

ACER Decision on the Implementation framework for mFRR Platform: Annex II

Evaluation of responses to the public consultation on the Implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with manual activation

1 Introduction

On 18 December 2018, all TSOs submitted to all regulatory authorities an ‘all TSOs’ proposal for the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with manual activation in accordance with Article 20 of Commission Regulation (EU) 2017/2195 of 23 November 2017¹ (hereafter referred to as the ‘Proposal’). The last regulatory authority received the Proposal on 11 February 2019.

The Agency received a letter on 24 July 2019 from the Chair of all Energy Regulators’ Regional Forum¹, on behalf of all regulatory authorities. This letter informed the Agency that on 16 July 2019, all regulatory authorities reached a unanimous agreement to request the Agency to adopt a decision on the Proposal.

In this letter², and in the accompanying non-paper³, all regulatory authorities explained their diverging views. According to these documents, there are two main points of disagreement among all regulatory authorities. These are (i) the detailed design of the guaranteed volume to give access to TSOs to a sufficient amount of reserves, and (ii) the use of scheduled counter-activations for the European Platform for the exchange of balancing energy from frequency restoration reserves with manual activation (hereafter referred to as the mFRR-Platform).

In order to take an informed decision, the Agency launched a public consultation on 28 October 2019 inviting all interested parties to express their views on potential amendments of the Proposal. The closing date for comments was 18 November 2019.

¹ The all regulatory authorities’ platform to consult and cooperate for reaching a unanimous agreement on NEMO’s and TSO’s proposals.

² <https://www.acer.europa.eu/en/Electricity/MARKET-CODES/ELECTRICITY-BALANCING/05%20mFRR%20IF/Action%202%20-%20mFRR%20IF%20referral%20to%20ACER%20letter.pdf>

³ https://www.ceer.eu/documents/104400/3705089/190724_ERF_mFRR+non-paper_final.pdf/3cdac792-8188-ef7d-dale-bdf3ba971c1d

More specifically, the public consultation invited stakeholders to comment on the following aspects of the Proposal:

- (i) the elastic demand in the mFRR platform, and in particular high-level principles and conditions proposed by the Agency;
- (ii) the possible use of scheduled counter-activations in the mFRR platform in order to maximise the economic surplus subject to reporting and monitoring of possible negative effects;
- (iii) the proposed framework for declaring bids as unavailable and their modification by TSOs;
- (iv) general principles for paradoxically rejected bids; and
- (v) other topics.

2 Responses

By the end of the consultation period, the Agency received responses from 28 respondents⁴.

This evaluation paper summarises all received comments and responses to them. The table below is organised according to the consultation questions and provides the respective views from the respondents, as well as a response from the Agency clarifying the extent to which their comments were taken into account.

⁴ One respondent asked to be treated confidentially and is therefore not listed here nor are the answers provided to the consultation.

Respondents' views	ACER views
<p>Question 1: Do you agree with the high-level principles and conditions proposed by the Agency for elastic demand?</p> <p><i>(The TSOs shall not put a price on their demand, unless this possibility is approved by the competent regulatory authority in the national terms and conditions. For this purpose, it may include in the proposal for national terms and conditions pursuant to Article 18 of the EB Regulation a proposal for application of elastic demand in the mFRR platform. This proposal shall respect the following high-level principles:</i></p> <p><i>(a) the elastic mFRR demand can be only submitted for scheduled activation. Demand for direct activation shall be always inelastic;</i></p> <p><i>(b) a TSO can submit an elastic mFRR demand in a positive or a negative direction with the price it is willing to pay or receive for the activation of standard mFRR balancing energy product bids;</i></p> <p><i>(c) the elastic mFRR demand shall not be used in such a way that it imposes a cap on balancing energy prices permanently;</i></p> <p><i>(d) the price for mFRR demand for positive balancing energy shall not be lower than the price of the cheapest alternative bids for positive balancing energy available to the concerned TSO at the time of defining the mFRR demand in that mFRR MTU, and the price for mFRR demand for negative balancing energy shall not be higher than the price of the most expensive alternative bids for negative balancing energy, respectively.)</i></p>	
27 respondents provided an answer to this question.	
9 respondents agree with the high-level principles and conditions proposed by the Agency for elastic demand (AIGET, EDF SA, Edison s.p.a., Energie AG Oberösterreich Trading GmbH, Energy Norway, ENTSO-E, SEPS, Slovenské elektrárne, a.s., and UPM-Kymmene Oyj).	The Agency agrees.
4 respondents support elastic demand as an important instrument for TSOs to procure balancing energy efficiently (AIGET, EDF, EDISON, ENTSO-E).	The Agency agrees.
2 respondents suggest improving the transparency of the process, the definition and publication of TSOs' "activation methodology", as well as the reporting and publication of any activation together with the real-time data of balancing needs (AIGET, Edison s.p.a.). Similarly, 1 respondent requests transparency over the methodology, criteria, and the resulting demand curve submitted by each TSO to the platform (EDF).	The Agency improved transparency by obliging TSOs that will use elastic demand to publish the elastic demand curves regularly and to report on the use of elastic demand within the yearly monitoring report of the mFRR-Platform.

Respondents' views	ACER views
<p>1 respondent supports elastic demand if DA and SA mFRR activated within the same ISP are priced in the same way (Energy Norway).</p>	<p>The Agency agrees that bids activated in the same auction should receive the same marginal price but bids activated at different auctions should receive the respective marginal price reflecting the different fundamentals of each auction.</p>
<p>1 respondent supports the proposition of the Agency if a series of modifications are made (SEPS):</p> <ul style="list-style-type: none"> • in Article 3(4)(d) to replace “than the price” with “than the marginal price”, as marginal price, which is closer to inelastic price than average price; • in Article 3(4)(d), to replace “in that” with “within the same”; • in Article 3(4)(d), to clarify the “cheapest alternative bids” as a “aFRR and specific bids in the local MOL”. 	<p>The Agency did not make any of the suggested changes because the second and third suggestion are not changing the meaning or clarifying the text more. Further, the reference to the marginal price would not have any material impact on the results of inelastic demand and the same bids would be selected in the end.</p>
<p>1 respondent suggests replacing "permanently" in Article 3(4)(c) by a shorter specific period of "more than 24 consecutive hours" (Slovenské elektrárne, a.s.)</p>	<p>The Agency removed the reference to ‘permanently’ such that the requirement is more generally applicable.</p>
<p>2 respondents condition their support to elastic demand to significant amendments of the Proposal (ACM, IFIEC Europe).</p>	<p>The Agency restricted the volume for elastic demand to the volume of alternative bids available to the TSO using elastic demand and the price is restricted to the prices of alternative bids available to TSO locally. This way, both elements are restricted and legally defined.</p>
<p>1 respondent considers that the proposal should clearly and legally define the price and the volume of TSO demand (ACM)</p>	<p>The Agency restricted the volume for elastic demand to the volume of alternative bids available to the TSO using elastic demand and the price is restricted to the prices of alternative bids available to TSO locally. This way, both elements are restricted and legally defined.</p>

