



**COMMENT RESPONSE DOCUMENT (CRD)
TO NOTICE OF PROPOSED AMENDMENT (NPA) 2008-17B**

**for an Agency Opinion on a Commission Regulation establishing the implementing
rules for the licensing of pilots**

and

**a draft Decision of the Executive Director of the European Aviation Safety Agency on
acceptable means of compliance and guidance material on the licensing of pilots**

“Implementing Rules for Pilot Licensing”

a. Explanatory Note

Due to the size of the document, parts b. (resulting text) and c. (replies to comments) will not be published in the Comment Response Tool, but only on the Agency's [website](#).

Reactions to any of these documents should be placed on the CRT by clicking the 'add a general reaction' button. Please clearly indicate the CRD#, the issue and, if relevant, the article/paragraph to which your reaction is placed.

Explanatory Note

I. General

1. The purpose of the Notice of Proposed Amendment (NPA) 2008-17, dated 3 June 2008, was to develop an Opinion on the Implementing Rules for the licensing and medical certification of pilots and a Decision on the related Acceptable Means of Compliance (AMC) and Guidance Material (GM). The scope of this rulemaking activity was outlined in Terms of Reference (ToR) FCL.001 and was described in detail in the NPA.
2. NPA 2008-17 was divided into 3 separate documents:
 - NPA 2008-17a contained the Explanatory Note to the NPA, with detailed explanatory memorandums for both Part-FCL and Part-Medical, as well as cross-reference tables between JAR-FCL 1, 2 and 3 and the proposals presented in the NPA.
 - NPA 2008-17b contained draft proposals for Implementing Rules (IR) and related AMC and GM for the licensing of pilots (Part-FCL).
 - NPA 2008-17c contained draft proposals for IR and related AMC and GM for the medical certification of pilots (Part-MED).

II. Consultation

3. NPA 2008-17 was published on the website (<http://www.easa.europa.eu>) on 5 June 2008.

The consultation period of the NPA was extended in accordance with Article 6(6) of the Rulemaking Procedure¹, at the request of stakeholders, to ensure an overlap of the consultation periods of the first extension NPAs². By the closing date of 28 February 2009, the European Aviation Safety Agency ("the Agency") had received 11.197 comments from over 800 commentators, including National Aviation Authorities, professional organisations, private companies and individual persons.

4. In addition, the Regulatory Impact Assessment for Part-FCL was published at the end of October 2008, as NPA 2008-22f, and was open for consultation until 15 April 2009.
5. Due to the amount of comments received, and in accordance with the work programme established by the Agency in agreement with the Commission and the Management Board, it was decided that the Comment Response Document (CRD) for NPA 2008-17 would be divided and published in phases. Accordingly, the present CRD only focuses on NPA 2008-17b (Part-FCL). An overview of the comments received, as well as of the changes made to the text of the NPA as a result, is included in Annex II to this Explanatory Note.
6. The CRD for NPA 2008-17c (Part-MED) should be published by end of May. As for the comments received on NPA 2008-17a (the Explanatory Note) a full CRD will not be published, even though the Agency has reviewed and taken into account all the comments. The comments included in NPA 2007-17a were largely a repetition of more detailed comments that were also made to NPA 2008-17b and c, and it was therefore not

¹ EASA Management Board Decision 08-2007, amending and replacing the Rulemaking Procedure, adopted at the Management Board meeting 03-2007 of 13 June 2007 (http://www.easa.eu.int/ws_prod/g/management-board-decisions-and-minutes.php).

² More specifically, NPA 2008-22, on Authority and Organisation Requirements, and NPA 2009-02, on Implementing Rules for Air Operations of EU Operators (http://www.easa.eu.int/ws_prod/r/r_archives.php).

considered necessary to provide a full CRD in this case. However, a brief overview of the comments received is included in Annex II to this Explanatory Note.

7. As for the comments received on NPA 2008-22f (the Part-FCL RIA), it was also decided not to publish a full CRD, even though the comments received were taken into account when reviewing the comments on Part-FCL.

III. Publication of the CRD

8. All comments received on NPA 2008-17b have been acknowledged and incorporated into part c. of this CRD with the responses of the Agency.
9. In reviewing and replying to the comments and making the necessary changes to the text of the NPA, the Agency was supported by the FCL.001 review group³. This group was created in accordance with the Rulemaking Procedure, and it included the members of the FCL.001 core drafting group as well as other experts from the Agency, National Aviation Authorities and industry, who had not been involved in the initial drafting phase. In addition, the Agency also relied on additional expertise whenever the complexity of the issues required so, and as it is highlighted in some cases in Annex II to this CRD.
10. The work on the review of comments was framed by the common approach to the extension of EU competences agreed between the Agency, the Commission and the Management Board of the Agency. This common approach established not only a detailed prioritisation of the work to be developed by the Agency, but also high level principles that would preside over the review of the comments. Among these were the adherence to ICAO Standards and Recommended practices, EU law and adopted Joint Aviation Requirements (JARs); the necessary due consideration to safety and regulatory principles and to the current distribution of text between hard and soft law, as well as to constraints such as changes stemming from the Basic Regulation and from Joint Aviation Authorities (JAA) NPAs which had reached consensus; the need to create proportionate requirements; and, finally, the requirement to pay special attention to the clarity, legal certainty and enforceability of the proposed regulatory text.
11. In responding to comments, a standard terminology has been applied to attest the Agency's acceptance of the comment. This terminology is as follows:
 - **Accepted** – The comment is agreed by the Agency and any proposed amendment is wholly transferred to the revised text.
 - **Partially Accepted** – Either the comment is only agreed in part by the Agency, or the comment is agreed by the Agency but any proposed amendment is partially transferred to the revised text.
 - **Noted** – The comment is acknowledged by the Agency but no change to the existing text is considered necessary.
 - **Not Accepted** - The comment or proposed amendment is not shared by the Agency

In some cases, due to the number of comments received and taking into account the existence of repeated comments, the Agency has also used **Noted** to reply to repeated comments. In this case, reference is made to the comment where the Agency has included a detailed answer.

12. The resulting text, highlighting the changes as compared to the text proposed in the NPA, is published as part b. of this CRD.

³ The composition of the FCL.001 review group can be found on the Agency's website (http://www.easa.europa.eu/ws_prod/r/r_crd.php).

Changes are shown as follows:

- deleted text is shown with a strike through: ~~deleted~~
- new text is shown in bold: **bold**

13. Parts b. (resulting text) and c. (replies to comments) will not be published in the Comment Response Tool, but only on the Agency's website, due to the size of the documents concerned. More details on the different documents, which are part of this CRD, can be found in Annex I to this Explanatory Note.
14. The Agency's Opinion will be issued at least two months after the publication of this CRD to allow for any possible reactions of stakeholders regarding possible misunderstandings of the comments received and answers provided.
15. Such reactions should be received by the Agency **by 9 June 2010** and should be submitted using the Comment Response Tool (CRT) at <http://hub.easa.europa.eu/crt>. When submitting their reactions, stakeholders are kindly invited to clearly identify the issue and, if relevant, the article/paragraph in question.

ANNEX I TO THE EXPLANATORY NOTE**CRD documents**

| <u>Original document</u> | <u>CRD #</u> | <u>Content</u> |
|---------------------------------|---------------------|---------------------------------------|
| N/A | CRD a | Explanatory Note |
| NPA 2008-17b | CRD b | Amended text |
| | CRD b.1 | Cover Regulation, Annex III, Annex IV |
| | CRD b.2 | Part-FCL |
| | CRD b.3 | AMC to Part-FCL |
| NPA 2008-17b | CRD c | Replies to comments |
| | CRD c.1 | General comments and Subpart A |
| | CRD c.2 | Subpart B |
| | CRD c.3 | Subpart C |
| | CRD c.4 | Subparts D, E, F |
| | CRD c.5 | Subpart G |
| | CRD c.6 | Subpart H |
| | CRD c.7 | Subpart I |
| | CRD c.8 | Subpart J |
| | CRD c.9 | Subpart K |
| | CRD c.10 | Appendices |
| | CRD c.11 | AMC |
| | CRD c.12 | Annex III, Annex IV |

ANNEX II TO THE EXPLANATORY NOTE**Explanatory memorandum on the review of comments on NPA 2008-17b and the resulting text****A. General analysis of comments received**

1. By the closing date of the consultation period of NPA 2008-17, the European Aviation Safety Agency ("the Agency") had received 11.197 comments from over 800 commentators, including National Aviation Authorities, professional organisations, private companies and individual persons. These comments were distributed as follows:
 - 714 comments on NPA 2008-17a (Explanatory Note);
 - 8.107 comments on NPA 2008-17b (Part-FCL);
 - 2.376 comments on NPA 2008-17c (Part-MED).

Comments received on NPA 2008-17a – Explanatory Note

2. A total of 714 comments were received on NPA 2008-17a. The majority of these comments focused on the same issues that were commented upon in NPA 2008-17b, with a large amount of them being repetitions of comments also provided in NPA 2008-17b. For that reason, they will not be specifically mentioned here.
3. Some of them were, however, original comments, specifically those on transition measures. NPA 2008-17 did not contain detailed proposals on transition measures for the new pilot licensing rules. However, the Agency highlighted some principles that it intended to apply in the definition of its proposals for those measures and specifically asked stakeholders to provide feedback on those principles. 52 comments were received on this issue, and they have been taken into account in the definition of the proposals that can be found in the draft Cover Regulation that is published in part b.1 of this CRD.

