

## ***Notice***

The document does not in any case represent a firm, binding or definitive TSOs position on the content. This version is released on behalf of the involved TSOs only for the purposes of the public consultation on the Harmonised Allocation Rules. Discussion of involved TSOs and NRAs with regard to the draft annex is not completed.

If any provision of the Harmonised Allocation Rules presented below are found to be in contradiction with applicable national legislation the allocation rules for relevant border(s) shall be amended to be either in line with respective legislation or to refer to relevant national legislation.

# **Specific Annex for the Bidding Zone borders serviced by SEE CAO to the Harmonised Allocation Rules for long-term transmission rights**

Podgorica, June 2017.

# CHAPTER 1

## General Provisions

### Article 1

#### Subject-matter and scope

1. This Annex to the harmonised allocation rules for long-term transmission rights on European Union level (hereafter referred to as "HAR") is related to the Article 51 of Commission Regulation (EU) 2016/1719 establishing a guideline on Forward Capacity Allocation (hereafter referred to as the "FCA Regulation") that is not directly applicable to the Bidding Zone borders outside of the European Union (hereafter referred to as "EU"). The purpose of this Annex to the HAR (hereafter referred to as the "Annex") is to include the HAR (as amended by this Annex) into the operation of the Allocation Platform. Unless otherwise expressly set out in this Annex, the provisions of this Annex equally apply to the Bidding Zone borders defined in Appendix 1 of this Annex.
2. The activities of the Allocation Platform cover jurisdictions where TSOs from the European Union, TSOs from contracting parties of the Energy Community Treaty and from one or more other countries. References to TSO or Transmission System Operator therefore include references to EU TSOs, transmission system operators from contracting parties of the Energy Community Treaty as well as transmission system operators from any other country for which services are provided by the Allocation Platform, and NRA or National Regulatory Authority include references to NRAs of the European Union, or NRAs from contracting parties of the Energy Community Treaty, or regulators of other countries which have jurisdiction over the relevant TSO or the Allocation Platform.
3. In accordance with Article 4 (*Regional specificities*) of the HAR, regional or border specificities may be introduced for one or more Bidding Zone borders.
4. For Bidding Zone borders (defined in Appendix 1 to this Annex), specific rules outlined below and further elaborated in this Annex shall apply in derogation of relevant parts of the HAR:
  - (a) Recitals to the HAR;
  - (b) for the designation of the Allocation Platform (Chapter 1, Article 3);
  - (c) for "*Requirements and process for participation in Auctions and Transfer*" (Chapter 2) - with regard to "*Submission of information*" (Article 9), "*Dedicated Business Account*" (Article 12) and "*Regulatory and legal requirements*" (Article 18);
  - (d) for "*Collaterals*" (Chapter 3) - with regard to "*Form of cash deposit*" (Article 20) and "*Form of Bank Guarantee*" (Article 21);
  - (e) for "*Return of Long Term Transmission Rights*" (Chapter 5) - with regard to "*Process of the return*" (Article 39);
  - (f) for "*Transfer of Long Term Transmission Rights*" (Chapter 6) - with regard to "*Process of the transfer*" (Article 42);
  - (g) for "*Use and remuneration of Long Term Transmission Rights*" (Chapter 7) - with regard to the "*Nomination of Physical Transmission Rights*" (Article 46);

- (h) the curtailment process and curtailment compensation rules (Chapter 9) - with regard to "Triggering events and consequences of curtailment on Long Term Transmission Rights" (Article 56) "Day Ahead Firmness deadline" (Article 58), "Compensation for curtailments to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline" (Article 59), "Reimbursement for curtailments due to Force Majeure before the Day Ahead Firmness Deadline" (Article 60) and "Reimbursement or compensation for curtailments due to Force Majeure or emergency situation after the Day Ahead Firmness Deadline" (Article 61);
  - (i) for the "Invoicing and payment" (Chapter 10) - with regard to "Invoicing and payment conditions" (Article 65); and
  - (j) for the "Miscellaneous" (Chapter 11) – with regard to "Governing law" (Article 77).
5. Wherever the HAR contains reference to the above mentioned parts, the rules described in this Annex shall be considered accordingly with regard to the Bidding Zone borders (as defined in Appendix 1 to this Annex), in particular, but without limiting, wherever the HAR contain references to Article 58, Article 59, Article 60 and/or Article 61, they are replaced by compensation rules listed in this Annex. If there is an inconsistency between any of the provisions in the main body of the HAR and this Annex, the provisions in this Annex shall prevail.
6. The capitalized terms used in this Annex are defined in the HAR to which this Annex is attached unless otherwise specified below:

**Business Account** means a dedicated deposit account opened by the Allocation Platform at the financial institution selected by the Allocation Platform in the name of the Allocation Platform, which may not be used for payments by the Registered Participant;

**SEE CAO** means Coordinated Auction Office in South East Europe d.o.o. Podgorica; Montenegro.

## *Article 2*

### **Effective date and application**

1. This Annex is effective at the date of entry into force of the HAR, subject to an approval of relevant national regulatory authorities of the HAR and this Annex. This Annex may be reviewed upon request of the relevant national regulatory authority(ies). In case this Annex needs to be amended based on a decision of the relevant national regulatory authority(ies), Article 68 (*Duration and amendment of Allocation Rules*) of the HAR shall apply.
2. List of Bidding Zone borders (Appendix 1) to which the HAR and Annex apply including information on type of allocated Long Term Transmission Rights may be amended or supplemented in accordance with the provisions relating to the amendment of the HAR, provided that where for the amendment of this list the approval of one or more NRAs is/are required.
3. For the purpose of incorporating the amendment or supplement, only the approval of an NRA that has jurisdiction over the relevant TSO whose Bidding Zone border is amended or added, shall be required to be consulted or shall be asked for approval, as applicable.

## **CHAPTER 2**

### **Amendments to the HAR**

#### *Article 3* **Recitals**

Recitals in the HAR shall apply to all TSOs, however, in relation to TSOs that are not from the European Union, they apply mutatis mutandis.

#### *Article 4* **Allocation Platform**

Article 3 (*Allocation Platform*) of the HAR shall be amended as follows:

1. paragraph 1 shall read: "1. The Allocation Platform shall undertake the allocation functions in accordance with these Allocation Rules, applicable European Union legislation or applicable legal acts of the Energy Community, and/or applicable national legislation of one or more of the Bidding Zone border countries."; and
2. new paragraph 4 shall be added, as follows: "4. The Allocation Platform on the Bidding Zone borders (listed in Appendix 1 to this Annex) shall be SEE CAO."

#### *Article 5* **Submission of information**

Article 9(1) (*Submission of information*) of the HAR shall be amended as follows:

1. paragraph (b) shall read: "(b) if the market participant is a legal person, business registration number, name of legal representative and an extract of the registration of the market participant in the commercial register of the competent authority;" and
2. paragraph (d) shall read: "(d) VAT and TAX registration number where applicable;"

#### *Article 6* **Dedicated Business Account**

Article 12 (*Dedicated Business Account*) of the HAR shall be amended to read as follows: "The market participant shall declare to the Allocation Platform whether it intends to use a dedicated Business Account for the purposes of depositing cash collaterals."

#### *Article 7* **Regulatory and legal requirements**

Article 18 (*Regulatory and legal requirements*) of the HAR shall be amended to read as follows: "It is the responsibility of each market participant to ensure that it complies with national legislation, and where applicable, European Union legislation or legal acts of the Energy Community, including requirements of any relevant competent authority, and obtained all necessary authorizations in connection with its participation in Auctions or in transfer and the use of Long Term Transmission Rights."

*Article 8*

**Form of cash deposit**

Article 20(1) (*Form of cash deposit*) of the HAR shall be amended as follows:

1. paragraph (e) shall not apply.

*Article 9*

**Form of Bank Guarantee**

Article 21(1) (*Form of Bank Guarantee*) of the HAR shall be amended as follows:

1. paragraph (g) shall read: "(g) the bank issuing the Bank Guarantee shall be acceptable for the business bank of the Allocation Platform;" and
2. paragraph (h) shall read: "(h) the bank issuing the Bank Guarantee or the financial group it belongs to shall have a long term credit rating of not less than BBB- by Standard and Poor's Corporation, BBB- by Fitch or Baa3 by Moody's Investors Service Inc. If the issuing bank or the financial group, the issuing bank belongs to ceases to have the required long term credit rating, the Registered Participant shall within five (5) Working Days submit to the Allocation Platform a substitute Bank Guarantee by a bank complying with the required long term credit rating or replace the Bank Guarantee by deposit. If there are industry-wide downgrades of financial institutions, the Allocation Platform may investigate what the new standards are and, if deemed necessary, decrease the required rating for a limited period of time, informing TSOs, who shall then inform the relevant NRAs."

*Article 10*

**Process of the return**

Article 39 (*Process of the return*) of the HAR shall be amended as follows:

1. paragraph 1 shall read: "1. Long Term Transmission Right holder(s) wishing to return their Long Term Transmission Rights shall send a notification directly via the Auction Tool to the Allocation Platform in line with the corresponding Information System Rules no later than the deadline specified in the provisional Auction Specification for the subsequent Auction to which the Long Term Transmission Right is to be returned."; and
2. paragraph (3)(d) shall read: "(d) fulfil its financial obligations concerning relevant Long Term Transmission Rights pursuant to these Allocation Rules."

*Article 11*

**Process of the transfer**

Article 42 (*Process of the transfer*) of the HAR shall be amended as follows:

1. paragraph 1 shall read: "1. The transferor shall send a notification of the transfer directly, to the Allocation Platform via the Auction Tool with the following information:
  - (a) the EIC codes of the transferor and transferee;

- (b) the time period of the transfer including the start and end dates and hours; and
  - (c) the volume (MW) of the transferred Long Term Transmission Right in whole MW(s) defined per hour."; and
2. paragraph 3(b) shall read: "(b) the transferor has fulfilled its financial obligations concerning relevant Long Term Transmission Rights pursuant to this Allocation Rules regardless whether the transferor transfers all or only part of its Long Term Transmission Rights and even in the case of multiple transfers among several Registered Participants;".

*Article 12*

**Nomination of Physical Transmission Rights**

Article 46 (*Nomination of Physical Transmission Rights*) of the HAR shall be amended as follows:

1. paragraph 1(c) and paragraph 3 shall not apply.

*Article 13*

**Triggering events and consequences of curtailment on Long Term Transmission Rights**

Article 56 (*Triggering events and consequences of curtailment on Long Term Transmission Rights*) of the HAR shall be amended as follows:

1. paragraph 3 shall read: "3. Long Term Transmission Rights may be curtailed after the Day Ahead Firmness Deadline in accordance with applicable national legislations."; and
2. paragraph 5 shall read: "5. In case of curtailment, the affected Registered Participant is entitled to receive reimbursement or compensation according to:
- (a) Article 14 (*Day Ahead Firmness deadline*) of this Annex (instead of the rules set out in Article 58 (*Day Ahead Firmness deadline*) of the HAR);
  - (b) Article 15 (*Compensation for curtailments to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline*) of this Annex (instead of the rules set out in Article 59 (*Compensation for curtailments to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline*) of the HAR);
  - (c) Article 16 (*Reimbursement for curtailments due to Force Majeure before the Day Ahead Firmness Deadline*) of this Annex (instead of the rules set out in Article 60 (*Reimbursement for curtailments due to Force Majeure before the Day Ahead Firmness Deadline*) of the HAR); and
  - (d) Article 17 (*Reimbursement or compensation for curtailments due to Force Majeure of emergency situation after the Day Ahead Firmness Deadline*) of this Annex (instead of the rules set out in Article 61 (*Reimbursement or compensation for curtailments due to Force Majeure of emergency situation after the Day Ahead Firmness Deadline*) of the HAR).".

*Article 14*

**Day Ahead Firmness deadline**

Article 58 (*Day Ahead Firmness deadline*) of the HAR shall be amended to read as follows: "The Allocation Platform shall publish on its website and take into account for the calculation of compensation for curtailed Long Term Transmission Rights the Day Ahead Firmness Deadline which for the purpose of these Allocation Rules is set at 07:00 a.m."

*Article 15*

**Compensation for curtailments to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline**

Article 59(1) (*Compensation for curtailments to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline*) of the HAR shall be amended to read as follows:

1. paragraph 1 shall read: "1. In cases of curtailment to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline the compensation for each affected hour and Registered Participant shall be calculated as the Long Term Transmission Rights in MW per hour corresponding to the difference between the allocated Long Term Transmission Rights held by the Registered Participant before and after the curtailment multiplied by the Marginal Price of the initial Auction.";
2. paragraph 2, 3, 4 shall not apply.

*Article 16*

**Reimbursement for curtailments due to Force Majeure before the Day Ahead Firmness Deadline**

Article 60 (*Reimbursement for curtailments due to Force Majeure before the Day Ahead Firmness Deadline*) of the HAR shall be amended to read as follows: "In the case of Force Majeure before the Day Ahead Firmness Deadline, holders of curtailed Long Term Transmission Rights shall be entitled to receive a reimbursement equal to the price of the Long Term Transmission Rights set during the Long Term Transmission Rights Allocation Process, which for each affected hour and Registered Participant shall be calculated as the Long Term Transmission Rights in MW per hour corresponding to the difference between the allocated Long Term Transmission Rights held by the Registered Participant before and after the curtailment multiplied by the Marginal Price of the initial Auction."

