that regulators (NRAs) have a clear monitoring role to play.

Any trade-off between the level of firmness granted and the amount of long-term cross-border capacity allocated should be avoided. Congestion income should namely be primarily used to guarantee the availability of the allocated capacity and the investment in interconnectors, while tariff reduction should represent the last resort use of congestion revenue. We believe that TSOs should maximize the capacity made available and allocated long-term on the basis of technical calculation and safety considerations, ensuring at the same time a firmness regime which enables market participants to efficiently hedge their positions with a sole limit represented by the total amount of annual congestion income.

Justification and transparency on PTRs or FTRs Options

The reference to PTRs or FTR Options for some specific borders (FR-DE; IFE; DK-DE; DE-NL) in Annex 1 is new. EDF Group understands the inclusion of FTR Options in the scope of HAR as far as these products are envisaged in ACER Framework Guidelines and in the FCA Regulation. However these products do not derive neither from an explicit need of the market, nor from an explicit request from market participants. On the contrary, EDF Group believes that the introduction of FTRs would not bring substantial improvements in terms of efficiency of capacity allocation while reducing the flexibility granted to market participants to nominate the capacity allocated in long term.

FTR introduction could even generate costs for the whole system. For example, a market participant that until now were nominating cross-border capacity (e.g. when it is short on market A and long on market B), would

	<p>now be forced to make all cross-border exchanges via power exchanges, resulting in higher transaction and compensation costs. These costs do not exist with PTRs which are a physical hedge as well, enabling exchanges via OTC transaction, without the obligation to send orders to power exchanges. In this framework, we consider that the replacement of PTR with FTR Options should, in any case, be priority and carefully assessed through a cost-benefit analysis and a wide public consultation of market players, before being implemented on specific borders (FR-DE; IFE; DK-DE; DE-NL) mentioned in the proposed new HAR. Further details on the expected positive impacts of FTR in terms of efficiency of cross-border capacity allocation and operational procedures should be provided by TSOs together with an assessment of the possible negative effects on market participants hedging strategies and flexibility. For the time being, we do not see good reasons justifying the potential implementation of FTRs Options, before evidences and analyses are provided to support such proposal and in any case, such evolution should be subject to a wide public consultation of market participants before implementing it.</p>	
<p>General</p>	<p>1. Harmonisation The number of annexes introducing specific treatment on some borders shows how challenging the harmonisation of allocation rules might be. Detailed rules harmonisation should not be an objective as such, as it imposes changes that might divert resources from more important priorities, with little added value. ENTSO_E should consider reviewing what main components of the model should be harmonised first, considering what aspects bring more benefits to the market. Reviews of the Allocation Rules for Forward Capacity Allocation should be foreseen, so that any change to the FCA NC would be reflected (e.g. following the introduction of new products that would be made available by TSOs).</p> <p>2. Full Firmness In order for LTTRs to be working as true hedging instruments the principle of Full Firmness (without caps) is necessary and recommendable to apply, e.g. Article 59 in the current version of FCA HAR does not fulfil that criterion. While we recognize that Full Firmness on LTTRs exposes Capacity Owners (e.g. TSOs) to higher financial risks, the lack of Full Firmness for given LTTR products offered diminishes their value as hedging instrument for the Holders ("Buyers") of LTTRs.</p> <p>3. LTTR Obligations While the drafting of the NC FCA HAR at this stage is limited to PTRs/FTRs of Options type, it is essential that, as provided for in NC FCA, the choice to alternatively apply Obligations is still a valid choice for Capacity Owners (e.g. TSOs) to apply in the future. Therefore, it could be recommendable to add a note (Article) to that end in this NC FCA HAR.</p> <p>4. Secondary Trading of LTTRs It shall be possible to facilitate, on equal and efficient terms, Secondary Trading of LTTRs by exchanges, MTFs, OMPs, and in OTC or bilateral arrangements. However, the current NC FCA HAR proposal fails to</p>	<p>Europex</p>

	<p>describe or provide the key functionalities needed to enable orderly and efficient Secondary Trading of LTRs for such entities and arrangements. E.g. A bulletin board is not helpful for that purpose but for example a central (open, connectable for Clearing/Trading Systems/...) registry of LTR holders would be a step in the right direction. We strongly recommend that amendments are made in this NC FCA HAR proposal or in subsequent detailed regulation/guidance to ensure fair and non/discriminatory opportunity for parties other than the SAP to organize Secondary Trading of LTRs and freely in either continuous or auction-based form.</p>	
<p>General</p>	<p>IFIEC has no specific comments to formulate on this proposal. No response on a particular question/ issue does not necessarily mean IFIEC agrees with the statement.</p>	<p>IFIEC Europe</p>