

# **First amendment of Implementation framework for the European platform for the imbalance netting process**

in accordance with Article 22 of Commission Regulation (EU) 2017/2195  
of 23 November 2017 establishing a guideline on electricity balancing

**18 October 2021**

Purpose:	<input checked="" type="checkbox"/> methodology draft <input type="checkbox"/> for ACER approval	<input checked="" type="checkbox"/> for public consultation <input type="checkbox"/> for final publication
Status:	<input checked="" type="checkbox"/> draft	<input type="checkbox"/> final
TSO approval:	<input type="checkbox"/> for approval	<input checked="" type="checkbox"/> approved
NRA approval:	<input type="checkbox"/> outstanding	<input type="checkbox"/> approved

All TSOs, taking into account the following:

### **Whereas**

- (1) This proposal provides an amendment to Implementation framework for a European platform for the imbalance netting process (hereafter referred to as the “INIF”) in accordance with ACER decision 13-2020 of 24 June 2020.
- (2) European TSOs strongly support the European target model defined by the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (hereafter referred to as the “EB Regulation”) for integrated balancing energy markets, especially the implementation and go-live of the platforms for the exchange of balancing energy, and see significant advantages resulting from it.
- (3) Article 10(2) of the INIF provides that “no later than eighteen months before the deadline when the capacity management function (hereafter referred to as the “CMF”) shall be considered as a function required to operate the aFRR-Platform pursuant to Article 6(4) [aFRRIF], all TSOs shall develop a proposal for amendment of this aFRRIF, which shall designate the entity performing the capacity management function in accordance with Article 22(3)(e) of the EB Regulation and clarify whether the IN-Platform will be operated by a single entity or multiple entities.”
- (4) In accordance with Article 10(2) second paragraph this amendment proposal fulfils all TSO obligations regarding the proposed designation of the entities that will perform the functions defined in the INIF and clarifies that, the IN-Platform may be operated by multiple entities, in accordance with Article 22(3)(e) of the EB Regulation.
- (5) For the sake of clarity, the INIF, as well as ACER decision 03-2020 of 28 January 2020 on the Implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with manual activation (hereafter referred to as the “mFRRIF”) and ACER decision 02-2020 of 24 January 2020 on the Implementation framework for the exchange of balancing energy from frequency restoration reserves with manual activation (hereafter referred to as the “aFRRIF”), specify that all TSOs shall establish a CMF and that in case several balancing platforms have such function, the CMF shall be the same across these platforms.
- (6) The intention of all TSOs is to designate the same entity to perform the CMF for the mFRR-Platform, aFRR-Platform and IN-Platform. The designated entity will operate the CMF as a cross-platform function of the concerned platforms. In order to ensure efficient and effective governance, coordination, and decision making process, all TSOs have entered into contracts to facilitate the appointment of one TSO to perform the CMF functions for the aFRR, mFRR and IN platforms.
- (7) TSOs duly remind ACER that this amendment is submitted for its approval in accordance with Decision No. 13/2020, it being understood however that one TSO has filed an application before the General Court (registered as Case T-472/21) seeking the annulment of Article 1 of Decision No. 13/2020 and of Articles 3(3), 3(5)(b), 4(6), 6, 11(1)(c), 11(2)(c) and 12 of the Implementation Framework for the European platform for the the imbalance netting process. The present amendment and any decision taken by ACER in respect of it will need to take into account and be adjusted in accordance with the judgment of the General Court (and any possible judgment on appeal by the