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<p>1 respondent sees that the Proposal could lead to TSOs having the ability to influence the price for balancing energy, and requests that elastic demand be allowed only in those cases where it could have a positive dampening effect on the total system cost. Further, this respondent suggests the use of a standard mFRR product to avoid negative market distortions and price manipulation (IFIEC).</p>	<p>The Agency agrees that elastic demand should not influence the balancing energy price but on the other hand introduced some strict provisions for TSOs using elastic demand that should make sure that the mentioned influence will not happen. Further, elastic demand is only allowed for SA mFRR where TSOs may have cheaper alternatives to balance the system.</p>
<p>16 respondents do not support the proposal of the Agency (BDEW, CEZ, a.s., Danish Energy, EFET - European Federation of Energy Traders, EnBW, Enel, Energie-Nederland, Eurelectric, Gas Natural Comercializadora, Illwerke vkw AG, Next Kraftwerke, PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association, RWE supply and trading, Swedenergy, TIWAG-Tiroler Wasserkraft AG).</p> <p>5 respondents believes that TSOs' demands should not be priced based on elastic imbalance needs, but rather based on technical requirements for system security (BDEW, EnBW, RWE Supply & Trading, Gas Natural Comercializadora, TIWAG-Tiroler Wasserkraft AG).</p>	<p>The Agency, in general, agrees with the TSOs' reasoning to use elastic demand for the mFRR-Platform, because elastic demand in SA mFRR reflects that fact that SA mFRR can be satisfied with other alternatives, which can be cheaper. Therefore, from regulatory perspective it would be unjustified to prevent TSOs to apply the cheapest alternatives to balance the system, when those alternatives actually exist. For example, TSOs can always cover the SA mFRR demand for scheduled activation with aFRR demand instead or with other specific mFRR products they have available locally. The same is not true for mFRR demand for direct activation or aFRR demand, where no such alternatives exist and, therefore, the mFRR demand for direct activation and the aFRR demand cannot be defined as elastic.</p>

Respondents' views	ACER views
<p>6 respondents claim that TSOs focus strictly on maintaining system frequency and leave price formation to the market; they should not be active in a market that they operate, as contrary to the unbundling principles of the EU legislation. (CEZ, Danish Energy, Eurelectric, PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association, Swedenergy). 7 respondents observe that the proposal allows TSOs to use elastic demand as a price cap on mFRR (6 previous respondents and Gas Natural Comercializadora). One additional respondent confirms the observation that while welcomed, ACER high-level principles to prevent that elastic demand imposes a price cap on balancing energy prices may be difficult to implement (Next Kraftwerke). The proposal gives the TSOs the opportunity to influence balancing volumes and therefore influence the balancing energy price, but more importantly distort BRPs' positions (Energie-Nederland). 2 respondents note that the proposal maintains competition between standard and specific products; direct competition would be more appropriate (CEZ, Eurelectric). In the current context, TSOs should not be allowed to artificially depress mFRR pricing by using scheduled activations (SA) with elastic demand for mFRR (Danish Energy, Swedenergy).</p>	<p>The Agency takes note of the concerns on transparency and the possibility of introducing a price cap on balancing energy. For this purpose, the Agency further clarified the conditions under which elastic demand can be submitted by TSOs with a volume restriction and reporting and publishing obligations. It is also important to note, that setting a price to a demand that reflects available alternatives cannot be considered as a cap on balancing energy price.</p>
<p>2 respondents call for harmonisation: ACER and NRAs should support real harmonisation of products and markets (Danish Energy); possibly with the use of only one standard mFRR product (Energie-Nederland).</p>	<p>The Agency generally agrees that this should be a long-term target, but within the current framework where TSOs need to restore frequency within 15 minutes, the need for DA mFRR products cannot be completely eliminated. The Agency will work together with TSOs to find technical and legal solutions how this could be done in future.</p>

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<p>3 respondents call for additional transparency (CEZ, Energy-Nederland, Eurelectric). 2 respondents call for full transparency over the methodology applied by TSOs to determine balancing needs (CEZ, Eurelectric). 2 respondents call for transparency in real time as even local elasticity will influence the central platform (Energy-Nederland, Eurelectric). 1 respondent asks that reporting obligations cover the following aspects (Eurelectric):-How the elastic curves have been built? What triggers the choice to use them? On what basis do TSO apply them?</p> <p>-How the elastic demand curve impacted the selection of bids in comparison with a non-elastic demand curve;</p> <p>-The proportion of volume (TSO demand) using an elastic demand curve versus the volume using a non-elastic demand curve.</p>	<p>The Agency agrees to introduce more transparency with reporting and publishing obligations. Elastic demand curves should be published as soon as possible.</p> <p>The impact of elastic demand on the cross-border marginal prices will be addressed in the regular report as well as the satisfaction of elastic demand to address transparency.</p>
<p>Question 2: Do you agree to allow scheduled counter-activations in the mFRR platform in order to maximise the economic surplus subject to reporting and monitoring of possible negative effects?</p>	
<p>27 respondents provided an answer to this question.</p>	
<p>15 respondents agree to allow scheduled counter-activations (AIGET, CEZ, Danish Energy, EDF, Edison, Elexon, EnBW, Energie AG Oberösterreich, Energy Norway, ENTSO-E, Gas Natural Comercializadora, Illwerke vkw AG, Slovenské elektrárne, a.s. Swedenergy, UPM-Kymmene Oyj).</p>	<p>The Agency agrees.</p>
<p>2 respondents observe that the benefits of the feature outweigh the costs associated with its implementation, while alternative features proved less efficient and less transparent (AIGET, Edison).</p>	<p>The Agency agrees. There are no costs of allowing scheduled counter-activations but there would be costs in preventing it.</p>
<p>5 respondents support the monitoring and reporting of possible negative effects of counter-activation (AIGET, Danish Energy, EDF, Edison, Elexon). 1 respondent requests that counter-activations for system actions have their own specific report so that any impact can be quantified and understood (Elexon). 2 respondents deem that the reassessment of the impact of the feature should occur earlier than after 3 years (CEZ, Gas Natural Comercializadora).</p>	<p>The Agency agrees to monitor the effects of counter-activations with a dedicated separate report 3 years after the implementation of the mFRR-Platform. The Agency considers that after 3 years enough data will be available to study the effects. In addition, only 2</p>