Comments received on NPA 2008-17b – Part-FCL

4. The following Tables show the distribution of comments received on NPA 2008-17b. From Table 1 it is easy to see that the large majority of comments address the text of the Implementing Rule (including the various Subparts of Part-FCL and the Appendices). Subpart B, dealing with the new licence, the Light Aircraft Pilot Licence (LAPL), was the Subpart that received the largest number of comments, closely followed by Subpart J, on instructors. Also here, as can be seen partly from Table 5, the paragraphs that received the largest number of comments were those dealing with the new Light Aircraft Flight Instructor (LAFI). After these two Subparts, the closest in terms of number of comments received was Subpart A, containing general requirements. As regards the Appendices, Table 2 shows that the vast majority of comments received were related to Appendices 3 and 9.

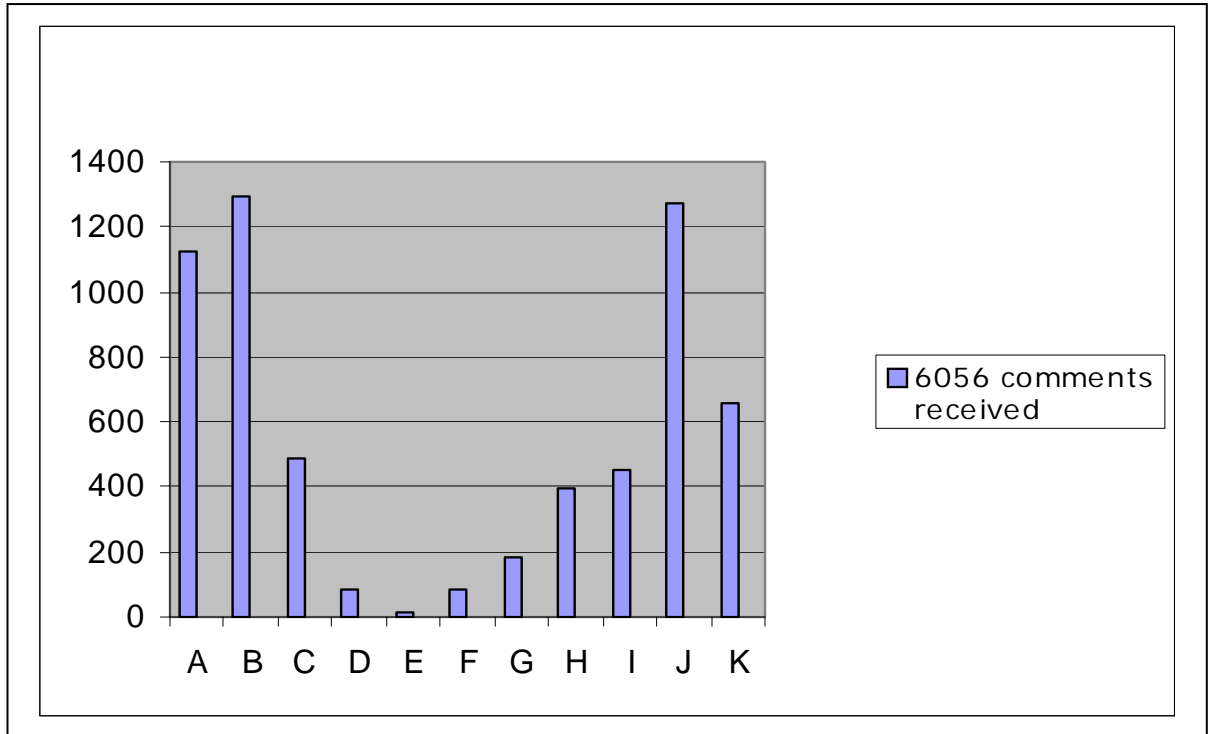


Table 1 – Comments on IR and distributions of comments between the Subparts

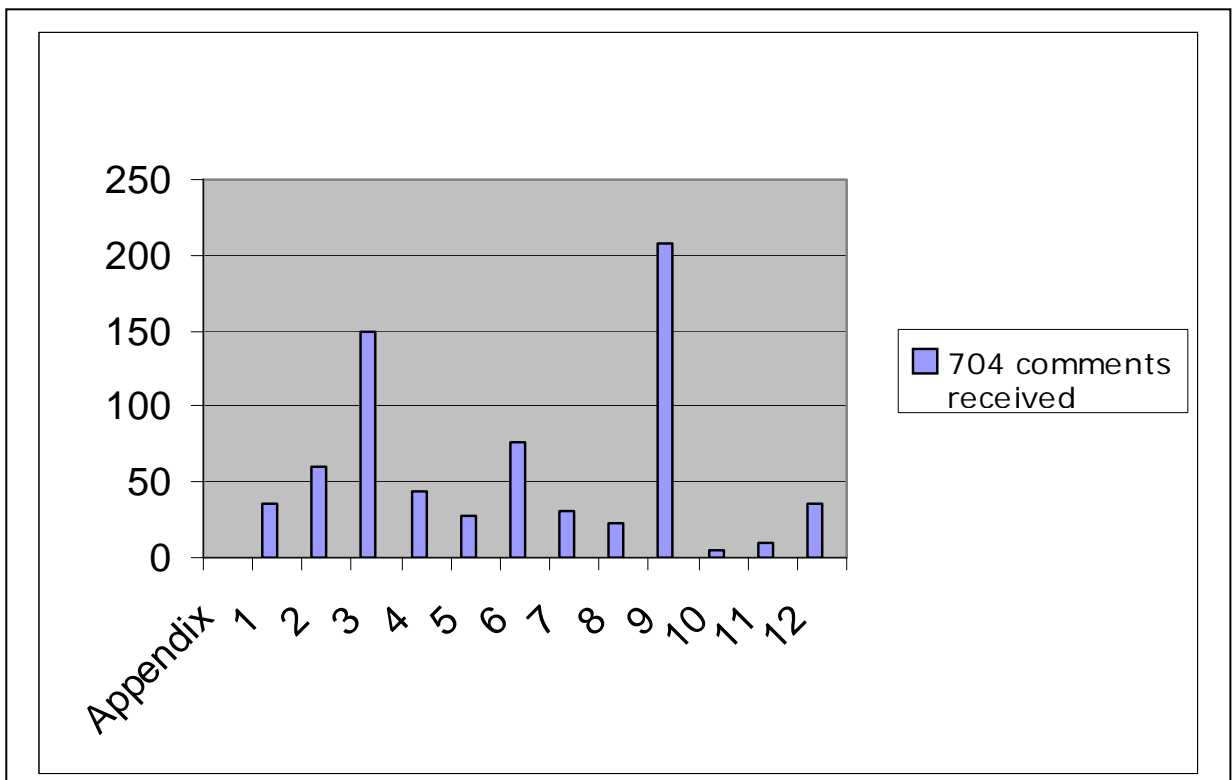


Table 2 – Comments received on Appendices to Part-FCL

5. Regarding the comments received on the AMC and GM to Part-FCL, Tables 3 and 4 show that the distribution of the comments closely follows the trends evidenced above for the Implementing Rules. The majority of comments addressed the AMC to Subparts B and J, and to Appendices 3 and 9.