*Article 17*

**Reimbursement or compensation for curtailments due to Force Majeure or emergency situation after the Day Ahead Firmness Deadline**

Article 61 (*Reimbursement or compensation for curtailments due to Force Majeure of emergency situation after the Day Ahead Firmness Deadline*) of the HAR shall be amended to read as follows: "In the event of Force Majeure or an emergency situations after the Day Ahead Firmness Deadline, holders of curtailed Long Term Transmission Rights shall be entitled to receive a reimbursement equal to the price of the Long Term Transmission Rights set during the Long Term Transmission Rights Allocation Process, which for each affected hour and Registered Participant shall be calculated as the Long Term Transmission Rights in MW per hour corresponding to the difference between the allocated Long Term Transmission Rights held by the Registered

Participant before and after the curtailment multiplied by the Marginal Price of the initial Auction."

*Article 18*

**Invoicing and payment conditions**

Article 65 (*Invoicing and payment conditions*) of the HAR shall be amended as follows:

1. paragraph 1 shall read: "1. Payments shall be settled before the start of the Product Period if the Auction timeline allows so. If the Cross Zonal Capacity product has a duration of more than one (1) month, each monthly instalment shall be settled in the second (2<sup>nd</sup>) month preceding the month of delivery, by the deadline specified in Auction Calendar, published on Allocation Platform website.";
2. paragraph 2 shall read: "2. The Allocation Platform shall issue invoices for payments for all Long Term Transmission Rights on a monthly basis in accordance with Auction Calendar, published on Allocation Platform website.";
3. paragraph 4 shall read: "4. The Allocation Platform shall send the invoice by both, email and post, to the Registered Participant at the email and address of the financial contact person submitted in accordance with Article 9(1)(h) or it should make it available to the Registered Participant via the Auction Tool. The date of issuance of the invoice shall be the date on which the email is sent or the date when the invoice is made available via the Auction Tool if this is done during Working Hours or the next day if sent after Working Hours.";
4. paragraph 5 shall read: "5. In the cases of curtailment of Long Term Transmission Rights, the Allocation Platform will issue a credit note for the reimbursement, not later than the tenth (10<sup>th</sup>) Working Day of the following month. In the cases of return of Long Term Transmission Rights according to Article 40 or remuneration of Long Term Transmission Rights according to Article 48, the Registered Participant shall issue invoice to the Allocation Platform and submit it via email and in hard copy to the addresses published on the Allocation Platform website.";
5. paragraph 6 and 7 shall not apply:
6. paragraph 8 shall read: "8. The payments due may be netted by the Allocation Platform, upon request of Registered Participant, taking into account the amount as set forth in paragraph 3 and 5 of Article 65 of these Allocation Rules.";
7. paragraph 9 shall read: "9. The Registered Participant shall settle payment obligations resulting from paragraph 3 or paragraph 8 of Article 65 of these Allocation Rules, within ten (10) Working Days after the date of issuance of the invoice.";
8. paragraph 10 shall read: "10. Payments by the Registered Participant as set forth in paragraph 3 of this Article shall be collected through transaction to the account of the Allocation Platform specified on the invoice by indicating the invoice reference.";
9. paragraph 11 shall read: "11. The Allocation Platform shall settle payment obligations resulting from paragraph 5 or paragraph 9 of Article 65 of these Allocation Rules, within fifteen (15) Working Days after the date of the receipt of the invoice.";  
and
10. paragraph 14 shall read: "14. All bank fees shall be covered by the Registered Participant."



*Article 19*

**Governing law**

Article 77 (*Governing law*) of the HAR shall be amended to read as follows: "These Allocation Rules shall be governed by and construed in all respects in accordance with the law of Belgium, as specified in Participation Agreement."

## Appendix 1

### List of Bidding Zone borders to which the HAR apply including information on type of allocated Long Term Transmission Rights

List of Bidding Zone borders and/or their subsets of interconnectors		Type of Long Term Transmission Rights
List of responsible TSO		
<b>Croatia (HR)</b> HOPS	<>	<b>Bosnia and Herzegovina (BiH)</b> NOS BiH
<b>Bosnia and Herzegovina (BiH)</b> NOS BiH	<>	<b>Montenegro (ME)</b> CGES
<b>Montenegro (ME)</b> CGES	<>	<b>Albania (AL)</b> OST
<b>Albania (AL)</b> OST	<>	<b>Greece (GR)</b> IPTO
<b>Greece (GR)</b> IPTO	<>	<b>FYROM (MK)</b> MEPSO
<b>Greece (GR)</b> IPTO	<>	<b>Turkey (TR)</b> TEIAS

This List of Bidding Zone borders to which the HAR apply including information on type of allocated Long Term Transmission Rights may be amended or supplemented in accordance with the provisions of Article 2 (Effective date and application) of this Specific Annex for the Bidding Zone borders serviced by SEE CAO shall apply.