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<p>1 respondent suggests a yearly reassessment (Gas Natural Comercializadora). To the contrary, 1 respondent claims that a timeframe shorter than 3 years for the reassessment would not be considered sufficient to gain sufficient data for a reliable analysis (ENTSO-E).</p>	<p>years after implementation all TSOs will have to join the platform so 3 years after implementation there will be one year of data with all TSOs participating, thus making a better assessment on scheduled counter-activations. The Agency agrees with the ENTSO-E reasoning.</p>
<p>1 respondent observes that direct counter activations could happen for other needs than for balancing and could distort local imbalance prices (Elexon). Similarly, 1 respondent insists that bids that are counter-activated by the TSOs for reasons other than balancing should not influence the imbalance settlement price (CEZ).</p>	<p>The Agency in general disagrees that counter-activated bids should not set the marginal price of balancing energy and further reasoning of this can be found in the Agency's Decision of the pricing methodology with regard to the activations of bids for other purposes.</p>
<p>3 respondents condition their support to scheduled counter-activations to significant amendments of the Proposal (Enel, PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association). They consider that counter-activations should be possible only for balancing purposes and not for welfare increasing purposes. 1 respondent clarifies that counter activations affect imbalance prices. Marginal prices should be set taking into account only the solving of balance needs and no additional counter-activation. If allowed, additional counter activations should not modify the marginal price (Enel).</p>	<p>The Agency agrees that any negative effects on the functioning of intraday markets should be evaluated in the dedicated report and that the TSOs should propose mitigation measures if needed. Nevertheless, the Agency in general disagrees that counter-activated bids should not set the marginal price of balancing energy and further reasoning of this can be found in the Agency's Decision of pricing methodology with regard to the activations of bids for other purposes.</p>
<p>9 respondents disagree to allowing scheduled counter-activations in the mFRR platform (ACM, BDEW, EFET, Energie-Nederland, Eurelectric, Next Kraftwerke, RWE Supply & Trading, SEPS, TIWAG-Tiroler Wasserkraft AG).</p>	<p>The Agency understands that preventing scheduled counter-activations would be hard or an impossible task from the implementation point of view (i.e. due to algorithm performance). They will indeed facilitate residual trade within the balancing timeframe, which might compete with and distort the ID market. Ideally, all ID markets in EU should stop at the same time and</p>

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<p>4 respondents consider that the Proposal goes beyond the purpose of the balancing platforms and effectively executes a trade between BSPs, which should have taken place in the ID-market (ACM, EFET, Next Kraftwerke, RWE Supply & Trading). 3 respondents further observe that scheduled counter-activations in the mFRR negatively impact liquidity in the ID-market (BDEW, SEPS, TIWAG-Tiroler Wasserkraft AG). Similarly, 1 respondent considers that scheduled counter activations distort the ID-market and price forming in the balancing market (Energie-Nederland). Additionally, this respondent explains that counter activations are not needed as in a reactive system, as required by the SOGL, balancing is predominantly done by activating aFRR, supplemented by occasional mFRR bids. In such systems, economic optimization occurs in the intra-day market. Scheduled counter- activations would cause imbalances and should not be allowed. (Energie-Nederland). 1 respondent observes that allowing scheduled counter activations results in a lower marginal price (SEPS)</p> <p>2 respondents believe that counter-activation should be limited to balancing needs (Eurelectric, SEPS)</p>	<p>all balancing markets start at the same time, and this would prevent any cross-impact. In such a case, scheduled counter-activations would be beneficial, as they would facilitate residual trade within balancing timeframe. Therefore, the Agency understands that facilitating efficient trade in the balancing timeframe is not the root problem, but rather the non-harmonised gate closure times in particular when ID markets and balancing market overlap and thereby the liquidity is split among them. Future discussions on gate closure times and their harmonisation should reveal the most efficient separation between intraday and balancing market. Until then, preventing efficient trade in balancing timeframe would be counterproductive, in the Agency's view. Finally, the Agency does not see why counter-activations would cause new imbalances.</p> <p>The Agency introduced more strict reporting obligations for TSOs together with the possible amendment of the Proposal if scheduled counter-activations were to prove harmful for the mFRR-Platform in the TSOs' report. In detail, the Agency added a new paragraph (3) in Article 13 of the Proposal, so that all TSOs shall publish a report on scheduled counter-activations by three years after the implementation of the mFRR-Platform. This timeline should ensure that enough TSOs have connected to the platform and that a sufficient amount of data can</p>

Respondents' views	ACER views
	prove if counter-activations are harmful to the performance of the mFRR-Platform.
2 respondents consider that the Proposal include rigorous harmonization requirements on indivisibility in the mFRR IF as current high indivisibility limits in unit based systems are the reason for allowing scheduled counter activation (ACM, Next Kraftwerke).	While the Agency agrees that indivisible bids are one of the reasons for scheduled counter-activations, they are not the only reason. The Agency does not consider that portfolio based or unit based bidding should be harmonised to solve the issue of counter-activations. The EB Regulation does not provide a legal basis for such a harmonisation to be proposed by the Agency.
3 respondents request, should the possibility to perform counter-activations be maintained in the mFRRIF, detailed yearly reporting and monitoring (EFET, Eurelectric, RWE Supply & Trading), including of the influence of counter-activations on the imbalance prices (EFET). The assessment and cost-benefit analysis of the measure should not only focus on the economic surplus of the mFRR platform, but also on its effects on the liquidity of intraday markets (EFET). Technical solution to block the counter-activations that are not related to balancing needs should be further investigated and bids that are counter-activated by the TSOs for reasons other than balancing do not influence the imbalance settlement price (Eurelectric).	The Agency agrees that any negative effects should be evaluated both with yearly reporting (less details possible than with dedicated report) and in the dedicated report and that the TSOs should propose mitigation measures if needed.
<p>Question 3: Do you agree with the proposed framework for changing of bids by TSOs? What additional elements would you consider necessary for enhancing the transparency?</p> <p><i>(1. Changes of bids are generally allowed before the TSO energy bid submission gate closure time, but after this gate closure time the changes are allowed only when new information becomes available;</i></p> <p><i>2. The bids affected by the change should still be submitted to the platform and the changes of bids are limited to changes of available volume only;</i></p> <p><i>3. The changes of bids are limited to cases related to operational security in TSO or DSO networks or changes related to activation of linked bids in other EU balancing platforms after the mFRR balancing energy gate closure time;</i></p>	

Respondents' views	ACER views
<p>4. <i>The changes related to operational security in connecting TSO network can be related to the congestions (thermal limits) or reserve capacity requirements (frequency limits);</i></p> <p>5. <i>Changes related to congestions or reserve capacity requirements should affect only the most expensive bids (which are less likely to be activated) and in case of congestions taking also into account their physical impact on congestion;</i></p> <p>6. <i>Changes related to reserve capacity requirements may affect only other TSOs, while the connecting TSOs may still activate these bids through the platform;</i></p> <p>7. <i>TSOs should provide to the mFRR platform and to affected BSPs clear reasons for these changes and report about these changes in aggregated form in annual reporting.)</i></p>	
<p>25 respondents provided an answer to this question.</p>	
<p>13 respondents agree with the proposed framework for changing bids by TSOs (ACM, AIGET, EDF, Edison, Enel, Energie AG Oberösterreich, Gas Natural Comercializadora, PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association, RWE Supply & Trading, SEPS, Slovenské elektrárne, a.s., UPM-Kymmene Oyj).</p>	<p>The Agency agrees.</p>
<p>8 respondents ask for transparency on the use of the mechanism (AIGET, EDF, Edison, Enel, Energie AG Oberösterreich, Gas Natural Comercializadora, PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association, RWE Supply & Trading), with real-time publication of any declaration of unavailability together with the reasons justifying it (AIGET, Edison, Enel, Energie AG Oberösterreich, Gas Natural Comercializadora), complemented with a daily (Slovenské elektrárne, a.s.) or yearly (Energie AG Oberösterreich, Gas Natural Comercializadora) report, aggregating reasons for unavailability. Publications should be made available publicly or at least to the BSPs. 1 respondent considers that underlying reasons for changing bids should be limited (ACM). 1 respondent considers that TSOs should be allowed to change bids for operational security reasons but not for economic reasons (ACM).</p>	<p>The Agency agrees that transparency is important for the use of this feature and therefore added monitoring and publication requirements for TSOs. Affected BSPs shall be informed the latest by 30 minutes after the relevant mFRR MTU and publication shall be done in accordance with Art. 12(3)(b)(v) of the EB Regulation. The reasoning for changes shall be provided to the mFRR-Platform and the affected BSPs and published in the yearly report in an aggregated form. The Agency also limited the reasons for such changes in Article 9(4) of the Proposal to</p>