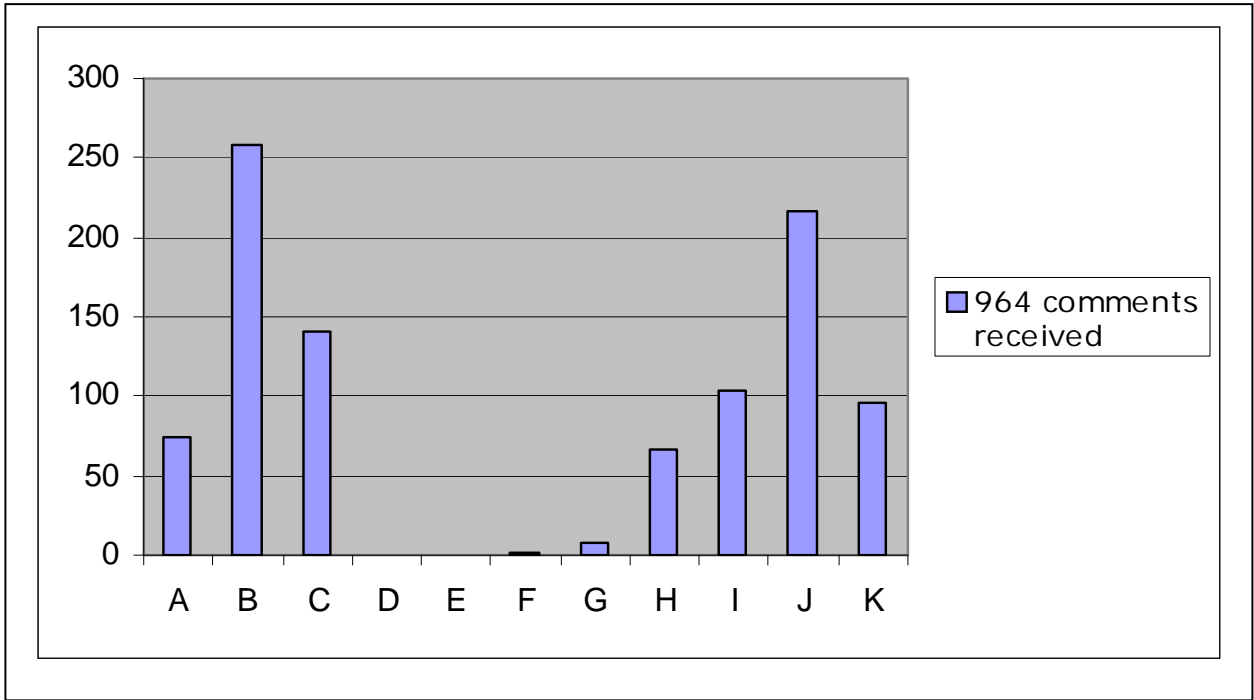


Table 3 – Comments received on the AMC/GM to the Subparts of Part-FCL

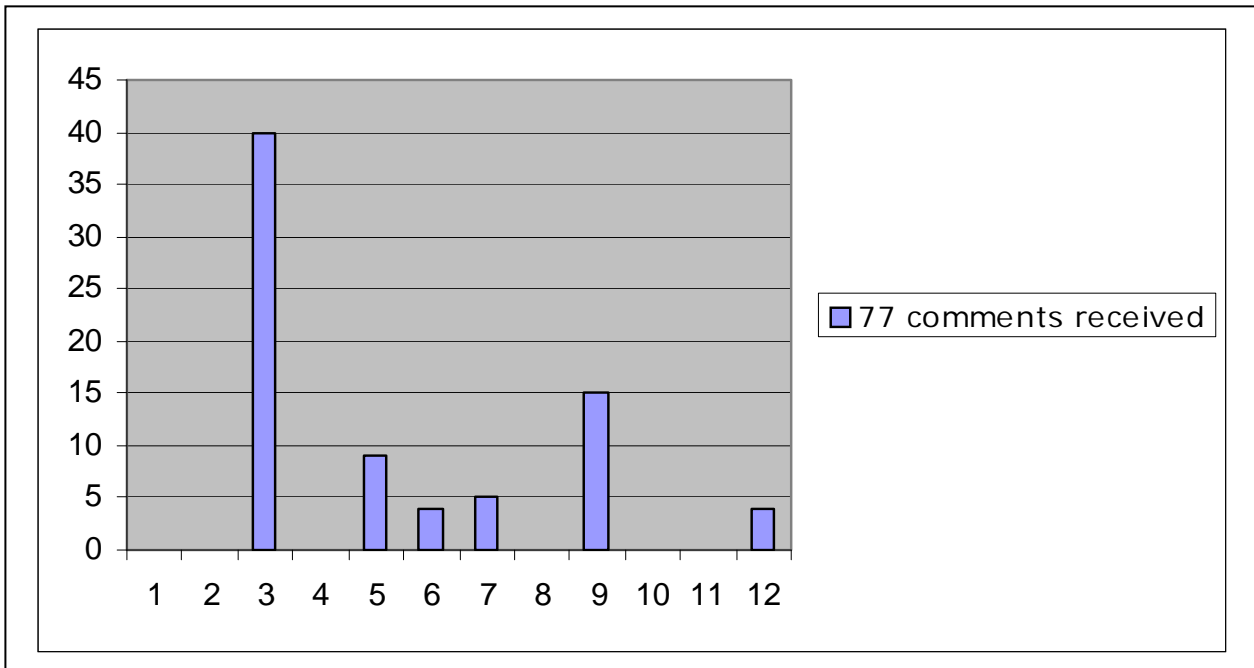


Table 4 – Comments received on the AMC/GM to Appendices to Part-FCL

6. The following Tables 5 and 6 also present some interesting data. They confirm the indication given above about the issues that raised the largest amount of comments: the new licences (specifically the licences for balloons and sailplanes and the LAPL) and ratings included in Subpart I (especially the aerobatic and sailplane and banner towing ratings), as well as instructors, specifically those dealing with those new licences and ratings (the LAFI and the FI). In addition to these items, Subparts A and K also contained paragraphs that were extensively commented, Subpart K, however, to a much lesser extent.

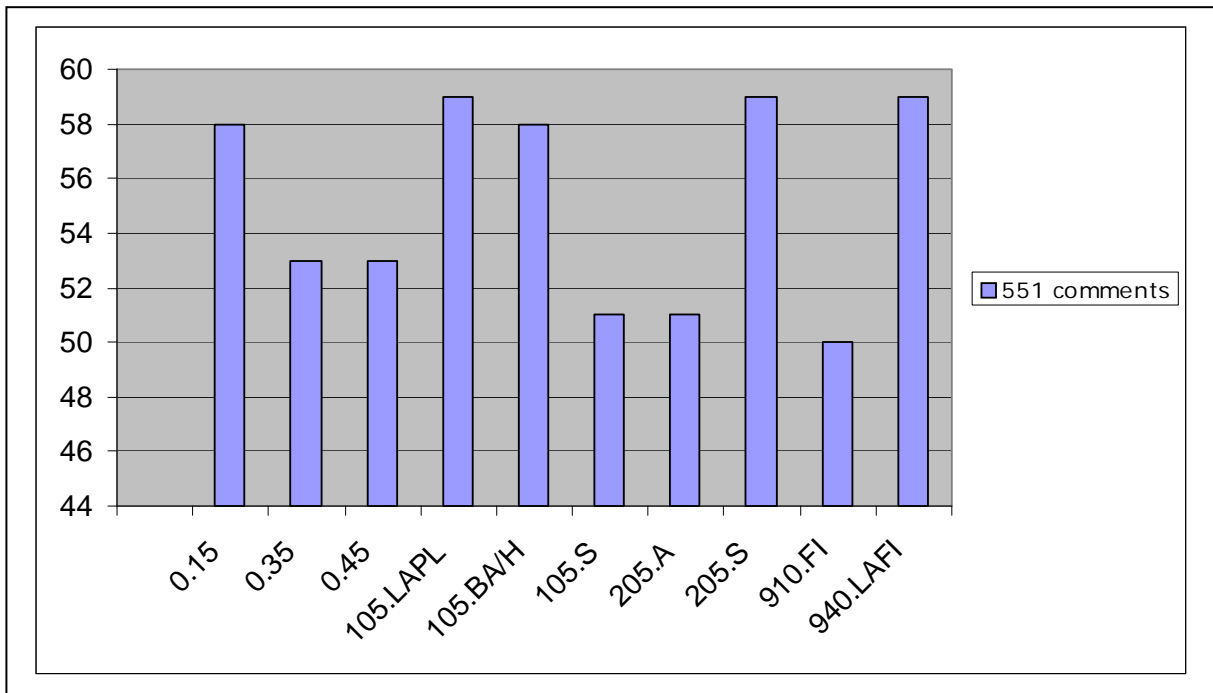


Table 5 – Paragraphs of Part-FCL having received 50-60 comments

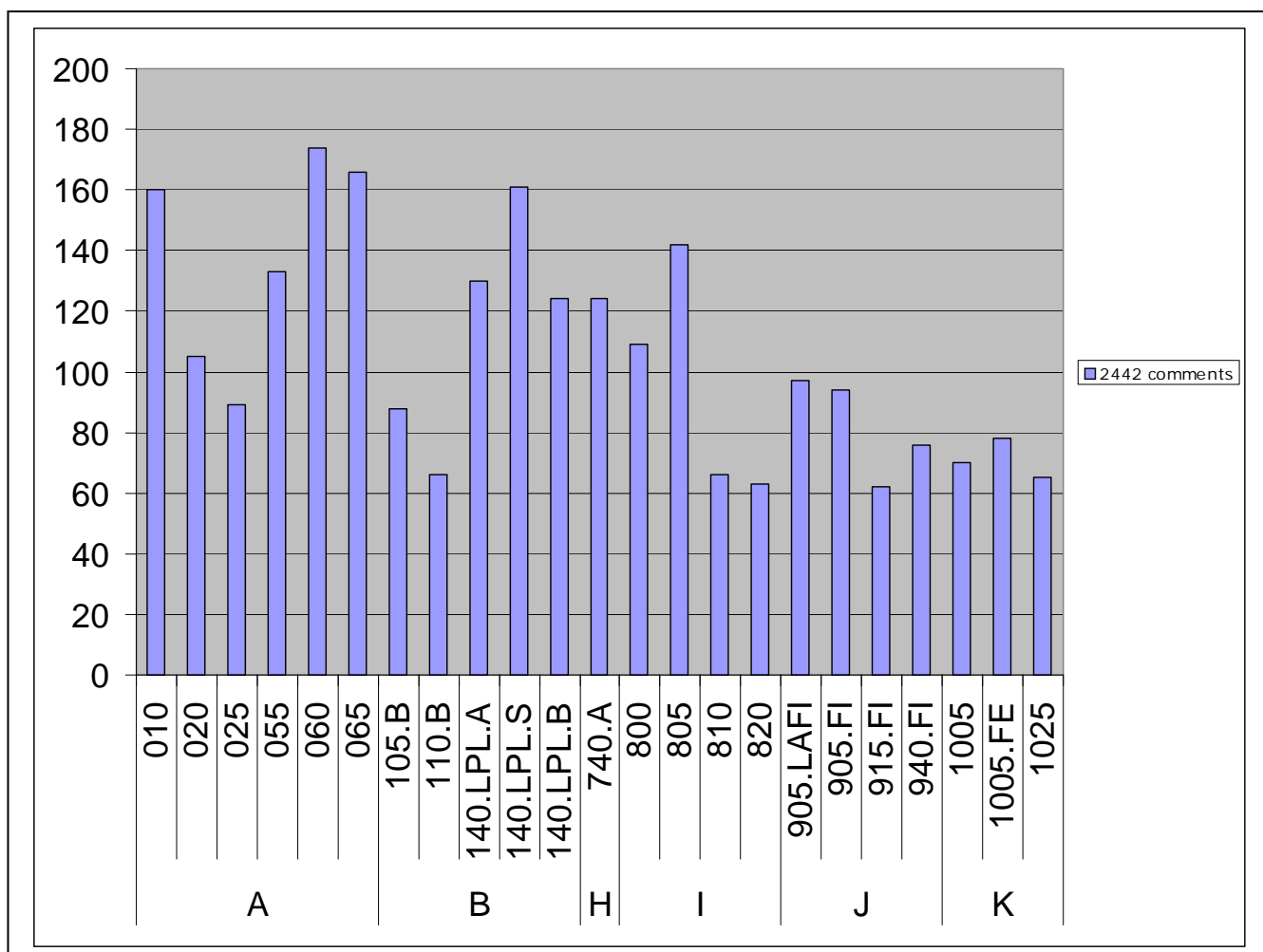


Table 6 – Paragraphs of Part-FCL having received more than 60 comments

7. Of course, not all of these comments represented individual or original views. Of the 8.107 comments received on NPA 2008-17b, 143 were identified as duplicates by the Comment-Response Tool – meaning that the same comment made by the same user had been introduced several times in different segments of the NPA. The tool unfortunately cannot identify cases where the same comment was introduced by different users. However, even a cursory reading of part c. of the CRD will show that this happened very frequently. In almost every segment, there were comments that were consistently repeated by groups of stakeholders. This happened in all categories: National Aviation Authorities, professional organisations, private companies and even individual persons.
8. Therefore, the conclusions extracted from an analysis of the number of comments received have to be considered in the light of this reality. It also needs to be understood that when assessing the comments, the primary factor considered by the Agency was the quality and pertinence of those comments, as well as the justifications provided. The number of comments received was useful in identifying the concerns of stakeholders, but it was not – as the Agency indicated several times to stakeholders – a decisive factor when evaluating the changes to be made to the initial proposals as a result of the consultation.

B. Description of comments received and resulting text

9. The Agency carefully reviewed and replied to the comments received on NPA 2008-17b. Based on this, changes were made to the initial draft text of Part-FCL and related AMC and GM. The following paragraphs highlight the most significant changes and explain the reasons behind the resulting text published in part b. of this CRD.

Cover Regulation

10. NPA 2008-17 did not contain draft proposals for a pilot licensing Cover Regulation, for the reasons that were detailed in the Explanatory Note (NPA 2008-17a). However, as it was already mentioned in paragraph 3 above, the Explanatory Note described the intentions of the Agency regarding the possible transition measures for Part-FCL. Based on the comments received on the Explanatory Note, the Agency has prepared a draft Cover Regulation, which is published with the resulting text in part b.1 of this CRD.
11. The Cover Regulation defines the general applicability of Part-FCL and its other Annexes (see paragraphs 12 and 13 below) and proposes transition measures for the applicability of Part-FCL. However, it needs to be noted that the definition of a maximum applicability date for the Implementing Rules for pilot licensing in Article 70 of the Basic Regulation has limited not only the periods available for transition, but also the type of possible transition measures. Indeed, since the Basic Regulation establishes that the Implementing Rules for pilot licensing shall be applicable no later than 8 April 2012, any transition measures going beyond that date need to be opt-outs.⁴

Annexes to the Cover Regulation

12. NPA 2008-17b contained 3 proposed Annexes to the pilot licensing Cover Regulation. Annex I was Part-FCL itself, which will be examined in detail later on. In addition, there were Annex III, on the acceptance of licences issued by non-EU Member States, and Annex IV, on the conversion of national aeroplane and helicopter licences⁵. The latter received a total of 54 comments, as a result of which some editorial changes were made, to improve the text and to better align it with JAR-FCL.
13. The Annex on the acceptance of licences issued by non-EU States received a total of 64 comments, based on which the Agency amended its initial proposals. Most of the changes made aim at better aligning the text with the provisions of JAR-FCL and at clarifying some aspects of the text. Namely, the text is now amended to better clarify the difference between the validation and the conversion of licences, and to include specific requirements for conversion. Some clarification on how to determine the competent authority is introduced. The text related to the validity period for the validation is also improved and explains in particular how and in which cases this period can be extended. A specific paragraph is added on the acceptance of class and type ratings issued by a non-EU State, which replicates the provisions that used to be included in Subpart F of JAR-FCL 1 and 2⁶.

⁴ An opt-out is a type of transition measure that leaves to the Member States the choice to postpone the implementation date of a certain provision, up to a certain time limit defined by law.

⁵ Taking into account the fact that, contrary to what was initially proposed, Part-MED will not be included in the same Opinion, the numbering of the Annexes to the Cover Regulation has changed. The acceptance of licences issued by non-EU States is still included in an Annex III, but the conversion of national licences is now regulated in an Annex II to the Cover Regulation.

⁶ JAR-FCL 1.240/2.240.

Part-FCL and related AMC and GM

Subpart A

14. As can be seen from Table 6 above, one of the most commented paragraphs in Subpart A was FCL.010, on definitions. In summary, these comments requested the addition of definitions coming from JAR-FCL that the Agency, in its initial proposal, had included in GM to FCL.010 and not in the text of the rule. This choice was made because these definitions were considered not necessary to understand the meaning of Part-FCL, as most of them were either used in common language or sufficiently explained by the rules themselves. However, since this was more an editorial issue than anything else, the Agency decided to accept the comments provided by stakeholders as far as possible and added to FCL.010 (therefore deleting them from the GM to FCL.010) all those definitions included in JAR-FCL that were used in the text of the rule and were not already covered by definitions provided by the Basic Regulation⁷.
15. FCL.015, on the application and issue of licences, ratings and certificates, was also one of the paragraphs in Subpart A that received a considerable amount of comments (see Table 5 above). The major issue raised was related to the Agency's proposal that a pilot could not hold at any time more than one licence issued in accordance with Part-FCL. This implied that all the privileges held by the pilot would have to be endorsed in just one licence and raised administrative concerns. It also had the potential to create problems in Member States where more than one competent authority is designated to issue pilot licences for different categories of aircraft. Therefore, the Agency has changed its initial proposal and has taken into account these valid concerns. The paragraph now states that a pilot shall not hold at any time more than one licence per category of aircraft. This reflects the system included in JAR-FCL. Other changes were made to the paragraph in order to take into account this new provision and to clarify the responsible competent authority for the issue of additional licences, ratings and certificates.
16. FCL.020, on the student pilot, also received a considerable amount of comments. These were mainly related to the proposed minimum age for the first solo flight of students for a sailplane or balloon licence. Since these aircraft were not covered by JAR-FCL, there were differences between the minimum ages that were established in each Member State. When drafting its initial proposal, the Agency analysed the different national systems and chose those that seemed more adequate, based on the input from the experts involved. After carefully considering the comments received, namely those from stakeholders requesting a higher minimum age, following what was established in their Member State, the Agency remains convinced that the minimum ages proposed are proportionate and provide for an adequate level of safety. Not only there is no data that shows that the minimum ages proposed would lead to a lower safety record, but also it needs to be noted that the minimum ages included in FCL.020 are those for the student's first solo flight; they are not the minimum age to apply for the issue of a licence, which are higher and follow ICAO Annex 1 standards. Therefore, no changes were made to the initial proposals.
17. As regards FCL.025, on theoretical knowledge examinations for the issue of licences, the majority of the comments received did not propose major changes to the content of the paragraph, but suggested editorial improvements to facilitate the interpretation of the provisions. The Agency accepted these comments as far as possible and the resulting text reflects the initial proposals with several editorial improvements.

⁷ Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, pg. 1), amended by Regulation (EC) No 1108/2009 of the European Parliament and of the Council of 21 October 2009 (OJ L 309, 24.11.2009, pg. 51).

18. The same can be said about FCL.035, on the crediting of flight time and theoretical knowledge, and FCL.045, on the obligation to carry and present documents (see Table 5 above). Comments received led fundamentally to editorial changes. The only exception was FCL.035(a), where the comments received identified an error when transposing JAR-FCL 1.050, which led to the involuntary suppression of 2 subparagraphs; this is corrected and these paragraphs are added to the resulting text.
19. FCL.055, on language proficiency, was one of the most commented paragraphs (see Table 6 above). The comments received focused on two main issues: the scope of the paragraph, specifically its applicability to balloon and sailplane pilots, and the validity periods for the language proficiency endorsement. After carefully considering the comments received, and the text of paragraph 1.2.9 of ICAO Annex 1, the Agency decided to exclude balloon and sailplane pilots from the scope of FCL.055. In relation to the validity periods for the language proficiency endorsement, the Agency has decided to extend the validity of the operational level endorsement from three to four years. Neither of these changes requires the notification of a difference to ICAO, since all the standards of paragraph 1.2.9 of ICAO Annex 1 are complied with. Another noteworthy change in relation to FCL.055 is that the Agency decided, for consistency reasons, to delete the table at the end of the paragraph, which detailed some of the language proficiency levels (levels 4 to 6) and to include it instead as an Appendix to Part-FCL. Since the content of the initial Appendix 2 to Part-FCL was transferred to AMC (for more details see paragraph 91 below), this table is now included as (a new) Appendix 2 to Part-FCL.
20. FCL.060, on recent experience for pilots (in commercial air transport or carrying passengers), was also subject to a high number of comments. Here again the main issues raised were in relation to the applicability to balloons and sailplanes. The Agency slightly amended its initial proposals in relation to balloons after carefully considering the arguments proposed by the commenters. The remaining changes proposed (and accepted) are essentially editorial.
21. Similarly, the high number of comments received on FCL.065 (see Table 6 above), on the curtailment of privileges of licence holders aged 60 years or more in commercial air transport, were related to its applicability to pilots of the new aircraft covered by Part-FCL, specifically balloon pilots. Based on the comments received, it seems that in several Member States the standards of paragraph 2.1.10 of ICAO Annex 1 have only been applied to pilots of certain categories of aircraft (aeroplanes and helicopters, mainly), while balloon pilots were not subject to any age-related limitations. After careful consideration, the Agency has decided not to amend its initial proposals, which, like the ICAO Annex 1 standard, apply to pilots of all categories of aircraft, as it is believed that the age related risks are not linked to the category of aircraft operated.
22. The AMC and GM to Subpart A received more than 50 comments, as can be seen from Table 3 above. As a result, several editorial amendments were made. In addition, and besides the change to the GM to FCL.010 already explained above in paragraph 14, new AMC and GM is included for FCL.015, FCL.025 and FCL.060.

