

Guidance note for the French Capacity Certificates Appendix to the EFET Concerning the Delivery and Acceptance of Electricity (the “Appendix”)

France introduced a new Capacity Remuneration Mechanism that is requesting from each supplier of electricity in France to contribute to the security of supply in accordance with the characteristics of its respective end consumers. Suppliers have the obligation to retain certificates to cover peak consumption of their customers and correspondingly capacity owners, i.e. power plants, must certify their production.

In order to support OTC trading of Capacity Certificates, EFET members prepared this French Capacity Certificates Appendix exercising all reasonable care and considering the information available until November 2016. EFET members followed the structure of the Allowances Appendix as both CO2 allowances and French Capacity Certificates show similarities in respect of the traded product “certificate” and the transfer between accounts of an official register.

Users should be aware that the Rules (cl 8.1.6.3) differentiate between *guarantees of a transaction (transaction de Garanties)* which means the transfer of certificates *with* an associated price and a *transfer of guarantees (transfert de Garanties)* which means the transfer of certificates with no associated price. The Appendix deals only with *guarantees of a transaction (transaction de Garanties)* although this action has been defined, for the purpose of the Appendix as “Transfer of Capacity Certificates”.

Cl 8.1.6.3.1. of the Rules stipulates that no later than 2 days after the notification of the applicable transaction, RTE conducts adding the amount of guarantee certificates to the account of the acquiring party and its withdrawal to the account of the supplying party, unless this is impossible due to the state of the balance of the source account, or non-compliance of the application of the transaction. Absence further clarification, EFET members assumed that RTE would allocate and withdraw the certificates two (2) calendar days (not business days) following the notification of the transaction from the relevant accounts irrespectively of the contractual date of the transfer. Users are strongly recommended to monitor future communications by the Registry if this understanding proves to be correct or changes.

The aforementioned transfer period has been reflected or has an impact on Scheduling activities in §4.2 (Electronic Transfer of Certificates), §7.2 (Suspension of Force Majeure), §8.1(a) (Two Delivery Business Days Grace Period) and §8.2(a) (Two Delivery Business Days Grace Period).

The Appendix does not cater for the possibility of physical netting of transactions as the Registry has to be informed in respect of each transaction among other information of the volume of Capacity Certificates transacted and the price of the Capacity Certificates if it is a Transaction. The Register will in accordance with this notification withdraw and allocate the Capacity Certificates

The Appendix provides for the possibility to elect in §22 that the Appendix shall be construed in accordance with and governed by the substantive laws of France. EFET is not recommending to elect law different to the law elected in §22 of the General Agreement. Nevertheless EFET members requested this possibility. Users considering to make such election should seek their own legal advice on the potential risk of using a governing law different to the law elected in §22 of the General Agreement for this French Capacity Certificates Appendix.