

**COMMISSION IMPLEMENTING REGULATION (EU) 2021/280****of 22 February 2021****amending Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 in order to align them with Regulation (EU) 2019/943****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity <sup>(1)</sup>, and in particular Article 59(1) and (2) and Article 60(1) thereof,

Whereas:

- (1) The introduction of harmonised rules on electricity trade and grid operation through electricity network codes and guidelines has proven to be crucial for the achievement of an integrated electricity market in the Union.
- (2) Commission Regulation (EU) 2015/1222 <sup>(2)</sup>, Commission Regulation (EU) 2016/1719 <sup>(3)</sup>, Commission Regulation (EU) 2017/2195 <sup>(4)</sup> and Commission Regulation (EU) 2017/1485 <sup>(5)</sup> provide important rules for the well-functioning of the internal market for electricity, as they set out detailed rules to be followed by regulatory authorities to jointly define the terms and conditions or methodologies necessary for the alignment of electricity trade and grid operation in the Union.
- (3) The practice with the adoption process of TCM has shown that two aspects of the adoption process should be clarified.
- (4) Regulations (EU) 2019/942 of the European Parliament and of the Council <sup>(6)</sup> and (EU) 2019/943 modified the regulatory framework of the internal market for electricity, including the process to agree on terms and conditions or methodologies.
- (5) As set out in Article 5(2) of Regulation (EU) 2019/942, terms and conditions or methodologies which previously required the approval of all regulatory authorities are now directly adopted by the Agency for the Cooperation of European Energy Regulators ('the Agency'). Regulations (EU) 2019/942 and (EU) 2019/943 also provide that national regulatory authorities and the Agency are entitled to revise and amend the proposals for terms and conditions or methodologies submitted by transmission system operators ('TSOs') and nominated electricity market Operators ('NEMOs').
- (6) Regulations (EU) 2019/942 and (EU) 2019/943 also establish that national regulators and the Agency are responsible for the adoption of the final texts of terms and conditions or methodologies, and that they have the right to revise and amend the proposals from TSOs or NEMOs in order to ensure that they are in line with the objectives of Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 and contribute to market integration, non-discrimination, effective competition and the proper functioning of the electricity market.
- (7) Those changes should be reflected in Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485.

<sup>(1)</sup> OJ L 158, 14.6.2019, p. 54.

<sup>(2)</sup> Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

<sup>(3)</sup> Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (OJ L 259, 27.9.2016, p. 42).

<sup>(4)</sup> Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (OJ L 312, 28.11.2017, p. 6).

<sup>(5)</sup> Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (OJ L 220, 25.8.2017, p. 1).

<sup>(6)</sup> 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 Regulators (OJ L 158, 14.6.2019, p. 22).

- (8) Experience with the existing development process of terms and conditions or methodologies, including recent jurisprudence and delays in agreeing on certain terms and conditions or methodologies, have made it necessary to revise the regulatory procedure for defining terms and conditions or methodologies in order to ensure their timely adoption.
- (9) In accordance with the recent Court case-law (<sup>(7)</sup>), Regulation (EU) 2015/1222 allows every single national regulatory authorities to request amendments to proposals for terms and conditions or methodologies by TSOs or NEMOs. Such a possibility may potentially lead to a sequence of multiple individual amendment requests and respective amended proposals for terms and conditions or methodologies, with no realistic perspective of a timely approval and implementation. This could not only lead to significant delays in the development of terms and conditions or methodologies, but uncoordinated individual requests for changes of proposals for terms and conditions or methodologies could also create legal uncertainty, as it would remain uncertain which amendment request should ultimately prevail. In order to avoid that situation, Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 should set out a clear procedure for the coordination of amendment requests for terms and conditions or methodologies.
- (10) The procedure of coordinated decisions on terms and conditions or methodologies is identical in Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485. Also the process for the amendment of those four Regulations is identical. It is therefore warranted to adopt the changes to those four Regulations by way of one single amending Regulation.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 67(2) of Regulation (EU) 2019/943,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

### **Amendments to Regulation (EU) 2015/1222**

Article 9 of Regulation (EU) 2015/1222 is replaced by the following:

*Article 9*

#### **Adoption of terms and conditions or methodologies**

1. TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs or NEMOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to paragraph 6, jointly by all competent regulatory authorities in procedures pursuant to paragraph 7, and by the competent regulatory authority in procedures pursuant to paragraph 8.

Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.