Subpart B

23. As already mentioned and shown in Table 1 above, Subpart B was the one that received the largest number of comments. These comments ranged from general manifestations of agreement or disagreement to detailed amendments to the technical requirements proposed.
24. Probably the first thing that needs to be mentioned is the widespread disagreement of stakeholders with the name 'leisure pilot licence' foreseen in Article 7 of the Basic Regulation. The justification given for this disagreement was that the expression 'leisure' misrepresented the activity of the holders of these licences. Based on the comments received, the Agency decided to re-name the licence as Light Aircraft Pilot Licence

(LAPL). It was necessary therefore to include a definition in the Cover Regulation to ensure that there would be no doubts that this LAPL is the licence foreseen by the European Legislator in the Basic Regulation.

25. Several comments expressed disagreement with the creation of the LAPL and the Basic LAPL, specifically the comments related to the paragraphs in Subpart B dealing with the privileges of the Basic LAPL and the LAPL (FCL.105.BLAPL, A, H, S, and B). The Agency acknowledges the opinions expressed, but in relation to the LAPL, which was included in Part-FCL to fulfil an obligation created by the European Legislator in Article 7(7) of the Basic Regulation, it cannot take them into account. Furthermore, the Agency remains convinced that the requirements proposed for the LAPL provide for an adequate level of safety while fulfilling the principle of proportionality. This is consistent with the policies of the European legislator for General Aviation, as expressed in the Commission's Communication⁸ and European Parliament Resolution⁹ on an Agenda for Sustainable Future in General and Business Aviation. In fact, in the latter document, the European Parliament specifically calls on the Commission, 'when adopting implementing rules on aviation safety, to ensure that they are proportionate and commensurate to the complexity of the respective category of aircraft and operation'. Therefore, the principles behind the Agency's initial proposals remain essentially unchanged. The resulting text on the LAPL reflects therefore only changes made to the detailed technical requirements as suggested by several comments.
26. However, with regard to the Basic LAPL the initial proposals of the Agency for Section 2 of Subpart B have changed. The comments received prompted the Agency to review the research of comparable national requirements which had initially been performed during the drafting phase of the NPA. Furthermore, the Agency consulted several experts on this issue. Based on the results of this research and consultation, the Agency decided to delete the Basic LAPL for helicopters, and to re-draft the requirements on the Basic LAPL for aeroplanes, so that they would follow more closely the requirements of comparable national licences¹⁰. This implied both a change to the privileges given to licence holders (the exclusion of the possibility to carry passengers and a further limitation of local flights) and an adjustment of the technical requirements for the issue, use and continued validity of the licence. The Agency is convinced that the solution found is now proportionate and adequate in terms of safety.
27. Another issue that deserved a lot of comments was the issue of crediting, specifically the crediting of previous experience acquired in aircraft included in Annex II to the Basic Regulation, and therefore outside of the EASA system. Since these aircraft were excluded from the scope of EU competence and remain therefore fully within the competence of Member States, it is not possible to establish in EU law a system where credit would be given for something that is not known or controlled on the EU level. Therefore, a system that would credit a certain number of hours based on experience acquired flying those aircraft could not be included in Part-FCL. At the same time, the Agency recognised the reasons behind the comments. In order to solve this problem, the Agency has established a different crediting system for the LAPL¹¹. The revised Agency's proposal now establishes a crediting system for the LAPL that is based not on the amount of hours of previous experience, but on a pre-entry flight test through which the approved training organisation will evaluate the competencies and skill of the pilot. On the basis of this evaluation, credit against the minimum hours of flight instruction for the issue of the

⁸ Communication from the Commission of 11 January 2007, "Agenda for Sustainable Future in General and Business Aviation" (COM(2007)0869).

⁹ European Parliament resolution of 3 February 2009 on an Agenda for Sustainable Future in General and Business Aviation (2008/2134(INI)) (P6_TA(2009)0036).

¹⁰ The licences that was used as a basis for this work, due to their similarities with the Basic LAPL(A), were the French *Brevet de Base* and the U.S. LSA.

¹¹ The system established in JAR-FCL for the PPL, and which was the basis for the Agency's initial proposals, will continue to apply to the PPL. The new system for crediting will only apply to the LAPL.

licence may be granted, within certain limits. This allows an experienced pilot to receive some credit for the competencies already acquired, independently of the aircraft in which that was done. This solution, compliant with competency based principles for pilot training, allows pilots who have acquired significant experience in aircraft outside the scope of the Basic Regulation (namely those included in Annex II) not to be in a disadvantaging situation. It is therefore in full compliance with the principles of subsidiarity and proportionality.

28. Another major issue raised by comments in relation to subpart B was the mandatory proficiency check, which was required to maintain the validity of the LAPL. The controversial character of this requirement is well demonstrated in Table 6 above by the amount of comments received on the paragraphs of subpart B dealing with recency requirements (FCL.140.A, .H, .S and .B). The Agency acknowledges the reasoning behind the comments and, based on it, has decided to change its initial proposal. The resulting text no longer requires a mandatory proficiency check to maintain the privileges of the licence, but only in the case of renewal. Nevertheless, the requirement for a training flight with an instructor during each reference period (24 months, in the case of aeroplanes, sailplanes and balloons, and 12 months in the case of helicopters), which used to be an alternative requirement, is now mandatory. The Agency believes that this requirement, together with the required flight experience during the reference period, sufficiently ensures that the skills and competences of the pilot are maintained.
29. In addition to the changes indicated above, changes to the detailed technical requirements are made, based on the comments received. Full details can be found in the resulting text.
30. The AMC on Subpart B received more than 250 comments, as shown by Table 3 above. Several editorial changes, as well as technical improvement are made to the text as a result. In addition, new AMC and GM are included for FCL.110.BLAPL, .A and .H, as well as for FCL.110.S and FCL.210.S and FCL.130.B and FCL.230.B, and to FCL.135.BLAPL, .A and .H.

Subpart C

31. Subpart C, containing the requirements for the BPL, the SPL and the PPL did not receive a significant amount of comments. Only two of the paragraphs of Subpart C received more than 50 comments: FCL.205.A and .S (on the privileges of the PPL(A) and the SPL, respectively). Comments on these paragraphs were mostly related to the issue of remuneration for instruction and examination activities. The possibility for PPL, SPL and BPL holders to receive remuneration when exercising instructor or examiner privileges was introduced in the NPA. At the time, the Agency explained the reasons for this: already in JAR-FCL a PPL holder could be an instructor; but JAR-FCL precluded this instructor from receiving remuneration for this activity. This situation was one of the contributing factors for the lack of instructors for the private licences, which was felt very heavily by the General Aviation community, without any objective safety justification. After carefully considering the comments received on this issue, the Agency remains convinced that its proposal is proportionate and has no impact on current safety levels. Therefore, the text is maintained, even if some editorial changes are made for clarification.
32. The comments received on Subpart C lead to fundamental changes to the initial proposals of the Agency as regards the licences that were not included in JAR-FCL: specifically on the SPL and BPL. Sections 6 and 7 of Subpart C are therefore the ones where the resulting text is the most different from the initial Agency proposal.
33. The AMC on Subpart C received more than 100 comments. Several editorial changes, as well as technical improvements are made to the text as a result.

Subpart D

34. Subpart D, containing the requirements for the CPL, was mostly not contentious. The reduced amount of comments received focused mainly on editorial issues and lead to few amendments in the resulting text.
35. The only issue worth mentioning is the deletion of FCL.305.A, .H and .As, on privileges to act on commercial air transport. The origin in these paragraphs (at least for aeroplanes and helicopters) was Subpart N of EU-OPS and JAR-OPS 3. EU-OPS 1.060 and JAR-OPS 3.060 were two of the requirements which were recommended to be transferred to Part-FCL, as they contained limitations to the exercise of the privileges of CPL holders. However, the result of the analysis of the comments received on these paragraphs, and of the arguments and justifications presented, has convinced the Agency of the advantages of maintaining these paragraphs in the operational rules. Therefore, the referred paragraphs are deleted from Subpart D, and will be transferred to Section V of Part-OR.OPS, on the requirements for Flight Crew.
36. NPA 2008-17b contained no AMC or GM to Subpart D. However, the resulting text contains a new AMC to FCL.310, FCL.515 (b) and FCL.615 (b), which includes the former Appendix 2 to Part-FCL, as explained below in paragraph 91.

Subpart E

37. Subpart E, establishing requirements for the MPL, was one of the least commented. Therefore, with the exception of a few editorials to clarify the text, no changes are made to the initial proposals of the Agency.
38. NPA 2008-17 contained no AMC or GM to Subpart E. This has not changed as a result of the review of comments.

Subpart F

39. The same can be said for Subpart F, containing the requirements for the ATPL. Here again, with the exception of a few editorials to clarify the text, no changes are made to the initial proposals of the Agency. The only issue worth mentioning is the fact that paragraphs FCL.515.A and H, on the ATP modular course for aeroplanes and helicopters, respectively, are deleted and their content transferred to Appendix 3. This merely editorial change is the result of comments that showed that having only one of the courses outside of Appendix 3 could create confusion.
40. The AMC on Subpart F received almost no comments. The only change is therefore to delete the AMC to FCL.510.A and H, and to include it in the AMC to Appendix 3, as a result of the above mentioned change.

Subpart G

41. Subpart G, on the requirements for the instrument rating, received only a limited number of comments. The changes made to the text of the NPA are therefore limited, and mainly of an editorial nature. Perhaps the only point worth mentioning, since it is something that will appear several times in the text, is the deletion of the second sentence of FCL.625.A, which explained how to count the validity period of the rating. This sentence is deleted since it seemed to raise confusion when combined with the requirements on the setting of validity periods in Part-AR. Therefore, the Agency decided to delete this type of provision from Part-FCL and to only keep provisions on this issue in Part-AR.
42. The AMC on Subpart G received almost no comments. Only one editorial change is made to the text.

