10 April 2017

Disclaimer

This explanatory document is submitted by all Transmission System Operators (TSOs) to all National Regulatory Authorities (NRAs) for information purposes only and accompanying the all TSOs' proposal for harmonised allocation rules for long-term transmission rights ("HAR proposal") in accordance with Article 51 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on Forward Capacity Allocation ("FCA Regulation").



Contents

С	ontents	2
1.		
	Document structure	
2.	Explanatory remarks and assessment of the comments received	
	Chapter 1 – General provisions	
	Chapter 2 – Requirements and process for participation in Auctions and Transfers	
	Chapter 3 – Collaterals	
	Chapter 4 – Auctions	
	Chapter 5 – Return of Long Term Transmission Rights	
	Chapter 6 – Transfer of Long Term Transmission Rights	
	Chapter 7 – Use and remuneration of Long Term Transmission Rights	
	Chapter 8 – Fallback procedures	
	Chapter 9 – Curtailment	
	Chapter 10 – Invoicing and Payment	
	Chapter 11 – Miscellaneous	
3	-	 10



1. Introduction

The Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (hereinafter "FCA Regulation") was published in the official Journal of the European Union on 27 September 2016 and entered into force on 17 October 2016. The FCA Regulation 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.

One of these steps is the introduction of harmonised rules for long-term transmission rights at Union level. In accordance with Article 51 of the FCA Regulation, 6 months after the entry into force of the FCA Regulation, all TSOs shall develop a proposal for the harmonised allocation rules for long-term transmission rights (hereinafter "HAR"). The proposal for the HAR should be put to public consultation in accordance with Article 6 of the FCA Regulation. The FCA Regulation also allows for regional specificities to be reflected in border or regional specific annexes of the HAR proposal as described in Article 52(3).

Based on the above, all TSOs have elaborated on a HAR proposal which was then consulted upon between 16 January and 17 February 2017. During the public consultation, a public workshop took place giving the opportunity to interested stakeholders and various organisations impacted by the HAR with an opportunity to raise questions and ask clarifications from the TSOs. At the end of the public consultation nearly 60 comments from 12 respondents were received which were then duly considered by the TSOs.

This document provides an overview of how the comments to the public consultation have been assessed and how the relevant parts of the HAR proposal were amended. The full list of comments received is also attached to this document in the form of an annex. In the framework of the public consultation, the border or regional specific annexes were also published and consulted upon. 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 HAR.

It is worth noting that the current version of the HAR proposal is the outcome of previous steps taken as part of the early implementation of the FCA Regulation. In coordination with regulators and interested stakeholders, ENTSO-E has decided to begin the early development, adoption and implementation of the HAR before the FCA Regulation was in force and posed an obligation on TSOs.

The first HAR proposal was submitted and approved by the relevant NRAs in 2015 and applied for the long-term auctions of 2016 (hereinafter "2016 HAR"). After the positive vote of the Electricity Cross Border Committee on the FCA Regulation in October 2015, the relevant TSOs in coordination with regulators and interested stakeholders decided to update the HAR to further align with the draft FCA Regulation. This process ended in summer 2016 where the updated version of the HAR was submitted by TSOs. The rules were adopted by the relevant NRAs and applied for the long-term auctions in 2017 (hereinafter "2017 HAR").

Document structure

The document is structured in two parts:

- Section 1 is the executive summary describing the process in general; and
- Section 2 provides additional information on some parts of the HAR and a detailed summary of the assessment of the comments received.

The document has one Annex, i.e. the detailed comments received by ENTSO-E on the main body of the HAR during the public consultation held from 16 January until 17 February 2017.



2. Explanatory remarks and assessment of the comments received

The structure of this part of document follows the chapters of the HAR.

Chapter 1 - General provisions

Regarding Article 1 of the HAR proposal, it should be noted that the final version deviates from the one submitted to public consultation in terms of the deletion of Annex 1. This modification has been introduced by TSOs in coordination with the NRAs. The reason for removing Annex 1 is that the HAR shall apply to all Bidding Zone borders where long-term transmission rights are being issued, unless otherwise decided by the relevant NRAs in accordance with Article 30 of the FCA Regulation. The information on the products offered will be detailed in the regional proposals for long-term transmission rights in accordance with Article 31 of the FCA Regulation. Since Annex 1 of the HAR was used also to accommodate the information on the applicability of the cap on compensations, after its removal the necessary information will be added in regional proposals (preferably one per Capacity Calculation Region), which will then be approved by the relevant NRAs.

The list below is an indicative list of the Annexes to be submitted by TSOs, complemented by additional regional or border specific Annexes if needed. These Annexes will encompass the applicability of the cap on compensations and any regional/border-specific provisions from the former regional/border specific Annexes.

- Annex 1: Regional specific Annex for the Nordic Capacity Calculation Region
- Annex 2: Regional specific Annex for the Hansa Capacity Calculation Region
- Annex 3: Regional specific Annex for the Core Capacity Calculation Region
- Annex 4: Regional specific Annex for the Italy-North Capacity Calculation Region
- Annex 5: Regional specific Annex for the Greece-Italy Capacity Calculation Region
- Annex 6: Regional specific Annex for the South-west Europe Capacity Calculation Region
- Annex 7: Regional specific Annex for the Ireland and United Kingdom Capacity Calculation Region
- Annex 8: Regional specific Annex for the Channel Capacity Calculation Region
- Annex 9: Regional specific Annex for the Baltic Capacity Calculation Region
- Annex 10: Regional specific Annex for the South-East Europe Capacity Calculation Region

For Article 1 a request was raised for including reference to buy-back of transmission rights. TSOs consider that such a procedure falls out of the scope of the HAR and the FCA Regulation and thus cannot be accommodated.

Article 2 has been modified in order to remove terms that are defined in other pieces of legislation. Article 2(1) of Regulation (EC) 714/2009 deviates from the definition of "interconnector" laid down in Article 2 of Directive 2009/72/EC. Accordingly, it is necessary to specify which definition is upheld in the HAR.

Regarding the question on the definition of Force Majeure, TSOs consider that the definitions from other pieces of legislation and the one in the HAR should be adequate for covering all situations.

With regard to the comment on the definition of FTR-obligations, the relevant provisions are introduced to the HAR in accordance with the requirements set in the FCA Regulation. At this stage, TSOs are not planning to introduce FTR-obligations in the near future. To this end, all specific rules will have to be detailed in a dedicated border/ regional specific annex. Furthermore, the type of products for the respective Bidding Zone borders will be defined in the regional proposals for the design of LTRs according to Article 31 of the FCA Regulation.



A comment was also raised regarding 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. It is therefore suggested to maintain the reference to foreseen balancing problems.