Respondents' views	ACER views
	<p>expected violation of operational security limits and conditional bids.</p>
<p>1 respondent considers that congestion should be dealt with through remedial actions and not by declaring bids unavailable (RWE Supply & Trading). 2 respondents considers that reasons of operational security justifying that bids are changed by TSOs should only be related to the reserve capacity requirements to the extent that balancing energy cannot be acquired for a given time period from other connecting TSOs and should not relate to the internal congestions which should not have an impact on cross-zonal electricity trade. Further, these respondents ask for clarifications on the monitoring of the mechanism in the context of a central dispatching model, where operational security issues should already be taken into account before bids are submitted to the platform (PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association).</p> <p>1 respondent considers that the most expensive bids should be the ones to be declared as unavailable to other TSOs because they are also the least likely to be accepted (UPM-Kymmene Oyj).</p>	<p>While the Agency in principle agrees that congestions should be solved before balancing timeframe as much as possible, however, they may persist (i.e. congestion solved but additional trade not possible) or appear close to real time and for this purpose, it is not possible to prevent such occurrences (this is true also in central dispatching systems). Modifying bids or declaring them unavailable can be for reasons of reserve capacity requirements, for congestion reasons or when the reserve providing unit is not available and activating the bid anyway could deteriorate frequency. Indeed the affected bids should be the most expensive bids with the condition that these expensive bids have a physical impact.</p>
<p>4 respondents consider that the loss of remuneration faced by BSPs when bids are declared unavailable by TSOs should be compensated (AIGET, EDF, Edison, UPM-Kymmene Oyj). 1 respondent believes that the IF could impose compensation for those bids if they would at the end not be activated although in-the-money; details for the compensation would then be determined in the national terms and condition (EDF).</p>	<p>The Agency does not find a strong legal basis for proposing compensation rules in the mFRRIF, but agrees that non-discrimination shall apply to the bids in accordance with Article 3(2)(a) and 16(7) of the EB Regulation and should be dealt with in the national terms and conditions on balancing. This reference was inserted in Article 9(6) of the Proposal.</p>
<p>7 respondents condition their support to the proposed framework for changing bids to significant amendments of the Proposal (CEZ, Danish Energy, Energie-Nederland, Energy Norway, ENTSO-E, Eurelectric, Swedenergy).</p>	<p>The Agency made changes to address concerns on transparency.</p>

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<p>2 respondents consider that the mFRR IF and other IFs should be designed so as to avoid the flagging of bids as unavailable, while acknowledging that the Proposal constitutes a first step in the right direction (CEZ, Eurelectric). 2 respondents consider that TSOs should not be allowed to mark bids as unavailable due to reserve requirements, as it would be contrary to EBGL 29(10)(a), obliging TSOs to submit a minimum level of bids to the platform equal to the sum of the reserve capacity requirements in the LFC Block Agreement (Danish Energy, Energy Norway).</p>	<p>The Agency generally agrees. Yet, the right of TSOs to modify bids or declare them as unavailable is explicitly given in Article 29(9) and (14) of the EB Regulation. With regard to the reserve requirements, this option is needed only for directly activated bids, as it may be that a TSO may not have enough directly activated bids (to respond to sudden imbalance) because they have been activated by other TSOs in scheduled activated process and the only bids left available are scheduled activated.</p>
<p>5 respondents ask for clarification of the first criterion, and in particular over the new information considered relevant to the extent that it would justify declaring a bid unavailable (CEZ, Danish Energy, Energie-Nederland, Energy Norway, Eurelectric, Swedenergy).</p>	<p>The Agency specified in Article 9(2) of the Proposal that new information that affects the activation of standard mFRR bids is relevant here.</p>
<p>1 respondent is opposed to what is perceived as “possibilities for TSOs to modify and make unavailable bids without further justification” and supports a stricter framework in which under no circumstances bids can be modified after the TSO energy bid submission gate closure time (Swedenergy).</p>	<p>The Agency agrees that strict and firm rules need to apply to these situations, which limit them to pure operational security issues, but completely preventing these occurrences would not be possible due to operational security concerns.</p>
<p>1 respondent, to the contrary, considers that an exhaustive list of reasons for which changes are allowed may undermine the capabilities of the TSOs to secure the European network. Therefore this respondent suggests to rephrase the fourth point of the proposal as follows: “<i>The changes related to operational security in connecting TSO network can be related to the congestions (thermal limits), reserve capacity requirements (frequency limits) or other operational security constraints</i>” (ENTSO-E). Similarly, this respondent suggests that there are situations when selecting the most expensive bid to declare it unavailable may not be the option guaranteeing operational security or market efficiency, and therefore suggests amending the fifth point to reflect that “<i>exceptions to this general rule may be foreseen in national terms and conditions for BSPs and/or in the description of the algorithm to the extent necessary to ensure the efficient</i></p>	<p>While the reference for these situations is given generally to operational security limits, the Agency does not see any other relevant limits, aside of thermal limits or frequency limits. The Agency consulted ENTSO-E on the issue of exceptions and clarified in Article 9(8) of the Proposal that the reference to most expensive bids is conditional on the physical impact these bids have on operational security limits.</p>