Subpart H

43. The number of comments received on Subpart H was not especially high. Only paragraph FCL.740.A, on the revalidation of class and type ratings for aeroplanes, received more than 60 comments. These comments were in fact related to an issue already discussed above in relation to Subpart B, the proficiency checks for the revalidation of ratings. In the case of Subpart H, the issue was however restricted to the revalidation of single-pilot single-engine aeroplane class ratings. The controversy was related to the fact that the NPA proposed a mandatory proficiency check every third revalidation. This was an addition to the requirements coming from JAR-FCL 1, where the proficiency check was only an alternative requirement. After carefully considering the comments received, the Agency decided to go back to the system established in JAR-FCL. Therefore the requirement for a proficiency check every third revalidation is deleted.
44. Several other contentious issues were also raised, which deserved special attention and lead to changes to the Agency's initial proposal.
45. The first relevant change is to FCL.700, in which a new paragraph (c) has been added to address the issue of flight tests. As was indicated in NPA 2008-17a, the Agency's proposals for Part-FCL included a paragraph (FCL.820, in Subpart I) on the qualifications of flight test pilots for some categories of flight test. This paragraph was the result of a specific Agency Rulemaking task on flight test issues (MDM.003), which proposed text for Part-FCL, Part-21, Part-AR and Part-OR¹². In order to review the comments received on those different NPAs in a structured and consistent manner, a specific review group for MDM.003 has been established. As regards Part-FCL, changes to the text resulting from the comments received and the input from this specialised group can be found in Subparts H, I and J. These changes are to be explained in the paragraphs related to each Subpart.
46. The change to FCL.700 has to be read in conjunction with the new text of FCL.820, on the flight test rating. The purpose of the text is to clarify in which circumstances the flight test rating can replace a type rating for the aircraft being flown, or the individual certificate specified in FCL.700 (b). Moreover, a new paragraph (e) to FCL.725 is introduced to specify conditions for test pilots who have been involved in development, certification or production flight tests for a certain aircraft type when applying for the issue of a type rating for that aircraft.
47. Other changes to Subpart H that need to be highlighted are those related to certain types of aeroplanes that because of their complexity and performance need specific regulation. In fact, this is not a new issue as already in the JAA the problems raised by the introduction of Very Light Jets (VLJ), as well as by the operation in multi-pilot conditions of single-pilot certificated aeroplanes had been repeatedly discussed. Nevertheless, there had never been agreement on possible related changes to JAR-FCL. When drafting Part-FCL, the Agency took the JAR-FCL as its basis, and therefore the Agency's initial proposals contained no solution to these problems. However, the comments received highlighted the need to introduce appropriate provisions. In parallel, the Agency also had the same input from the results of the operational evaluation of some of the affected aircraft types. In order to properly address this issue, the Agency established a selected group of experts from the Agency, National Aviation authorities and industry. The solutions presented by the group are reflected in the resulting text of Part-FCL.
48. The amendments proposed to Subpart H are essentially included in FCL.720.A, on the experience requirements and prerequisites for the issue of class or type ratings for

¹² The proposals for Part-AR and Part-OR were related to the approval of training organisations for flight test pilots, and were included in NPA 2009-22. The amendments proposed to Part-21, with specific requirements for design and production organisations undertaking flight tests, were included in NPA 2008-20 (http://www.easa.eu.int/ws_prod/r/r_archives.php).

aeroplanes. They address two different but inter-related issues: on the one hand, the qualifications for pilots flying single-pilot aeroplanes in multi-pilot operations; on the other hand the qualifications for pilots flying certain categories of single-pilot aeroplanes whose complexity and performance level justify specific more stringent requirements.

49. In order to address the first issue (multi-pilot operation of single-pilot certificated aeroplanes), the Agency is proposing the possibility for the type rating to be initially issued with privileges for multi-pilot operations, and requiring that, in this case, the pilot is qualified in multi-crew cooperation (MCC). JAR-FCL already included the possibility for a single-pilot aeroplane type rating to be restricted to multi-pilot operations when the proficiency check for the rating's revalidation was performed in a multi-pilot environment. However, there was no possibility for the rating to be issued initially with those privileges. Furthermore, the requirements for MCC only applied to type ratings for multi-pilot aeroplanes, which represented a serious lack of essential training for pilots flying single-pilot aeroplanes in multi-pilot operations. Therefore, in addition to changes in FCL.720.A¹³, the Agency also introduces changes in Appendix 9, to the skill test and training content for applicable to single-pilot aeroplanes.
50. The second issue (the requirements applicable to certain categories of single-pilot aeroplanes with high complexity and performance levels) was more complex. The first problem to be tackled is in fact the definition of the scope of aeroplanes that should be covered by the new, more stringent rules. In order to do this, two already existing concepts are used: on the one hand, the concept of High Performance single-pilot Aeroplane (HPA), and on the other hand the concept of complex aeroplane as defined in the Basic Regulation¹⁴. The conclusion of the experts is that not all HPA should be subject to the new rules; also, not all complex aeroplanes should be included, since by definition some of them are multi-pilot aeroplanes for which the existing requirements are considered adequate. Indeed, the aeroplanes that are in the end considered relevant are those HPA that are also complex aeroplanes¹⁵. Accordingly, a new paragraph dedicated to single-pilot high performance complex aeroplanes is added to FCL.720.A¹⁶. This paragraph requires a pilot applying for the issue of a rating for one of these aircraft to hold a multi-engine IR(A)¹⁷, in addition to complying with the already established requirements for HPA that are not complex aeroplanes¹⁸. In addition, changes are made in Appendix 9, to the skill test and training content, which make the multi-pilot content applicable to these aeroplanes (with a few necessary adaptations). Some related changes are also made to Appendix 8, on the cross crediting for the instrument rating part of a type or class rating proficiency check.
51. Another addition made to FCL.720.A is to foresee the possibility for some type ratings to be initially subject to a certain amount of flight time under supervision, when considered necessary for the specific type. This is particularly relevant in the case of VLJ, as this has already been required/recommended both in Europe and in the United States. The new paragraph (f) of FCL.720.A does not determine when that training is necessary, leaving it

¹³ New paragraphs (b)(3) and (c).

¹⁴ Article 3(j)(i) defines complex aeroplane as an aeroplane with a maximum certificated take-off mass exceeding 5.700kg; or certificated for a maximum passenger seating configuration of more than 19; or certificated for operation with a minimum crew of at least 2 pilots; or equipped with (a) turbo-jet engine(s) or more than one turbo-prop engine.

¹⁵ A list of current aeroplanes included in this scope can be found in Tables 7, 14 and 16 of the List of aeroplane class and type ratings and endorsement list published by the Agency (http://www.easa.europa.eu/ws_prod/c/c_oeb_general.php)

¹⁶ New paragraph (c).

¹⁷ Similarly to what was already the case for multi-pilot aeroplanes, the requirement to hold an IR(A) applies not only for the issue of a first type rating for these aeroplanes, but also for the issue of any additional ratings. This is made clear in a new paragraph (e) to FCL.720.A.

¹⁸ Which includes already the obligation to be qualified in MCC, as established in (b)(3), when the pilot seeks privileges to operate in multi-pilot conditions.

to be determined on a case-by-case basis for each type in their operational suitability data, but it clarifies how this requirement should be implemented.

52. The remaining changes made to the text of Subpart H are essentially editorial, to either recover elements that were not correctly transferred from JAR-FCL, or to take into account the developments on the operational suitability data Rulemaking task¹⁹.
53. The AMC on Subpart H received more than 50 comments. Several editorial changes, as well as technical improvements, are made to the text as a result. In addition, new text is added to AMC.720.A (b)(2)(i), which was transferred from Appendix 10, as explained in paragraph 97 below. AMC to FCL.735.A is also changed, with a new content for the MCC course. As highlighted by one of the comments, the Agency had not correctly transferred the text of JAA NPA FCL-36; the correct text is then introduced, and following the intent of the JAA NPA, extended to all categories of aircraft. As a result, the new AMC also applies to helicopters and airships, and the original AMC to FCL.735.H is deleted. Other AMCs are introduced, namely an AMC to FCL.735.A (b), with the training course content for class ratings-sea, and an AMC to FCL.740.H (b)(3), including what used to be the content of Appendix 11, as is explained below in paragraph 98.

Subpart I

54. Although the total amount of comments received on Subpart I was not very high, 4 out of its 5 paragraphs were among those with the highest amount of comments (see Table 6 above). These were the paragraphs dedicated to ratings which did not exist in JAR-FCL, and were included in the Agency's proposals based on existing national ratings or qualifications: the aerobatic rating, the sailplane and banner towing ratings, the mountain rating, and the flight test rating. The only paragraph that was not so heavily commented was FCL.810, on the night rating, which already existed in JAR-FCL. All the paragraphs in Subpart I are amended as a result of the comments received.
55. In the case of the aerobatic rating, foreseen in FCL.800, changes made focus mainly on the technical requirements, taking into account the comments received.
56. For the sailplane and banner towing rating, foreseen in FCL.805, more substantial changes are made to clearly separate the sailplane towing from the banner towing rating and to improve the related technical requirements. Based on the input received the Agency clarified that the training for this rating, as well as for all the other ratings, has to be completed within a training course at an approved training organisation.
57. In relation to the night rating, provided for in FCL.810, changes made specifically address the requirements applicable to aeroplanes, TMG and airships and make them more consistent with those required for helicopters²⁰. Furthermore, taking into account the input received, the requirements for the night rating for sailplanes are deleted. Some other changes are also made to the technical requirements for all categories of aircraft based on the comments received.
58. The mountain rating, established in FCL.815, is also changed to clarify that it only applies to aeroplanes and TMG. Requirements for other categories of aircraft may be developed at a later stage. Moreover, the text is amended to reflect that there is only one mountain rating with different wheel or ski privileges and not two different ratings as initially proposed.
59. As for the flight test rating, in FCL.820, the comments received and the input from the flight test review group (already mentioned above in paragraph 45) resulted in several

¹⁹ NPA 2009-01 (http://www.easa.europa.eu/ws_prod/r/r_archives.php).