Regarding the regional specificities provisions of Article 4, several respondents commented by suggesting either moving the provisions to transitional arrangements or adding a termination date. The comments on the specific Article but also under the general remarks to the proposal have been assessed and it was concluded that the FCA Regulation (and specifically Article 52.3) allows the possibility for regional specificities even after its entry into force and not only for a transitional period. In addition, it is worth mentioning that some specificities in regional annexes do not contradict with the FCA Regulation (e.g. technical profiles in annex 10) and thus there is no reason to treat them as temporary measures. The border or regional specific annexes are subject to the approval of the relevant NRAs in accordance also with Article 4.7.d of the FCA Regulation.

The comments received on the specific Annexes were forwarded to the respective TSOs and will be taken into consideration when finalising these Annexes.

In Article 5 of Chapter 1, the effective date of the HAR is introduced. TSOs propose to have the proposed HAR applying to the long-term allocations from 1 January 2018. This timing will largely depend on the approval process by all NRAs as outlined in Article 4 of the FCA Regulation. According to these provisions, all NRAs have to decide on the HAR within 6 months (i.e. approximately in October 2017). In case all NRAs do not reach a common decision or in case they request an amendment to the proposal, the foreseen processes will allow the HAR to apply only as from 1 January 2019. This solution will only ensure that all auctions are conducted under the same rules.

Chapter 2 – Requirements and process for participation in Auctions and Transfers

Two comments were raised on Article 17 with the request to allow reasonable time for market participants when the Allocation Platform develops and publishes additional financial terms. TSOs have reviewed the comments and concluded that the process for such additional terms shall be deemed as covered by the provisions on the participation agreement.

Chapter 3 – Collaterals

This chapter outlines the provisions for handling the risk of non-payment. TSOs deem that the proposed measures should be adequate for coping with such a risk.

Regarding the proposed ratings for bank guarantees in Article 21, TSOs have debated at length for this issue also in previous versions of the HAR (mainly the 2016 HAR) and have concluded on the exact figures. The proposed credit ratings were kept intact also in the 2017 HAR version and also in the current version. TSOs see the benefits of having one common level of credit rating for the Allocation Platform as a way to ensuring an equal level playing field for all market participants. Otherwise, different credit ratings could complicate the rules for market participants and set higher hurdles on some borders than others in terms of participation.

Moreover, Article 21 includes a provision for a reduction of the abovementioned credit ratings by the Allocation Platform (in coordination with the TSOs and subsequently with the NRAs). It should be highlighted that such decrease should occur only in extreme cases of industry-wide downgrades of financial institutions (e.g. results of an extensive crisis). In such cases swift almost immediate reaction is essential and thus the provisions in the Article do not include lengthy decision making processes. 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.



A comment was raised regarding Article 21.3, suggesting that the bank guarantees 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 HAR in article 21 compared to the 2016 HAR.

One respondent commented and asked for clarifications in the wording of Article 22. TSOs have assessed the remarks and concluded that no change is needed in this provision in order to keep consistency with previous versions of the HAR.

Two respondents suggested that more time be given to market participants for increasing the collaterals in cases of collateral incidents. Based on the current practice, market participants are informed about a potential collateral incident ahead of an official notification in accordance with Article 25.2. Therefore, sufficient time is given for adjusting the level of collaterals and thus no change is implemented in the respective provision.

Chapter 4 - Auctions

Two comments were raised on Article 28 suggesting to have more timeframes listed as standard for forward capacity allocation. TSOs have assessed those comments and concluded that the wording shall be kept as it was originally proposed since those timeframes are mentioned also in the FCA Regulation. It should be noted that Article 28.3 of the HAR states that base product with different timeframes and forms of products being allowed (as in Article 28.4). The details on the products are also part of the regional design of long-term transmission rights (in accordance with Article 31 of the FCA Regulation). One of the respondents commented on using the product period instead of timeframe in Article 29. TSOs decided not to implement any change in Article 29.2.c since the two terms (i.e. product period and timeframe) have different meanings. In Article 2 of the HAR the product period is defined as means the time and date on which the right to use the Long Term Transmission Right commences and the time and date on which the right to use the Long Term Transmission Right ends.

Regarding Article 30, a comment was raised on adding the causes of the reduction period in the announcements of such reductions. TSOs decided not to accommodate the suggestion since the causes of the reductions may vary as indicated also in the definition in Article 2 and relevant information is made available in other sources e.g. in the Transparency Platform.

Moreover, one respondent requested not to take into account foreseen balancing problems in reduction periods in Article 30. It is worth clarifying that 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. To this end, no change to the Article was introduced.

A comment was raised also on Article 31 with a request for clarification. TSOs would respond that in all timeframes the price of a product can be calculated as EUR/MW/h depending on the different elements and characteristics of the product.

For Article 31 it should be clarified the reason for adding a provision for different bid prices. When using the pro-rata rule in the harmonised auction rules, it is necessary to limit the possibility of submitting multiple bids for the same bid price. By doing so the possibility of gaming to secure a higher portion of the capacity when applying the pro-rata algorithm is avoided.

Following up to a comment received on Article 32, TSOs have amended the wording of Article 32.2 adding "without undue delay" in the confirmation of the Allocation Platform to the Registered Participant about the registering of the bids.



Further clarifications were requested on the formula provided in Article 34. TSOs have assessed the comment and concluded that no change is needed at the formula. As correctly pointed out by the respondent, the formula provided covers one border and direction but the overall financial outcome can be derived from it.

One of the respondents asked for clarification on the interpretation of the term "surplus" as provided in Article 35. The term should be understood as follows: For cases where there can be multiple results (borders with technical profiles) the optimisation function ensures a maximisation of the congestion revenue. In the event that there are no differences of congestion revenue between the solutions, the function ensures maximum capacity allocation.

A comment was also raised on the clarification between paragraphs 3 and 4 of Article 35. TSOs would like to clarify that the result of the optimisation and the definition of the marginal price shall be understood as two distinct steps in the process of the determination of the auction results. That is the reason for keeping two separate provisions.

TSOs would like to note that the wording in paragraph 7 of Article 35 has been amended with the explanatory term "allocated to individual Registered Participants" for the case when long-term transmission rights are equal to zero.

Chapter 5 - Return of Long Term Transmission Rights

For the process of the return of Long Term Transmission Rights, it is suggested to refer to an authorised third party that would send the notification on behalf of the rights' holder. The authorisation of such third party can be ensured by signing the Participation Agreement.

Chapter 6 – Transfer of Long Term Transmission Rights

For the process of the transfer of Long Term Transmission Rights, it is suggested to refer to an authorised third party that would send the notification on behalf of the rights' holder. The holder of the said transmission rights shall authorise this third party to proceed with the notification.

With regard to the transfer of long-term transmission rights, a suggestion was received for keeping all transfers in one platform. At this stage, no change to the HAR is introduced. Upon the establishment of the Single Allocation Platform in accordance with the FCA, all provisions in the HAR will be implemented in one place.

Regarding the question raised for potential fees applicable to long-term transmission rights holders in case of transfer, it should be clarified that such fees do not apply.

Chapter 7 – Use and remuneration of Long Term Transmission Rights

Several comments were raised regarding the proposed provision in Article 45. For some of the respondents this was considered as a positive evolution in the HAR by allowing market participants more flexibility. On the other hand, several respondents suggested reverting to the wording in previous versions of the HAR were an explicit mention to the physical transmission rights being reserved for balancing purposes was made.

In view of the voted <u>text</u> of the Balancing Guideline (which received a positive vote in comitology on 16 March 2017), the wording of the HAR has been amended to allow only physical transmission rights to be used for balancing purposes.

One of the respondents suggested removing paragraph 1.a of Article 48. Given that 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) no change to the HAR is implemented. It should be noted that by not taking into account the losses, the daily congestion income would not cover the remuneration of the non-nominated long term transmission rights.

Chapter 8 – Fallback procedures



Following one comment received, the wording in Article 53.3.a has been modified. Regarding the suggestion to specify the way cancelations after the contestation period, TSOs have concluded that such cases should be treated in accordance with the general liability rules as described in Article 69 of the HAR.

In addition, the reason for keeping the wording as proposed in Article 52 is than not all reasons for auction cancellations can be defined and stated explicitly.

Chapter 9 - Curtailment

Several comments were raised on Article 56. One of the respondents suggested removing any to 'Emergency Situations' as a triggering event for curtailment after the day-ahead firmness deadline (DAFD) and keep only reference to force majeure situations. It should be noted that the timeframe after the DAFD is governed by the provisions of Article 72 Commission Regulation (EU) No. 2015/1222 (CACM Regulation) where both the emergency situation and the force majeure are foreseen. To this end, no change is implemented in Article 56

An additional comment was received on Article 56 suggesting to align the wording of triggering events of curtailments in order to avoid inconsistencies and unclear cross-references with other pieces of legislation. After assessing the comment, TSOs would like to remind that triggering events for curtailments are distinguished before and after the DAFD, covered in Article 56.1 and 56.3 respectively. The definitions of triggering events should follow the one of Regulation (EC) 714/2009, since no other definition is introduced in the CACM Regulation or the FCA Regulations.

Regarding Article 56 it was also suggested adding a distinction between Physical Transmission Rights (which can be curtailed in emergency situations and force majeure) and Financial Transmission Rights (which should be curtailed only in force majeure situations). Given that the FCA Regulation foresees in Article 53 the possibility of long-term transmission rights (without any distinction) for safeguarding the secure operation of the system and in case of force majeure ahead of the DAFD, no change in the wording was introduced.

One of the respondents suggested including in Article 57.2 a provision focusing on the factual reasons that lead to the curtailments. Since the wording in Article 57.2 makes a reference to Article 56 where the triggering events for curtailments are detailed, it was concluded that no change in the wording is necessary.

Several respondents commented on the information provided by the Allocation Platform to the affected long-term transmission rights holders in case of curtailments. TSOs have reviewed the comments and concluded that the current wording of Article 57.2 foresees a notification by email to the affected holders of long-term transmission rights including the triggering event of such a curtailment.

In view of some comments received regarding the wording of Article 57.4, the wording has been amended in order to avoid misinterpretations about the parallel allocation of physical and financial transmission rights at the same Bidding Zone border, as also stipulated by Article 31.6 of the FCA Regulation.

Compared to the previous versions of the HAR and in conjunction with the all TSOs' proposal for the DAFD in accordance with Article 69 of the CACM Regulation, the provision in Article 58 was amended and the timing is set to 60 minutes before the day-ahead market gate closure time. The change was welcomed by the respondents to the consultation.

Regarding Article 59, one of the respondents recommended having a clear firmness on the transmission capacity. Since the provisions of the FCA Regulation and the HAR foresee the process and the rules for any curtailments after the DAFD, no change in the Article is introduced.

In addition, one of the respondents suggested removing the cap to compensations as an option for TSOs. It should be noted that the FCA Regulation foresees such a possibility in Article 54 with specific principles on how the cap shall be calculated. The cap (when introduced) shall be seen as a method to limit socialization costs and provide a balanced risk distribution between trades and end-users for curtailments that can occur for many reasons and influenced by many parties. In addition, the monthly cap for the HVDC interconnectors is justified by the nature of these interconnections reflected in their availability. Finally, it should be reminded



that the caps (when proposed) shall be approve by the relevant NRAs as outlined in Article position supported by the relevant NRAs as outlined in paragraph 2 of Article 59. Based on the above, no change is introduced in the Article.

One of the respondents highlighted the fact that some of the provisions in the regional/borer specific Annexes deviate substantially from the respective provisions in the main body of the HAR and in particular from Articles 59.2 and 59.3. Similar to the response on the comments in Article 4, it should be reminded that such a flexibility is given by the FCA Regulation without an obligation for defining a phase out time of such regional specificities.

Chapter 10 - Invoicing and Payment

In Chapter 10 a specific provision was added for cases where FTR-obligations are introduced. In such cases and due to the increased risk exposure of the allocation platform, it is suggested to have a clearing house for calculating the amounts that should be remunerated to the market participants as well as the amounts the Allocation Platform shall receive from market participants.

Chapter 11 – Miscellaneous

One comment was raised regarding the periodical review of the HAR. Regarding the suggestion, it should be considered that the FCA Regulation foresees in Article 5.12 that all methodologies or terms and conditions can be amended following the request of TSOs. To this end, no change is introduced in the wording of the HAR.

Regarding Article 69(6), it was suggested to not preclude the provisions of Article 40 from this subsection. TSOs have assessed the suggestion and concluded that the Article focuses on compensations and thus it correctly refers to Article 48 (paragraphs 48.2 and 48.3). Article 69.6 shall not refer to Article 40 since it does not relate to compensations but to remunerations of returned long-term transmission rights. Therefore, no change is introduced in the HAR.

3. Annex: List of 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
General	How does HAR take into account, for calculating caps on compensations due to curtailment, the provisions of art. 61 point 1 of FCA, which provides that the costs for ensuring firmness include compensation mechanisms as well as cost of re-dispatching, countertrading and imbalance associated with compensating market participants?	ANRE
General	Bord Gáis Energy welcomes the opportunity to respond to this consultation on the Harmonised Allocation Rules (HAR) and in particular on Annex 7 relating to the allocation rules on the SEM-GB border. Bord Gáis Energy wishes to express its support of the response to this Consultation submitted by the Electricity Association of Ireland (EAI) and urges ENTSO-E and ACER to review and consider the concerns and proposals raised in EAI's response. Bord Gáis Energy provides its high level views on the main issues of concern below, the majority of which relate to Annex 7 of this HAR document. Our concerns are put forward in the context of existing low levels of forwards liquidity in the Irish all-island market which is expected to continue at least in the medium term. This context heightens the need for market participants' confidence in the availability and firmness of FTR Options on the SEM-GB border, such that FTR Options enable reasonable cross-border hedging in the forwards timeframe in I-SEM.	Bord Gáis Energy Limited
General	The Electricity Association of Ireland welcomes the opportunity to response to this consultation. Our comments relate primarily to Annex 7 but we also make comment on a number of the articles in the main body of the HAR. We request that further engagement is undertake with industry before finalisation of Annex 7.	Electricity Association of Ireland
General	EDF welcomes the opportunity to provide comments on 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 allocated Long Term transmission Rights (LTRs) with delivery date on 1st January 2018 or later. Following the entry into force of the Regulation 2016/1719 establishing a guideline on Forward Capacity Allocation (FCA Regulation) on 16th October 2016, the amendment of the current version of HAR should be considered as an important step for the full implementation of the FCA Regulation. The FCA Regulation aims namely at promoting the development of liquid and competitive forward markets and at ensuring the full firmness of LTRs to enable market participants to hedge against the uncertainty of electricity prices on short term markets. The "Clean Energy Package" recently published by the European Commission recently re-emphasized such principles and in particular the fact that: "Long Term Rights shall be firm". In this general context of evolution, EDF wishes to acknowledge some positive evolutions of the revised HAR compared to the previous version, such as for example:	EDF SA