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(<sup>(7)</sup>) Judgment of the General Court of 24 October 2019 in case T-332/17, *E-Control Austria v ACER*.

2. Where TSOs or NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 6 are not able to reach an agreement, they shall decide by qualified majority voting. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals listed in paragraph 6 shall require the following majority:

- (a) TSOs or NEMOs representing at least 55 % of the Member States; and
- (b) TSOs or NEMOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 6 shall include TSOs or NEMOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 6, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

For NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 6, one vote shall be attributed per Member State. Each NEMO shall have a number of votes equal to the number of Member States where it is designated. If more than one NEMO is designated in the territory of a Member State, the Member State shall allocate the voting powers among the NEMOs, taking into account their respective volume of transacted electricity in that particular Member State in the preceding financial year.

3. Except for Article 43(1), Article 44, Article 56(1), Article 63 and Article 74(1), where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph (7) are not able to reach an agreement and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals for terms and conditions or methodologies listed in paragraph 7 shall require the following majority:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 7 shall include at least the minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 in relation to regions composed of five Member States or less shall decide by consensus.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 7, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 shall decide by consensus.

4. If TSOs or NEMOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the competent regulatory authorities or the Agency in accordance with paragraphs 6 to 8 or 12 within the deadlines set out in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the proposals for the terms and conditions or methodologies, and explain what has prevented an agreement. The Agency, all competent regulatory authorities jointly, or the competent regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8 respectively, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

5. Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6, 7 and 8. Before approving the terms and conditions or methodologies, the Agency or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs or NEMOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

6. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency:

- (a) the plan on joint performance of MCO functions in accordance with Article 7(3);
- (b) the capacity calculation regions in accordance with Article 15(1);
- (c) the generation and load data provision methodology in accordance with Article 16(1);
- (d) the common grid model methodology in accordance with Article 17(1);
- (e) the proposal for a harmonised capacity calculation methodology in accordance with Article 21(4);
- (f) back-up methodology in accordance with Article 36(3);
- (g) the algorithm submitted by NEMOs in accordance with Article 37(5), including the TSOs' and NEMOs' sets of requirements for algorithm development in accordance with Article 37(1);
- (h) products that can be taken into account by NEMOs in the single day-ahead and intraday coupling process in accordance with Articles 40 and 53;
- (i) the maximum and minimum prices in accordance with Articles 41(1) and 54(2);
- (j) the intraday capacity pricing methodology to be developed in accordance with Article 55(1);
- (k) the intraday cross-zonal gate opening and intraday cross-zonal gate closure times in accordance with Article 59(1);
- (l) the day-ahead firmness deadline in accordance with Article 69;
- (m) the congestion income distribution methodology in accordance with Article 73(1).

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the common capacity calculation methodology in accordance with Article 20(2);
- (b) decisions on the introduction and postponement of flow-based calculation in accordance with Article 20(2) to (6) and on exemptions in accordance with Article 20(7);
- (c) the methodology for coordinated redispatching and countertrading in accordance with Article 35(1);
- (d) the common methodologies for the calculation of scheduled exchanges in accordance with Articles 43(1) and 56(1);
- (e) the fallback procedures in accordance with Article 44;
- (f) complementary regional auctions in accordance with Article 63(1);
- (g) the conditions for the provision of explicit allocation in accordance with Article 64(2);
- (h) the redispatching or countertrading cost sharing methodology in accordance with Article 74(1).

8. The following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by each regulatory authority or other competent authority of the Member States concerned:

- (a) where applicable, NEMO designation and revocation or suspension of designation in accordance with Article 4(2), (8) and (9);
- (b) if applicable, the fees or the methodologies used to calculate the fees of NEMOs relating to trading in the day-ahead and intraday markets in accordance with Article 5(1);

- (c) proposals of individual TSOs for a review of the bidding zone configuration in accordance with Article 32(1)(d);
- (d) where applicable, the proposal for cross-zonal capacity allocation and other arrangements in accordance with Articles 45 and 57;
- (e) capacity allocation and congestion management costs in accordance with Articles 75 to 79;
- (f) if applicable, cost sharing of regional costs of single day-ahead and intraday coupling in accordance with Article 80(4).

9. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 7 shall be submitted to the Agency within 1 week of their submission to regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 8 may be submitted to the Agency within 1 month of their submission at the discretion of the regulatory authority while they shall be submitted upon the Agency's request for information purposes in accordance with Article 3 paragraph 2 of the Regulation (EU) 2019/942 if the Agency considers the proposal to have a cross-border impact. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

10. Where the approval of the terms and conditions or methodologies in accordance with paragraph 7 or the amendment in accordance with paragraph 12 requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities or, where competent, the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 6, to the last regulatory authority concerned in accordance with paragraph 7 or, where applicable, to the regulatory authority in accordance with paragraph 8.

11. Where the regulatory authorities have not been able to reach agreement within the period referred to in paragraph 10, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

12. In the event that the Agency, or all competent regulatory authorities jointly, or the competent regulatory authority request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8 respectively, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the competent regulatory authorities or the competent regulatory authority. The Agency or the competent regulatory authorities or the competent regulatory authority shall decide on the amended terms and conditions or methodologies within 2 months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraph 7 within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.

13. The Agency, or all competent regulatory authorities jointly, or the competent regulatory authority, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs or NEMOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 12 and approved in accordance with the procedure set out in this Article.

14. TSOs and NEMOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the Agency or the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 13.

## Article 2

### Amendments to Regulation (EU) 2016/1719

Article 4 of Regulation (EU) 2016/1719 is replaced by the following:

*Article 4*

#### **Adoption of terms and conditions or methodologies**

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to paragraph 6, and jointly by all competent regulatory authorities in procedures pursuant to paragraph 7. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of those terms and conditions or methodologies.

2. Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 6 are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with paragraph 6 shall require the following majority:

- (a) TSOs representing at least 55 % of the Member States; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 6 shall include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 6, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 are not able to reach an agreement and where regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with paragraph 7 shall require the following majority:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 7 shall include at least the minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 in relation to regions composed of five Member States or less shall decide by consensus.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 7, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

4. If TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the competent regulatory authorities or the Agency in accordance with paragraphs 6 and 7 or 11 within the deadlines set out in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the proposals for the terms and conditions or methodologies, and explain what has prevented an agreement. The Agency or all competent regulatory authorities jointly, shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with paragraphs 6 or 7 respectively, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

5. Each regulatory authority or where applicable the Agency, as the case may be, shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7. Before approving the terms and conditions or methodologies, the Agency or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

6. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency:

- (a) the generation and load data provision methodology pursuant to Article 17;
- (b) the common grid model methodology pursuant to Article 18;
- (c) the requirements for the single allocation platform pursuant to Article 49;
- (d) the harmonised allocation rules pursuant to Article 51;
- (e) the congestion income distribution methodology pursuant to Article 57;
- (f) the methodology for sharing costs of establishing, developing and operating the single allocation platform pursuant to Article 59;
- (g) the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights pursuant to Article 61.

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the capacity calculation methodology pursuant to Article 10;
- (b) the methodology for splitting cross-zonal capacity pursuant to Article 16;
- (c) the regional design of long-term transmission rights pursuant to Article 31;
- (d) the establishment of fallback procedures in accordance with Article 42;
- (e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55.

8. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several or all regulatory authorities in accordance with paragraph 7 shall be submitted to the Agency within 1 week of their submission to the regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

9. Where the approval of the terms and conditions or methodologies in accordance with paragraph 7 or the amendment in accordance with paragraph 11 requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities or, where competent, the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6 and 7, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 6 or to the last regulatory authority concerned in accordance with paragraph 7.

10. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 9, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

11. In the event that the Agency or all competent regulatory authorities jointly request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6 and 7, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraph 7 within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 shall apply.

12. The Agency or the regulatory authorities jointly, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 6 and 7, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 6 and approved in accordance with the procedure set out in this Article.

13. TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the Agency or the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.'

### *Article 3*

## **Amendments to Regulation (EU) 2017/2195**

Articles 4 to 7 of Regulation (EU) 2017/2195 are replaced by the following:

*'Article 4*

### **Terms and conditions or methodologies of TSOs**

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency in accordance with Article 5(2), or to the relevant regulatory authorities in accordance with Article 5(3) within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a



deadline cannot be met due to circumstances external to the sphere of TSOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to Article 5(2), jointly by all relevant regulatory authorities in procedures pursuant to Article 5(3), and by the relevant regulatory authority in procedures pursuant to Article 5(4).

2. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the relevant regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.