Respondents' views	ACER views
<p><i>functioning of the balancing energy market and of the balancing capacity market while respecting operational security constraints” (ENTSO-E).</i></p>	
<p>Concerning transparency, 2 respondents ask that the proposal state explicitly that the annual report must be made public (CEZ, Energie-Nederland).</p>	<p>The Agency specified in Article 13 of the Proposal that the annual report should be published by ENTSO-E on its website.</p>
<p>3 respondents ask that all bids, including modified bids and bids marked as unavailable, are submitted to the platform for transparency reasons; in addition, TSO justification for changes should be submitted to MARI and the BSPs instantly when the decision to modify a bid is taken. There should be no delay in providing this information (Danish Energy, Energy Norway, Swedenergy). 1 respondent recalls that publication practices must respect the confidentiality of BSPs (ENTSO-E).</p>	<p>The Agency specified in Article 9(3) of the Proposal that all bids, also bids changed in accordance with Articles 29(9) and (14) of the EB Regulation, shall be submitted to the mFRR-Platform. The Agency agrees to inform both the mFRR-Platform and the affected BSPs by the changes and included a provision in Article 9(9) of the Proposal, respecting confidentially obligations.</p>
<p>3 respondents consider that the loss of remuneration faced by BSPs when bids are declared unavailable by TSOs should be compensated (CEZ, Energie-Nederland, Eurelectric). 3 respondents believe that the IF could impose compensation for those bids if they would at the end not be activated although in-the-money; details for the compensation would then be determined in the national terms and condition (Danish Energy, Energy Norway, Eurelectric).</p>	<p>The Agency does not find a strong legal basis for proposing compensation rules in the mFRRIF, but agrees that non-discrimination shall apply to the bids in accordance with Article 3(2)(a) and 16(7) of the EB Regulation and should be dealt with in the national terms and conditions on balancing. This reference was inserted in Article 9(6) of the Proposal.</p>
<p>5 respondents disagree with the proposed framework for changing bids by TSOs (BDEW, EFET, EnBW, Illwerke vkw AG, TIWAG-Tiroler Wasserkraft AG).</p> <p>1 respondent considers that the mFRR IF and other IFs should be designed so as to avoid the flagging of bids as unavailable. Congestion should be dealt with through remedial actions and not by declaring bids unavailable. The changing of bids should not affect the balancing energy or imbalance prices. (EFET)</p>	<p>The Agency understands the importance of providing the TSOs with the flexibility to act, by declaring bids as unavailable, when operational security limits are endangered or where the bids are no longer available. Because some other bids, which are conditional on these bids, have been activated outside the mFRR-Platform. The Agency generally agrees that such an option of linking the bids would not be guaranteed to</p>

Respondents' views	ACER views
<p>3 respondents observe that the linking of bids between different balancing platforms is a duplicate marketing of the same volume and declaring those bids unavailable after activation in a preceding platform is not compliant with the EB GL, as they don't constitute the case of internal congestion nor an operational security constraint within the connecting TSO scheduling area, which are the reasons permitted in Article 29.14 EB GL for declaring bids unavailable and are tolerable only under severely restricted preconditions (EFET, EnBW, TIWAG-Tiroler Wasserkraft AG).</p>	<p>all BSPs, but only to those where TSOs are willing to accept this arbitrage. However, TSOs argued that activating a bid where TSOs know that it is not available might unnecessarily endanger operational security (i.e. frequency quality). Therefore, in order to ensure that TSOs are not unduly changing the bids submitted by BSPs or impacting the market functioning, the cases for bid modification and changes of the availability status is limited to operational security. In addition, a more transparent framework is included in the Proposal, so that every time this option is used, the responsible TSO provides a reason for changing a bid, notifies the affected BSPs, publishes, and reports on a yearly basis on the usage of this option in more details. The main motivation of this framework is to clearly specify and limit cases when TSOs can modify the bids submitted by balancing service providers in order to ensure that TSOs do not unduly discriminate between balancing service providers and the bids they have submitted to them.</p> <p>The Agency generally agrees that such an option of linking the bids would not be guaranteed to all BSPs, but only to those where TSOs are willing to accept this arbitrage. However, TSOs argued that activating a bid where TSOs know that it is not available might unnecessarily endanger operational security (i.e. frequency quality). Therefore, in order to ensure that TSOs are not unduly changing the bids submitted by</p>

Respondents' views	ACER views
	BSPs or impacting the market functioning, the cases for bid modification and changes of the availability status is limited to operational security.
<p>Question 4: Do you agree with the above principles for unforeseeably rejected bids?</p> <p><i>a) reject such indivisible bid and accept the next bids such that the TSO demand can be satisfied exactly. This would in general increase the marginal price and would mean that some indivisible bids would be rejected even though their price is below the marginal price (unforeseeably rejected indivisible bids – URiB);</i></p> <p><i>b) accept such indivisible bid but reject some volume of divisible bids with lower bid price such that the TSO demand can be satisfied exactly. This would in general keep the marginal price the same and would mean that some volume of divisible bids would be rejected even though their price is below the marginal price (unforeseeably rejected divisible bids – URdB)</i></p>	
26 respondents provided an answer to this question.	
11 respondents overall support the proposed principles for unforeseeably rejected bids (ACM, AIGET, CEZ, EDF, Edison, Energie AG Oberösterreich, Energie-Nederland, Next Kraftwerke, Slovenské elektrárne, a.s., UPM-Kymmene Oyj).	The Agency agrees. Therefore, the Agency sees the need to give TSOs the possibility to use rejection rules for indivisible bids as well as divisible bids in a new paragraph (7) of Article 11 of the Proposal.
2 respondents consider that BSPs should be incentivised to provide divisible bids (ACM, Next Kraftwerke). 1 respondent attaches great importance to the possibility for BSPs to place indivisible block bids since they are necessary to offer physical assets on a unit-based basis. The AOF will thereafter choose the optimal economic solution if an indivisible block appears to be marginal (EDF). 2 respondents see that the problem to be solved may not occur frequently in the near future (Energie AG Oberösterreich, Energie-Nederland).	The Agency added a general rule that a strong preference shall be given to the rejection of indivisible bids, which, among other things, shall incentivise BSPs to submit more divisible bids. In general, the paradoxical rejection of divisible bids should be limited to cases when otherwise the algorithm cannot find a feasible solution.

Respondents' views	ACER views
<p>16 respondents condition their support to the proposed principles for unforeseeably rejected bids to significant amendments of the Proposal (BDEW, Danish Energy, EFET, EnBW, Enel, Energy Norway, ENTSO-E, Eurelectric, Gas Natural Comercializadora, Illwerke vkw AG, PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association, RWE Supply & Trading, SEPS, Swedenergy, TIWAG-Tiroler Wasserkraft AG).</p>	<p>The Agency thinks that, by allowing the rejection of indivisible bids (and in exceptional cases divisible bids) in the algorithm for optimisation, it is more likely that a feasible solution will be found and that more inelastic TSO demand can be fulfilled. These two cases are listed as conditions when the rejection of bids can be allowed in the algorithm.</p>
<p>7 respondents favour option (a), where indivisible bids are rejected and the next bid is accepted, such that TSO demand can be satisfied exactly (Danish Energy, EFET, Gas Natural Comercializadora, PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association, RWE Supply & Trading, SEPS, Swedenergy).</p>	<p>The Agency added a general rule that preference shall be given to the rejection of indivisible bids, which, among other things, shall incentivise BSPs to submit more divisible bids.</p>
<p>2 of these respondents add that this should only be the case if the marginal bid is indivisible bid and in no other situations (PGE Polska Grupa Energetyczna S.A., Polish Power Plants Association). 2 respondents consider that unforeseeably rejected bids, no matter if they are indivisible or divisible, should be compensated by the TSOs for being "penalized" without their fault (Polska Grupa Energetyczna S.A., Polish Power Plants Association)</p>	<p>The Agency thinks, that allowing the rejection of both divisible and indivisible bids in the algorithm for optimisation, it is more likely that a feasible solution will be found and that more inelastic TSO demand can be fulfilled. The question of compensation in case of paradoxically rejected bids is a larger one as it spans also to DA and ID markets and because in this case this is not the fault of TSOs but rather of the market design. In addition, it is not clear whether in such case paradoxically rejected bids are being discriminated, since they are the consequence of maximisation of economic surplus. If compensation would be applied to such bids, it would need to be addressed within the EU legal framework first.</p>

