

**APPROVAL BY RELEVANT REGULATORY
AUTHORITIES**

ON

**THE PROPOSAL OF
ALL TRANSMISSION SYSTEM OPERATORS
PERFORMING THE RESERVE REPLACEMENT
PROCESS
FOR
THE AMENDMENT OF THE IMPLEMENTATION
FRAMEWORK FOR THE EXCHANGE OF BALANCING
ENERGY FROM REPLACEMENT RESERVES
IN ACCORDANCE WITH
ARTICLE 19 OF COMMISSION REGULATION (EU)
2017/2195 OF 23 NOVEMBER 2017 ESTABLISHING A
GUIDELINE ON ELECTRICITY BALANCING**

5 July 2021

1. INTRODUCTION AND LEGAL CONTEXT

This document elaborates an agreement between the regulatory authorities from Czech Republic, France, Italy, Poland, Portugal, Romania and Spain (hereafter: “RAs”), agreed via electronic vote on 5 July 2021, on the proposal of all Transmission System Operators performing the reserve replacement process (hereafter: “TSOs”) for the amendment of the implementation framework for the exchange of balancing energy from replacement reserves (hereafter: “RRIF”) in accordance with Article 19 of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (hereafter: “EB Regulation”) which entered into force on 18 December 2017.

This agreement of RAs shall provide evidence that, at this stage, the decision on the amendment of the RRIF does not need to be adopted by ACER pursuant to Article 6(2) of the EB Regulation. This agreement is intended to constitute the basis on which the RAs will each subsequently adopt national decisions on the TSOs’ amendment of the RRIF proposal.

The Swiss regulatory authority is not part of the approval process in accordance with the Article 1, paragraphs 6 and 7 of the EB Regulation due to its non-EU status and the absence of decision by the European Commission.

The legal provisions relevant to the submission and approval of the proposal for amendment of the RRIF can be found in Articles 3, 5, 6, and 19 of the EB Regulation.

Article 3 of the EB Regulation, entitled “*Objectives and regulatory aspects*” states:

1. *This Regulation aims at:*
 - a. *fostering effective competition, non-discrimination and transparency in balancing markets;*
 - b. *enhancing efficiency of balancing as well as efficiency of European and national balancing markets;*
 - c. *integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security;*
 - d. *contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;*
 - e. *ensuring that the procurement of balancing services is fair, objective, transparent and market-based, avoids undue barriers to entry for new entrants, fosters the liquidity of balancing markets while preventing undue distortions within the internal market in electricity;*
 - f. *facilitating the participation of demand response including aggregation facilities and energy storage while ensuring they compete with other balancing services at a level playing field and, where necessary, act independently when serving a single demand facility;*
 - g. *facilitating the participation of renewable energy sources and support the achievement of the European Union target for the penetration of renewable generation.*
2. *When applying this Regulation, Member States, relevant regulatory authorities, and system operators shall:*
 - a. *apply the principles of proportionality and non-discrimination;*
 - b. *ensure transparency;*
 - c. *apply the principle of optimisation between the highest overall efficiency and lowest total costs for all parties involved;*
 - d. *ensure that TSOs make use of market-based mechanisms, as far as possible, in order to ensure network security and stability;*
 - e. *ensure that the development of the forward, day-ahead and intraday markets is not compromised;*
 - f. *respect the responsibility assigned to the relevant TSO in order to ensure system security, including as required by national legislation;*
 - g. *consult with relevant DSOs and take account of potential impacts on their system;*

h. take into consideration agreed European standards and technical specifications.

Article 5 of the EB Regulation, entitled “Approval of terms and conditions or methodologies of TSOs” provides:

1. *Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2, 3 and 4. Before approving the terms and conditions or methodologies, the Agency or the relevant regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market. [...]*
2. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:*
 - a. *the framework, for the geographical area concerning all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485, for the establishment of the European platform for replacement reserves pursuant to Article 19(1);*
3. [...]