- Court of Justice) on the meaning and effect of Article 22 of the Electricity Balancing Guidelines (Commission Regulation (EU) 2017/2195).
- (8) The present amendment is without prejudice to the position recorded in all TSOs' final proposal dated 18 December 2019 (submitted to ACER as a supplement to their proposal for the INIF) that the CMF is not a required platform function and does not fall within the scope of Article 22 of the EB Regulation.
  - (9) In accordance with Article 4 and Article 6(4) of the INIF, the CMF constitutes an additional functionality of the Platform and implements a centralized and coordinated process between all TSOs and the balancing platforms, and between the platforms themselves to continuously update the IN cross-zonal capacities for each of the relevant bidding zone borders or set of bidding zone borders taking into account (i) the initial cross-zonal capacities in accordance with Article 37 of the EB Regulation, (ii) the additional cross-zonal capacities allocated to the RR, mFRR and aFRR process pursuant to Article 38(1) of the EB Regulation and, (iii) the already confirmed exchanges within the balancing timeframe, inter alia, the replacement power interchange and the manual frequency restoration power interchange, (iv) the adjustments of the cross-zonal capacities pursuant to Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation (hereafter referred to as the "SO Regulation"). As the main objective of the CMF is to ensure the consistency of the data exchanged between all TSOs and the European platforms related to the cross-zonal capacities, it is technically coherent to allocate the CMF as an interface process to an entity which is distinct from the entities that perform the activation optimisation function (hereafter referred to as the "AOF") or imbalance netting process function (hereafter referred to as the INP function) in case of IN-Platform and the TSO-TSO settlement function of each European platform.
  - (10) The amended INIF includes the CMF function in the scope of the mFRR steering committee. All TSOs have agreed that the mFRR steering committee shall be the governing body for CMF as a cross-platform function, as this is an efficient, effective structure that provides for coordination and oversight as all TSOs involved in the European platforms are represented in the mFRR steering committee.
  - (11) The amended INIF also further specifies that the IN-Platform steering committee has the authority to create subcommittees or working groups, which may be granted delegated authority by the steering committee. In such event, the IN-Platform steering committee determines the composition and the modalities of the functioning of such subcommittee or working group. In case the aFRR-Platform and the mFRR-Platform also create the same subcommittee or working group, they can be the same for the concerned European platforms and the steering committees jointly define their composition and their functioning.
  - (12) Each member TSO is accountable towards its national regulatory authority for the execution of the cross-border activation process in accordance with EB Regulation. Thus, the proposed setup ensures the regulatory oversight of the IN-Platform in the conditions defined by the Directive (EU) 2019/944 on the common rules for the internal market for electricity and by Commission Regulation (EU) 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators.
  - (13) The amended INIF fulfills the general principles, goals and other methodologies set in the EB Regulation, the SO Regulation, the Commission Regulation (EU) 2019/943 on the internal market for electricity (hereafter referred to as the "Electricity

Regulation”) as well as the Commission Regulation (EC) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Commission Regulation (EC) No 714/2009 (hereafter referred to as the “Transparency Regulation”).

- (14) A governance structure has been set up by TSO agreements where the IN-Platform steering committee will act as governing body and supervise the INP function and TSO-TSO settlement function of the IN-Platform. Additionally, the mFRR steering committee will act as governing body and supervise the CMF as a cross-platform function. Given that all TSOs involved in the European platforms are part of the mFRR steering committee, this structure ensures efficient and effective operation of the European platforms, effective coordination and decision making process to resolve any conflicting positions between entities operating the European platforms and thus ensures that the requirements of EB Regulation are met. Namely,
- a. the proposed setup maximises the usage of technical, operational and financial synergies between the projects and thus ensures a coherent allocation of the functions to the entities operating the European platform as required in Article 21(3)(e)(i) of EB Regulation. INP function and TSO-TSO settlement function are allocated to an entity separate from the entity operating the CMF. The operation of a European platform function is therefore always performed by only one single designated entity. Thus, a coherent allocation is achieved by appropriate coordination of different functions of the IN-Platform;
  - b. all TSOs have implemented an effective and efficient contractual framework in order to govern and operate the European platforms as required in Article 22(3)(e)(ii) and Article 3(2)(c) of EB Regulation. In this contractual framework between TSOs, the European platforms underlying IT Solutions are designed, co-owned and governed by all TSOs themselves, while the development, the maintenance, the operation and the hosting of European platforms’ functions are delegated to one or more TSOs. Therefore, the designated TSOs are acting for the benefit of all TSOs in accordance with the operational rules jointly defined by all TSOs and under the supervision of the steering committees established by all TSOs. Thus, the proposed setup of the IN-Platform and allocation of functions ensures efficient and effective governance of the IN-Platform;
  - c. the operation of such European platforms is the responsibility of all member TSOs. The implementation of the INIF fulfils the technical and security requirements to be met by the European platforms with regard to the operational security and their real-time relevance. Synergies can therefore be utilised in the use of existing TSO facilities with results in high efficiency gains. The proposed setup also enhances efficiency as it allows the use of the existing TSO knowledge, infrastructures and resources for the real-time operation of the European platforms and it doesn’t lead to the creation of an additional structure for this purpose. Building up an additional structure would mean to create new knowledge and infrastructure and spend additional resources, also from TSOs. Thus, the proposed setup of the IN-Platform and allocation of functions ensures efficient and effective operation of the IN-Platform as required in Article 22(3)(e)(i) and Article 3(2)(c) of EB Regulation;