- the improvement of the level of firmness of LTRs, to further align with the FCA provisions;
- the introduction of new invoicing and payment conditions in Article 65(6) and (7), to not wait until the following year to settle the compensations due to curtailments of the current year;
- and the possibility to nominate PTRs for balancing services, as clearly mentioned in Article 45.5 (see below our detailed comments).

However, as stated in our previous comments, we regret the lack of harmonization of the HAR which still contain at least fifteen (15) specific Annexes per region/border in this revised version and we consider that some other specific points need further clarifications and explanations, as mentioned below in further details.

-To move towards truly "Harmonized Allocation Rules"

We would like to question the fact that the new HAR still maintains 15 specific annexes with specific regimes per borders or regions derogating to the general rules. While the harmonization of the current auction rules on forward capacity allocation is a clear objective of the FCA regulation now entered into force, we regret that such derogating rules are still maintained in the new HAR. We do not see the interest for the system to maintain specific allocation rules per region or per border. On the contrary, the harmonization of forward Capacity Allocation Rules at EU level, is 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 therefore encourage ENTSO-E to work closely with TSOs to limit the number of annexes as much as possible (to avoid having different sets of rules across European markets) and to move progressively towards the truly HARmonized Allocation Rules, in accordance with FCA provisions.

- Curtailment and firmness (Article 57 and Annexes)

EDF welcomes the introduction of some improvements of the firmness conditions under which LTRs are issued by TSOs and TSOs effort to further align with FCA Guidelines firmness regime. We could however regret that some specific borders (and in particular IFA, FR-ES or FR-CH borders) still apply a different regime of firmness which derogates from the main body of HAR rules, and in particular from Articles 59.2 and 59.3. We therefore recommend to align all specific annexes with the firmness regime of the main body of HAR (See below our detailed comments on these specific Annexes). Beyond the progressive evolution of HAR to align with FCA firmness regime, we would like to recall as well that one of the TSOs tasks should be to optimize the available capacity on forward timeframes. In this view, TSOs should use curtailment as a last resort measure after having activated all other available remedial actions (such as re-dispatching and countertrading) and regulators should have a monitoring role in this respect. To ensure the monitoring of curtailments events, we should ensure that "the factual reasons that lead to the curtailments" are 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. We therefore recommend to explicitly include the obligation to



publish "factual reasons that lead to curtailment" in the notification mentioned in Article 57.2 "process and notification of curtailment" of the HAR. - FTRs Options and FTRs Obligations (Article 2) We understand TSOs' proposal to include FTR Options and FTR Obligations in Article 2 of HAR as far as these products are now foreseen 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. In the case of FTR obligations, TSOs will namely collect congestion revenues if the request for capacity (with the price > 0) is higher than the available capacity at each allocation. In case the spread is in the opposite direction, we do not see the rationale for paying a negative spread to the TSOs, which do not support any financial risk in allocating cross-border capacity. FTRs as obligation would only make sense if market participants would trade between themselves such or similar contracts. In such case, payment for the negative spread would be the consequence of risk premiums. This is however not the case when TSOs allocate capacity. For the time being, we do not see any reason justifying FTRs Obligations and we welcome the proposed Annex 1 of HAR clarifying that none of the TSOs will offer at this stage FTR Obligations. Should in the future any set of TSOs consider applying FTR Obligations at one border, we insist that market participants should be consulted well in advance to discuss the possible reform. Concerning FTR Options, EDF believes that their introduction 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 on the forward markets. For the time being, we do not see good reasons justifying the potential implementation of FTRs Options on any new bidding zone borders, and any proposal in this sense should be subject to a public consultation of market participants. - PTRs for balancing services (Article 45.5) The possibility to reserve Long term Rights for balancing services as introduced in Article 45.5 of HAR should be seen as a positive evolution of the allocation rules. We welcome in particular the fact that the HAR leaves the door open for Market Participants to make efficient trade-offs on the best way to use cross-border capacity, in particular between the nomination of capacity to use the PTRs on the energy market and the decision to use it for balancing purposes. EDF suggests furthermore to specify explicitly in this Article that the choice to use nominated PTRs for balancing purposes could be made by registered participants after the clearing of day-ahead markets in the afternoon on intra-day. Edison welcomes ENTSO-E's consultation on the draft of Harmonised Allocation Rules (HAR). Harmonized rules at European level for cross-border capacity allocation are essential to facilitate equal access to electricity markets and to develop liquid and competitive forward markets across Europe. According to the European Edison Spa General Regulation 2016/1719 establishing a guideline on Forward Capacity Allocation (FCA Regulation), which entered into force on the 16th October 2016, within six months a proposal for harmonised allocation rules shall be jointly



developed by all TSOs (Article 51). Edison thanks ENTSO-E and TSOs for the desire in accelerating the development of a HAR common proposal: the HAR early implementation project, started by ENTSO-E and the involved TSOs, helped the drafting of the current version of HAR, based on two previous consultations, and ensures a prompt implementation of FCA Regulation. Edison welcomes the opportunity to provide comments and considerations about the proposal of HAR common provisions (Main Body) and regional specific Annexes. These rules are fundamental for providing all European market players with the ability to hedge their risk associated with cross-border electricity trading and uncertainty of short term electricity prices in the most transparent and non-discriminatory way. Moreover, the HAR are able to provide the TSOs with signals on potential congestions on certain borders and enable them to operate the electricity transmission system in a more efficient way.

Truly harmonized rules: As specified in FCA Regulation (Article 52), it is accepted that regional Annexes, containing bidding zone border requirements and illustrating different regimes derogating from the HAR, are included in the HAR. In the current consultation the number of Annexes is 15. Edison believes that the TSOs should explain the reason for maintaining such a large number of specific regimes for European borders. In the spirit of the HAR, only the harmonization of the rules for cross-border capacity allocation is able to guarantee a level playing field and ensures non-discriminatory access to electricity forward markets for all European players irrespective to their location. The final goal, which is the harmonization of allocation rules in forward markets, is the cornerstone of the HAR and TSOs should keep on working to limit the number of regional specificities. Edison recommends that TSOs provide an appropriate justification for any regional derogation and a possible timeline of the expected alignment of the relevant borders rules to the HAR in a separate explanatory document.

Curtailment: In HAR the long-term transmission rights (LTTRs) curtailment procedure, the possible triggering events and the relative compensation are detailed. The triggering events include emergency situations which may lead to LTTRs curtailment after the Day-Ahead Firmness Deadline (DAFD). Edison appreciates the deletion of the reference to "Emergency Situation" in article 56.1 from the previous consultation, but we do not support its presence in article 56.3 and 61. From Edison's point of view, only in case of Force Majeure, which is a clearly legally defined situation, the TSOs shall be entitled to curtail LTTRs after DAFD.

Switzerland integration: Edison appreciates the inclusion of Switzerland in the scope of application of HAR, since this is in line with the goal of a full harmonization of allocation rules in line with FCA Regulation, in particular in terms of firmness and compensation of curtailments that Edison favours. Currently bidding zone borders of Switzerland are not included in the list of Capacity Calculation Regions (CCRs) approved by ACER in accordance with European Regulation 2015/1222 establishing a guideline on capacity allocation and congestion management (CACM Guidelines), while the FCA Regulation clearly states that Switzerland will have open access to the single



allocation platform, consequently to Swiss laws implementing the main provisions of Union electricity market legislation and to an intergovernmental agreement (Article 1). We suggest to explicitly declare that, once the HAR will be approved by the Swiss regulatory authority, the rules will enter into force for Swiss TSO and all actors operating in Switzerland, even if they are not legally bound by the FCA Regulation. Balancing services reserve: Edison does not support the explicit reference to the possibility of Physical Transmission Rights (PTRs) holders to reserve their capacity for balancing services. The European Commission is currently working on the Electricity Balancing Network Code (EB NC), meant to facilitate the trade of balancing resources between European TSOs and to lead to a more efficient use of available resources, a reduction of costs and an increase in security of supply. Until this code is not implemented, it is important that HAR do not include binding provisions which could result in overlapping rules with the ones stated in EU Guidelines. Moreover, reserving capacity for balancing services may have a considerable impact on the Market Coupling effective functioning and liquidity. The European Federation of Energy Traders (EFET) welcomes the opportunity to provide comments on the ENTSO-E consultation on draft Harmonised Allocation Rules (HAR) for forward capacity allocation. We would first like to thank the community of TSOs for their pre-implementation effort of the HAR in advance of the entry into force of the Forward Capacity Allocation Guideline (FCA GL), and ENTSO-E in particular for its coordination role throughout this process. The two earlier version of the HAR (preimplementation) greatly helped speed up the redaction of this first version of the full FCA GL-compliant rules. The HAR will improve the quality of services offered by TSOs and the quality of the allocated transmission rights themselves. This is turn will improve the efficiency and increase the liquidity and competitiveness of forward market across Europe. As highlighted at many occasions, forward capacity allocation is vital for market participants to hedge their long-term positions and make sure that they are not exposed to short-term price volatility and imbalance costs. Long-term rights also provide long-term signals to the TSOs regarding potential General **EFET** congestion on certain cross-border points. This gives an indication to the TSOs regarding forward market activities and could potentially help in forecasting additional revenues that TSOs receive as a congestion income. In general, we note that the new 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 in line with the FCA GL. While EFET welcomes that fewer borders apply specific rules for the allocation of transmission rights, there are still 22 borders where parts of the rules are not harmonised. The existence of the border-specific annexes undermines the whole process and its harmonisation goal. We urge TSOs to keep on working to reduce the number of border-specific rules. Further, we recommend that TSOs provide appropriate justification for any deviation from the common rule, as well as an indication of the expected timeline for the phase-out of these specific rules, in a separate explanatory document at the time of submission to the NRAs.



	Comments on the recitals:	
	We generally welcome the explanatory function of the recitals in legislation pieces. However, we wonder about	
	the necessity to include recitals in a document such as the HAR.	
	In terms of content, we see positive aspects highlighted in these recitals:	
	• Mention of the goal of harmonisation of the FCA GL in recital (3)	
	• Insistence on the need for liquidity, non-discriminatory access, transparency and "orderly" price formation in recitals (10), (11), (12), (13), (14)	
	However, we miss a mention of an objective to phase out border-specific annexes in recital (5).	
	Enel welcomes the opportunity to provide comments on the ENTSO-E consultation on draft Harmonised Allocation Rules (HAR) for forward capacity allocation (FCA).	
General	The new HAR are in general in line with the FCA GL and improve the firmness conditions under which forward transmission rights are issued by TSOs.	Enel
	Nonetheless, we notice that there are still 14 annexes and 22 borders on which rules are not harmonized. We propose that TSOs provide a justification of the need of having derogations to the HAR and a clear schedule of	Lifei
	the removal of these derogations.	
	EURELECTRIC wishes to acknowledge some positive evolutions of the revised HAR compared to the previous	
	version, such as for example:	
	- the improvement of the level of firmness of Long Term Rights , to further align with the FCA provisions;	
	- the introduction of new invoicing and payment conditions in Article 65(6) and (7), to not wait until the following	
	year to settle the compensations due to curtailments of the current year;	
	- and the possibility to nominate PTRs for balancing services, as clearly mentioned in Article 45.5 (see below our detailed comments	
	EURELECTRIC believes it is important to limit, as much as possible, the number of annexes to having different	
General	sets of rules across European markets. We would like to emphasise that to achieve a real harmonisation between	EURELECTRIC
	all borders the objective should be to phase-out the regional annexes (in order to avoid too many specific rules).	
	In this respect, EURELECTRIC would welcome a stronger governance on the existence and phase out of annexes.	
	For instance, we believe that TSOs should provide the NRAs and the market players with a view on the timeline	
	for the phase-out together with a justification for having specific rules at their borders. NRAs could then request	
	TSOs to provide a justification every year for maintaining the existence of annexes. We consider that some other	
	specific points need further clarifications and explanations, as mentioned below in further details.	
	Furthermore, our position still remains in accordance with in our comments to ENTSO-E's consultation on the	
	updated version of the Harmonised Allocation Rules for Forward Capacity Allocation (in May 2016).	
General	1. Harmonisation	Europex



	The sheer number of annexes introducing specific rules on certain borders shows how challenging the harmonisation of forward capacity allocation rules is. The current harmonisation exercise should not be an objective as such, as it imposes resource-intensive changes with little added value for the energy system. Instead of a big bang harmonisation of all rules, ENTSO-E should first consider reviewing which key components of the model really need to be harmonised. The guiding principle for this priority check should be to analyse which harmonisation aspects will bring real benefits to the market. 2. Full Firmness For Long-Term Transmission Rights (LTTRs) to serve as true hedging instruments, the principle of Full Firmness (without caps) needs to apply. Importantly, Article 59 of the NC FCA HAR in its current version does not fulfil this criterion. While we recognise that Full Firmness on LTTRs exposes the Capacity Owners	
	(e.g. TSOs) to higher financial risks, the lack of Full Firmness for given LTTR products significantly diminishes their value as hedging instrument for the Holders ("Buyers") of LTTRs. 3. LTTR Obligation	
	Given that the drafting of the NC FCA HAR at the current stage is limited to option-type PTRs/FTRs, it is essential that, as stipulated in the Forward Capacity Allocation Guideline (FCA GL), the choice to alternatively apply Obligations remains valid for Capacity Owners (e.g. TSOs). Therefore, the NC FCA HAR needs to be amended accordingly.	
	4. Secondary Trading of LTTRs and the need for a level playing field for all market venues To further optimise the use of capacity through an equal and efficient trading system, it is important to enable Secondary Trading of LTTRs by all market venues. Existing Regulated Markets and MTFs do not have the possibility to list products that are not classified as financial instruments, cf. MiFID. This leads to a lack of competition between market venues and reduces the efficiency of the FCA trading system as such. In addition, the current draft of the NC FCA HAR proposal fails to describe or provide the key functionalities	
	needed to enable orderly and efficient Secondary Trading of LTTRs. We therefore strongly recommend amending the current NC FCA HAR proposal. These principles should then be further detailed in subsequent technical rules to ensure a fair and non-discriminatory opportunity for parties other than the Single Allocation Platform (SAP) to organise Secondary Trading of LTTRs. Any trading should be allowed to be done freely in an either continuous or auction-based form.	
General	Overall we perceive the HAR as a high quality document with (mostly) fair rules. The annexes provide exemptions which are in contradiction with European harmonization, hence they should be phased out.	Vattenfall
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-	EFET



	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.	
2	Should the sudden crisis in the energy market, referred to by Art. 42 of Directive 72/2009 and by the art. 4 of Directive 89/2005, be explicitly included in the Force Majeure situations, for the avoidance of doubt?	ANRE
2	• Financial Transmission Rights Obligations: we understand that including FTR obligations in the HAR is now a requirement of the FCA GL. We nonetheless reiterate our position on the subject: we do not believe that TSOs should offer FTR obligations. TSOs get the congestion revenue in case the request for capacity (with the price > 0) is higher than the available capacity at each allocation. In case the spread is in the opposite direction we don't see the rationale for paying a negative spread to the TSOs. There is no financial risk for the TSOs in allocating capacity, and FTRs as obligation would only make sense if market participants would trade between themselves such or similar contracts and payment for the negative spread would be the consequence of risk premiums. This is however not the case when TSOs allocate capacity. Should any set of TSOs consider applying FTR obligations at one border, we insist that market participants are consulted well in advance of the possible reform. • Reduction Period: in the definition of "Reduction Period", we recommend the deletion of 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	FTRs Options and FTRs Obligations (Article 2) - EURELECTRIC understands TSOs' proposal to include FTR Options and FTR Obligations in Article 2 of HAR as far as these products are now foreseen in the FCA Regulation. However, these products do not derive from an explicit need of the market, nor from an explicit request from market participants. In the case of FTR obligations, TSOs will namely collect congestion revenues if the request for capacity (with the price > 0) is higher than the available capacity at each allocation. In case the spread is in the opposite direction, we do not see the rationale for paying a negative spread to the TSOs, which do not support any financial risk in allocating cross-border capacity. FTRs as obligation would only make sense if market participants would trade between themselves such or similar contracts. In such case, payment for the negative spread would be the consequence of risk premiums. This is however not the case when TSOs allocate capacity. For the time being, we do not see any reason justifying FTRs Obligations and we welcome the proposed Annex 1 of HAR clarifying that none of the TSOs will offer at this stage FTR Obligations. Should in the future any set of TSOs consider applying FTR Obligations at one border, we insist that market participants should be consulted well in advance to discuss the possible reform. Concerning FTR Options, we believe that their introduction 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 on the forward markets. As long as the FTRs options come with full firmness and do not negatively affect holders of such products, the potential	EURELECTRIC



	implementation of FTRs Options on any new bidding zone borders could be considered, and any proposal in this sense should be subject to a public consultation of market participants.	
4	Edison deems as fundamental that the present article includes a reference to the main objective of the HAR (the full harmonization in the long term) and a feasible time limit for the regional Annexes to exist. In fact, regional and border specific derogations to the general auction rules should be considered as transitory arrangements. A clear process should be defined to ensure that border specific annexes are temporary measures and will be periodically reviewed in order to check whether specificities are still required or shall be deleted. Therefore, we consider fundamental that the HAR clearly states in this paragraph that the regional regimes will align to the common allocation rules.	Edison Spa
4	Regional specificities and border-specific 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 HAR 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	This article leaves too much room to individual TSO's to deviate from the HAR. We see instances in the Annexes (like BritNed) that proposes some many exemptions that it can hardly be called 'harmonized'. There should be at least an end date in here (sunset clause). A question here is how much freedom an individual border has to state its own rules	Vattenfall
17	"Reasonable" notice of additional standard financial terms from JAO from time to time should be provided to Registered Participants due to potential impacts on in house processes.	Bord Gáis Energy Limited
17	Where the Allocation Platform develops and publishes additional standard financial terms to be accepted, reasonable notice of these should be given to Registered Participants and due regard to Registered Participants' views on the terms should be had. The article should be amended to reflect this.	Electricity Association of Ireland
21	In this article, 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
22	The wording should be checked in Art. 22, as the validity of Bank Guarantee results as being at least 60 days for products longer than 1 month (30 days after the end of each next calendar month), at least 30 days for products equal to 1 month (30 days after the end of the product period) and at least 60 days for product shorter than 1 month (60 days after the end of product period). As long as the standard procedure for payments is the automatically withdrawal from the dedicated business account of the registered participant and since the date of invoicing should be before the 10th of each month and the invoice should be for future LTTR, wouldn't be easier that in case of payment incident, the Rights Document	ANRE



	should not allow the participant to use those LTTRs? As such, only small amounts should be secured by guarantees, namely for those LTTRs whose product period begins before the due date of payments, probably for	
	those with shorter periods than 1 month.	
25	Under Article 25(2), 3 Working Days for a Registered Participant to increase its collateral from the receipt of a notification of a collateral incident is preferable to 2 Working Days. 3 Working Days would be more reasonable and better enable participants to respond to collateral requirements in a timely manner.	Bord Gáis Energy Limited
25	Article 25(2): Requiring a Registered Participant to increase its collateral within 2 Working Days from sending a notification of a collateral incident is very tight. EAI requests that Three (3) Working Days is allowed to enable Participants to respond within reasonable timelines	Electricity Association of Ireland
28	A different wording should be used for the frequency of auctions (yearly, monthly and s.o.) for the same product versus the product period; yearly timeframe used in Art. 28 is in fact the period of the products: Year_Base, Year_Peak and Year_OffPeak.	ANRE
28	Danske Commodities would like to add the following additional forward capacity allocations timeframes: Quarters, Years+2. We think that adding more maturities will strengthen the possibility for hedging positions and increase liquidity in the affected markets. The capacity for the extra auctions should come as additional capacity and should not be taken from the existing auctions if possible.	Danske Commodities A/S
28	EAI requests confirmation as to the process through which Registered Participants may express their preferences on the regularity of auctions held on JAO for an interconnector. Shall such consultation on auction regularity be the premise of the interconnector owner itself? Clarity also on the method to update auction rules on the discovery for example of issues during I-SEM mock trials for FTRs, is requested.	Electricity Association of Ireland
29	The same wording should be used for the same meaning (ex.: what does it mean, in art. 29 point 2: c: capacity allocation timeframe and what does it mean g: the product period?)	ANRE
30	EAI would welcome inclusion on the "cause" of a Reduction Period in addition to the "duration" and "amount" of Offered Capacities.	Electricity Association of Ireland
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
31	The product period meaning (definition) should be clarified, since for a product like Year_Peak, the product period could be equal to 12 hours/day x 365 days or could be 365 days, but in the latter case the wording for Bid Price (Euros per MW for one hour of the product period) is not correct	ANRE
32	EAI requests confirmation that, as now on the SEM-GB interconnectors, confirmation that a bid has been correctly registered is received in real time/ immediately through the Auction Tool.	Electricity Association of Ireland



34	The wording should be checked, since the participant has to either increase the guarantee, either decrease the payment obligations due, not to modify the Credit Limit as such. It's not so clear whether the guarantees/colaterals are unique for all auctions or there should be one for each auction. If the first statement is true, then it's not clear how point 2 applies for a situation in which a participant enters bids for 2 (quasi) simultaneous auctions, for 2 different products (a situation referred to in point 4). For the same auction, what would be the reason to accept 2 bids with the same price from the same participant? A transparent formula for how the credit limit check would be done is necessary. It should look like: å (MPO_current auction i_first due payment) £ (Guarantee – Due payments for instalments of former auctions), where MPO = formula provided at 34 point 5	ANRE
35	What point 3 of art. 35 provisions add to point 4 provisions of the same article? Why is it necessary and what the optimization function could do more than determining the marginal price?	ANRE
35	Article 35(3): Please confirm the definition of "Registered Participants' Surplus"? Is it related to economic surplus as referenced in the CACM regulation?	Electricity Association of Ireland
41	Article 41: EAI's preference is that transfer of long term transmission rights volumes (with prices remaining confidential) occur on the JAO platform for transparency reasons	Electricity Association of Ireland
44	The use of the Notice Board by registered participant is free of charge according to Article 44.1 of the HAR but are there some fees requested to the registered participants when a transfer is notified to the Allocation Platform?	EDF SA
45	Point 5 (balancing services): both Regulation 714/2009 and Regulation 1719/2016 (FCA) provide UIOSI as the single principle for nomination of LTTR and use of not-nominated LTTR; since EB GL implies that some cross border capacity could be used for balancing services, HAR should be in line with the (provisional) provisions of EB GL, art. 37 -42, which state that by 2 years after entry into force of EB GL, 2 or more TSOs may allocate cross-zonal capacity for the exchange of balancing capacity or sharing of reserves, when supported by a cost-benefit analysis subject to some conditions. Since this cost-benefit analysis has not been done for every border and the other conditions were not set, I suggest to delete the point 5 of art. 45 from HAR and to modify HAR when the respective methodologies would be accomplished. Otherwise, the point 5 only allows for LTTR in order to exchange balancing services, adding to FCA rules, but doesn't clarify any condition for such an allowance.	ANRE
45	The possibility to reserve Long term Rights for balancing services as introduced in Article 45.5 of HAR should be seen as a positive evolution of the allocation rules. We welcome in particular the fact that the HAR leaves the door open for Market Participants to make efficient trade-offs on the best way to use cross-border capacity, in particular between the nomination of capacity to use the PTRs on the energy market and the decision to use it for balancing purposes. EDF suggests furthermore to specify explicitly in this Article that the choice to use nominated	EDF SA



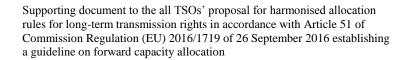
	PTRs for balancing purposes could be made by registered participants after the clearing of day-ahead markets in	
	the afternoon on intra-day.	
45	Article 45.5: In Edison's opinion, the reference to the possibility of PTRs holders to reserve their capacity for balancing services should be deleted. Until the new EB NC does not enter into force, it is more appropriate not to introduce provisions which are potentially overlapping on the rules defined by European codes. Moreover, the provision contained in this paragraph, if applied next year, could have an impact on the markets coupling effectiveness and liquidity.	Edison Spa
45	EURELECTRIC remains opposed to the reservation by TSOs of cross-border capacity for balancing purpose. In that respect, the possibility to reserve PTRs for balancing services as introduced in Article 45.5 of HAR should be seen as a possible way to grasp effectively the economic benefits of exchanging reserves instead of energy through interconnectors. Therefore, we welcome in particular the fact that the HAR leaves the possibility for Market Participants to make efficient trade-offs on the best way to use cross-border capacity for DA, ID or BAL.	EURELECTRIC
48	We recommend the deletion of this point. Transmission rights should be remunerated at market spread without adjustments or taking account of allocation constraints/losses.	EFET
52	We consider that Auction cancellation cases, as described in Article 52, could be further clarified. In particular, before the end of the contestation period, it is not clear if it is necessary to meet all conditions listed in paragraph 3.a) to cancel the auction. Could you clarify what is meant by "similar reasons"? Finally, we understand that a compensation should be paid to the participant in case of auction cancellation after the end of contestation period, which could be explicitly clarified in the Article as well.	EDF SA
56	It should be clarified when curtailment is allowed before DAFD and when it is allowed after DAFD, since art. 72 of Regulation 1222/2015 (CACM) refers art. 16(2) of Regulation 714/2009, which refers also the emergency situations, adding to them: where TSO must act in an expeditious manner and re-dispatching or countertrading is not possible. The emergency state is defined in the Guideline on electricity transmission system operation (provisional version, 2015), as system state where one or more operational security limits are violated. Par 1 of art. 56 of HAR states that curtailment is allowed before DAFDto ensure operation remains within operational security limits. As such, in order to highlight the differences, if any, the same wording should be used, replacing the unclear cross reference.	ANRE
56	Edison suggests to eliminate the references to 'Emergency Situations' as a triggering event for curtailment after the DAFD. We believe that only Force Majeure could cause curtailments to already firm LTTRs and a special regime compensation (compensation at the initial price paid). Emergency refers to a broad range of contingences not clearly defined/harmonised on a legal level and could, thus, bring to higher uncertainty on the allocated products.	Edison Spa
56	We believe a clear distinction should be made between Physical Transmission Rights on the one side, and Financial Transmission Rights on the other side. We do not challenge the provisions of Art.56 as far as PTRs are concerned. However, we believe that TSOs should only be allowed to curtail FTRs in case of Force Majeure (such	EFET