3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(2) are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals listed in Article 5(2) shall require the following majority:

- (a) TSOs representing at least 55 % of the Member States; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 5(2) shall include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

4. Where TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(3) are not able to reach an agreement, and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with Article 5(3) shall require the following majority:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned area.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 5(3) shall include at least a minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

5. TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(3) in relation to regions composed of five Member States or less shall decide by consensus.

6. For TSO decisions on proposals for terms and conditions or methodologies pursuant to paragraphs 3 and 4, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

7. Where TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the relevant regulatory authorities or the Agency in accordance with Articles 5 and 6 within the deadlines set out in this Regulation, they shall provide the relevant regulatory authorities and the Agency with the relevant drafts of the proposals for terms and conditions or methodologies and explain why an agreement has not been reached. The Agency, all relevant regulatory authorities jointly, or the relevant regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with Article 5, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

#### *Article 5*

### **Approval of terms and conditions or methodologies of TSOs**

1. Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2, 3 and 4. Before approving the terms and conditions or methodologies, the Agency or the relevant regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

2. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency:

- (a) the frameworks for the establishment of the European platforms pursuant to Articles 20(1), 21(1) and 22(1);
- (b) the modifications of the frameworks for the establishment of the European platforms pursuant to Articles 20(5) and 21(5);
- (c) the standard products for balancing capacity pursuant to Article 25(2);
- (d) the classification methodology for the activation purposes of balancing energy bids pursuant to Article 29(3);
- (e) the assessment on the possible increase of the minimum volume of balancing energy bids that shall be forwarded to the European platforms pursuant to Article 29(11);
- (f) the methodologies for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process pursuant to Article 30(1) and (5);
- (g) the harmonisation of the methodology for the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(3);
- (h) the methodology for a co-optimised allocation process of cross-zonal capacity pursuant to Article 40(1);
- (i) the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(1);
- (j) the harmonisation of the main features of imbalance settlement pursuant to Article 52(2).

A Member State may provide an opinion to the concerned regulatory authority on the proposals for the terms and conditions or methodologies listed in the first subparagraph.

3. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the framework, for the geographical area concerning all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485, for the establishment of the European platform for replacement reserves pursuant to Article 19(1);
- (b) for the geographical area concerning two or more TSOs exchanging or mutually willing to exchange balancing capacity, the establishment of common and harmonised rules and process for the exchange and procurement of balancing capacity pursuant to Article 33(1);
- (c) for the geographical area covering TSOs exchanging balancing capacity, the methodology for calculating the probability of available cross-zonal capacity after intraday cross-zonal gate closure time pursuant to Article 33(6);
- (d) the exemption, for the geographical area in which the procurement of balancing capacity has taken place, for not allowing balancing service providers to transfer their obligations to provide balancing capacity pursuant to Article 34(1);
- (e) the application of a TSO-BSP model, in a geographical area comprising two or more TSOs, pursuant to Article 35(1);
- (f) the cross-zonal capacity calculation methodology for each capacity calculation region pursuant to Article 37(3);
- (g) in a geographical area comprising two or more TSOs, the application of the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(1);
- (h) for each capacity calculation region, the methodology for a market-based allocation process of cross-zonal capacity pursuant to Article 41(1);
- (i) for each capacity calculation region, the methodology for an allocation process of cross-zonal capacity based on an economic efficiency analysis and the list of each individual allocation of cross-zonal capacity based on an economic efficiency analysis pursuant to Article 42(1) to (5);
- (j) for the geographical area comprising all TSOs intentionally exchanging energy within a synchronous area, the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(3);

- (k) for the geographical area comprising all asynchronously connected TSOs intentionally exchanging energy, the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(4);
- (l) for each synchronous area, the TSO-TSO settlement rules for the unintended exchange of energy pursuant to Article 51(1);
- (m) for the geographical area comprising all asynchronously connected TSOs, the TSO-TSO settlement rules for the unintended exchange of energy pursuant to Article 51(2);
- (n) the exemption, at synchronous area level, to the harmonisation of the imbalance settlement periods pursuant to Article 53(2);
- (o) for the geographical area comprising two or more TSOs exchanging balancing capacity, the principles for balancing algorithms pursuant to Article 58(3).

A Member State may provide an opinion to the concerned regulatory authority on the proposals for the terms and conditions or methodologies listed in the first subparagraph.

4. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by each regulatory authority of each concerned Member State on a case-by-case basis:

- (a) the exemption to publish information on offered prices of balancing energy or balancing capacity bids due to market abuse concerns pursuant to Article 12(4);
- (b) where appropriate, the methodology for allocating costs resulting from actions taken by DSOs, pursuant to Article 15(3);
- (c) the terms and conditions related to balancing pursuant to Article 18;
- (d) the definition and the use of specific products pursuant to Article 26(1);
- (e) the limitation on the amount of bids that is forwarded to the European platforms pursuant to Article 29(10);
- (f) the exemption to separate procurement of upward and downward balancing capacity pursuant to Article 32(3);
- (g) where appropriate, the additional settlement mechanism separate from the imbalance settlement, to settle the procurement costs of balancing capacity, administrative costs and other costs related to balancing with balance responsible parties pursuant to Article 44(3);
- (h) the derogations to one or more provisions of this Regulation pursuant to Article 62(2);
- (i) the costs relating to the obligations imposed on system operators or assigned third entities in accordance with this Regulation pursuant to Article 8(1).

A Member State may provide an opinion to the concerned regulatory authority on the proposals for the terms and conditions or methodologies listed in the first subparagraph.

5. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. The implementation timescale shall not be longer than 12 months after the approval by the relevant regulatory authorities, except where all relevant regulatory authorities agree to extend the implementation timescale or where different timescales are set out in this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 3 shall be submitted to the Agency within 1 week of their submission to regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 4 may be submitted to the Agency within 1 month of their submission at the discretion of the regulatory authority while they shall be submitted upon the Agency's request for information purposes in accordance with Article 3 paragraph 2 of the Regulation (EU) 2019/942 if the Agency considers the proposal to have a cross-border impact. Upon request by the relevant regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

6. Where the approval of the terms and conditions or methodologies in accordance with paragraph 3 of this Article or the amendment in accordance with Article 6 requires a decision by more than one regulatory authority, the relevant regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where the Agency issues an opinion, the relevant regulatory authorities shall take that opinion into account. Regulatory authorities or, where competent, the Agency shall decide on the terms and conditions or methodologies submitted in accordance with paragraphs 2, 3 and 4, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the relevant regulatory authority or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 2, to the last regulatory authority concerned in accordance with paragraph 3 or, where applicable, to the relevant regulatory authority in accordance with paragraph 4.

7. Where the relevant regulatory authorities have not been able to reach agreement within the period referred to in paragraph 6, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months from the day of referral, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

8. Any party may complain against a relevant system operator or TSO in relation to that system operator's or TSO's obligations or decisions under this Regulation and may refer the complaint to the relevant regulatory authority which, acting as dispute settlement authority, shall issue a decision within 2 months after receipt of the complaint. That period may be extended by a further 2 months where additional information is sought by the relevant regulatory authority. That extended period may be further extended with the agreement of the complainant. The relevant regulatory authority's decision shall be binding unless and until overruled on appeal.

#### *Article 6*

#### **Amendments to terms and conditions or methodologies of TSOs**

1. Where the Agency, all relevant regulatory authorities jointly or the relevant regulatory authority require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with Article 5(2), (3) and (4) respectively, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the relevant regulatory authorities. The Agency or the relevant regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

2. Where the relevant regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 4 shall apply.

3. The Agency or the regulatory authorities where they are responsible for the adoption of terms and conditions or methodologies in accordance with Article 5(2), (3) and (4) may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency. The proposals for amendments to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 10 and approved in accordance with the procedure set out in Articles 4 and 5.

*Article 7***Publication of terms and conditions or methodologies on the internet**

TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet following approval by the Agency or the relevant regulatory authorities or, where no such approval is required, following their establishment, except where such information is considered as confidential in accordance with Article 11.

*Article 4***Amendments to Regulation (EU) 2017/1485**

Articles 5 to 8 of Regulation (EU) 2017/1485 are replaced by the following:

*Article 5***Terms and conditions or methodologies of TSOs**

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency in accordance with Article 6(2), to the competent regulatory authorities in accordance with Article 6(3), or to the entity designated by the Member State in accordance with Article 6(4) and (5) within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to Article 6(2), jointly by all competent regulatory authorities in procedures pursuant to Article 6(3), and by the competent regulatory authority in procedures pursuant to Article 6(4) and (5).
2. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.
3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in Article 6(2) are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with Article 6(2) shall require a majority of:
  - (a) TSOs representing at least 55 % of the Member States; and
  - (b) TSOs representing Member States comprising at least 65 % of the population of the Union.
4. A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 6(2) shall include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.
5. Where TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(3) are not able to reach an agreement and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with Article 6(3) shall require a majority of:
  - (a) TSOs representing at least 72 % of the Member States concerned; and
  - (b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.
6. A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 6(3) shall include at least a minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

7. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(3) in relation to regions composed of five Member States or less shall decide by consensus.