- d. the operation of IN-Platform is a collective responsibility of all member TSOs and each TSO is fully responsible for the operation of the IN-Platform towards its national regulatory authority (hereafter referred to as the “NRA”) and connected market participants. Since Member TSOs opted for a TSO-TSO model in which only TSOs will be connected to the IN-Platform directly, while Balancing Service Providers will be connected to the respective connecting national TSO, the respective NRAs and ACER will be able to continue make use of the competences granted to them effectively without any additional increase in competence required. Thus, the proposed setup of the IN-Platform and allocation of functions ensures efficient and effective regulatory oversight over the IN-Platform as required in Article 22(3)(e)(ii) of EB Regulation;
  - e. the coordination and the decision-making process is ensured at the level of the steering committees of the European platforms, with a specific role assigned to the mFRR-Platform steering committee also in charge of the governance of CMF as a cross-platform function. The designated entities are contractually obliged to operate the functions of the platform. Insofar as the cooperation of the entities is required for the operation or for the solution of issues, the entities are obliged to coordinate bilaterally at all times. If problems cannot be solved by the entities themselves, the Steering Committee may also appoint a committee of experts at short notice. If no solution can be found in the expert panel either, the Steering Committee shall be convened. All TSOs shall ensure that operational problems arising at short notice can also be solved within a reasonable period of time. Thus, an effective coordination and decision making process to resolve any conflicting positions between entities operating the IN-Platform is ensured as required in Article 22(3)(e)(iii) of EB Regulation.
- (15) The amendment proposal continues to fulfill the objectives of EB Regulation, in particular,
- a. the effective implementation and operation of the European platforms as foreseen by all TSOs fosters effective competition, non-discrimination and transparency in balancing markets;
  - b. the effective and efficient implementation and operation of the European platforms as foreseen by all TSOs enhances the overall efficiency of balancing measures as well as the efficiency of European and national balancing markets;
  - c. the effective and efficient implementation and operation of the European platforms as foreseen by all TSOs supports the integration of balancing markets and allows for the exchange of balancing energy on a European level while ensuring operational security in real-time;
  - d. the setup to operate the European platforms proposed by all TSOs ensures their effective and efficient operation also in the long-term and thus contributes to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;
  - e. the timely go-live as foreseen by all TSOs fosters the liquidity of balancing markets while preventing undue distortions within the internal electricity market by allocating the operation of the European platforms to different TSOs.

- (16) Article 22(1) of the EB Regulation requires all TSOs to develop the INIF. All TSOs who are responsible for the development of the proposal and for its submission to ACER are the following: APG - Austrian Power Grid AG, VÜEN-Vorarlberger Übertragungsnetz GmbH, Elia - Elia Transmission Belgium S.A., ESO – Electroenergien Sistemen Operator EAD, HOPS - Croatian Transmission System Operator Ltd, 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, 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., Tranelectrica - C.N. Tranelectrica 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.

SUBMIT THE FOLLOWING PROPOSAL FOR AMENDMENT OF THE IMPLEMENTATION FRAMEWORK FOR THE EUROPEAN PLATFORM FOR THE IMBALANCE NETTING PROCESS TO ACER

### **Article 1** **Designation of entity**

Article 10 – Designation of entity – of INIF is amended as follows:

- a) Paragraph 2 shall be amended and be read accordingly:

In accordance with Article 22(2) of EB Regulation, the IN-Platform may be operated by TSOs or an entity they would create themselves. For the operation of the IN-Platform, TSOs shall designate:

- i. one TSO for operation of the imbalance netting process function and TSO-TSO settlement function;
- ii. and a different TSO for operation of the capacity management function.

- b) Paragraph 3 shall be amended and be read accordingly:

« 3. The designation of the entities will be done in accordance with Article 22(4) of the EB Regulation. »

c) Paragraph 4 shall be amended and be read accordingly:

«4. For the INP function and TSO-TSO settlement function the designated TSO shall be acting on behalf of all member TSOs of the IN-Platform under the supervision of the IN-Platform steering committee.

For the CMF, the designated TSO shall be acting on behalf of all member TSOs of the IN-Platform under the supervision of the mFRR-Platform steering committee.

The designated TSOs shall be acting in accordance with Article 14(2)(a) and in accordance with the operational rules approved by the respective steering committee and the provisions of the contract signed by each designated TSO and the other TSOs.»

d) Paragraph 5 shall be amended and be read accordingly:

« 5. For the avoidance of doubt, the designated TSOs may contract third parties for executing supporting tasks, subject to the agreement of the relevant steering committee and in accordance with the provisions of the contracts signed by the designated TSOs and the other member TSOs.»

## **Article 2**

### **Governance and decision-making process**

Article 8 – Governance – of INIF shall be amended as follows:

The paragraph 2 shall be amended and be read accordingly:

« Each member TSO shall carry out the common governance principles of the IN-Platform by means of:

(a) the steering committee of the IN-Platform, which is the decision-making body for the INP function and TSO-TSO Settlement function of the IN-Platform with the right to make any binding decision on any matter or question related to the IN-Platform and not covered by the Article 9(1)(b). Thereto, each member TSO of the IN-Platform shall appoint at least one regular representative to the steering committee of the IN-Platform, which is a superior body to the expert group.

For the sake of clarity and avoidance of doubt, the decision-making body for the CMF as a cross-platform function is steering committee of the mFRR-Platform in accordance with Article 14 of mFRRIF.

(b) the expert group of the IN-Platform, which is the expert body of the IN-Platform and prepares background materials for the steering committee (including analyses, impact assessments, summaries) and evaluates and proposes concepts in relation to the implementation of the IN-Platform. Thereto, each member TSO shall appoint at least one permanent representative to the expert group of the IN-Platform.

The steering committee of the IN-Platform has the authority to create subcommittees or expert groups, which may be granted delegated authority by the steering committee of the IN-Platform. In such event, the steering committee of the IN-Platform determines the

composition and the modalities of the functioning of such subcommittee or expert group. In case the mFRR-Platform and the aFRR-Platform also create the same subcommittee or expert group, they can be the same for the concerned European platforms and the steering committees jointly define their composition and their functioning. »

### **Article 3 Implementation Timeline**

All TSOs shall implement this amendment to the INIF within 15 days after the publication of the decision by the Agency for the Cooperation of Energy Regulators.

### **Article 4 Publication of the Amendment**

All TSOs shall publish this amendment to the INIF without undue delay pursuant to Article 7 of EB Regulation after a decision has been taken by the Agency for the Cooperation of Energy Regulators in accordance with Articles 5(2)(a), of the EB Regulation and Article 5(2) Regulation (EU) 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators

### **Article 5 Language**

1. The reference language for this amendment to the INIF shall be English.
2. For the avoidance of doubt, where TSOs need to translate this amendment to the INIF into their national language(s), in the event of inconsistencies between the English version published by the all TSOs in accordance with Article 7 of the EB Regulation and any version in another language, the relevant TSOs shall be obliged to dispel any inconsistencies by providing a revised translation of this amendment to the INIF to their relevant national regulatory authorities.