	as an unforeseen and inevitable technical failure). Indeed, FTRs being only linked to the physical underlying capacity for capacity calculation purposes, no physical event linked to operational security or emergency situations may affect them. This is the approach taken at the Spanish-Portuguese border. We believe that this principle should be in the main body of the HAR and apply to all borders at which FTRs are issued. Hence, we propose the following amendments: Article 56: Triggering events and consequences of curtailment on Long Term Transmission Rights 1. Long Term Transmission Rights irrespectively of the Product Period may be curtailed in the event of Force Majeure, or, in the case of Physical Transmission Rights, to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline. 2. Curtailment may be applied on allocated Long Term Transmission Rights including, where the case may be, on nominated Physical Transmission Rights.	
	3. Long Term Transmission Rights may be curtailed after the Day Ahead Firmness Deadline in the case of Force Majeure or, in the case of Physical Transmission Rights, emergency situation in accordance with Article 72 of Commission Regulation (EU) No. 2015/1222. For the avoidance of doubt, Long Term Transmission Rights when curtailed after the Day Ahead Firmness Deadlines shall be curtailed in the same way as day-ahead and intraday capacity and compensated in accordance with the applicable legislation. 4. [unchanged] 5. [unchanged]	
57	How does HAR take into account the provisions of art. 25 of FCA, concerning the coordinated curtailment with more than 48 hours ahead of the start of the delivery day? Art. 57 of HAR should consider the notifications in such a situation and rewording the point 4, in order to avoid the understanding that both physical and financial transmission rights could occur on a border in a specific moment	ANRE
57	Under Article 57(3) given the potential financial impact, not least from a hedging perspective, of FTR curtailment, notice of triggering events and estimated duration for FTR curtailments should be emailed to market participants as well as published on the website. Timely notice of these issues is important.	Bord Gáis Energy Limited
57	Article 57(3): EAI requests that triggering events for curtailment and their estimated duration are not only published on the JAO website but also sent by email to Registered Participants given the potential consequences in terms of hedging values of curtailment.	Electricity Association of Ireland
57	To ensure the monitoring of curtailments events, we should ensure that "the factual reasons that lead to the curtailments" are 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. We therefore recommend to explicitly include the obligation to publish "factual reasons that lead to curtailment" in the notification mentioned in Article 57.2 "process and notification of curtailment" of the HAR.	EDF SA



57	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.	EFET
57	Curtailment and firmness (Article 57 and Annexes) - EURELECTRIC welcomes the introduction of some improvements of the firmness conditions under which LTTRs are issued by TSOs and TSOs' effort to further align with FCA Guidelines firmness regime. EURELECTRIC however regrets that some specific borders (in particular FR-GB, FR-ES or FR-CH borders) still apply a different regime of firmness which derogates from the main body of HAR rules, and in particular from Articles 59.2 and 59.3. We therefore recommend aligning all specific annexes with the firmness regime of the main body of HAR. This is a good example to illustrate the importance of phasing out the annexes as soon as possible to offer the same level of firmness across Europe (i.e. the application of a cap on the compensation for curtailment is to be considered as an exception and should be duly justified). Apart from the progressive evolution of HAR to align with FCA firmness regime, we would like to recall that one of the TSOs tasks should be to optimize the available capacity on forward timeframes. In this respect, TSOs should use curtailment as a last resort measure after having activated all other available remedial actions (such as re-dispatching and countertrading) and regulators should have a monitoring role in this respect. To ensure the monitoring of curtailment's events, we should ensure that "the factual reasons that lead to the curtailments" are 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. We therefore recommend to explicitly include the obligation to publish "factual reasons that lead to curtailment" in the notification mentioned in Article 57.2 "process and notification of curtailment" of the HAR.	EURELECTRIC
58	Danske commodities like to have a clear firmness on the transmission capacity. Danske commodities thinks the TSO's should take the risk. The Participants will normally hedge their positions with OTC deal.	Danske Commodities A/S
58	We welcome the modification of the rules, bringing the DAFD 60 minutes before DA GCT, compared to 30 minutes previously. This brings this provision in line with the CACM GL.	EFET
59	Danske commodities like to have a clear firmness on the transmission capacity. Danske commodities thinks the TSO's should take the risk. The Participants will normally hedge their positions with OTC deal.	Danske Commodities A/S
59	We welcome the new wording of Art.59.2, which establishes that the application of a cap on the compensation for curtailment is now an exception to the rule that shall be justified by the requesting TSOs and approved by the relevant NRAs. That brings this paragraph in line with the spirit of the FCA GL.	EFEFT
59	We see no need to give TSOs the option to determine a compensation cap. A TSO should facilitate a level playing field for market parties throughout Europe, while being financially neutral. If losses are incurred, fi due to technical failures not being force majeure, an incidental month/year of losses should be possible. It is up to the individual TSO to address this with the NRA. A compensation cap is unduly shifting operational risk to a market party who has no influence on this risk.	Vattenfall





	T	1
	We also do not support the special treatment that HVDC cables receive by being allowed to define a monthly cap.	
65	Taking into account the introduction of an annual cap for compensations in case of curtailment, EDF fully supports the new invoicing and payment conditions as set forth in Article 65(6) and (7). Instead of waiting until the following year to settle the compensations due to curtailments of the current year, it will enable all Parties to perform monthly settlements and a final re-settlement after the year.	EDF SA
68	Concerning the periodical review of HAR rules every two years, we recommend an amendment to Article 68.6 to explicitly enable Registered Participants to request specific amendments to HAR rules as contracting Party, and to not limit this right to the Allocation Platform and the relevant TSOs.	EDF SA
69	Article 69(6): Clarity is required that article 40 (remuneration for return of transmission rights) is not precluded from this subsection?	Electricity Association of Ireland
List of Bidding Zones borders	We welcome the clear information provided in Annex 1 for each border, especially regarding the application of border-specific rules, and more particularly a cap on compensation for curtailment. However, as pointed out during the workshop organised by ENTSO-E on 3 February, there are doubts as to the practicality of including this information as part of the HAR in the form of an annex applying to all borders, as any change – including the introduction of new borders where long-term rights are issued, the suppression of a reference to a border-specific annex, or modifications regarding the applicability of a cap – will be subject to an all-TSOs proposal and an all-NRAs approval process. Also, including the list as it stands in a binding annex without the bidding zone borders where no long-term transmission rights are issued at the moment pre-empts the – expected – requests for exemptions and possible NRA approvals according to Art.30.2 FCA GL. Hence, we recommend that Annex 1 is taken out of the document and included in a non-binding explanatory document accompanying the TSOs' submission of the rules to the NRAs. This will have the consequence that all bidding zones borders applying a cap on curtailment compensation should issue a border-specific annex.	EFET