8. For TSO decisions on proposals for terms and conditions or methodologies pursuant to paragraphs 3 and 5, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

9. Where TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the regulatory authorities or to the Agency in accordance with Articles 6 and 7 or to the entities designated by the Member States in accordance with Article 6(4) within the deadlines set out in this Regulation, they shall provide the designated entity, competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain why an agreement has not been reached. The Agency, all competent regulatory authorities jointly, or the competent designated entity shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with Article 6, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

#### Article 6

#### **Approval of terms and conditions or methodologies of TSOs**

1. Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2 and 3. The entity designated by the Member State shall approve the terms and conditions or methodologies developed by TSOs under paragraph 4. The designated entity shall be the regulatory authority unless otherwise provided by the Member State. Before approving the terms and conditions or methodologies, the regulatory authority, the Agency or the designated entity shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

2. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency, on which a Member State may provide an opinion to the concerned regulatory authority:

- (a) key organizational requirements, roles and responsibilities in relation to data exchange related to operational security in accordance with Article 40(6);
- (b) methodology for building the common grid models in accordance with Article 67(1) and Article 70;
- (c) methodology for coordinating operational security analysis in accordance with Article 75.

3. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region, on which a Member State may provide an opinion to the concerned regulatory authority:

- (a) methodology for each synchronous area for the definition of minimum inertia in accordance with Article 39(3)(b);
- (b) common provisions for each capacity calculation region for regional operational security coordination in accordance with Article 76;
- (c) methodology, at least per synchronous area, for assessing the relevance of assets for outage coordination in accordance with Article 84;
- (d) methodologies, conditions and values included in the synchronous area operational agreements in Article 118 concerning:
  - (i) the frequency quality defining parameters and the frequency quality target parameter in accordance with Article 127;
  - (ii) the dimensioning rules for FCR in accordance with Article 153;
  - (iii) the additional properties of the FCR in accordance with Article 154(2);

- (iv) for the GB and IE/Nl synchronous areas, the measures to ensure the recovery of energy reservoirs in accordance with Article 156(6)(b);
  - (v) for the CE and Nordic synchronous areas, the minimum activation period to be ensured by FCR providers in accordance with Article 156(10);
  - (vi) for the CE and Nordic synchronous areas, the assumptions and methodology for a cost-benefit analysis in accordance with Article 156(11);
  - (vii) for synchronous areas other than CE and if applicable, the limits for the exchange of FCR between TSOs in accordance with Article 163(2);
  - (viii) for the GB and IE/Nl synchronous areas, the methodology to determine the minimum provision of reserve capacity on FCR between synchronous areas, defined in accordance with Article 174(2)(b);
  - (ix) limits on the amount of exchange of FRR between synchronous areas defined in accordance with Article 176(1) and limits on the amount of sharing of FRR between synchronous areas defined in accordance with Article 177(1);
  - (x) limits on the amount of exchange of RR between synchronous areas defined in accordance with Article 178(1) and limits on the amount of sharing of RR between synchronous areas defined in accordance with Article 179(1);
- (e) methodologies and conditions included in the LFC block operational agreements in Article 119, concerning:
- (i) ramping restrictions for active power output in accordance with Article 137(3) and (4);
  - (ii) coordination actions aiming to reduce FRCE as defined in Article 152(14);
  - (iii) measures to reduce FRCE by requiring changes in the active power production or consumption of power generating modules and demand units in accordance with Article 152(16);
  - (iv) the FRR dimensioning rules in accordance with Article 157(1);
- (f) mitigation measures per synchronous area or LFC block in accordance with Article 138;
- (g) common proposal per synchronous area for the determination of LFC blocks in accordance with Article 141(2).

4. Unless determined otherwise by the Member State, the following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by the entity designated in accordance with paragraph 1 by the Member State:

- (a) for the GB and IE/Nl synchronous areas, the proposal of each TSO specifying the level of demand loss at which the transmission system shall be in the blackout state;
- (b) scope of data exchange with DSOs and significant grid users in accordance with Article 40(5);
- (c) additional requirements for FCR providing groups in accordance with Article 154(3);
- (d) exclusion of FCR providing groups from the provision of FCR in accordance with Article 154(4);
- (e) for the CE and Nordic synchronous areas, the proposal concerning the interim minimum activation period to be ensured by FCR providers as proposed by the TSO in accordance with Article 156(9);
- (f) FRR technical requirements defined by the TSO in accordance with Article 158(3);
- (g) rejection of FRR providing groups from the provision of FRR in accordance with Article 159(7);
- (h) technical requirements for the connection of RR providing units and RR providing groups defined by the TSO in accordance with Article 161(3); and
- (i) rejection of RR providing groups from the provision of RR in accordance with Article 162(6).

5. Where an individual relevant system operator or TSO is required or permitted under this Regulation to specify or agree on requirements that are not subject to paragraph 4, Member States may require prior approval by the competent regulatory authority of those requirements and any amendments thereof.

6. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 3 shall be submitted to the Agency within 1 week of their submission to regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by a designated entity in accordance with paragraph 4 may be submitted to the Agency within 1 month of their submission at the discretion of the designated entity while they shall be submitted upon the Agency's request for information purposes in accordance with Article 3(2) of Regulation (EU) 2019/942 if the Agency considers the proposal to have a cross-border impact. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

7. Where the approval of the terms and conditions or methodologies in accordance with paragraph 3 or the amendment in accordance with Article 7 requires a decision by more than one regulatory authority pursuant to paragraph 3, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where the Agency issues an opinion, the competent regulatory authorities shall take that opinion into account. Regulatory authorities or, where competent, the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 2 and 3 within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 2 or to the last regulatory authority concerned in accordance with paragraph 3.

8. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 7 or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

9. Where the approval of the terms and conditions or methodologies requires a decision by a single designated entity in accordance with paragraph 4 or competent regulatory authority in accordance with paragraph 5, the designated entity or competent regulatory authority shall reach a decision within 6 months following the receipt of the terms and conditions or methodologies. The period shall begin on the day following that on which the proposal was submitted to the designated entity in accordance with paragraph 4 or competent regulatory authority in accordance with paragraph 5.

10. Any party can complain against a relevant system operator or TSO in relation to that relevant system operator's or TSO's obligations or decisions under this Regulation and may refer the complaint to the regulatory authority which, acting as dispute settlement authority, shall issue a decision within 2 months after receipt of the complaint. That period may be extended by a further 2 months where additional information is sought by the regulatory authority. That extended period may be further extended with the agreement of the complainant. The regulatory authority's decision shall be binding unless and until overruled on appeal.

#### *Article 7*

### **Amendments to the terms and conditions or methodologies of TSOs**

1. Where the Agency or all competent regulatory authorities jointly request an amendment in order to approve the terms and conditions or methodologies submitted in accordance with paragraphs 2 and 3 of Article 6 respectively, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission.



2. Where a designated entity requires an amendment in order to approve the terms and conditions or methodologies submitted in accordance with Article 6(4) or the competent regulatory authority requires an amendment in order to approve the requirements submitted in accordance with Article 6(5), the relevant TSO shall submit a proposal for amended terms and conditions or methodologies or requirements for approval within 2 months following the request from the designated entity or competent regulatory authority. The designated entity or competent regulatory authority shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

3. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs 2 and 3 of Article 6 within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Articles 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 5(9) shall apply.

4. The Agency or regulatory authorities or designated entities, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 2, 3 and 4 of Article 6, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency. Proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation if applicable in accordance with the procedure set out in Article 11 and approved in accordance with the procedure set out in Articles 5 and 6.

#### Article 8

##### **Publication of terms and conditions or methodologies on the internet**

1. TSOs responsible for specifying the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet following approval by the Agency or the competent regulatory authorities or, where no such approval is required, following their specification, except where such information is considered confidential in accordance with Article 12.

2. The publication shall also concern:

- (a) enhancements of network operation tools in accordance with Article 55(e);
- (b) FRCE target parameters in accordance with Article 128;
- (c) ramping restrictions on synchronous area level in accordance with Article 137(1);
- (d) ramping restrictions on LFC block level in accordance with Article 137(3);
- (e) measures taken in the alert state due to there being insufficient active power reserves in accordance with Article 152(11); and
- (f) request of the reserve connecting TSO to an FCR provider to make the information available in real time in accordance with Article 154(11).'

#### Article 5

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 February 2021.

For the Commission  
The President  
Ursula VON DER LEYEN

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