Respondents' views	ACER views
<p>4 respondents consider that divisible bids with a bid price lower than the marginal price should not be rejected, in order to encourage actively the provision of divisible bids (BDEW, EnBW, Energy Norway, TIWAG-Tiroler Wasserkraft AG).</p> <p>1 respondent considers that divisible bids must not be rejected under any circumstances (Illwerke vkw AG).</p>	<p>The Agency added a general rule that preference shall be given to the rejection of indivisible bids, which, among other things, shall incentivise BSPs to submit more divisible bids. The Agency in general agrees that divisible bids should only be rejected as a last resort measure to ensure that the algorithm is able to find a solution.</p>
<p>1 respondent is in favour of allowing only indivisible URBs, as this would incentivize the divisibility of offers by BSPs. At the same time, BSPs in areas where asset-based bidding is practiced should not be disadvantaged. Divisibility of offers in such areas is more difficult to achieve: therefore, local market arrangements should be harmonized such that portfolio bidding, and hence, the viability of bidding divisible offers is permitted in all areas (Enel).</p>	<p>The Agency does not see a legal basis to harmonise unit-based bidding vs. portfolio-based bidding and prefers to allow both options for maximising liquidity offered to the mFRR-Platform.</p>
<p>1 respondent would like that the proposal does set a process for detailing principles for unforeseeably rejected bids at a later stage – they are concerned that an early definition of those principles would limit TSO's flexibility to adjust the algorithm after testing and operations in order to operate securely and efficiently the European balancing market for mFRR (ENTSO-E).</p>	<p>The Agency agrees and included in Article 11(7) of the Proposal the possibility for TSOs to implement rejection rules at a later stage. The conditions are:</p> <ul style="list-style-type: none"> (a) acceptance of such bid would increase/decrease the cross-border marginal price above/below the bid price; (b) paradoxical rejection of such bid is necessary for the algorithm to find a feasible solution; (c) paradoxical rejection of such bid is necessary for the algorithm to satisfy more inelastic mFRR demand.

Respondents' views	ACER views
Question 5: Please comment on other topics indicating clearly the related Article, paragraph and sub-paragraph of the mFRR IF proposal.	
10 respondents provided an answer to this question.	
1 respondent sees a risk that the mFRR AOF will be unable to provide a result in the time given, as the amount of requirements will surpass the time allowed to come to a solution, as has been the case for Euphemia; this respondent advocates for a simplified approach, limited to simple bids, at the start (ACM).	The Agency generally agrees that one of the main goals is to make sure that the AOF produces results within the time foreseen by TSOs, but is unable at this stage to challenge TSOs that the requirements are indeed too burdensome. TSOs should consider reducing the requirements in case of algorithm performance issues.
2 respondents regret missing reference to fall-back procedures applicable for mFRR platform (CEZ, Eurelectric).	The Agency added the reference to fall-back procedures in Art. 3(11) of the Proposal.

Respondents' views	ACER views
<p>1 respondent states that market parties need clear rules and simple, transparent processes (resulting in low entry barriers and thus more competition) in order to market flexible capacity in an efficient way. Correct price formation should ensure that the most economic capacity is activated to solve the imbalance. This will not happen as long as local imbalance considerations are leading for individual TSOs. The respondent believes that the balancing market should be seen as the residual energy market where TSOs keep the system in balance through re-actively activating bids and settling BRPs with the cross product marginal price of each ISP. The reactive approach is set in Title 3, Load-Frequency Control Structure in the SOGL: The purpose of FRR is to progressively replace activated FCR (143-1-b) and the purpose of RR is to progressively restore activated FRR and support FRR activation (144-1-a,b). This is a sequential approach with the FRCE as input and will use predominantly aFRR and only occasionally an mFRR product (Article 145-5). Imbalance settlement should be based on the marginal price of these activations where an entire (with consideration of congestions) region is being considered, in line with the day-ahead and intraday market. Simple and harmonized rules allow BSPs to offer their energy at the lowest possible price enhancing the overall system. The same price should also be used for BRP settlement to allow for consistent incentives (Energie-Nederland).</p>	<p>The Agency agrees that market parties should have access to a transparent market with clear rules to make best use of their flexibility.</p> <p>The EB Regulation does not specify reactive and proactive balancing approaches and the Agency at this stage sees no legal basis to put an emphasis on reactive process and aFRR. The same is true for the SO Regulation, which does not specifically provide preference to aFRR process over mFRR process.</p> <p>While, the Agency generally has sympathy with reactive process, it notes that a transition to reactive process is an evolutionary process where TSOs need to gain more experience with integrated markets, more experience with real-time congestion management and real-time price signals. Thus, the Agency will continue to encourage rules which help TSOs to gradually test and adopt more reactive approaches, but it is unable to prescribe this shift in a legally mandatory way.</p>
<p>1 respondent suggests the following amendments to the Proposal (EDF)</p> <ul style="list-style-type: none"> • “Direct activation bid”: the respondent supports the principle of two different activation schemes (“Direct” and “Scheduled”). “Scheduled” clearing has to be considered as the main process, bringing the highest liquidity and reinforcing competition among BSPs, while “Direct Activations” should enable TSOs to procure balancing energy from mFRR when needed to solve large imbalances without waiting next “Scheduled” cycle. 	<p>The Agency agrees.</p>

Respondents' views	ACER views
<ul style="list-style-type: none"> Nevertheless, the principle of imposing systematic continuation of Direct Activations on QH+1 may be detrimental to the volume of bids proposed on the platform, due to the overlaps between ISPs and underlying assets' schedules constraints. Therefore, it would be preferable to let the BSP define whether such prolongation is possible or not (for example by adding an additional bid parameter, or by using technical links). 	<p>This approach would further complicate the activation algorithm and process and would further fragment the mFRR market. It would also put TSOs in an arbitrage dilemma to: either activate the bid only until the end of current quarter and then replace it with the next SA bid activation or to activate DA mFRR bids until the next quarter.</p>
<ul style="list-style-type: none"> Delivery profile requirements: mFRR IF refers to national terms and condition regarding the precise definitions of preparation / ramping / delivery periods / settlement. It is important to avoid undue discriminations among BSPs, due to additional and excessively burdensome constraints imposed at national level. TSOs seem willing to allow only delivery faster than the TSO-TSO trapezoidal exchanged shape, this would leave to BSPs an "actual" FAT of only 7.5 minutes (for example in case of a fast ramping asset) or would even impose to begin the ramping period within 2.5 minutes, which would be unfeasible and thus would further reduce liquidity. The respondent believes that no additional constraints or requirements other than reaching the setpoint within 12.5 minutes should be imposed. 	<p>The Agency agrees that no unnecessary entry barriers shall be put on BSPs and considers that the definition of FAT of 12.5 minutes should be enough guarantee that TSOs cannot penalise BSPs if they fulfil this requirement. The settlement rules are beyond this mFRRIF and are at the discretion of national terms and conditions which need to respect the mFRRIF and are subject to regulatory approval. Therefore, the Agency sees no immediate need to introduce changes.</p>
<p>1 respondent notes that each Member State or TSO has its own system/standards for evaluation of balancing services quality and future exchange of balancing services could cause confusions and discrimination and recommends to unify evaluation of balancing services quality (Slovenské elektrárne, a.s).</p>	<p>The Agency agrees that this would be beneficial to create a level playing field. Currently there are no explicit legal provision in the EB Regulation to require this, but the Agency expects that future evolution of integration would mean that this issue gains more importance.</p>

