

**DECISION No 12/2026
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS**

of 18 September 2026

**on the third amendment of the implementation framework for the
European platform for the exchange of balancing energy from frequency
restoration reserves with automatic activation**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators¹, and, in particular, Article 5(2)(b) thereof,

Having regard to Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing², and, in particular, Article 21(1) thereof,

Having regard to the outcome of the consultation with the concerned regulatory authorities and all transmission system operators,

Having regard to the outcome of the consultation with ACER's Electricity Working Group,

Having regard to the favourable opinion of the Board of Regulators of 16 September 2026, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

1. INTRODUCTION

- (1) Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing ('EB Regulation') lays down a range of requirements for electricity balancing, platforms for the exchange of balancing energy as well as terms

¹ OJ L158, 14.6.2019, p. 22.

² OJ L 197, 25.7.2015, p. 24.

and conditions related to balancing. In particular, Article 21(1) of the EB Regulation requires all TSOs to develop an implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation ('aFRRIF').

- (2) Article 21(3)(f) of the EB Regulation requires all TSOs to include in the aFRRIF a framework for harmonisation of the terms and conditions related to balancing set up pursuant to Article 18 of the EB Regulation. In particular, Article 18(1)(a) of the EB Regulation requires each TSO to develop a proposal regarding the terms and conditions for balancing service providers (BSPs).
- (3) Further, Article 20 of the aFRRIF sets out the framework for the harmonisation process of terms and conditions for BSPs, which requires amending the aFRRIF to include common harmonisation proposal including the harmonised terms and conditions for BSPs.
- (4) Following the framework established for the harmonisation of the terms and conditions for BSPs, all TSOs have developed harmonised terms and conditions for BSPs. The harmonised terms and conditions primarily focus on the FRR prequalification process. The requirements for the prequalification process are set out in Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (the 'SO Regulation').
- (5) The present Decision follows from the assessment and revision of all TSOs' proposed amendments to the aFRRIF. Annex I to this Decision sets out the amended aFRRIF, as revised and approved by ACER.

2. PROCEDURE

2.1. Proceedings before all TSOs

- (6) Article 20 of the aFRRIF sets out the framework for harmonising the terms and conditions, outlines the following key steps that TSOs must take to harmonise the terms and conditions for BSPs as described below.
- (7) On 15 May 2023, all TSOs launched the first survey³ asking stakeholders for input to evaluate the terms and conditions for BSPs to identify possible harmonisation needs in the European balancing market. This was followed by a second survey in 2024⁴.

³ available at: https://consultations.entsoe.eu/markets/if_survey/

⁴ available at: https://consultations.entsoe.eu/markets/if_survey_2024

- (8) From 1 December 2024 to 31 January 2025, all TSOs ran a public consultation on the identified harmonisation options concerning terms and conditions related to the aFRR and mFRR-Platform⁵.
- (9) Following the above-mentioned harmonisation process, all TSOs have developed a common harmonisation proposal for the harmonised terms and conditions for BSPs, which is included in an Annex to the aFRRIF (hereinafter referred to as the ‘CHP’).
- (10) The CHP introduces provisions concerning the harmonisation of the BSPs' terms and conditions, focusing on the six key priority areas for harmonisation identified by all TSOs, with particular emphasis on the harmonisation of the FRR prequalification process. The six priority areas are:
1. publication of the terms and conditions in the English language;
 2. permission for communication between TSOs and BSPs in the English language;
 3. harmonisation of the FRR prequalification process;
 4. switching of reserve-providing units between BSPs;
 5. re-prequalification; and
 6. data exchange standards.

2.2. Proceedings before ACER

- (11) On 18 December 2025, ENTSO-E, on behalf of all TSOs, submitted to ACER for decision the proposal for amendments to the aFRRIF (hereinafter referred to as the ‘Proposal’).
- (12) Between 18 December 2025 and 22 May 2026, ACER engaged in discussions with all TSOs and the regulatory authorities on the Proposal. This process included an ACER public consultation conducted from 26 January to 23 February 2026, seven working-level meetings with all TSOs and the regulatory authorities, exchanges of documents, and regular updates provided to ACER's Electricity Working Group (‘AEWG’) and Electricity Balancing Task Force. On 30 April 2026, ACER notified the parties concerned of its preliminary position and invited them to submit their written observations by 19 May 2026.
- (13) On 19 May 2026, ENTSO-E, on behalf of all TSOs, submitted all TSOs’ written comments on ACER's preliminary position. All TSOs also requested an oral hearing, which was held on 21 May 2026.
- (14) On 19 May 2026, the Belgian regulatory authority (CREG) also submitted written comments on ACER's preliminary position.

⁵ available at: <https://consultations.entsoe.eu/markets/public-consultation-on-if-amendments/>

- (15) On 22 May 2026, ACER closed both the written and oral procedures.
- (16) On 17 July 2026, following a written comment submitted by the Belgian regulatory authority on ACER's preliminary position, as described in Chapter 5.2.2, recital (66), ACER reopened the written procedure to consult all TSOs on the proposed amendments introduced in response to the Belgian regulatory authority's comment. On 31 July 2026, all TSOs submitted their responses to ACER's proposed amendments.
- (17) The AEWG was consulted on ACER's draft Decision between 07 August and 26 August 2026 and provided its advice on 28 August 2026.
- (18) ACER's Board of Regulators issued a favourable opinion on 16 September 2026.

3. ACER'S COMPETENCE TO DECIDE ON THE PROPOSAL

- (19) Pursuant to Article 5(2)(b) of Regulation (EU) 2019/942, ACER shall approve proposals for common terms and conditions or methodologies for the implementation of network codes and guidelines adopted before 4 July 2019 that require the approval of all regulatory authorities.
- (20) Since the EB Regulation was adopted before 4 July 2019 and Article 5(2)(a) thereof provides that the proposal for the frameworks for the establishment of the European platforms pursuant to Article 21(1) shall be subject to approval by all regulatory authorities, the competence to decide on the proposal for amendment of these terms and conditions lies with ACER. Pursuant to the second sentence of Article 6(3), read in conjunction with Article 5(2)(a) of the EB Regulation, the TSOs responsible for developing the proposal for aFRRIF, namely all TSOs, may propose amendments to that implementation framework to ACER.
- (21) Before approving a proposal for amendments to the aFRRIF, ACER shall revise it, where necessary, after consulting the respective TSOs and ENTSO-E, in order to ensure that it is consistent with the objectives of the EB Regulation and contributes to market integration, non-discrimination, effective competition, and the proper functioning of the market.
- (22) Since ENTSO-E, on behalf of all TSOs, submitted the Proposal to ACER for approval, ACER is competent to decide on the Proposal pursuant to Article 5(2)(b) of Regulation (EU) 2019/942 and Article 5(2)(a), read in conjunction with Article 6(3) of the EB Regulation.

4. SUMMARY OF THE PROPOSAL

- (23) In the Proposal, all TSOs propose the following elements.

4.1. Whereas

- (24) The Proposal includes Whereas recitals explaining that the amendments ensure consistency of the amended aFRRIF with the EU regulatory framework, in particular with the amendments to Article 20 of the aFRRIF as well as with the CHP included in

the Annex to the aFRRIF. The recitals further describe consistency with Articles 3, 18 and 21 of the EB Regulation on competition, non-discrimination, transparency, and market integration of balancing markets through harmonised processes and efficient long-term operation and development of the electricity transmission system.

4.2. Articles amending the aFRRIF

- (25) The Proposal comprises five articles amending the aFRRIF. Article 1 amends Article 20 of the aFRRIF, establishing the framework for the harmonisation of the terms and conditions relating to balancing. Article 2 introduces the CHP. Article 3 sets out the implementation timeline. Article 4 provides for the publication of the amendments, and Article 5 contains the language provisions.

4.3. The CHP in the Annex to the aFRRIF

- (26) The Proposal includes the CHP as an Annex to the aFRRIF. The CHP initially included 13 articles. Articles 1-4 of the CHP cover the subject matter and scope, definitions and interpretation, the English publication of terms and conditions, and the permission for English communication between TSOs and BSPs.
- (27) The remaining provisions (with the exception of Article 13 of the CHP, which addresses language) focus on the requirements and procedures for the harmonised FRR prequalification processes for reserve providing units (RPU) and reserve providing groups (RPG) (Article 5 of the CHP), ex-post verification (Article 6 of the CHP), application submission requirement (Article 7 of the CHP), switching of RPUs between BSPs (Article 8 of the CHP), re-prequalification notification and process (Article 9 of the CHP), conditions for re-prequalification (Article 10 of the CHP), termination of prequalification status or prequalification and re-prequalification process (Article 11 of the CHP), and data exchange standard (Article 12 of the CHP).
- (28) In addition, following ACER's request, all TSOs submitted an 'Whereas' section and an implementation timeline under Article 14 of the CHP, in accordance with Article 5(5) of the EB Regulation.

5. SUMMARY OF THE OBSERVATIONS RECEIVED BY ACER

5.1. Consultation on the Proposal conducted through ACER's public consultation

- (29) On 26 January 2026, ACER launched a public consultation on the Proposal, inviting stakeholders to submit their comments by 23 February 2026. The consultation sought stakeholders' views on the following topics, which were considered the most relevant: (i) the frequency of the stakeholder survey; (ii) the proportionality of the prequalification process with respect to RPU or RPG size; (iii) the level of harmonisation under the CHP; (iv) the timeline for the FRR prequalification process; (v) the prequalification process involving activation tests and ex-post verification; (vi) the granularity of information requirements; (vii) the switching of RPUs and RPGs between BSPs; and (viii) the re-prequalification process and the applicable conditions.

- (30) The stakeholders' responses and ACER's assessment of those responses are set out in Annex III to this Decision.

5.2. Consultation on ACER's preliminary position

5.2.1. All TSOs written and oral hearing responses to ACER's preliminary position

- (31) On 19 May 2026, all TSOs submitted their written comments on ACER's preliminary position, as summarised below.

5.2.1.1. On the proposed amendments concerning Article 20 on the aFRRIF Survey

- (32) All TSOs raised concerns on a reduction of the aFRRIF survey cycle from thirty-six (36) to twenty-four (24) months, considering that such a reduction would not allow sufficient time for implementation of previous decisions and accumulation of operational experience. All TSOs requested that topics already approved and under implementation be explicitly excluded from subsequent aFRRIF survey until at least one year after their respective implementation deadlines.
- (33) Finally, all TSOs requested that ACER establishes a clear starting date for the next aFRRIF stakeholder survey to ensure legal certainty.

5.2.1.2. On provisions concerning the harmonisation of FRR prequalification (Articles 5-7 of the CHP)

- (34) All TSOs objected to reducing the granularity of assessment at controllable units (CUs) level, considering it potentially detrimental to system security and insufficiently aligned with national legal constraints, and therefore supported maintaining the assessment at RPU and RPG level. Moreover, all TSOs disagreed with ACER's assessment that certain administrative requirements under Article 5(4) in ACER's preliminary position could be reduced without affecting system security. They maintained that the information requested from BSPs is limited to what is necessary to ensure reliable service delivery, system security, and compliance with legal and regulatory obligations.
- (35) All TSOs expressed concerns regarding the proposed shortening of the prequalification timelines, in particular the one (1)-week period for TSOs to assess additional information submitted during the application submission step under Article 5(6) in ACER's preliminary position and the three (3)-month timeline for the technical evaluation step under Articles 6(3) and 7(5) in ACER's preliminary position, without the possibility of extension in the event of negative results, which they consider operationally insufficient.
- (36) All TSOs further requested the reintroduction of a derogation option for regulatory authorities in relation to prequalification timelines, as previously provided in Article 5(6) of the CHP.

- (37) All TSOs clarified that the IT requirements introduced in ACER's preliminary position as part of the application submission step should instead form part of the technical evaluation step. All TSOs stated that if this requirement is intended to relate to communication testing, it should form part of the technical evaluation rather than the application completeness check.
- (38) With respect to ex-post verification, all TSOs emphasised the need for caution given limited operational experience, stressing that activation tests should remain the default approach and that TSOs must retain the ability to impose operational limits in national terms and conditions for BSPs, particularly for large RPGs.
- (39) They also requested that the terminology in Article 5(8) be amended from 'incentives' to 'penalties' and that its relationship with Article 5(7) be clarified to ensure that fast-track procedures remain explicitly optional for TSOs.
- (40) Finally, all TSOs requested a clearer link between Article 5(8) and Article 5(7) of ACER's preliminary position to explicitly reflect that the 'fast-track' approach is an available option for TSOs.

5.2.1.3. Switching of RPU/RPGs between BSPs (Article 8 of the CHP)

- (41) All TSOs raised several concerns regarding the inclusion of RPG switching within the scope of this Article. All TSOs argued that switching of RPGs is not operationally feasible due to limited TSO experience, restricted control over BSP aggregation and ICT systems, data protection and cybersecurity constraints, and the fact that RPG behaviour is inherently dependent on BSP-specific optimisation and control strategies. They further emphasised that behavioural changes in large RPGs could have significant system impacts in real-time operation, requiring full reliability of asset behaviour
- (42) With respect to RPUs, all TSOs maintained that TSOs should retain discretion to require activation tests and/or ex-post verification, as communication tests and high-level technical concepts assessments alone may not be sufficient to ensure compliance. They also requested clarification of the term 'direct communication' in light of current interoperability limitations between BSP systems.
- (43) All TSO considered that the definition of switching in Article 2(2)(j) is unclear and does not reflect the process's focus set out in ACER's Explanatory Document. All TSOs therefore considered that Article 8 should be revised.
- (44) Finally, all TSOs considered that the proposed switching timelines are too short given the need for manual validation, coordination with DSOs, and operational constraints, and therefore supported retaining the original six (6)-week timeline for RPUs.

5.2.1.4. Re-qualification notification, process and conditions (Articles 9 and 10 of the CHP)

- (45) All TSOs considered that a two (2)-week calendar deadline for TSO decisions is insufficient and requested a minimum period of fifteen (15) working days.

- (46) They also requested reinstatement of an explicit reference to continued compliance with Article 158 the SO Regulation in Article 9(3) of the CHP to ensure continued service provision during re-qualification.
- (47) All TSOs raised concerns regarding mandatory simplification based solely on unit size under Article 9(4)(b) in ACER's preliminary position, arguing that the size is not a reliable indicator of complexity and that aggregated volumes may still be significant; simplification should instead be limited to identical CUs/RPUs or remain subject to TSO discretion, including the possibility to require activation tests.
- (48) All TSOs requested clarification regarding the consequences of deficiencies identified during communication or technical concept assessments under Article 9(2) in ACER's preliminary position.
- (49) All TSOs stressed that re-qualification decisions must take into account all elements listed in Article 5(3) of ACER's preliminary position, not only Article 5(3)(d), while ensuring that the scope of re-qualification is limited to the affected elements. In addition, all TSOs requested that the reference to Article 5 be retained in Article 10(c) in ACER's preliminary position, as any change to these elements under Article 5(3) may affect the validity of an existing prequalification and should trigger reassessment.
- (50) All TSOs supported retaining Article 10(f) of the CHP, which allows additional re-qualification conditions to be defined in national terms and conditions for BSPs subject to regulatory approval, as it provides necessary flexibility to address national and technical circumstances, particularly in cases where TSOs lack sufficient RPU or RPG-level information, such as portfolio or pool bidding, where confirmations or activation tests may be required to verify compliance with Article 158 of SO Regulation.
- (51) Furthermore, all TSOs recommended reintroducing Articles 10(e) and 10(f) of the CHP, as they address situations not sufficiently covered elsewhere, including new technologies requiring concept-level assessment and the need for regulatory flexibility to respond to unforeseen system requirements without frequent amendments to the regulation.

5.2.1.5. Termination of prequalification status or processes (Article 11 of the CHP)

- (52) All TSOs requested to retain the possibility for direct termination of prequalification where an RPU or RPG fails to comply with the service requirements under Article 158 of the SO Regulation. They argued that introducing a mandatory prior re-qualification step could delay corrective action and expose the system to prolonged periods of substandard service delivery.

5.2.1.6. Data exchange standards (Article 12 of the CHP)

- (53) All TSOs expressed concerns that the removal of explicit references to 'data exchange interfaces' may create legal uncertainty regarding the continued use of existing non-

standard interfaces and therefore request clarification to ensure their continued applicability.

- (54) all TSOs also considered the fixed implementation deadline of July 2027 potentially premature where harmonised processes are not yet fully defined and instead proposed linking implementation timelines to the completion of harmonised process definitions or, alternatively, introducing a relative deadline, such as eighteen (18) months following CHP approval.

5.2.1.7. European implementation deadline (Article 14 of the CHP)

- (55) All TSOs considered the proposed thirty-six (36)-month implementation period insufficient in view of the cumulative impact of the amendments, including the introduction of mandatory ex-post verification frameworks, procedural simplifications, increased automation requirements, reduced national flexibility, and extensive IT and organisational changes. They further highlighted that the processes for amending and approving national terms and conditions for BSPs remain complex and time-consuming, and that staggered implementation deadlines increase overall implementation risk. All TSOs therefore proposed that national terms and conditions for BSPs be submitted to the competent national regulatory authority within one year following the ACER Decision and implemented within thirty-six (36) months following approval by the competent national regulatory authority.
- (56) For clarity, all TSOs considered Article 14 of the CHP to set the implementation timelines for the CHP, rather than Article 3 of the Proposal, and requested clarification on the applicable timelines under Article 3.

5.2.1.8. Additional drafting provisions

- (57) All TSOs requested that all short timelines be expressed in working days rather than calendar days, and that any timeline shorter than four (4) weeks be converted accordingly.
- (58) All TSOs requested correction of Article 3(18) of the aFRRIF provisions to align with PICASSO implementation, ensuring publication of AOF exchange volumes and prices per LFC area as soon as possible and no later than 30 minutes after the relevant aFRR market time unit (MTU).

5.2.1.9. All TSOs submitted clarification comments to ACER's preliminary position after the oral hearing

- (59) Following the oral hearing on 21 May 2026, all TSOs submitted additional written comments to clarify their position. In addition to reiterating the need to exclude topics implemented less than one year before aFRRIF surveys and to clarify the term 'direct communication', all TSOs proposed that the definition of small CUs should remain within the national terms and conditions for BSPs rather than be included in the proposal.

- (60) All TSOs stressed that the three (3)-month period should be a strict timeline for determining failure of the technical evaluation, while allowing withdrawal of applications thereafter. They further stressed that the period should be extendable in case of errors and that BSPs should be allowed to repeat the technical evaluation without a new application, subject to national terms and conditions for BSPs, to ensure operational flexibility.

5.2.2. The Belgian regulatory authority's written comments on ACER's preliminary position

- (61) On 19 May 2026, the Belgian national regulatory authority, the Belgian regulatory authority, sent their written response to ACER's preliminary position. The summary of the Belgian regulatory authority's key written comments together is presented below.
- (62) The Belgian regulatory authority supported equal-footing ex-post verification process with the prequalification process based on activation test.
- (63) While harmonisation of BSP's requirements and timelines is welcomed, the Belgian regulatory authority questioned whether introducing additional minimum requirements genuinely contributes to the stated objective of reducing complexity and administrative burden, particularly for new and small aFRR providers.
- (64) The Belgian regulatory authority considered that, under Article 5(3)(e) in ACER's preliminary position, the requirement for BSPs to confirm that the connecting DSO has been informed to be potentially inconsistent with Articles 159 and 182 of the SO Regulation. Articles 159 and 182 of the SO Regulation indeed place the responsibility for informing the DSO on the reserve connecting TSO. The Belgian regulatory authority recommended either clearly specifying when this requirement applies, or preferably, deleting the provision and maintaining the TSO-led notification approach established under the SO Regulation.
- (65) The Belgian regulatory authority argued that communication between BSPs and TSOs is always required under Article 158 of the SO Regulation and therefore should not be subject to a relevance criterion ('wherever relevant'). Conversely, direct communication between RPU/RPGs and TSOs may not always be necessary. The Belgian regulatory authority recommended removing 'wherever relevant' regarding BSP-TSO communication and deleting the RPU/RPG-TSO communication standard requirement from the methodology, leaving it to national terms and conditions for BSPs where appropriate.
- (66) The Belgian regulatory authority identified several provisions that appear to grant TSOs discretionary decision-making powers, including Articles 5(7), 6(1), 7(2), 8(2), 9(2), 10(4), and 11 in ACER's preliminary position. The Belgian regulatory authority considered that such decisions should be governed by criteria established in regulatory authority-approved in national terms and condition for BSPs rather than left for the TSO discretion. It therefore recommended replacing discretionary wording with explicit references to national terms and conditions for BSPs.

- (67) The Belgian regulatory authority noted that the legal basis of the methodology (Articles 20(3)(f) and 21(3)(f) of the EB Regulation) concerns balancing energy exchange. References to balancing capacity market prequalification are therefore considered outside the scope of the methodology and all references to balancing capacity markets should be removed.
- (68) While the Belgian regulatory authority supports the establishment of EU-wide communication standards, the Belgian regulatory authority stressed the need for meaningful stakeholder involvement in selecting standards and advocates for a broader, long-term approach with extensive stakeholder consultation. It highlighted potential benefits of adopting common communication standards across services, products, system operators, and BSP-controlled units to minimise system costs.

5.2.3. All TSOs submitted written comments to ACER's proposed amendments following the reopening of the written procedure

- (69) Following the Belgian regulatory authority's comments, as described in Chapter 5.2.2, recital (66), ACER amended the relevant provisions which, in its preliminary position, appeared to confer discretionary decision-making powers on the reserve connecting TSOs instead of relying on the applicable national terms and conditions for BSPs. ACER therefore revised those provisions to clarify that any action to be performed by a TSO shall be carried out in accordance with the applicable national terms and conditions for BSPs. On 31 July 2026, all TSOs submitted their written responses to ACER's proposed amendments introduced following the Belgian regulatory authority's comments. A summary of the key comments submitted by all TSOs is set out below.
- (70) All TSOs considered that the proposed amendments to Articles 5(7) lacked sufficient clarity, as they could be interpreted as requiring TSOs or NRAs to select a single prequalification approach to be specified in the applicable national terms and conditions for BSPs. All TSOs did not support such an interpretation. However, they indicated that the amendments would be acceptable if they were understood as allowing the applicable national terms and conditions for BSPs to specify the circumstances under which each of the prequalification approaches may be applied. Subject to this clarification, all TSOs supported the proposed amendments in Article 6(1) and Article 7(2).
- (71) All TSOs supported the proposed amendment to Article 8(2) and considered the provision acceptable as drafted. However, they considered that the reference should be made to the entirety of Article 5(3), rather than only to Article 5(3)(d).
- (72) All TSOs did not support the proposed amendment to Article 9(2), considering that requiring a communication test in all cases would be disproportionate, particularly where only minor changes have been notified. They also considered that the proposed two (2)-week deadline lacked clarity, as the applicable national terms and conditions for BSPs may provide for different timeframes.
- (73) With regard to Article 10(2), all TSOs did not support the proposed amendment, considering that the criteria for significant ICT system modifications should be

specified in dedicated documentation on data exchange requirements rather than in the national terms and conditions for BSPs.

- (74) All TSOs supported the proposed amendments to Article 10(4) and considered the amended provisions acceptable. They further noted that any amendments to Article 5(3) should also be reflected in the re-prequalification process.
- (75) All TSOs expressed concerns regarding the use of the phrase ‘subject to the national terms and conditions for BSPs’ in Articles 9(2), 10(4) and 11, considering that it could be interpreted as allowing national terms and conditions for BSPs to derogate from the requirements of the aFRRIF. They considered such an interpretation unacceptable, as it could undermine system security and the harmonisation of prequalification rules. All TSOs therefore requested the use of unambiguous legal drafting clarifying that the aFRRIF requirements are to be specified in, rather than overridden by the national terms and conditions for BSPs.
- (76) Furthermore, all TSOs did not support the proposed amendment to Article 11(2) replacing ‘will’ with ‘shall’, considering that it would unnecessarily restrict the re-prequalification process.

5.3. Consultation of the AEWG

- (77) The AEWG provided its advice on 28 August 2026, broadly endorsing ACER’s draft Decision.

6. ACER LEGAL ASSESSMENT OF THE PROPOSAL

6.1. General legal requirements

- (78) Pursuant to Articles 4(1) and 4(2) of the EB Regulation, TSOs shall develop the terms and conditions or methodologies required by the EB Regulation and submit them for approval within the prescribed deadlines. Where more than one TSO is involved, they shall cooperate closely and, with the assistance of ENTSO-E, keep the relevant regulatory authorities and ACER informed of progress.
- (79) Pursuant to Article 5(5) of the EB Regulation, proposals for terms and conditions or methodologies shall include a proposed implementation timeline and a description of their expected impact on the objectives of the EB Regulation.
- (80) Furthermore, proposals for terms and conditions or methodologies shall be consistent with the requirements and objectives set out in Article 3(1) of the EB Regulation.
- (81) Pursuant to Article 6(3) of the EB Regulation, TSOs responsible for developing, or regulatory authorities responsible for approving, terms and conditions or methodologies may propose amendments thereto. Such amendments are subject to consultation and approval in accordance with Articles 4, 5 and 10 of the EB Regulation.

- (82) Pursuant to Article 10(1) of the EB Regulation, the draft proposals for amendments to terms and conditions or methodologies shall be subject to stakeholder consultation, including the relevant authorities of each Member State.
- (83) Pursuant to Article 10(2) of the EB Regulation, the draft proposals pursuant to Article 5(2)(a) of the EB Regulation, including the frameworks for the establishment of the European platforms pursuant to Article 21(1), shall be consulted for a period of not less than two (2) months.
- (84) Pursuant to Article 10(3) of the EB Regulation, the proposals pursuant to Article 5(2)(a) shall be subject to public consultation at European level.

6.2. Specific legal requirements

- (85) Pursuant to Article 21 of the EB Regulation, all TSOs shall develop the aFRRIF, including, pursuant to Article 21(3)(f), a framework for the harmonisation of the terms and conditions for BSPs related to balancing in accordance with Article 18(1)(a) of EB Regulation.
- (86) Pursuant to Article 20 of the aFRRIF, all TSOs shall follow the framework for the harmonisation of the terms and conditions for BSPs. In accordance with Article 20(2)(a), all TSOs identified and prioritised harmonisation needs through stakeholder surveys and regulatory cooperation. Pursuant to Article 20(2)(b), they assessed harmonisation options and, in accordance with Article 20(2)(c), conducted a two (2)-month public consultation. Following the evaluation of stakeholders' feedback, all TSOs developed the CHP containing the harmonised terms and conditions, in accordance with Article 20(2)(d). Finally, pursuant to Article 20(2)(e), the CHP was incorporated into the amended aFRRIF, which was submitted for approval in accordance with Article 6(3) of the EB Regulation.
- (87) Pursuant to Article 18(5)(a) of the EB Regulation, the terms and conditions for BSPs shall include the rules governing the qualification process to become a BSP pursuant to Article 16 thereof.
- (88) Pursuant to Article 16(1) of the EB Regulation, successful completion of the prequalification, ensured by the connecting TSO and processed pursuant to Article 159 of SO Regulation shall be considered as a prerequisite for the successful completion of the qualification process to become a BSP. Additionally, Articles 158 and 159 of the SO Regulation include FRR minimum technical requirements and the requirements for the FRR prequalification process, respectively. Accordingly, the CHP should align with the requirements set out in Article 158 and 159 of the SO Regulation.

6.3. ACER assessment of the Proposal for general legal requirements

- (89) The Proposal was submitted to ACER by ENTSO-E on behalf of all TSOs, which are responsible for developing the aFRRIF.

- (90) The Proposal includes, in Article 3, an implementation timeline for the amendments to the aFRRIF and accompanying 'Whereas' recitals describing their expected impact in light of the objectives of the EB Regulation. Article 14 of the CHP likewise sets out the implementation timeline for the CHP and accompanying 'Whereas' recitals describing their expected impact in light of the objectives of the EB Regulation and the SO Regulation.
- (91) The Proposal was subject to a public consultation conducted by all TSOs between 2 July and 2 September 2025.
- (92) The Proposal therefore complies with the procedural and content requirements set out in Articles 3(1), 4(1), 4(2), 5(5), 6(3) and 10 of the EB Regulation.

6.4. ACER assessment of the Proposal for the specific legal requirements

- (93) All TSOs followed the harmonisation process set out in Article 20(2) of the aFRRIF and developed the CHP accordingly. This included identifying and prioritising harmonisation needs through stakeholder surveys and regulatory cooperation, assessing harmonisation options, conducting a two (2)-month public consultation, evaluating stakeholders' feedback, incorporating the resulting CHP into the amended aFRRIF and submitting the amended aFRRIF for approval in accordance with Article 6(3) of the EB Regulation.
- (94) The stakeholder survey conducted pursuant to Article 20(2)(a) of the aFRRIF identified the harmonisation of the FRR prequalification process as a priority. The CHP therefore establishes harmonised requirements for FRR prequalification process, in line with Article 18(5)(a) of the EB Regulation.
- (95) The CHP reflects the requirements laid down in Articles 158 and 159 of the SO Regulation on the FRR prequalification process and the minimum FRR requirements.
- (96) The Proposal therefore complies with the specific requirements set out in Article 20 of the aFRRIF, Articles 16(1), 18(1)(a), 21(3)(f) of the EB Regulation, and Articles 158 and 159 of the SO Regulation.

7. ACER ASSESSMENT OF THE CHP

- (97) As explained in Chapter 4.3, the CHP primarily focuses on the FRR prequalification process, through which BSP's assets are verified as complying with the technical requirements established by the relevant TSO. As highlighted in the ACER Wholesale Electricity Market Monitoring Report 2021⁶, prequalification has historically been

⁶ ACER Wholesale Electricity Market Monitoring Report 2021: Prequalification processes for the provision of balancing services

governed by national procedures, resulting in significant differences across Member States.

- (98) Stakeholder feedback to ACER's public consultation on the draft Demand Response Network Code⁷, as well as to ACER's public consultation on the Proposal, highlighted strong expectations for lowering entry barriers⁸, simplifying procedures, and creating a more harmonised prequalification process to facilitate faster access to balancing markets. At the same time, during working level discussions as well as in their written comments on ACER preliminary position, all TSOs emphasised the need to ensure the reliable and secure provision of balancing services.
- (99) ACER therefore considers it necessary to strike a balance between facilitating faster market access and maintaining system reliability and security in the prequalification process. It also notes that the evolving European power system, including the increasing participation of small CUs, RPU and RPGs, and the further integration of European balancing markets through the European balancing platforms, requires a more harmonised FRR prequalification framework, with prequalification requirements that are proportionate to the size of the RPU or RPG.
- (100) Against this background, ACER aims to establish a harmonised FRR prequalification process that creates a level playing field across Member States, reduces entry barriers, and maintains system security. While the TSOs' proposal in the CHP represents a positive step towards these objectives, ACER has identified the need for further improvements to the CHP. These improvements are reflected in ACER's amendments to the CHP (hereinafter 'Annex 1').
- (101) ACER's amendments to the CHP, as set out in Annex 1, are described in the following chapters: (i) Chapter 7.1 on ACER assessment of the FRR prequalification process, switching, re-prequalification and termination procedures; (ii) Chapter 7.2 on the implementation timeline, and (iii) Chapter 7.3 on ACER's further amendments to remaining provisions of the CHP.

7.1. ACER assessment of the FRR prequalification, switching, re-prequalification, and termination processes

- (102) The prequalification process was originally designed for large generation units that typically prequalified only once, making the administrative effort proportionate to the

⁷ ACER public consultation on the draft network code on demand response, available at: <https://www.acer.europa.eu/public-consultation/pc2024e07-public-consultation-draft-network-code-demand-response>

⁸ ACER 2023 MMR on Demand response and other distributed energy resources: what barriers are holding them back?, available at https://www.acer.europa.eu/sites/default/files/documents/Publications/ACER_MMR_2023_Barriers_to_demand_response.pdf

unit size. However, the increasing participation of small CUs, RPU and RPGs has significantly changed this context.

- (103) Applying the same process to these small aFRR providers may impose disproportionate administrative and financial burdens, particularly where BSPs manage large numbers of small CUs or RPUs requiring individual prequalification. This increases costs and delays market participation, potentially creating unnecessary barriers to entry and undermining the objectives of the Clean Energy Package⁹.
- (104) While fully acknowledging that simplification must not endanger system security and should still ensure the reliable provision of balancing services, ACER considers that the current prequalification framework does not fully reflect today's market reality and that the process should be made more proportionate to the RPU or RPG size. To this end, ACER has introduced amendments in four key areas of the CHP: (i) harmonised FRR prequalification; (ii) switching of RPUs between BSPs; (iii) re-prequalification of RPUs and RPGs; and (iv) termination of prequalification and re-prequalification processes.

7.1.1. Harmonised FRR prequalification processes

- (105) Article 5 of the CHP establishes a harmonised FRR prequalification process for RPUs and RPGs comprising three prequalification approaches: the default prequalification with activation test, prequalification based on ex-post verification where provided for in the national terms and conditions for BSPs, and an optional 'fast-track' approach, subject to sufficient controls and penalties where provided for in the national terms and conditions for BSPs to ensure the reliability of the submitted bids. This Article sets out the main procedural steps for prequalification with activation test and prequalification based on ex-post verification, including application submission, confirmation of the completeness of the application, technical evaluation, and prequalification approval by the reserve connecting TSO. It also specifies the applicable timelines, including those applicable where additional information or corrections are required.
- (106) The application submission and the confirmation of the completeness of the application are common steps to all three prequalification approaches. Article 7 of the CHP specifies the information that a BSP must submit as part of the application submission step, including mandatory information applicable to all applications, as well as any additional information required under the applicable prequalification approach and the national terms and conditions for BSPs.
- (107) Article 5(2)(b) of the CHP sets out the confirmation of the completeness of the application. The working-level discussions with all TSOs highlighted the need for TSOs to assess certain technical concepts already at the initial stage of the prequalification process. ACER has therefore included the assessment of those technical concepts as

⁹ Clean Energy Package, available at: <https://www.acer.europa.eu/electricity/about-electricity/clean-energy-package>

part of the confirmation of the completeness of the application in Article 5(5) of Annex 1.

- (108) The technical evaluation step, as referred to in Article 5(2)(c) of the CHP, is a step applicable to prequalification with activation test and prequalification based on ex-post verification. During this step, in accordance with Article 159(4) of the SO Regulation, the reserve connecting TSO or the designated TSO shall evaluate the information provided and determine whether the potential FRR providing units or FRR providing groups meet the criteria for FRR prequalification. During the working-level discussions with all TSOs and in their written comments on ACER's preliminary position, as described in Chapter 5.2.1.2, recital (37), all TSOs emphasised that the communication test referred to in Article 158(1)(e) of the SO Regulation constitutes an important element of the technical evaluation. ACER has therefore explicitly included the communication test as part of the technical evaluation in Articles 6(1) and 7(2) of Annex 1.
- (109) Nevertheless, ACER considers that the communication test does not need to be carried out at a specific step of the technical evaluation and may instead be performed at any point during the prequalification process, provided that it is completed within the applicable timeline for that step.
- (110) Following working-level discussions with all TSOs, ACER has included Article 5(2) of Annex I, pursuant to which RPU and RPGs participating in the integrated scheduling process are required to undergo prequalification with an activation test.
- (111) Next to two main prequalification approaches, prequalification with activation test and prequalification based on ex-post verification, Article 5(5) of the CHP introduces an optional, third, 'fast-track' approach. Under this approach, BSPs may participate in the balancing market without prior activation testing or ex-post verification. This participation is subject to sufficient controls and penalties being established in the national terms and conditions for BSPs to ensure the reliability of the submitted bids. In its preliminary position, ACER has proposed replacing the term 'penalties' with 'incentives'. However, as described in Chapter 5.2.1.2, recital (39), all TSOs requested in their written comments on ACER's preliminary position that the term 'penalties' be retained. ACER nevertheless has replaced the reference to 'penalties' with a reference to 'incentives' to ensure consistency with the terminology and objectives of the EB Regulation. The recitals of the EB Regulation refer to the establishment of appropriate incentives for market participants to support efficient balancing and encourage behaviour that contributes to the operational security and economic efficiency of the electricity system. This approach was also supported by the regulatory authorities during the working-level discussions. This amendment is reflected in Article 5(7) of Annex 1.
- (112) Article 6 of the CHP sets out the conditions for applying ex-post verification as an optional prequalification approach instead of the standard and default prequalification with activation test. Under ex-post verification, the RPU or RPG receives temporary approval to participate in the balancing market, with the reserve connecting TSO monitoring its performance against predefined verification criteria and, where

appropriate, limiting the capacity that may be offered during the verification period. If the ex-post verification is not successfully completed within defined timeline, the RPU or RPG must undergo prequalification with an activation test. The article further requires each reserve connecting TSO to specify in its national terms and conditions for BSPs, the detailed rules governing ex-post verification and, where approved by the relevant regulatory authority, any justified exceptions to the standard verification timeline.

- (113) In its preliminary position, ACER included the possibility of performing ex-post verification in the balancing capacity market. However, following the working-level discussions with all TSOs and taking into account the concerns raised by the Belgian regulatory authority, as described in Chapter 5.2.2, recital (67), ACER acknowledges that ex-post verification may not be appropriate or applicable in balancing capacity markets. Therefore, ACER has not included this possibility in Article 7(1) of Annex 1.
- (114) Accordingly, ACER has amended Article 6(4) of the CHP in Article 7(2) of Annex 1. Article 7(2) sets out the conditions under which BSPs may provisionally provide FRR services through participation in the balancing energy market while their RPUs or RPGs undergo ex-post verification under a temporary prequalification status.
- (115) The temporary prequalification status during ex-post verification remains valid for the duration of the technical evaluation, which must be completed within three (3) months after the reserve connecting TSO confirms the completeness of the application. As explained above and in line with the written comments from all TSOs on ACER's preliminary position, as described in Chapter 5.2.1.2, recital (37), Article 7(2) of Annex 1 also allows to carry out a communication test during the temporary prequalification status. The temporary prequalification status remains valid until the applicable verification criteria have been fulfilled.
- (116) Article 7(3) of Annex 1 allows TSOs to limit the volume of RPUs and RPGs with temporary prequalification status participating in the balancing energy market, reflecting Article 6(5)(a) of the CHP. In its preliminary position, ACER had removed this provision, because it considered that it was already implicitly covered by Article 7(3) which states '*The national terms and conditions for BSPs shall define any additional requirements needed for the ex-post verification process*'. However, as described in Chapter 5.2.1.2, recital (38), all TSOs requested in their written comments on ACER's preliminary position that it be retained because of system security. During the oral hearing and the written procedure, all TSOs argued that ACER amendments in its preliminary position do not allow for the application of security-based limitations. In some systems, RPGs may reach capacities significantly higher than 100 MW and allowing such assets to participate in the market without prior verification would pose a material risk to system security. For this, all TSOs argued that it must remain possible to define limits for the application of ex-post verification in national terms and conditions for BSPs. ACER has accepted all TSOs justification and therefore reinstated this provision in Article 7(3) of Annex 1.
- (117) Article 7(4) of Annex 1 incorporates ACER's amendments to Article 6(6) of the CHP and requires the verification criteria, together with any additional requirements, to be

specified in the national terms and conditions for BSPs. In addition, the conditions governing the application of ex-post verification previously set out in Article 6(3) of the CHP are not included in Annex 1. Some of those conditions, including those relating to switching and re-prequalification, are already addressed in the CHP, as reflected in Articles 8 and 10 of Annex 1. ACER did not retain the remaining conditions set out in points (c) to (f) of Article 6(3) of the CHP, as these may instead be further specified in the national terms and conditions for BSPs pursuant to Article 7(4) of Annex 1. Moreover, other provisions of Article 6 of the CHP requiring BSPs to provide additional information may also be incorporated into Article 7(4) and specified in the national terms and conditions for BSPs.

- (118) While responses to ACER's public consultation showed broad stakeholders' support for more harmonised ex-post verification criteria, the working-level discussions with TSOs indicated that these criteria may need to evolve as operational experience with ex-post verification grows. ACER therefore considers that further harmonisation should be assessed in the future, in light of implementation experience, and intends to monitor the application of the national approaches.
- (119) As explained in recitals (102)–(104), ACER considers that the FRR prequalification process as described in the CHP should be further adapted to facilitate the participation of new and small FRR providers and reduce barriers to entry into the balancing markets. Moreover, ACER considers that the readability of the prequalification requirements and the description of the associated procedures should be improved. To this end, ACER has amended the relevant provisions in Articles 5 -7 of the CHP as described below.

7.1.1.1. Equal footing FRR prequalification with activation test, prequalification based on ex-post verification and the fast-track

- (120) ACER considers that under all TSOs' proposed default prequalification process -i.e. the prequalification with activation test -, BSPs must demonstrate, through an activation test prior to market participation, that their RPU or RPGs are capable of reliably providing balancing services. Under ex-post verification, however, the capability of RPU or RPGs is assessed during market participation, with prequalification granted once the applicable verification criteria have been fulfilled. Finally, during the fast-track approach, BSPs may participate in the balancing market without prior activation testing or ex-post verification.
- (121) As described in Chapter 5.2.1.2, recital (38), all TSOs support maintaining the activation test as the default approach for prequalification in their written comments on ACER's preliminary position. ACER, however, notes that the fast-track and prequalification based on ex-post verification allow faster market entry including enabling entry without prior prequalification or via an ex-ante testing.
- (122) ACER, therefore, considers that all three prequalification approaches should be placed on an equal footing for first-time prequalification, provided that appropriate safeguards ensure system security. In other words, ensuring an equal footing requires that no single

prequalification approach is established as the default approach. Instead, all three prequalification approaches should be available on equal terms, allowing TSOs to choose one or more of the approaches and propose them, as part of their national terms and conditions for BSPs, for approval by the relevant national regulatory authority. Also, as requested by stakeholders in their feedback to the ACER public consultation, ACER proposes to strengthen the use of these approaches to facilitate market access, particularly for new and small aFRR providers.

- (123) Accordingly, ACER has amended the CHP to provide the same legal standing for prequalification with an activation test, ex-post verification, and the fast-track approach. ACER considers that this amendment preserves flexibility for TSOs and does not substantially depart from the above-mentioned written comments submitted by all TSOs on ACER's preliminary position. Accordingly, ACER has included Article 5(6) in Annex 1, setting out that according to national terms and conditions for BSPs, the TSO shall carry out the prequalification of the RPU or RPG through an activation test, as defined in Article 6 of Annex 1, or through ex post verification, as defined in Article 7 of Annex 1, or apply fast-track approach as defined in Article 5(7) of Annex 1. Following the comments submitted by all TSOs during the reopening of the written procedure, as described in Chapter 5.2.3, recital (70), ACER revised the wording of this paragraph to clarify that the circumstances under which each of the prequalification approaches is to be applied shall be further specified in the national terms and conditions for BSPs. ACER has also amended Article 6(2) of the CHP (reflected in Articles 7(1) of Annex 1) and removed Article 6(1) of the CHP, which sets out ex-post verification as an optional alternative to the activation test.

7.1.1.2. Shorter FRR prequalification timeline

- (124) According to Article 5(2) of the CHP, the prequalification with activation test and prequalification based on ex-post verification consists of two main steps for which relevant timelines are defined: confirmation of application completeness and technical evaluation steps.
- (125) According to Article 5(2)(b) of the CHP, the confirmation of application completeness must be completed within four (4) weeks of its submission (or up to eight (8) weeks in exceptional cases). According to Article 5(2)(c) of the CHP, the technical evaluation step begins once the reserve connecting TSO has confirmed that the BSP's application is complete. The technical evaluation must be completed within three (3) months after the reserve connecting TSO confirms the completion of the application, in accordance with Article 159(4) of the SO Regulation.
- (126) According to Article 5(3) of the CHP, where errors or missing information are identified under any of these steps, BSPs and TSOs may each be granted up to four (4) weeks for submission and reassessment. According to Article 5(4) of the CHP, in case of negative results in technical evaluation step, the BSP may be required to repeat activation tests or provide additional information. The BSP and TSO may each be granted up to four (4) weeks for submission and reassessment.

- (127) Taken together, these provisions may extend the prequalification timeline to up to five (5) months under normal circumstances and up to nine (9) months where additional corrections are required. The total duration of the extension shall not exceed nine (9) months from the date of application submission and after this period, the prequalification request shall be considered withdrawn by the BSP in accordance with Article 11(2)(a) of the CHP.
- (128) Article 159 of the SO Regulation defines the timelines available for the confirmation of application completeness and technical evaluation. ACER considers that the timelines set out in the CHP for these two steps should be aligned with those provided for in Article 159 of the SO Regulation.
- (129) According to Article 159(3) of the SO Regulation within eight (8) weeks from receipt of the application, the reserve connecting TSO or the designated TSO shall confirm whether the application is complete. Where the application is incomplete or contains errors, the BSP shall be granted an additional four (4) weeks to submit the missing or corrected information. According to Article 159(4), within three (3) months after the reserve connecting TSO or the designated TSO confirms that the application is complete, the reserve connecting shall evaluate the information provided and decide whether the potential FRR providing units or FRR providing groups meet the criteria for a FRR prequalification. The reserve connecting TSO or the designated TSO shall notify their decision to the potential FRR provider.
- (130) ACER agrees with the TSOs' proposal for a total prequalification timeline of five (5) months in cases where no errors or missing information are identified during the application completeness confirmation step and no negative results arise during the technical evaluation. This is consistent with the limits set out in the SO Regulation, including up to eight (8) weeks for confirmation of application completeness under Article 159(3) and three (3) months for technical evaluation under Article 159(4) of the SO Regulation.
- (131) ACER also agrees with the TSOs' proposal regarding the four (4)-week timeline for BSPs to submit additional information in cases where errors or missing information are identified during the application completeness confirmation step. ACER indeed considers that this additional timeline for BSPs to provide the required information is consistent with Article 159(3) of SO Regulation. Furthermore, in response to the Belgian regulatory authority's written comments regarding this timeline for BSPs and its concern about the additional burden on BSPs, as described in Chapter 5.2.2, recital (63), ACER wishes to clarify that this timeline is necessary to ensure compliance with Article 159(3) of the SO Regulation and to support a timely and harmonised prequalification process.
- (132) However, ACER considers the four (4)-week period for TSOs to reassess the updated application and corresponding additional information submitted by BSPs to be excessively long, given stakeholders' concerns about the overall duration of the prequalification process and therefore in its preliminary position reduced this timeline to one (1) week. As described in Chapter 5.2.1.2, recital (35), all TSOs argued in their written comments that a one (1)-week timeline to be extremely short.

- (133) Taking into account TSOs' justification, ACER has revised Article 5(5) of Annex 1 by extending the initially proposed timeline from one (1)-week to ten (10) working days which is shorter than the four (4)-week timeline proposed by the TSOs. ACER considers that this reduction in the timeline contributes to lowering market entry barriers by avoiding excessively long prequalification procedures in light of the increasing number of small FRR service providers in balancing markets. ACER also notes that some TSOs have already implemented these shorter intermediate timeline¹⁰, demonstrating the feasibility of a timely process that is also in the interest of TSOs. In addition, stakeholder responses in ACER's public consultation broadly supported shortening the prequalification timeline, identifying its duration as a key concern and stressing the need for a more simplified prequalification which is proportionate to the RPU or RPG size. Nevertheless, ACER acknowledges that any reduction in timelines must balance system security and the reliable provision of balancing services with the objective of ensuring fair and timely market access for participants. In cases of negative results during technical evaluation or ex-post verification, ACER did not introduce any additional timelines beyond the three (3) months period. In their written comments, as described in Chapters 5.2.1.2 and 5.2.1.9, recitals (35) and (60), all TSOs requested an extension of the three (3)-month period in the event of negative results. As explained in recital (129), ACER considers that pursuant to Article 159(4) of the SO Regulation, within three (3) months of confirming the completeness of the application, evaluate the information provided and decide whether the potential FRR providing units or groups meet the prequalification criteria.
- (134) Therefore, ACER recalls that the technical evaluation must be completed within the three (3)-month period including any delays resulting from incomplete information. However, as proposed by all TSOs in Article 5(4) of the CHP, where non-compliance persists beyond this period, ACER has included a reference to Article 11(2) allowing TSOs to terminate prequalification as appropriate. Therefore, ACER has removed from Articles 6(1) and 7(6) of Annex 1, which set out the consequences of a negative technical evaluation, the additional timeline that had previously been provided for in Article 5(4) of the CHP. The corresponding amendments have been incorporated in Articles 6(2) and 7(5) of Annex 1.
- (135) Overall, ACER has maintained a maximum prequalification timeline of five (5) months in cases where no errors or missing information are identified during the application completeness confirmation step, and no negative results arise during the technical evaluation. In cases of errors or missing information or negative results, ACER has reduced the extended timeline from up to nine (9) months to a maximum of six (6) months and ten (10) working days.

¹⁰ 2023 ACER Market Monitoring report on Demand response and other distributed energy resources: what barriers are holding them back? available at: https://www.acer.europa.eu/sites/default/files/documents/Publications/ACER_MMR_2023_Barriers_to_demand_response.pdf

- (136) Finally, as described in Chapter 5.2.1.2, recital (36), all TSOs requested in their written comments on ACER's preliminary position that Article 5(6) of the CHP, which allows regulatory authorities to grant derogations from the prequalification timelines set out in Article 5 of the CHP, be retained. ACER has therefore reinstated this provision, as reflected in Article 5(8) of Annex 1. However, the possibility for regulatory authorities to grant derogations is retained only with respect to the timeline applicable to the TSO's assessment of the updated application under Article 5(5) of Annex 1, namely the requirement to complete the assessment within ten (10) working days. ACER considers that all other timelines set out in Article 5 of the CHP are directly based on Article 159 of the SO Regulation and are therefore legally binding and not subject to extension or reduction.

7.1.1.3. Reduction of administrative burden for small and identical CUs, and small RPUs and RPGs

- (137) To establish a prequalification process supporting small and identical CUs, and small RPUs and RPGs, ACER has included new provisions that explicitly provide for simplified prequalification requirements and reduced administrative burden for prequalification of these small aFRR providers. These simplifications were reflected in Articles 5-7 in Annex 1 including Articles 6(4) and 9(4), and in ACER preliminary position including Articles 5(4), 6(5), and 7(7).
- (138) In ACER preliminary position, Articles 5(4) and 6(5), and 7(7) were included to ensure that the administrative processes remain proportionate to the size of RPUs or RPGs and their impact on system security. However, in their written comments on ACER preliminary position, as described in Chapter 5.2.1.4, recital (34), all TSOs raised concerns that reducing certain administrative requirements could adversely affect system security. ACER acknowledges these concerns but considers that Articles 5(4) and 6(5) sufficiently address them by requiring the impact on system security to be taken into account. In addition, in the AEWG advice the French regulatory authority (CRE) raised the concern that, while it recognised the potential benefits of the proposed measure in Articles 5(4) and 6(5), and 7(7), these provisions could create a risk of insufficient harmonisation. In particular, the reference to the concept of 'administrative' burden could be interpreted differently across Member States and might therefore not provide a sufficiently clear and legally consistent basis for the application of the measure, potentially undermining the objective of harmonisation. The French regulatory authority therefore suggested removing this provision from the binding provisions of Annex 1 and move it to the Whereas section. ACER agrees with The French regulatory authority's proposal and has therefore moved this provision to the Whereas section.
- (139) Additionally, Article 6(4) of Annex 1 requires that when RPU or RPG consist of small CUs, CUs which are identical to CUs being part of other RPUs or RPGs previously prequalified by the same BSP or a combination of both, the TSO should simplify the prequalification through an activation test and perform the activation test on a subset of RPU or RPG, further specified in the national terms and conditions for BSPs. In the AEWG advice, the French regulatory authority raised concerns that the RPU/RPG should be treated as a 'black box' by the TSO, with testing performed at the RPU/RPG

level rather than on individual components. It therefore did not support the testing of only a subset of an RPU/RPG, considering that this would complicate the process and require dedicated communication links used solely for prequalification. ACER agrees that for TSOs who communicate only at RPU/RPG level and not at controllable units' level, such a requirement could lead to additional implementation costs. Following the French regulatory authority's suggestion, ACER has clarified the option in Article 6(4)(b) to make it also refer to all of the RPU/RPG. Lastly, following the written comments from all TSOs, ACER has added Article 6(4)(c), which requires that the definition of small controllable units and small RPUs be established in the national terms and condition for BSPs.

7.1.1.4. Restructuring and further amendments to the Articles of the CHP describing the harmonised FRR prequalification processes

- (140) ACER considers that Articles 5-7 of the CHP do not clearly distinguish between the procedures and timelines for each prequalification approach. Consequently, the relevant provisions in the CHP are interwoven which can create legal uncertainty. Therefore, to improve clarity and legal certainty, ACER has restructured Article 5 of the CHP by retaining the common procedural steps in Article 5 of Annex 1 and relocating provisions specific to activation tests and ex-post verification to Articles 6 and 7 of Annex 1, respectively. ACER has moved the mandatory required information for application submission step as described in Article 7 of the CHP to Article 5(3) of Annex 1. Additionally, following the French regulatory authority comment in the AEWG advice, ACER has included, in Article 5(3) of Annex 1, a requirement for the applicant BSP to inform the reserve connecting TSO, without undue delay, where any of the information referred to in that Article is no longer accurate or valid.
- (141) With regard to the Belgian regulatory authority's written comments on ACER's preliminary position concerning Article 5(3)(c) as described in Chapter 5.2.2, recital (64), ACER wishes to clarify several points. First, ACER considers the requirement for the BSP to confirm to its reserve-connecting DSO that it has submitted a prequalification application to be justified. This approach is more efficient because the BSP can provide the confirmation as part of its application, rather than requiring the reserve connecting TSO to subsequently coordinate with the DSO to obtain the same confirmation. Nevertheless, ACER agrees with the Belgian regulatory authority's reference to Article 182 of the SO Regulation, under which the responsibility for exchanging information with the DSO in relation to the prequalification application process lies with the reserve connecting TSO. ACER considers that Article 5(1) of the CHP, as reflected in Article 5(1) of Annex 1, already adequately reflects this requirement.
- (142) Nevertheless, in line with the Belgian regulatory authority's comments, and to avoid imposing an additional burden on BSPs with regard to informing the connecting DSO, ACER wishes to clarify that Article 5(3)(c) should not be interpreted as empowering the DSO to require BSPs to provide any additional information. ACER recalls that this provision applies only where relevant and, in accordance with Article 5(6), is subject to the national terms and conditions for BSPs. Therefore, ACER has amended Article 5(3)(c) of Annex 1 by inserting the words 'Where relevant' at the beginning of the

provision. Moreover, ACER has referred to ‘the connecting DSO(s)’ in the plural to reflect that, in the case of an RPG, the connection points of the relevant RPU or power generation or demand modules may be connected to different DSOs.

- (143) Additionally, with regard to the Belgian regulatory authority written comment on Article 5(3)(e) as described in Chapter 5.2.2, recital (65), ACER considers that during the working-level discussions, all TSOs highlighted the need for direct communication between TSOs and RPUs/RPGs for system security reasons. Furthermore, direct communication between the RPU/RPG and the TSO is already envisaged elsewhere in the CHP, including under Article 8(2). Therefore, ACER has retained Article 5(3)(e) of Annex 1 as proposed by all TSOs.

7.1.2. Switching of RPUs between BSPs

- (144) Article 8 of the CHP sets out the process and conditions for the switching of RPUs between BSPs. According to Article 8(1) of the CHP, switching without a new prequalification process is permitted only where: (i) the communication infrastructure of both the former and the new BSP is compatible with the RPU or RPG; (ii) the new BSP holds a valid qualification under Article 16 of the EB Regulation; (iii) the new BSP has demonstrated experience in controlling a technically comparable RPU or RPG for the same balancing service; and (iv) the prequalified capacity of the RPU or RPG does not exceed the threshold defined in the applicable national terms and conditions for BSPs.
- (145) Where these conditions are fulfilled, the reserve connecting TSO may apply ex-post verification of the new BSP's control of the RPU or RPG, and the switching process must be completed within six (6) weeks. If one or more of these conditions are not fulfilled, the reserve connecting TSO shall, in accordance with Article 158(1)(e) of the SO Regulation, determine whether a new prequalification, including an activation test, or prequalification based on ex-post verification is required. In such cases, the timelines set out in Articles 5(2)(c) and 6(5)(c) of the CHP apply.
- (146) The national terms and conditions for BSPs may establish additional procedures and conditions for the switching of RPUs or RPGs between BSPs and may provide for derogations from the six (6)-week switching timeline.
- (147) First, ACER considers that the switching of an RPU between BSPs does not involve any change to the technical capabilities of either the BSP or the RPU, unlike the re-qualification process, which is triggered by changes to technical capabilities, for example due to changes in installed capacity, ICT systems or technologies. ACER therefore defines ‘switching an RPU’ in Article 2 of Annex 1 as the reallocation of an RPU without any modification of its technical capabilities.
- (148) Moreover, in the past, large conventional generation units were typically prequalified and assigned to a single BSP throughout their operational lifetime. Consequently, cases where an RPU or RPG was switched or reallocated to another BSP were relatively rare. However, in the current and evolving market, characterised by an increasing number of small RPUs, such switching is expected to occur more frequently. ACER therefore

considers that a more simplified and efficient switching procedure and timeline for small aFRR providers are necessary to avoid imposing unnecessary administrative burdens.

- (149) On that basis, ACER considers that switching should, in all cases, preserve the RPU's prequalification status, rather than only where the conditions proposed by all TSOs in Article 8(1) of the CHP are fulfilled. Accordingly, ACER has removed the conditions set out in Article 8(1) of the CHP as prerequisites for switching.
- (150) Subsequently, in its preliminary position, ACER has removed Articles 8(2) and 8(3) of the CHP, which, depending on whether the conditions set out in Article 8(1) are fulfilled, specify the TSO's options for applying ex-post verification or requiring a new prequalification following a switch. In addition, ACER considers Article 8(7) of the CHP, which defines the validity period of the prequalification status for RPUs switching between BSPs, to be unnecessary, as an RPU retains its prequalification status, including its validity period, following a switch. ACER has therefore removed Article 8(7) of the CHP.
- (151) However, in their written comments on ACER's preliminary position, all TSOs argued that a level of prequalification remains necessary to ensure system security, as explained in Chapter 5.2.1.3, recital (42). All TSOs proposed that at least ex-post verification should be maintained following a switch. Therefore, ACER has introduced a new Article 8(5) in Annex 1, providing that the re-prequalification according to Article 9 which includes applying the prequalification with an activation test or based on ex-post verification, may be required for the switching process. This is subject to the national terms and conditions for BSPs and where the conditions set out in Articles 9 and 10 are fulfilled.
- (152) Moreover, during the working-level discussions and in their written comments on ACER's preliminary position, as described in Chapter 5.2.1.4, recital (42), all TSOs noted that certain elements of the technical concept are BSP-specific and may therefore need to be resubmitted following a switch. ACER considers that Article 8(4) provides sufficient flexibility to address these concerns. Article 8(4) of Annex 1 reflects ACER's amendments to Article 8(8) of the CHP and allows reserve connecting TSOs to further specify the process and conditions for switching RPUs between BSPs in the national terms and conditions for BSPs. Unlike Article 8(8) of the CHP, this provision applies only to RPUs, as Article 8 of Annex 1 governs RPU switching exclusively. The switching of RPGs is instead addressed under the re-prequalification framework set out in Articles 9 and 10 of Annex 1. ACER considers that shortening the switching timeline is an important measure to establish a simplified and more efficient switching process and to avoid an unnecessarily lengthy process, in particular for small aFRR providers, as explained in recital (148).
- (153) Article 8(6) of the CHP sets the switching timeline at six (6) weeks. In its preliminary position, ACER has reduced this timeline to fifteen (15) working days. During working-level discussions and in their written comments on ACER's preliminary position as described in Chapter 5.2.1.3, recital (44), all TSOs argued that switching processes remain largely manual, require validation by DSOs, and are affected by workload peaks

linked to contractual periods, and therefore requested that the six (6)-week timeline be maintained.

- (154) ACER, however, considers that the timeline proposed in its preliminary position is sufficient for the switching process and has therefore retained the timeline of fifteen (15) working days in Article 8(3) of Annex 1. Under Article 8(2) of Annex 1, the reserve connecting TSO may perform a communication test and assess the technical concepts of the RPU, as provided for in Article 5(3), during the switching process. ACER notes that Article 9(2) of Annex 1 provides for a comparable assessment where a BSP notifies planned changes to its RPU(s) or RPG(s), before the reserve connecting TSO decides whether re-prequalification is required.
- (155) Unlike re-prequalification, switching does not involve any change to the technical capabilities of the RPU or RPG. In their written comments on ACER preliminary position as described in Chapter 5.2.1.4, recital (45), all TSOs indicated that fifteen (15) working days are sufficient to assess modified RPUs or RPGs in the context of re-prequalification. ACER therefore considers that the same timeline is sufficient for switching, where the technical capabilities remain unchanged. Moreover, as switching merely involves the reassignment of an RPU or RPG rather than a technical reassessment, ACER considers that the process can be largely automated, thereby reducing the administrative burden for both TSOs and BSPs. Therefore, in light of the above, and to ensure a more simplified and balanced switching process, ACER has amended the switching timeline to fifteen (15) working days in Article 8(4) of Annex 1.
- (156) ACER has also introduced a new provision on switching requests in Article 8(1) of Annex 1 to address the absence of such rules in the CHP and to clarify stakeholders' concerns regarding the submission of switching requests, the conditions triggering the applicable timelines, and the point at which the reserve connecting TSO must decide whether re-prequalification is required. The receiving BSP is responsible for submitting the switching request, subject to the consent of the system user. Furthermore, by introducing a definition of 'switching' in Article 2 and distinguishing between switching not requiring re-prequalification under Article 8 and switching requiring re-prequalification under Articles 9 and 10, ACER ensures that the applicable procedures, conditions, timelines, and decision points are clearly defined.
- (157) Moreover, in its preliminary position, ACER has limited the information required for switching to the technical concept referred to in Article 5(3)(d) and, consequently, removed Article 8(4) of the CHP, which required the new BSP to submit the same information as for an initial prequalification. This was intended to avoid subjecting switching to a full prequalification application process. However, following the written comments submitted by all TSOs on ACER's preliminary position, as described in Chapter 5.2.1.3, recital (42), ACER has extended the scope of the assessment under Article 8(2) of Annex 1 to all information listed in Article 5(3) of Annex 1.
- (158) ACER has further simplified the switching process for RPUs that communicate directly with the reserve connecting TSO by introducing Article 8(2) of Annex 1. In their written comments on ACER's preliminary position, as described in Chapter 5.2.1.4, recital (42),

all TSOs requested clarification of the concept of ‘direct communication’ in light of current interoperability limitations between BSP systems.

- (159) ACER considers that direct communication exists where an RPU can correctly receive and respond to control signals issued by the reserve connecting TSO. In such cases, the RPU may be exempted from the communication test and the assessment referred to in Article 8(2), while retaining its prequalification status, provided that the communication infrastructures of the relevant BSPs are compatible. Communication infrastructures are considered compatible where both BSPs are able to connect to, exchange data with, and operate the RPU without technical conflicts or the need for additional adaptations, enabling the RPU to communicate with both BSPs using the same communication standards, protocols, and interfaces.
- (160) Finally, it should be noted that, in its preliminary position, ACER had proposed extending the scope of the switching process to RPGs, taking into account that a significant share of respondents to the public consultation supported a more neutral distinction between RPUs and RPGs based on system impact rather than asset type. However, as described in Chapter 5.2.1.3, recitals (41) and (43), all TSOs expressed concerns in their written comments on ACER’s preliminary position regarding the inclusion of RPGs within the scope of the switching process. Therefore, in light of the TSOs’ strong opposition, expressed both in their written comments and during the oral hearing, ACER has limited the scope of the switching process in Article 8 of Annex 1 to RPUs only. Consequently, ACER has also amended the definition of ‘switching’ in Article 2 so that it applies exclusively to RPUs.

7.1.3. Re-prequalification of RPUs and RPGs

- (161) This chapter contains two sub-chapters on re-prequalification notification and process as introduced in Articles 9 of the CHP and re-prequalification conditions as introduced in Article 10 of the CHP.

7.1.3.1. Re-prequalification notification and process

- (162) Article 9 of the CHP establishes the procedure for re-prequalification following changes to a prequalified RPU or RPG. Article 9(1) requires BSPs to notify the reserve connecting TSO in advance of any relevant changes. Article 9(2) enables the reserve connecting TSO to assess whether re-prequalification is necessary and to determine its scope, including whether an additional activation test or ex-post verification is required. Article 9(3) allows BSPs to continue providing balancing services using the unaffected part of the RPU or RPG, provided that the applicable minimum requirements continue to be met. It also provides for a simplified re-prequalification process in certain cases, such as the addition of identical RPUs to an existing RPG, subject to the national terms and conditions for BSPs.
- (163) To establish a more simplified and proportionate re-prequalification process with respect to RPU or RPG size and avoid unnecessarily long timelines that may unduly restrict BSPs, ACER has shortened the timeline for BSPs to notify the reserve connecting TSO of planned changes to their RPU(s) or RPG(s) that may trigger re-

prequalification from six (6) weeks to four (4) weeks. This amendment is also consistent with stakeholder feedback received during ACER's public consultation, where several respondents considered the six (6)-week notification period unnecessarily long and proposed reducing it to four (4) weeks.

- (164) In its preliminary position, ACER has reduced the timeline for the reserve connecting TSO to determine whether re-prequalification is required as set out in Article 9(2) of the CHP from four (4) weeks to two (2) weeks. However, in their written comments on ACER's preliminary position, as described in Chapter 5.2.1.4, recital (45), all TSOs requested that this timeline be extended to fifteen (15) working days. Following TSOs' justification, ACER has therefore amended this timeline in Article 9(2) of Annex 1 to fifteen (15) working days.
- (165) In line with the TSOs' input during the working-level discussions, ACER has amended Article 9(2) of the CHP in its preliminary position to provide the reserve connecting TSO with the right to conduct a communication test and assess the technical concept of the RPU or RPGs referred to in Article 5(3) of Annex 1 which sets out the information requirements for the application submission step. However, in their written comments as described in Chapter 5.2.1.4, recital (49), all TSOs argued that the assessment should cover not only the technical concept but also all other elements referred to in Article 5(3). Consequently, ACER has broadened the scope of the assessment to provide that the reserve connecting TSO is entitled to conduct a communication test and assess the technical concept, as well as all other elements referred to in Article 5(3) of Annex 1. Moreover, following the comments submitted by all TSOs during the reopening of the written procedure, as described in Chapter 5.2.3, recital (72), ACER revised the wording of this paragraph to include the phrase 'where such a test is required following the notified change'. Lastly for further clarification, ACER has included, in the last sentence of Article 9(2), a reference to Article 9(4), clarifying that the reserve connecting TSO shall take into account the requirements from 9(4) when specifying the scope and boundaries of the reassessment.
- (166) Article 9(3) of the CHP provides the reserve connecting TSO with the possibility to limit the scope of the re-prequalification process for an RPG where identical RPUs are added. ACER recognises this provision as a step in the right direction for more simplified re-prequalification process. However, it considers that the process can be further simplified to ensure proportionality for RPGs consisting of small or identical units without compromising system security. To this end, ACER has broadened the scope of this provision through Article 9(4) of Annex 1 by requiring the reserve connecting TSO to: (i) limit the re-prequalification process to the assessment of the changes to the RPU or RPG that triggered the re-prequalification as defined in Article 10(1); and (ii) allow the re-prequalification to be carried out by means of ex-post verification or another faster procedure ('fast track') for RPGs consisting of identical CUs or small or identical RPUs. Following French regulatory authority's comment in the AEWG advice that an RPU/RPG should be tested as a whole and not only on specific changed parts of this RPU/RPG, ACER has slightly modified the wording of Article 9(4)(a) of Annex 1. The provision now clarifies that the re-prequalification

process should be adapted to the type of changes to the RPU/RPG that triggered the re-qualification, as defined in Article 10(1).

- (167) Additionally, as described in Chapter 5.2.1, recital (47), all TSOs raised concerns regarding Article 9(4)(b) of ACER's preliminary position. While ACER agrees that streamlined prequalification procedures should, where technically justified, be available to all FRR service providers, irrespective of their size, in order to ensure a level playing field, ACER supports the stakeholders' view expressed during the public consultation that the prequalification process should be simplified to facilitate faster market access. In this regard, ACER considers ex-post verification to be an appropriate means of facilitating faster market access, in particular for identical CUs and small or identical RPUs.
- (168) To this end, ACER considers these amendments in Article 9(4) necessary to ensure a more simplified re-qualification process by adapting its scope to the type of the changes affecting the relevant RPUs or RPGs. They also facilitate greater use of ex-post verification and other streamlined approaches, including simplified procedures for minor modifications and for RPGs consisting of identical CUs or small or identical RPUs. In the AEWG advice, the French regulatory authority requested that Article 9(4) includes a reference to the national terms and conditions for BSPs, in order to ensure that Article 9(4)(b) is only applicable if allowed in the national terms and conditions for BSPs. ACER, however, considers that such a reference could undermine the objective of Article 9(4), as explained above, namely, to simplify the prequalification process for identical CUs and small or identical RPUs and thereby facilitate faster market access in all national frameworks. Although the definition of a small RPU is a national choice, Article 9(4)(b) contributes to the objectives of the EB Regulation, in particular Article 3(e), by avoiding undue barriers to entry for new market participants and fostering the liquidity of balancing markets.
- (169) Moreover, in their written comments on ACER's preliminary position as described in Chapter 5.2.1.4, recital (48), all TSOs requested clarification regarding the consequences of deficiencies identified during the communication test and the assessment of the technical concept and the other elements referred to in Article 5(3). ACER clarifies that, where the outcome of that assessment is positive, the reserve connecting TSO shall decide whether re-qualification is required. Where the outcome is negative, the reserve connecting TSO shall require the BSP to successfully complete a re-qualification. In both cases, the reserve connecting TSO shall notify the BSP of the outcome within the previously specified period of fifteen (15) working days and, where re-qualification is required, shall specify its scope and boundaries, which shall be limited to the affected parts.
- (170) Article 9(3) of the CHP sets out the requirements applicable where re-qualification is required. It allows the reserve connecting TSO to limit the re-qualification process of an RPG when identical RPUs are added and to define limits on the number of RPUs that may be added to an existing RPG. In line with clarifications provided by all TSOs during the working-level discussions, ACER has amended this provision in Article 9(5) of Annex 1 to clarify that such limits refer to number of RPUs that may be added to an existing RPG.

- (171) Moreover, ACER recognises Article 9(3) of the CHP as a step towards further simplification of the re-prequalification process. However, it considers that the process can be further simplified to ensure proportionality for RPGs composed of small or identical units without compromising system security. For this reason, ACER has expanded the scope of this provision in Article 9(4) of Annex 1, requiring the reserve connecting TSO (i) to limit the re-prequalification assessment to the changes in the RPU or RPG that triggered the process, and (ii) to allow for re-prequalification based on ex-post verification or a ‘fast-track’ approach for RPGs consisting of identical¹¹ CUs or small or identical RPUs.
- (172) ACER considers this provision necessary to ensure a simplified and proportionate re-prequalification process for small aFRR providers by limiting the assessment to the relevant changes. It also facilitates greater use of ex-post verification and other streamlined approaches, including simplified procedures for minor modifications and for RPGs composed of identical CUs or of small or identical RPUs.
- (173) Finally, with regard to Article 9(3) of the CHP, ACER notes that the requirement, ‘if the minimum requirements according to Article 158 of the SO Regulation are still met’, has been reinstated following the written comments submitted by all TSOs on ACER’s preliminary position as described in Chapter 5.2.1.4, recital (46). However, this condition should not be interpreted as requiring the unaffected parts of the relevant RPU or RPG to undergo any form of re-prequalification, or any other prequalification procedure, in order to continue providing the balancing service.

7.1.3.2. Conditions for re-prequalification

- (174) Article 10 of the CHP sets out conditions that may trigger re-prequalification of an RPU or RPG. According to Article 10(1) of the CHP, there are five conditions including significant changes in prequalified capacity, modifications to the ICT control system, changes affecting previously submitted information, prolonged periods without re-prequalification or service delivery, the introduction of generation or demand units using different technologies, or other justified conditions defined in the national terms and conditions for BSPs. In addition, in Article 10(2) of the CHP, the reserve connecting TSO may require a targeted re-prequalification where an RPU or RPG no longer complies with the technical requirements of Article 158 of the SO Regulation, adversely affects system operation, or other specified situations arise. Any re-prequalification is limited to the identified issue, and the reserve connecting TSO may request an activation test where necessary to safeguard system security and service reliability.
- (175) Article 10(1) of the CHP contains a non-exhaustive list of conditions, as point (f) allows additional conditions to be defined in the national terms and conditions for BSPs. In its preliminary position, ACER considered that this provision could lead to fragmentation

¹¹ ACER considers that the concept ‘identical’ refers to CUs or RPUs consisting of assets that share the same technology, characteristics and capabilities.

of re-prequalification processes across TSOs and therefore removed it. Although all TSOs in their written comments on ACER's preliminary position, as described in Chapter 5.2.1.4, recital (50), requested that the provision be retained, the majority of respondents to ACER's public consultation opposed such broad national discretion. ACER therefore maintains the deletion of this provision in Article 10(1) of Annex 1 to support a more level playing field for re-prequalification across Member States.

- (176) Article 10(1)(e) of the CHP allows the reserve connecting TSO to require re-prequalification of an RPU or RPG where a BSP modifies it by adding CUs using a different technology from that of the prequalified RPU or RPG. In its preliminary position, ACER has removed this provision; however, all TSOs, in their written comments, requested that it be retained, as described in Chapter 5.2.1.4, recital (51). ACER considers this condition to be overly broad and insufficiently targeted. For example, the addition of a single CU using a different technology could trigger re-prequalification irrespective of its capacity or its contribution to the overall prequalified capacity of the RPU or RPG. ACER also considers this condition to be inconsistent with Article 10(1)(a), which triggers re-prequalification only where changes to the prequalified capacity exceed the applicable thresholds.
- (177) ACER therefore considers that changes in the technology of CUs should trigger re-prequalification only where they result in changes to the prequalified capacity exceeding the thresholds set out in Article 10(1)(a), namely more than 10% or 3 MW (whichever is lower), and at least 0.5 MW, compared with the most recently confirmed prequalified capacity. Accordingly, ACER has not retained this condition in Annex 1, as situations involving changes in technology are already covered by the capacity thresholds set out in Article 10(1)(a).
- (178) It should be noted that, in its amendment to Article 10(1), ACER has provided that the triggering of re-prequalification under any of the conditions set out in the exhaustive list in Article 10(1) is subject to the national terms and conditions for BSPs. This clarifies that a TSO may trigger re-prequalification on the basis of any of those conditions, provided that the relevant condition has been approved as part of the national terms and conditions for BSPs.
- (179) Finally, following the comments submitted by all TSOs during the reopening of the written procedure, as described in Chapter 5.2.3, recital (73), all TSOs maintained that the provision set out in Article 10(2) should not be included in the national terms and conditions for BSPs but rather in dedicated documentation specifying the data exchange requirements. ACER considers that, since the determination of what constitutes a significant modification of the ICT systems forms part of the criteria triggering re-prequalification, the relevant provision should remain in the national terms and conditions for BSPs. Nevertheless, ACER agrees that a more detailed descriptions can be set out in dedicated documentation specifying the data exchange requirements.

7.1.4. Termination of prequalification status or prequalification and re-prequalification process

- (180) Article 11 of the CHP sets out the process for terminating the prequalification status of an RPU or RPG and the circumstances in which a BSP is deemed to have withdrawn from a prequalification or re-prequalification process. Article 11(1) defines the conditions under which prequalification status may be terminated, while Article 11(2) specifies the circumstances in which a BSP is considered to have withdrawn from the relevant process.
- (181) Article 11(1)(a) of the CHP addresses situations where a BSP fails to deliver the service in accordance with Article 158 of the SO Regulation and the applicable national terms and conditions for BSPs. In such cases, the reserve connecting TSO may request improvements to the RPU or RPG prior to termination of its prequalification status. Article 10(2) of the CHP also provides that the same failure to deliver the service may trigger a re-prequalification process, with reference to Article 11(1)(a) of the CHP. ACER considers that this creates ambiguity, as the same circumstance may lead either to re-prequalification or, under certain conditions, to termination. Moreover, Article 11(1)(b) of the CHP cross-refers to Article 10(2), resulting in a circular and unclear reference.
- (182) ACER therefore has clarified in its preliminary position that cases of non-delivery of the service should first be addressed through the re-prequalification process under Article 10(2) of the CHP, and that termination of prequalification status under Article 11(1) should apply only where this process does not resolve the issue. However, in their written comments on ACER preliminary position as described in Chapter 5.2.1.5, recital (52) all TSOs emphasised that immediate termination of prequalification status is necessary where an RPU or RPG fails to deliver the service, and that ACER's approach could result in non-performing units remaining active for up to three (3) months despite unreliability. ACER considers that the initiation of a re-prequalification process allows TSOs to avoid activating an unreliable RPU or RPG. However, taking into account the concerns raised by all TSOs, ACER reintroduces a third paragraph in Article 11(3) of Annex 1 reinstating the possibility for the reserve connecting TSO to terminate prequalification status where the BSP fails to deliver the service in accordance with Article 158 of the SO Regulation and the applicable national terms and conditions for BSPs.
- (183) In addition, Article 11(2)(b) of the CHP identifies as a ground for deemed withdrawal the failure to respect deadlines for a specific process. ACER considers this to be already covered by Article 11(2)(a), which more generally refers to non-compliance with applicable timelines. ACER therefore has deleted Article 11(2)(b) of the CHP to avoid duplication.

7.2. ACER assessment of the implementation timeline

- (184) All TSOs propose an implementation timeline of sixty (60) months in Article 14 of the CHP for the implementation of the harmonised FRR prequalification framework. In justification of the proposed implementation timeline, all TSOs highlighted during the working-level discussions a number of implementation challenges, including the implementation of new operational procedures, potential procurement requirements, challenges related to the approval of the terms and conditions for BSPs by the relevant

regulatory authorities, and the significant changes to TSOs' systems that would be required as a result of certain amendments proposed by ACER.

- (185) Taking these concerns into account, ACER revised several of its initial proposals in its preliminary position. Accordingly, ACER suggested that the TSOs should submit the proposal including the relevant amendments to the national terms and conditions for BSPs in accordance with Article 18(5) of the EB Regulation and in line with the requirements of Annex 1 to the relevant regulatory authorities for their approval within six (6) months after approval by ACER followed by twenty-four (24) months from the approval of those terms and conditions by the relevant regulatory authorities for TSOs to implement those amendments. In their written comments on ACER's preliminary position, as described in Chapter 5.2.1.7, recital (55), all TSOs maintained their concerns and requested instead a timeline of one (1) year for submitting the national terms and conditions for BSPs to the relevant regulatory authorities, followed by thirty-six (36) months from the approval of those terms and conditions by the relevant regulatory authorities to implement Annex 1.
- (186) ACER, however, considers the timeline proposed by all TSOs in their written comments to be unnecessarily long, particularly in light of the adjustments made following the concerns raised by all TSOs during the oral hearing. In particular, ACER has revised the timelines for the various process stages while keeping them broadly aligned with those proposed by the TSOs and has excluded the switching of RPGs between BSPs from Annex 1, which all TSOs identified as a key driver of burdensome and time-consuming changes to operational procedures and systems. As a result, the extent of the required system modifications has been reduced, as many of the implementation challenges, and the need for a longer implementation period, were linked to automating processes to accommodate shorter timelines and other operational adjustments. ACER therefore considers that an implementation within a shorter timeframe is feasible.
- (187) Accordingly, ACER has amended the implementation timeline proposed by all TSOs by providing six (6) months from ACER's approval for TSOs to submit the proposal including the relevant amendments to the national terms and conditions for BSPs in accordance with Article 18(5) of the EB Regulation and in line with the requirements of Annex 1 to the relevant regulatory authorities, followed by twenty-four (24) months from the approval of those terms and conditions by the relevant regulatory authorities for TSOs to implement the necessary changes. The latter period corresponds to the lower bound of the implementation timelines proposed by all TSOs during the relevant discussions. In accordance with Article 5(6) of the EB Regulation, the relevant regulatory authorities shall decide on the submitted terms and conditions or methodologies within six (6) months of receipt by the relevant regulatory authority or, where applicable, by the last relevant regulatory authority concerned.
- (188) It should be noted that the national terms and conditions for BSPs are subject to approval by the relevant regulatory authorities, which retain the discretion to set a shorter implementation timeline where appropriate. Accordingly, the twenty-four (24)-month period should be understood as the maximum period for harmonisation purposes

and does not preclude regulatory authorities from prescribing shorter implementation deadlines at the national level where appropriate.

7.3. ACER assessment of the remaining provisions of the CHP

7.3.1. Data exchange standards (Article 12 of the CHP)

- (189) Article 12 of the CHP sets out the implementation and application of standards for data exchange related to balancing service provision. ACER welcomes the alignment of these provisions with ACER Recommendation 01/2025 on the demand response network code, particularly with respect to amendments to the EB Regulation.
- (190) However, ACER notes a divergence in timelines for the publication of the list of European data exchange standards. While all TSOs propose an eighteen (18)-month period following the relevant decision, ACER Recommendation 01/2025 provides for a 12-month timeframe after entry into force of the relevant regulation. ACER therefore amends Article 12(1) to align with the shorter timeline, setting the deadline in July 2027.
- (191) In addition, ACER considers that the inclusion of ‘non-real-time activation’ as a focus area for aFRR data exchange standards is not relevant, as aFRR activations are by definition real-time. Following discussions with TSOs, ACER understands that this reference was intended for the mFRRIF and therefore deleted it from Article 12(2) of the aFRRIF of the CHP.
- (192) In its written comments on ACER preliminary position described in Chapter 5.2.2, recital (68), the Belgian regulatory authority noted that market participants should have a say in both the choice of standard and the number of standards that may be applicable, as there may be an interest from market participants to only apply one single standard for all communications, across services and products, to any system operator, while there could also be an interest to apply the same standards for communications between controllable units and the BSP. In other words, the Belgian regulatory authority argues that it may be beneficial, with the intention to minimise total system costs, to take a more general approach: foreseeing a sufficiently long timeline and an adequate and broad involvement of all relevant actors involved.
- (193) ACER agrees with the Belgian regulatory authority’s points on the need for market participants to be involved in such a process, as well as the fact that fewer standards may be established at a later stage. However, ACER notes that it was market participants who requested an acceleration in the rollout of standards for data exchange, in the context of the drafting of the ACER Recommendation on a network code for demand response as well as in the process of the drafting of the proposal for a network code for demand response by EU DSO Entity and ENTSO-E. Market participants, in several occasions, stressed the need for taking steps towards this direction, and the drafting committee members welcomed ENTSO-E’s proposal for harmonising the standards for data exchanges related to balancing, in the context of drafting the ACER Recommendation on a network code for demand response, which is now proposed by all TSOs in their Proposal. Additionally, market participants already participate in

groups (such as the Data for Energy, which is a subgroup of the Smart Energy Expert Group¹² of the European Commission), which work on the standardisation of data exchange in the energy sector. Therefore, ACER considers that the Proposal includes a balanced approach for addressing the topic of standardised data exchanges.

- (194) Finally, ACER notes that Article 12(2) of the CHP includes a sentence allowing the continued use of national data exchange standards after the implementation of harmonised standards. However, the last sentence of Article 12(2) also requires the maintenance of existing data exchange interfaces. ACER considers this wording to be confusing and therefore proposed its deletion in its preliminary position. In their written comments on ACER preliminary position as described in Chapter 5.2.1.6, recital (53), all TSOs acknowledged ACER's intention to clarify the provision but noted that removing the reference to data exchange interfaces may create uncertainty regarding the continued use of existing non-standardised interfaces. They therefore requested clarification on their treatment under the revised wording to avoid unintended impacts on current implementations. ACER understands these concerns and therefore deletes the final sentence of Article 12(2) of the CHP, while introducing a provision ensuring the continued use of existing non-standardised data exchange interfaces, notwithstanding the resulting divergence from Recommendation 01/2025.

7.3.2. Subject matter and scope Article 1 of the CHP

- (195) Article 1(1) of the CHP lists the topics proposed by all TSOs for harmonisation and included in the CHP. ACER considers that such a list is not necessary in the Annex and therefore deletes Article 1(1) of the CHP, with the remaining paragraphs of Article 1 renumbered accordingly.
- (196) Article 1(4) of the CHP sets out requirements concerning the delegation or assignment by a TSO to a third party of tasks related to the aFRRIF. ACER considers that Article 13 of the EB Regulation already adequately covers such cases. During discussions with all TSOs, it was confirmed that the provisions included in the Proposal and the CHP are indeed encompassed by Article 13. ACER therefore has deleted Article 1(4) of the CHP.

7.3.3. Definitions and interpretation Article 2 of the CHP

- (197) Article 2(2) of the CHP sets out definitions for certain terms used in the Annex. Article 2(2)(a) defines the term 'activation test' by reference to 'product requirements', a term which is not itself defined. Following discussions with all TSOs, ACER has introduced in Article 2(2) of the CHP definition of 'product requirements' aligned with the corresponding definition set out in ACER Recommendation 01/2025 on the demand response network code.

¹² https://energy.ec.europa.eu/topics/eus-energy-system/digitalisation-energy-system_en#smart-energy-expert-group

- (198) Furthermore, during discussions with all TSOs, additional clarification was provided regarding the concept of the activation test. All TSOs explained that the concept may be broader than the definition included in ACER Recommendation 01/2025 on the demand response network code, and, in particular, broader than Article 2(28) of Annex 1 thereto. Specifically, the activation test may also encompass tests performed by the BSP at the request of the reserve connecting TSO, without necessarily requiring the test to be performed simultaneously with the request. In addition, the verification process may include the submission of test results to the reserve connecting TSO for the purpose of assessing compliance, without requiring such assessment to occur at the exact time of execution of the test. ACER therefore has amended Article 2(2)(a) of the CHP in order to incorporate the amendments proposed by all TSOs during the consultation process.
- (199) Article 2(2)(c) of the CHP is amended to define the term ‘re-prequalification’, including a requirement that ACER considers should instead form part of the operative provisions rather than the definitions section. Following discussions with all TSOs, ACER therefore has amended Article 2(2)(c) of the CHP by deleting the reference to Article 10(1) of the CHP.
- (200) Article 2(2)(f) of the CHP is amended to define the term ‘controllable unit’ as a level below the RPU/RPG and includes references to a power-generating module, demand unit, and energy storage module. While the definitions of RPU and RPG in the SO Regulation do not explicitly refer to storage, RPUs and RPGs may nevertheless include storage elements. For reasons of consistency, and following discussions with all TSOs, ACER has amended Article 2(2)(f) of the CHP by deleting the reference to ‘energy storage module’.
- (201) Articles 2(2)(g)-(h) of the CHP define the terms ‘RPU’ and ‘RPG’ by reference to the SO Regulation. However, as the definitions contained in the SO Regulation are directly applicable to the aFRRIF, ACER considers that separate definitions are unnecessary. ACER therefore has deleted points (g) and (h) of Article 2(2) of the CHP and to renumber the remaining points accordingly.
- (202) Following discussions with all TSOs, as further explained in Chapter 6.2.6 under ‘Article 8 of the CHP: Switching of reserve providing units between BSPs’, ACER has added a definition of ‘switching an RPU’.

8. ACER ASSESSMENT OF AMENDMENTS TO ARTICLE 20 OF THE AFRRIF

- (203) According to Article 20(2)(a) of the aFRRIF, the stakeholder survey to identify a shortlist of prioritised harmonisation needs should be organised annually. In Article 20(2)(a) of the Proposal, all TSOs propose that the survey be conducted only every three years, arguing that a two-year cycle does not allow sufficient time to gain experience with the implementation of harmonised rules before assessing whether further harmonisation is needed.

- (204) ACER considers that conducting the stakeholder survey every three years could result in delays in further harmonisation process. Decreasing the frequency of the survey would increase the time gap between the identification of the stakeholders needs and would thereby deteriorate the relevance and efficiency in the harmonisation process. In addition, longer intervals delay the implementation of identified needs, meaning stakeholders would have to wait longer before seeing actual changes to the rules. Following discussions with all TSOs, ACER understands their concern that a two-year cycle may not allow sufficient time to gain experience with the implementation of harmonised rules before new amendments to the aFRRIF are considered. While ACER acknowledges that two years is a relatively short period for implementing harmonised terms and conditions for BSPs and assessing their effectiveness, it also notes that these terms and conditions cover a wide range of topics that cannot all be addressed in every cycle. In the surveys leading to the Proposal, stakeholders identified multiple topics, of which all TSOs selected only some, prioritising harmonisation needs in accordance with Article 20(2) of the aFRRIF.
- (205) ACER considers that topics that are already in the scope of a proposed amendment to the aFRRIF should first be implemented before identifying further harmonisation needs (in case of overlaps between a survey pursuant to Article 20(2)(a) of the aFRRIF, and an ACER decision making process for amending the aFRRIF). All TSOs in their written comments on ACER preliminary position as described in Chapter 5.2.1.1, recital (32), argued for explicitly excluding from the surveys topics previously covered by issued decisions, for one year after implementation timeline set for these topics in these decisions. ACER does not support all TSOs' proposal, since this exclusion may limit the ability of both TSOs and ACER to address unexpected issues, to clarify practical aspects of the implementation, or fix unintended consequences after changes are introduced. Any decision to revisit topics should depend on clear evidence that there is a real issue that needs to be addressed, rather than being excluded for a fixed period. Therefore, ACER considers that the frequency of the survey should not be restricted by the implementation timeline of specific topics and amended Article 20 of the Proposal to reduce the interval of the stakeholder survey to two years.
- (206) According to Article 20(2)(d) of the aFRRIF, the CHP should also include the necessary implementation time for the amendment of terms and conditions for BSPs. In Article 20(2)(d) of the Proposal, all TSOs propose to delete this requirement. ACER considers that this requirement comes from Article 5(5) of the EB Regulation, which mandates that the proposal for terms and conditions or methodologies should include a proposed timescale for their implementation. Consequently, independently of whether it is explicitly stated in Article 20(2)(d) of the aFRRIF, the requirement is binding for any proposal. Therefore, ACER has revised Article 20(2)(d) of the Proposal to reintroduce the requirement.
- (207) According to Article 20(2)(e) of the aFRRIF, the aFRRIF should be amended with the CHP, while according to Article 20(2)(g) of the aFRRIF, all TSOs should submit this proposal within specific timelines. In Article 20(2)(e) of the Proposal, all TSOs merge and rephrase these provisions introducing a requirement that the CHP should be included as an annex in the amended aFRRIF. ACER considers that although in some

cases provisions stemming out of the CHP would be better placed in an annex, it does not exclude the fact that in some cases the CHP could amend provisions included in the current versions of the aFRRIF. Moreover, independently of where a provision is placed in the IF, it bears the same legal enforceability. Therefore, ACER has revised Article 20(2)(e) of the Proposal and deleted the restriction that the CHP should be included as an annex in the aFRRIF.

- (208) According to Article 20(2)(f) of the aFRRIF, the implementation of changes stemming from the amended aFRRIF should be handled at national level in the national terms and conditions for BSPs. In Article 20(2)(f) of the Proposal, all TSOs rephrase this requirement introducing the reference to Article 18(5) of the EB Regulation, and they propose an additional deadline, requiring the proposal for the amendment of national terms and conditions for BSPs to be submitted to the relevant regulatory authority ‘no later than one (1) year after the relevant ACER decision’. ACER considers that this does not have to be specified in the general process described in Article 20 of the aFRRIF, but that this can be reflected in the implementation timeline as described in Article 14 of the CHP. Therefore, ACER has revised Article 20(2)(f) of the Proposal and deleted the deadline for the submission to the regulatory authority of the national proposal for the amendment of national terms and conditions for BSPs.

9. ACER ADDITIONAL CONSIDERATIONS

- (209) As explained in Chapter 5.2.1.7, recital (56), all TSOs clarified in their written comments on ACER’s preliminary position that the timelines set out in Article 14 should be regarded as the implementation timelines for the CHP. Consequently, the TSOs consider that the timelines laid down in Article 3 of the aFRRIF are not applicable. ACER agrees and has therefore removed Article 3 from the Proposal. Instead, ACER has introduced a reference in Article 21 of the aFRRIF to Article 14 of Annex 1, establishing it as the applicable implementation timeline for Annex 1. Moreover, ACER has removed Article 14(1) of the CHP, as the corresponding provision is already included in Article 21 of the aFRRIF on publication and implementation. This amendment avoids unnecessary duplication.
- (210) As explained in Chapter 5.2.1.8, recital (58), following the written comments from all TSOs on ACER’s preliminary position, ACER has amended Article 3(18) of the aFRRIF by including the wording ‘per LFC area’.
- (211) For the sake of consistency, ACER has inserted references to the CHP throughout the main body of the aFRRIF, where necessary.
- (212) Finally, ACER wishes to clarify that, following the entry into force of the Demand Response Network Code, it will amend the provisions set out in Annex I to align them with the requirements governing the qualification process established in the Demand Response Network Code.

10. CONCLUSION

- (213) For the reasons set out above, ACER considers that the Proposal complies with the EB Regulation, the SO Regulation, and Regulation (EU) 2019/943, provided that the amendments described in this Decision are incorporated into the Proposal, as set out in Annex I. These amendments ensure that the Proposal is consistent with the objectives of the EB Regulation and the relevant requirements of Regulation (EU) 2019/943, while contributing to market integration, non-discrimination, effective competition, and the proper functioning of the internal electricity market.
- (214) Therefore, ACER approves the Proposal subject to the necessary amendments. Annex I to this Decision sets out the Proposal as amended and approved by ACER,

HAS ADOPTED THIS DECISION:

Article 1

The implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation pursuant to Article 21 of Commission Regulation (EU) 2017/2195 are amended and approved as set out in Annex I to this Decision.

Article 2

This Decision is addressed to:

APG – Austrian Power Grid AG
Elia – Elia System Operator S.A
ESO – Electroenergien Systemen Operator EAD
HOPS - Croatian Transmission System Operator Plc
ČEPS - ČEPS, a.s.
Energinet – Energinet
Elering – Elering AS
Fingrid – Fingrid OyJ
Kraftnät Åland Ab
RTE - Réseau de Transport d'Electricité, S.A
Amprion – Amprion GmbH
Baltic Cable AB
TransnetBW -TransnetBW GmbH
TenneT GER – TenneT TSO GmbH
50Hertz – 50Hertz Transmission GmbH

IPTO – Independent Power Transmission Operator S.A.
MAVIR ZRt. - MAVIR Magyar Villamosenergia-ipari Átviteli Rendszerirányító Zártkörűen
Működő Részvénytársaság ZRt.
EirGrid – EirGrid plc
Terna – Terna SpA
Augstsprieguma tīkls - AS Augstsprieguma tīkls
LITGRID – LITGRID AB
CREOS Luxembourg – CREOS Luxembourg S.A.
TenneT TSO – TenneT TSO B.V.
PSE – PSE S.A.
REN - Rede Eléctrica Nacional, S.A.
Transelectrica - C.N. Transelectrica S.A.
SEPS - Slovenská elektrizačná prenosová sústava, a.s.
ELES – ELES, d.o.o.
REE - Red Eléctrica de España S.A.U.
Svenska kraftnät - Affärsverket Svenska kraftnät
SONI System Operator for Northern Ireland Ltd.

Done at Ljubljana, on 18 September 2026.

- SIGNED -

*For the Agency
The Director ad interim*

V. ZULEGER

Annexes:

Annex I	The third amendment to the implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation
---------	--

- Annex Ia The third amendment to the implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation – with track changes of the Proposal to Annex I – (for information only)
- Annex II Consolidated version of the amended implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation – (for information only)
- Annex IIa Consolidated version of the amended implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation – with track changes of Annex I to ACER Decision No 12/2026 – (for information only)
- Annex III Evaluation of responses to ACER’s public consultation on all TSOs’ amendment proposals to the implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation – (for information only)

In accordance with Article 28 of Regulation (EU) 2019/942, the addressees may appeal against this Decision by filing an appeal, together with the statement of grounds, in writing at the Board of Appeal of the Agency within two months of the day of notification of this Decision.

In accordance with Article 29 of Regulation (EU) 2019/942, the addressees may bring an action for the annulment before the Court of Justice only after the exhaustion of the appeal procedure referred to in Article 28 of that Regulation.