²⁰ These inconsistencies derived from the differences between JAR-FCL 1 and 2, and were highlighted by comments.

changes to the initial proposal. These changes restrict the scope of the flight test rating in terms of which aircraft are affected; clarify the privileges given by the rating and the difference between the roles of pilot-in-command and co-pilot; and develop the requirements to obtain the rating.

60. The AMC on Subpart I received more than 100 comments. Several editorial changes, as well as technical improvements are made to the text as a result, specifically as regards the AMC to FCL.800, on the content of the aerobatic rating training course, and to FCL.820, on the content of the flight test rating course.

Subpart J

61. Subpart J, on instructors, was one of the most commented. However, an analysis of Tables 5 and 6 above shows that the most controversial paragraphs were those related to the LAFI and the FI. Apart from a high amount of comments on the detailed technical requirements for instructors for categories of aircraft which were not subject to JAR-FCL (balloons, sailplanes, powered-lift and airships) and which justified several changes to the Agency's initial proposals, three main issues were identified in the comments: the existence of the LAFI itself; the credit given to holders of an LAFI or FI when applying for additional privileges (for other categories of aircraft, or for another category of instructor certificate); and the mandatory proficiency check for the revalidation of the LAFI and FI certificates.
62. As regards the creation of the LAFI, which is a new instructor category in relation to what is foreseen in JAR-FCL, after carefully reviewing the comments, the Agency remains convinced that this new category of instructor is needed. With the changes made to the initial proposals as a result of the comments, the Agency believes that it has reached a safe and proportionate solution, which will contribute to the revitalisation of General Aviation while not affecting the current safety level. This is, again, consistent with the policies of the European legislator for General Aviation²¹.
63. The same can be said for the issue of the credit given to holders of an LAFI or FI when applying for additional privileges. Based on the comments received, the crediting system is now improved.
64. As for the issue of the mandatory proficiency check for the revalidation of the LAFI and the FI, based on the comments received the Agency has decided to delete this requirement for the LAFI. However, it is maintained for the FI, since it was already a requirement for this category of instructor in JAR-FCL.
65. Several comments also asked for a clarification of the scope of FCL.900 (b), which establishes special conditions for the issue of instructor certificates in the case of introduction of new aircraft. After carefully considering the comments received, the text of the paragraph is amended. Moreover, the maximum validity of the specific certificate is reduced to one year, based on input from experts who consider that one year is enough to cover the specific situations regulated in that paragraph.
66. Another issue is related to the requirements applicable to instructors providing instruction outside the territory of the Member States. In the JAA system, instructors working for training organisations located outside the JAA Member States (foreign instructors) did not have to comply with the same requirements as instructors working for training organisations located inside JAA Member States (European instructors). The requirements for foreign instructors were contained in an Appendix 1 to JAR-FCL 1.300, in accordance with which it was possible for training organisations located outside the JAA to use instructors qualified by other authorities.

²¹ See paragraph 25 and footnotes 8 and 9 above.

67. NPA 2008-17b did not make a distinction between the requirements for foreign and European instructors. All of them had to comply with the same requirements. With this system, and unless otherwise provided for in a bilateral agreement between the EU and a third country on the recognition of licences, ratings and certificates, foreign instructors would need to hold a licence issued or accepted in accordance with Part-FCL and an instructor certificate issued in accordance with Part-FCL.
68. Based on the comments received (which requested that the JAR-FCL system was maintained), and further feedback from stakeholders, the Agency is proposing a new solution. The new text is included as a new paragraph (c) to FCL.900. It will now be possible for foreign instructors to only hold a licence issued in accordance with ICAO Annex 1 (as was the case in JAR-FCL). However, they will need to comply with the requirements of Part-FCL for the relevant category of instructor certificate. In addition, foreign instructors will always have to hold at least a CPL (as was already the case in JAR-FCL) and also to demonstrate to the competent authority to which they apply for the issue of the certificate that they have an adequate level of knowledge of the European system and regulations to be able to exercise instructional privileges. Moreover, as was already the case in JAR-FCL, foreign instructors will be restricted to provide training outside the territory of the Member States and to students that can adequately understand the language in which the training is provided.
69. The Agency considers that the fact that foreign instructors need to comply with the same requirements for the issue of the relevant instructor certificate as European instructors ensures an equivalent and adequate level of safety. On the other hand, the fact that they will be allowed to hold an ICAO compliant licence issued by a foreign authority provides for adequate proportionality. Furthermore, the Agency has conducted a comparison between the requirements in Appendix 1 to JAR-FCL 1.300 and its new proposal, and is convinced that the impact of the proposed changes will be only marginal.
70. Other changes were introduced to Subpart J as a consequence of the new requirements for single-pilot high performance complex aeroplanes (see above, paragraphs 47 to 51). In fact, the comments received on this issue questioned not only the adequacy of the technical requirements for the issue of the related ratings, but also the required qualifications for the instructors and examiners competent to train and assess pilots for those aeroplanes (specifically in relation to the CRI). Based on the comments received as well as on the input from the group of experts tasked to present proposals on this issue, the Agency decided to create a new TRI and SFI for single-pilot aeroplanes and, conversely, to exclude the privileges of the FI, CRI and the STI for single-pilot high performance complex aeroplanes. Specific proportionate requirements are therefore introduced for the issue and maintenance of the new TRI and SFI certificates for single-pilot aeroplanes, which can be found in Sections 4 and 7 of Subpart J.
71. In addition to this, a new category of instructor certificate is included - the flight test instructor (FTI) - based on the comments received and the proposals from the flight test review group. Initially, the Agency had proposed to give the privilege to conduct instruction for the flight test rating to the FI. However, input received has convinced the Agency that this solution was not adequate, and that the specificity of the flight test activity and of the related training justified a new category of instructor certificate. The requirements for the FTI are included in a new Section 11 to Subpart J, which includes the related privileges and conditions; the prerequisites for the issue of the instructor certificate; the related training course; and the conditions to maintain or renew the validity of the certificate.
72. It is also worth mentioning that two new general paragraphs are introduced in Section 1 of Subpart J. FCL.930, on the training course for instructors, was introduced to avoid repeating the same provision for each instructor certificate. FCL.930.LAFI, .FI, .TRI, .CRI, .IRI, .SFI, .MCCI, .STI and .MI are amended accordingly. FCL.935, on the assessment of

competence for instructors²², is the second of the paragraphs introduced in Section 1. As explained also below in paragraph 99, one of the reasons to include this general paragraph was the fact that Appendix 12 was not considered applicable to all categories of instructors. Therefore, the Agency decided to include in Section 1 of Subpart J a paragraph specifying general requirements applicable to the assessment of competence of instructors. This paragraph is then complemented for the TRI with a specific paragraph in Section 4 (FCL.935.TRI)²³, as well as AMC material to FCL.935.

73. Another change that needs to be highlighted is the fact that the Agency has harmonised, as far as possible, the structure and content of the training courses for all categories of instructors to specifically ensure that the 'teaching and learning part' of the courses would have an equivalent duration and content, so that any holder of an instructor certificate could get credit for that specific part of the course when applying for an extension of privileges to another category of instructor. Therefore, the training course related paragraphs in all Sections of Subpart J are amended to reflect these changes.
74. Moreover, several changes along the text are made either to align the text better with JAR-FCL, or to improve on the Agency's initial proposals. In the case of the LAFI, the detailed technical requirements are amended as a result of the comments received. In relation to the FI, the only relevant change that has not been mentioned so far is the re-introduction of the requirement for the FI to have at least the CPL theoretical knowledge level. The Agency had initially proposed to alleviate this requirement, allowing that an FI instructing for the PPL and LAPL would have only the PPL theoretical knowledge level. However, the comments received, highlighting among other things that this would represent a difference to ICAO Annex 1 requirements, convinced the Agency to return to the original text of JAR-FCL.
75. In addition to the changes highlighted above in paragraph 70, several other changes are made to the TRI, to adjust the technical requirements and privileges taking into account the comments received. It is worth mentioning the adjustment that is made to improve the text on the issue of the TRI with privileges restricted to FSTD, based on NPA FCL-36.
76. As for the CRI and IRI, no significant changes are made, with the exception of the addition of the privileges for the CRI to instruct for the aerobatic or towing ratings, when the CRI has demonstrated the ability to do so. In relation to the SFI, and apart from the changes mentioned above in paragraph 70, several adjustments are made to the text to align it better with the text of JAR-FCL. Also the MCCI and STI are only subject to minor changes (in addition to those mentioned in paragraph 70, in the case of the STI). As for the MI, some minor changes are made to require a pre-entry flight test to assess the applicant's skill. However, since one of the prerequisites for the MI is to already hold an instructor certificate, through which the applicant has already demonstrated the ability to act as an instructor, the requirements for this category are not as detailed as for the other instructor categories in Part-FCL.
77. The AMC on Subpart J received more than 200 comments. Several editorial changes, as well as technical improvements are made to the text as a result. In addition, new AMCs are included for FCL.935, as already mentioned in paragraph 72 above.

²² The initial proposals of the Agency used the expression 'instructor skill test'. During the comment review, the Agency realised that it would be preferable to use a different terminology not to create confusion with the skill test for the issue of licences and ratings.

²³ The TRI is the only category of instructor for which there were specific requirements related to the assessment of competence in the rule. For all other instructor categories, the current text of FCL.935 covers all the rule material included in NPA 2008-17b.

Subpart K

78. As can be seen from Table 1 above, Subpart K, on examiners, received a bit more than 600 comments, which overall does not make it one of the most commented Subparts. However, there was significant controversy surrounding the Agency's proposals related to the relation between examiners and competent authorities. The Agency carefully considered the comments received, and is proposing several changes in Section 1 of Subpart K to address the issues raised, specifically in paragraphs FCL.1015 and FCL.1030, as will be explained in more detail in paragraphs 82 and 85 below.
79. FCL.1000, containing general requirements for examiners, and regulating special conditions for the issue of examiner certificates is only subject to some editorial changes to improve clarity and to clarify the scope of paragraph (b), similarly FCL.900, as explained in paragraph 65 above.
80. FCL.1005, on the limitation of privileges in case of vested interests, is subject to several changes to limit its scope, as a result of the comments received that, while expressing the agreement with the general intention of the paragraph, highlighted that its provisions were too broad in scope.
81. FCL.1010, on the pre-requisites for examiners, is only subject to editorial improvements.
82. FCL.1015, on examiner standardisation, is subject to several changes to improve the clarity of the requirements for the examiner standardisation course. Moreover, a new paragraph (c) is added to clarify that examiners may not assess applicants whose competent authority is not the same as the one that issued the examiner's certificate without prior information to that competent authority and until they have been adequately briefed on the relevant national procedures and regulations. This change is introduced to address the concerns expressed by several comments (specifically from National Authorities) on the potential impact on safety and oversight of the mutual recognition of examiner certificates, established in the Basic Regulation, which implies the possibility for examiners to freely exercise their privileges in the European Union.
83. FCL.1020, on the examiner assessment of competence, is changed at the request of several comments in order to clarify who is responsible for exercising this task for the competent authority. It is now clear that it can be an inspector from the authority or a senior examiner specifically authorised to do so by the authority. A new AMC to FCL.1020 is added to provide further details on this issue.
84. FCL.1025, on the validity, revalidation and renewal of examiner certificates, is amended to clarify the requirements and also to introduce the possibility for applicants holding privileges for more than one category of examiner certificate to achieve combined revalidation of their privileges. This was done on the basis of material already existing in the JAA.
85. FCL.1030, on obligations for examiners when conducting skill tests, proficiency checks and assessments of competence, is amended not only to integrate several editorial improvements, but also, and more importantly, to limit the possibility for examiners to endorse the applicant's licence or certificate with the new validity date only when specifically authorised to do so by the competent authority of the applicant. This is another change made at the request of stakeholders (mainly NAAs) to address their concerns with the maintenance of safety levels and oversight.
86. Concerning the different categories of examiner, several changes are made to clarify the requirements; to take into account stakeholders' concerns; and, in several cases, to better align the text with JAR-FCL. Changes are also introduced to the privileges of the FE, TRE, CRE and FIE for aeroplanes, to take into account the new requirements and instructor privileges for single-pilot high performance complex aeroplanes, as explained

above in paragraphs 47 to 51 and 70. Accordingly, the privilege to conduct skill tests, proficiency checks and assessments of competence for these aeroplanes are excluded from the privileges of the FE and CRE, and added to those of the TRE. As for the privilege to assess the new TRI for single-pilot aeroplanes, it is added to the privileges of the FIE.

87. The AMC on Subpart K received more than 50 comments. Several editorial changes, as well as technical improvements are made to the text as a result. In addition, new AMC and GM are included for FCL.1005 (b), FCL.1010 and FCL.1015.

Appendices to Part-FCL

88. As can be seen from Table 2 above, the amount of comments received on the Appendices to Part-FCL was not very high. Only Appendices 3 and 9 (which are also the longest Appendices to Part-FCL) received a significant amount of comments (around 150 in the case of Appendix 3, and more than 200 in the case of Appendix 9). Of all the other Appendices, only Appendices 2 and 6 received more than 50 comments. The following paragraphs describe the changes made to the Appendices to Part-FCL as a result of the comments received.
89. As a general note, it should be highlighted that a significant amount of comments requested the Agency to change to the tables included in Appendices 4, 9 and 12, which specify the detailed training and testing content for the professional licences, class and type ratings and the instructor certificates. Those comments requested that the tables be improved so that they could be used directly as forms to be filled by examiners when assessing applicants. The Agency considered taking up the task, but soon realised that it could not be completed during the timelines for the FCL.001 task. Therefore, the Agency decided to leave the tables as they were in JAR-FCL and to further develop them (and possibly turn them into forms) through rulemaking task FCL.002, which is scheduled to start soon after the publication of the FCL Opinion. For the moment, these tables can be used as content lists, and competent authorities can eventually use them to develop their own national forms.
90. Appendix 1, on the crediting of theoretical knowledge, is only subject to editorial changes.
91. In NPA 2008-17b, Appendix 2 to Part-FCL contained the detailed theoretical knowledge syllabi for the ATPL, CPL and IR for aeroplanes, helicopters and airships. Based on the comments received, the Agency has transferred these syllabi to AMC. This is done for two main reasons: on the one hand, there will be no negative effect on safety, since the high level syllabi for the CPL, ATPL and IR is included in the rule, and for these licences the theoretical knowledge examinations are harmonised through the central question data bank; on the other hand, the Agency intends to introduce into AMC the detailed Learning Objectives developed by the JAA²⁴, which cover in even more detail the elements of the syllabi. The Agency considers that there is no need to have three different levels of syllabi in the Part-FCL related material, and that no benefit would result from maintaining the content of Appendix 2 at rule level. Therefore, the theoretical knowledge syllabi for the ATPL, CPL and IR, with some editorial changes resulting from the comments received, can now be found in AMC No 1 to FCL.310, FCL.515 (b) and FCL.615 (b)²⁵. The new Appendix 2 to Part-FCL now contains the language proficiency rating table for levels 6 to 4, as explained above in paragraph 19.
92. Even though Appendix 3, on training courses for the issue of the CPL and the ATPL, received a high amount of comments, a large proportion of these were repeated in the various parts of the Appendix, related to the different courses. Changes made by the

²⁴ This will be done through the Rulemaking task FCL.002, which is planned to start shortly after the publication of the Part-FCL Opinion.

²⁵ See resulting text, AMC to Subpart D.

Agency as a result of the comments are mainly editorial and aim at better aligning the text with JAR-FCL. The only noteworthy changes are the transfer to AMC of the provisions on the duration of the courses, which are not essential safety elements and require flexibility; and the transfer of the provisions on the ATP modular courses from Subpart F to this Appendix, for the reasons already explained in paragraph 39 above. The AMC to Appendix 3 received around 40 comments and some changes were made to the text as a result. In addition, as already explained in paragraph 40 above, some material is transferred from the AMC to Subpart F.

93. Appendix 4, on the skill test for the issue of a CPL, is only subject to editorial changes. The same can be said for Appendix 5, on the integrated course for the issue of the MPL. The GM to Appendix 5 received around 10 comments, which justified no changes to the text.
94. No major changes are made to Appendix 6, on the modular training courses for the IR, nor to Appendix 7, on the IR skill test. The amendments that can be seen in the resulting text are just editorial. The AMC and GM to these Appendices received a very limited amount of comments, and only editorial changes are made as a result.
95. As for Appendix 8, on the cross crediting of the IR part of a class or type rating proficiency check, apart from editorial issues, the only changes worth mentioning are those done to the table for aeroplanes (Appendix 8.A), which are the result of the changes made for single-pilot high performance complex aeroplanes, as explained above in paragraph 50.
96. Appendix 9 was the one that received the highest amount of comments. Several changes are made to the original text as a result. They are mostly editorial to improve the text and the formatting of the tables. Other changes are made to include part of the text of JAR-FCL that had erroneously not been included in the original text. In addition to these amendments, which do not really change the initial content/purpose of the Appendix, some other differences can be seen in the text related to aeroplanes. These were the changes necessary to adapt the flight training and skill test/proficiency check for single-pilot and multi-pilot aeroplanes required to take into account the new approach for high performance complex single-pilot aeroplanes, as already indicated above in paragraphs 49 and 50. The AMC to Appendix 9 received only around 15 comments. As a result, the Agency made some editorial changes. In addition, a new AMC is added, as a result of one of the comments received on Appendix 9 itself.
97. The content of Appendix 10, on the course of additional theoretical knowledge for a class or type rating for high performance single-pilot aeroplanes, is transferred to AMC, similarly to what happened to Appendix 2. Taking into account the comments received and considering the work that was done in relation to single-pilot high performance complex aeroplanes, as well as the future role of the operational suitability data, the Agency concluded that there would be no negative impact on safety if the comments that requested the transfer of this text to AMC were followed. Therefore, the content of Appendix 10 is added to the already existing AMC No 1 to FCL.720.A (b)(2)(i).
98. Appendix 11, on the cross crediting of proficiency checks for revalidation of helicopter type ratings is also transferred to AMC, taking into account the comments received, and after carefully considering the implications. Also in this case, the Agency is convinced that there will be no negative safety impact. The content of Appendix 10 is now included in a new AMC No 1 to FCL.740.H (b)(3).
99. Also Appendix 12, on the skill test, proficiency check and verbal theoretical knowledge examination for the instructor certificated can no longer be found in the resulting text. However, the case of Appendix 12 is different since its content is partly transferred to a new paragraph FCL.935, applicable to the assessment of competence for all instructors, and partly to several AMCs to that paragraph: AMC No 1 to FCL.935, which focuses on

general issues, and AMC No 3 to FCL.935, which contains the table with the detailed content of the assessment of competence for the FI. These changes are based on the comments, which highlighted that the content of Appendix 12 was not completely applicable to all instructor certificates. In fact, Appendix 12 has originally been based on provisions of JAR-FCL that applied to the FI only. The Agency tried to extend the scope of applicability to all instructor certificates, but as rightly pointed out in the comments, this was not possible. Therefore, the Agency decided to keep in the rule only the most relevant and common parts of the text, and to include the rest in the AMC to provide for the necessary flexibility and have adequate assessments of competence for the several categories of instructor. The Agency intends to develop more AMC material, covering other instructor categories than the FI, in the future. The AMC to Appendix 12 received less than 5 comments, basically asking for editorial changes in the forms. This AMC is deleted as a result of the deletion of the Appendix itself, but the suggestions received in the comments have been taken on board in AMC No 5 to FCL.935.