Respondents' views	ACER views
<p>Concerning Article 2 of the Proposal:</p> <ul style="list-style-type: none"> On Article 2(2), 1 respondent notes that mFRR bids can be flagged as scheduled activated or direct activated bids. The BSP does not know in advance if the bid is required for one or two ISPs. This does make pricing balancing capacity highly unclear. Furthermore, the question should be answered how bids for mFRR balancing energy can be differentiated between scheduled activated and direct activated bids. Thereby it should be considered that a scheduled activation can make a direct activated bid invalid (BDEW). 	<p>If the BSP will flag the bid as SA mFRR it will need to accept the uncertainty that it is activated as SA mFRR and thereby also deliver in the next ISP. The Agency understands that the BSP, which submits the DA mFRR bid will need to flag, which bids in the next ISP are linked to this DA mFRR bid so that in case of its activation, the respective bid in next ISP will be removed from the CMOL.</p>
<ul style="list-style-type: none"> To improve the functioning of the mFRR joint activation process and avoid costly complexity, 3 respondents recommend that the system be built around the Scheduled Activation (SA) product only. An accurate dimensioning of automatic and manual reserves, especially as the two processes would be running in parallel, would make Direct Activation (DA) of the mFRR product unnecessary. Restricting the standard mFRR product to SA would benefit the system by significantly reducing complexity, lowering cost, and improving transparency (BDEW, EFET, RWE Supply & Trading). 1 recommends deleting this definition and adapting Article 7 accordingly. In case both scheduled and direct activatable bids are nonetheless maintained in the proposal, the respondent warns about consequences for trade, especially on CMOL definition and functioning (BDEW). 1 respondent asks that should these two activation options be maintained for the mFRR product, these two specifications should be addressed by two separate balancing products (RWE Supply & Trading). 	<p>TSOs cannot commit to fulfilling the frequency quality parameters defined in accordance with the SO Regulation with SA mFRR only and therefore the Agency agrees to have both SA and DA mFRR as a consecutive process. Indeed the underlying problem (i.e. sudden large imbalance), could also be mitigated with higher volume of aFRR reserve capacity or available balancing energy bids. Therefore, when more experience is gained in this regard, the TSOs should reevaluate the need for DA mFRR bids. On the other hand, complete separation of these two products is a suboptimal solution, because DA bids can equally satisfy the SA mFRR demand, while the opposite is not true.</p>
<ul style="list-style-type: none"> One respondent supports that balancing market time unit should reflect possible delays in implementing 15-mins imbalance settlement period in some Member States, in line with EB GL. There should be a possibility to ask for a derogation until ISP is fully harmonized, otherwise it will profoundly impact IT and generation systems of BSPs (CEZ). 	<p>The Agency acknowledges the difficulties to harmonise the ISP to 15 minutes but it understands that even today the balancing energy market (especially in aFRR market) is already independent from ISP, which means that settlement and quality</p>

Respondents' views	ACER views
	<p>monitoring for delivered balancing energy is not strictly related to ISP. Therefore, the same arrangements can apply for mFRR assuming all BSPs already have the required metering equipment.</p>
<p>Concerning Article 5 of the proposal,</p> <ul style="list-style-type: none"> Concerning Article 5(3)(a), one respondent considers that it introduces confusing language that could result in diluted efforts from the TSOs to harmonise terms and conditions related to balancing. It could also lead to national legislation prevailing over the EB GL in the implementation of harmonised and mFRR IF-compatible terms and conditions by the national TSOs. This would be in stark contradiction with Art. 18 EB GL and art. 16 of the mFRR IF. To avoid any confusion and in order to fully comply with the EB GL, Art. 5.3(a) should be amended as follows: “The TSOs shall harmonise the terms and conditions related to balancing proposed in accordance with Article 18 of the EBGL.” (EFET) 	<p>The Agency made some changes in Article 5 of the Proposal to clarify the meaning and describe better the relation between this mFRRIF and national terms and conditions. In any case, national legislation cannot prevent over EU legislation and in case it does, stakeholders should challenge such terms and conditions.</p>
<p>Concerning Article 7 of the proposal,</p> <ul style="list-style-type: none"> Two respondents advocate for a Full Activation Time of 15 minutes, understand the technical limitations due to the Time To Restore Frequency as specified in the SOGL, but insists that it should still be clear that reductions in the FAT will lead to non-linear reductions in the available capacity. Any increase in the FAT due to efficiency improvements at TSO or European mFRR platform side would therefore be most welcome, due to its positive effect on liquidity. In any case, it is crucial that the 12.5 minutes is considered as an absolute floor that should not be lowered any further. No additional constraint or requirement than reaching the setpoint within 12.5' should be imposed at national level. 	<p>The Agency is not able to question the TSOs proposal and analysis of this matter, which defines a FAT of 12.5 minutes to fulfil TSOs' obligations to comply with frequency quality and the process to restore frequency within 15 minutes, as defined in SO Regulation. On the other hand, the Agency acknowledges that a shorter FAT will have an effect on the volumes and participation of some BSPs, but could on the other hand better reward flexibility. The right balance between different interests is needed. The Agency agrees that no unnecessary entry barriers shall be put on BSPs and considers that the definition of FAT of 12.5 minutes should be enough guarantee</p>

Respondents' views	ACER views
<p>For instance, there should be no obligation to follow the trapezoidal TSO-TSO exchange profile or to react faster. In particular, imposing a start within 2.5 minutes after order's receipt would be very detrimental to the amount of bids proposed by BSPs and subsequently to the liquidity of the mFRR platform. Rules on divisible & indivisible bids should be harmonized, leaving it up to national implementation can significantly affect level-playing field on the mFRR market (CEZ, Eurelectric).</p>	<p>that TSOs cannot penalise BSPs if they fulfil this requirement. The settlement rules are beyond this mFRRIF and are at the discretion of national terms and conditions which need to respect the mFRRIF and are also subject to regulatory approval. Therefore, the Agency sees no immediate need to introduce changes.</p>
<p>Concerning Article 8 of the proposal,</p> <ul style="list-style-type: none"> Two respondents believe that BE GCT could be moved closer to real-time, to give BSPs the possibility to update their bids based on the results of the previous trading period. As TSOs need only 4.5 minutes to calculate results of the mFRR auction and to decide on activation of scheduled bids (point of scheduled activation is 7.5 minutes before the beginning of the quarter hour for which BSPs place bids and TSO GCT is 12 minutes before the beginning), These respondents do not see a reason why there should be 13 minutes period used for forwarding bids from TSOs to the platform. By setting mFRR GCT closer to real-time, one would also avoid overlaps with local intraday market GCT (CEZ, Eurelectric). 	<p>The Agency understands that the TSOs have taken into account the concerns from stakeholders, with respect to the interactions between the balancing platforms, as well as with the intraday market, and the required technical processes that need to be finalised before real time. The Agency also considers that, since there is no early implementation project for the mFRR-Platform, no previous experience can be used, in order to assess the time needed for the technical processing between the bid submission by the BSPs to the TSOs and the bid submission by the TSOs to the mFRR-Platform. However, the Agency understands that shorter balancing energy gate closure time would allow market participants to also react to changes closer to real-time. While, currently this option is deemed too risky for implementation of the mFRR-Platform, it should, in the Agency's opinion, be explored after the implementation of the mFRR-Platform. Therefore, the Agency currently sees no need to make changes to the balancing energy gate closure time of 25 minutes before real-time, since it gives TSOs sufficient time to assess the received standard mFRR balancing energy product bids for</p>