Article 6 of the EB Regulation, entitled “Amendments to terms and conditions or methodologies of TSOs” states:

1. [...]
2. *Where the relevant regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies within the 2-month deadline, or upon their joint request, or upon the Agency’s request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 4 shall apply.*
3. *The Agency or the regulatory authorities where they are responsible for the adoption of terms and conditions or methodologies in accordance with Article 5(2), (3) and (4) may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency. The proposals for amendments to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 10 and approved in accordance with the procedure set out in Articles 4 and 5.*

Article 19 of the EB Regulation, entitled “European platform for the exchange of balancing energy from replacement reserves” provides:

1. *By six months after entry into force of this Regulation, all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485 shall develop a proposal for the implementation framework for a European platform for the exchange of balancing energy from replacement reserves.*
2. *The European platform for the exchange of balancing energy from replacement reserves, operated by TSOs or by means of an entity the TSOs would create themselves, shall be based on common governance principles and business processes and shall consist of at least the activation optimisation function and the TSO-TSO settlement function. That European platform shall apply a multilateral TSO-TSO model with common merit order lists to exchange all balancing energy bids from all standard products for replacement reserves, except for unavailable bids pursuant to Article 29(14).*
3. *The proposal in paragraph 1 shall include at least:*
 - a) *the high level design of the European platform;*
 - b) *the roadmap and timelines for the implementation of the European platform;*
 - c) *the definition of the functions required to operate the European platform;*

- d) *the proposed rules concerning the governance and operation of the European platform, based on the principle of non-discrimination and ensuring equitable treatment of all member TSOs and that no TSO benefits from unjustified economic advantages through the participation in the functions of the European platform;*
 - e) *the proposed designation of the entity or entities that will perform the functions defined in the proposal. Where the TSOs propose to designate more than one entity, the proposal shall demonstrate and ensure:*
 - i. *a coherent allocation of the functions to the entities operating the European platform. The proposal shall take full account of the need to coordinate the different functions allocated to the entities operating the European platform;*
 - ii. *that the proposed setup of the European platform and allocation of functions ensures efficient and effective governance, operation and regulatory oversight of the European platform as well as, supports the objectives of this Regulation;*
 - iii. *an effective coordination and decision making process to resolve any conflicting positions between entities operating the European platform;*
 - f) *the framework for harmonisation of the terms and conditions related to balancing set up pursuant to Article 18;*
 - g) *the detailed principles for sharing the common costs, including the detailed categorisation of common costs, in accordance with Article 23;*
 - h) *the balancing energy gate closure time for all standard products for replacement reserves in accordance with Article 24;*
 - i) *the definition of standard products for balancing energy from replacement reserves in accordance with Article 25;*
 - j) *the TSO energy bid submission gate closure time in accordance with Article 29(13);*
 - k) *the common merit order lists to be organised by the common activation optimisation function pursuant to Article 31;*
 - l) *the description of the algorithm for the operation of the activation optimisation function for the balancing energy bids from all standard products for replacement reserves in accordance with Article 58.*
4. *By six months after the approval of the proposal for the implementation framework for a European platform for the exchange of balancing energy from replacement reserves, all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485 shall designate the proposed entity or entities entrusted with operating the European platform pursuant to paragraph 3(e).*
 5. *By one year after the approval of the proposal for the implementation framework for a European platform for the exchange of balancing energy from replacement reserves, all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485 and that have at least one interconnected neighbouring TSO performing the replacement reserves process shall implement and make operational the European platform for the exchange of balancing energy from replacement reserves. They shall use the European platform to:*
 - a. *submit all balancing energy bids from all standard products for replacement reserves;*
 - b. *exchange all balancing energy bids from all standard products for replacement reserves, except for unavailable bids pursuant to Article 29(14);*
 - c. *strive to fulfil all their needs for balancing energy from replacement reserves.*

2. THE PROPOSAL FOR THE AMENDMENT OF THE RRIF

The proposal for the amendment of the RRIF was consulted by TSOs through ENTSO-E from 21 September 2020 to 21 October 2020, in line with Article 10 of the EB Regulation. Along with the proposal for amendment, TSOs published an explanatory document.

In the public consultation, TSOs were seeking input from stakeholders and market participants on the draft proposal. During this period, one market participant provided his feedback on the consultation.

RAs closely observed, analysed and continuously provided feedback and guidance to TSOs during several meetings.

The TSOs proposed the following changes:

Art. 1 and Annex – List of TSOs: the list of TSOs has been removed.

Art.10 – Designation entity: Amendment to enable all TSOs to be regarded as operators of the platform. The justification of the designation pursuant to art. 19(3) is included in the annex.