Respondents' views	ACER views
<ul style="list-style-type: none"> Similarly, one respondent would like to remind that during the last hour, local intraday markets remain open in many countries, allowing market participants to re-adjust or rebalance their portfolios. Recital 12 of the EB GL explicitly requires the balancing energy market to facilitate self-balancing of market participants up to real-time. Consequences of the inevitable overlap between the cross-border balancing processes and local intraday and self-balancing actions should be minimised by the TSOs. Any excess procurement of balancing resources by the TSO should be avoided. Therefore, only the original TSO demand should be taken into account by the TSO and in the corresponding common merit order list. To maximise the potential alternative use of the returned bids (intraday market or self-balancing) and therefore the social welfare the BEGCT should be set to 15 minutes before real-time. This objective is explicitly stated in the EBGL through the requirement that the BE GCT is 'as close as possible to real-time' (Article 24(2)). The respondent questions whether the proposed BE GCT time of 25 minutes is indeed as close as possible to real-time. The respondent requests that at least the ambition of the TSOs be to move to a BE GCT of 15 minutes before real-time (EFET). 	<p>possible risks to operational security by errors in bids or the process of submission.</p>
<ul style="list-style-type: none"> Rules for specific balancing products which are to be converted to standard balancing products are missing. They should be designed in a way which ensure level-playing field among BSPs from respective Member States (CEZ, EDF, Eurelectric). 	<p>The rules for specific balancing products which are to be converted to standard balancing products are to be developed and approved at national level as defined in the EB Regulation.</p>
<p>Concerning Article 13 of the Proposal,</p> <ul style="list-style-type: none"> On Article 13(1), one respondent identifies unjustified economic advantages in the first sentence of art. 13.1, "The rules concerning the governance and operation of the mFRR-Platform shall ensure that no participating TSO benefits from unjustified economic advantage through the participation in the mFRR- Platform": <ul style="list-style-type: none"> First, art. 13.1 should not lose sight of the objectives of the EB GL, and more generally of the integration of European markets. Questions of cost sharing between TSOs should not come in the way of market integration. 	<p>The Agency does not share this concern and understands this provision in the light of Article 20(3)(d) of the EB Regulation which is limited to governance and operation of the platform, but not to how TSOs are using it and possibly benefit from market integration. Therefore, the Agency does not see the need to specify this provision further.</p>

Respondents' views	ACER views
<ul style="list-style-type: none"> ○ Second the notion of “unjustified economic advantage” is not defined: neither in scope (assessment of the economic advantage limited to mFRR process only?), nor in magnitude (what is unjustified?), or in time (over which period would such an unjustified economic advantage be assessed?) If the objective is to avoid free riding of TSOs on the available bids on the European platform, this should be tackled directly. The vague formulation currently included in the IF is an open door for any limitation on TSO participation to the platform. ○ Third, the provision does not specify any consequences to the occurrence of such a situation. 	
<p>Given the importance of changes to the mFRR IF and any impact on the European platform, stakeholders should be involved sufficiently early in any change process and be formally consulted upon. Such participation and consultation should be included in the governance and decision-making processes (EFET).</p> <p>Two respondents believe that TSOs should inform BSPs more often than annually, given the importance of the platform for BSPs (CEZ, Eurelectric).</p> <p>On Article 13(3), similarly, on reporting, given the sensitivity for the implementation of the PICASSO platform, one respondent requests the publication of evaluation reports every six months, rather than every year (EFET).</p>	<p>The involvement of stakeholders is described in the EB Regulation and in Article 13 of the Proposal, which is deemed sufficient and in line with the legal requirements.</p> <p>The Agency agrees that transparency is important and therefore made changes regarding publication, information and reporting obligations to enhance the overall transparency for the mFRR-Platform. The reporting is done yearly (and in some cases at a fixed deadline) on topics that require in depth analysis to give TSOs sufficient time to prepare good monitoring reports. Some other publications will be done as soon as possible after real-time if this is deemed beneficial for market participants. The Agency must also keep the obligations on TSOs proportional, such that they do not cause too much burden that would affect the time and costs for the implementation of the platforms.</p>

Respondents' views	ACER views
<p>Similarly, on transparency and stakeholder involvement</p> <ul style="list-style-type: none"> • One respondent considers that the inputs and results of the AOF must be published in order to ensure adequate transparency of the mFRR process (EDF): <ul style="list-style-type: none"> ○ Activated upward and downward volumes for each bidding zone; ○ Clearing prices (when appropriate, for each bidding zone); ○ The need expressed by each TSO (including the elastic curve) and the level of satisfied/unsatisfied need; ○ The cross-zonal capacity available and used (for each border). 	<p>The Agency agrees that publication shall be sufficient to give transparency to market participants. The Transparency Regulation as well as the EB Regulation define the data publication requirements for balancing. These cover: activated volumes per TSO, cross-border marginal price per MTU and cross-zonal capacities. In addition, the Agency introduced an obligation to publish elastic demand curves.</p>

3 List of respondents⁵

Organisation	Type
ACM	NRA
AIGET	Energy company
BDEW	Energy company
CEZ, a.s.	Energy company
Danish Energy	Association
EDF SA	Energy company
Edison s.p.a.	Energy company
EFET - European Federation of Energy Traders	Association
Elexon	Association
EnBW	Energy company
Enel	Energy company
Energie AG Oberösterreich Trading GmbH	Energy company
Energie-Nederland	Energy company
Energy Norway	Energy company
ENTSO-E	Association
Eurelectric	Association

⁵The author of the confidential answer is not listed.

Organisation	Type
Gas Natural Comercializadora	Energy company
IFIEC Europe	Association
Illwerke vkw AG	Energy company
Next Kraftwerke	Energy company
PGE Polska Grupa Energetyczna S.A.	Energy company
Polish Power Plants Association	Association
RWE supply and trading	Energy company
SEPS, Slovenská elektrizačná prenosová sústava, a.s.	TSO
Slovenské elektrárne, a.s.	Energy company
Swedenergy	Association
TIWAG-Tiroler Wasserkraft AG	Energy company
UPM-Kymmene Oyj	Energy company