Art. 3(b) & 11(3) – Interconnection controllability: The activation and settlement of bids for satisfying the controllability of the interconnection will be compliant with the latest versions of the pricing methodology and the TSO-TSO settlement methodology (pursuant to art. 30(1) and 50(1) of EBGL), as approved by ACER and published in January and July 2020. For a transitional period, until July 2022, the TSOs submitting a desired flow range will cover the costs of enforcing such a flow.

Art. 11(5)(a) – Daily clearings: The wording of the article has been amended to consider possible derogations to the deadline provided by the EB Regulation for using the mFRR platform.

Art.13(5) – Counter-activations: Postponement of the date set for the minimization of the counter-activations. The provision for such minimization is set twenty-four months after the go-live, instead of the original deadline of twelve months.

The TSOs' proposal for the amendment of the RRIF was sent to RAs on 16 March 2021. The document package sent by the TSOs consisted of the following documents:

- the proposal for the amendment of the RRIF;
- a list of the amendments proposed by the TSOs;
- the TSOs' assessment of stakeholders' feedback provided during the public consultation.

According to Article 5(6) of the EB Regulation, RAs shall approve or request amendments regarding terms and conditions or methodologies submitted by TSOs within 6 months after the receipt of the proposal by the last RA concerned. The last RA has received the RRIF on 24 April 2021, therefore, the deadline for approving the proposal for amendment of the RRIF or requesting amendments is on 24 October 2021.

3. RA'S POSITION

3.1 On the admissibility of the TSOs' proposal for amendment of RRIF

RAs consider that the TSOs have fulfilled their obligations regarding the organisation of a public consultation provided by article 10 of the EB Regulation.

RAs have reached a common agreement on the TSOs' proposal for amendment of RRIF that was submitted to the last RA on 24 April 2021.

3.2 On the content of the proposal for the amendment of the RRIF

Art. 1 and Annex – List of TSOs: the RAs acknowledge that in the proposal submitted by the TSOs, the terms "TSO" or "TSOs" and "RR TSO" or "RR TSOs" shall be understood as referring only to EU TSO/TSOs subject to EU rules and falling within the territorial scope of application of EU relevant rules. This statement has only the purpose of making explicit an implicit principle of the EB Regulation.

Art.10 – Designation entity: RAs consider that TSOs have sufficiently addressed the requirements of art. 19(3)(e), while designating several entities for performing the functions of the platform. RAs will then consider all TSOs equally responsible for performing the functions and operating the RR platform.

Art. 3(b) & 11(3) – Interconnection controllability: RAs acknowledge that the pricing methodology and the settlement methodology (pursuant to art. 30(1) and 50(1) of the EB Regulation) allow for a different settlement for the activations of the desired flow range, for a transitional period. This amendment reflects this possibility.

Art. 11(5)(a) – Daily clearings: RAs agree to consider possible derogations to the deadline for using the mFRR platform when planning to increase the number of daily clearings.

Art.13(5) – Counter-activations: not all TSOs are currently participating in the RR platform and even during the first year of operation some TSOs joined the platform after the official go-live. Therefore, the market results collected so far are not enough to assess the impact of counter activations and RAs agree to postpone the deadline for the minimization of counter activations to twenty-four months after the go-live.

In conclusion, RAs have assessed the proposal for amendment of RRIF against the requirements of Article 19 and consider that it satisfies those requirements.

The RAs welcome the RRIF's amended proposal.

4. CONCLUSION

RAs have assessed, consulted and closely cooperated to reach an agreement on the RRIF's amendment proposal. On 5 July, all RAs' agreed that the RRIF's amendment proposal attached to the present paper meets the requirements of the EB Regulation, and as such can be approved.

On the basis of this agreement each RA will subsequently adopt a decision to approve the RRIF proposal by 24 October 2021.

Following national decisions by RAs, the TSOs will be required to publish the approved RRIF on their relevant company webpages in line with Article 7 of EB Regulation,

RAs will continue to work with TSOs within the framework of their Implementation Group.

5. ANNEX

The proposal of all Transmission System Operators performing the reserve replacement process for the amendment of the implementation framework for the exchange of balancing energy from Replacement Reserves in accordance with Article 19 of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing.