ACER
European Union Agency for the Cooperation of Energy Regulators

Evaluation report

Public consultation on the amendment of the EU electricity balancing pricing methodology

PC_2024_E_02

26 March - 23 April 2024

1. Introduction

On 7 February 2024, all TSOs submitted to ACER their proposal to amend the methodology for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process in accordance with Article 30(1) of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing ('Proposal').

On 26 March 2024, ACER launched a public consultation on the Proposal, inviting all market participants to submit their comments by 23 April 2024. In particular, ACER asked stakeholders to provide views on (i) the technical price limits, (ii) the transitional price limits, and (iii) the alternative way to compute the aFRR cross-border marginal price.

In addition, ACER organised a public workshop to present the Proposal and discuss the consultation document on 8 April 2024.

ACER received 22 responses.[1]

1.1 List of respondents

Organisation	Country
Quadra Energy GmbH	Germany
Eurelectric	France
Bundesverband der Energie- und Wasserwirtschaft (BDEW)	Germany
Europex	Belgium

[1] https://www.acer.europa.eu/documents/public-consultations/pc2024e02. ACER's consultation also covered the related amendments to the aFRR implementation framework.

Energy Traders Europe	Netherlands
Nord Pool	Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Ireland, Latvia, Lithuania, Netherlands, Poland, Sweden, Norway, United Kingdom
Edison SpA	Italy
ČEZ	Czechia
EDF	France
Next Kraftwerke GmbH	Austria, Belgium, France, Germany, Netherlands, Poland
Bnewable NV	Belgium
EnBW Energie Baden-Württemberg AG	Germany
IFIEC Europe	Belgium
Enel Group	Italy, Spain
Illwerke vkw AG	Austria, Germany
Voestalpine Rohstoffbeschaffungs GmbH	Austria
ENTSO-E	Other
Westnetz GmbH Germany / on behalf of German DSOs of E.ON SE	Germany
RWE Supply & Trading GmbH	Germany
Südvolt GmbH	Germany
Sympower	Netherlands
Eneco Energy Trade B.V.	Netherlands

1.2 Responses

This section summarises all the respondents' comments and how these were considered by ACER. The table below is organised according to the consultation questions and provides the respective views from the respondents, as well as a response from ACER clarifying how their comments were considered in the present Decision.

Respondents' views	ACER's views
1. *Do you agree with the modifications intended by ACER on the adjustment of the technical price limits based on the maximum/minimum clearing price for SIDC?*	
9 respondents agree. **9 respondents disagree.** **4 respondents partially agree.**	
5 respondents (all TSOs, Quadra Energy GmbH, Enel Group, Westnetz GmbH Germany, Sympower) consider that the harmonised minimum balancing energy price must be lower than the harmonised minimum clearing price for SIDC.	ACER agrees that the harmonised minimum balancing energy price must be lower than the harmonised minimum clearing price for SIDC.
Eneco Energy Trade B.V. suggests that the imbalance price should reflect the economic (marginal and opportunity) cost as realistically as possible and protect the cost of renewable power production.	ACER agrees that an optimal outcome is achieved when market prices are allowed to reflect marginal costs of electricity provision, including opportunity costs (see also ACER Decision 03/2022, para (61)).
Europex is cautious on the logic of first reducing balancing technical price limit down to e.g., 10,000 EUR/MWh and then in mid-2026 increasing it (again) up to 15,000 EUR/MWh. Furthermore, mitigations should be considered to limit the risk of unjustified arbitrage between order and activation prices in SDAC/SIDC versus in balancing. For example, a proper reflection of production cost, demand value and alternative cost should also be applicable for balancing, thus limiting the difference in min/max technical price limits for balancing versus in SDAC/SIDC.	In ACER's view, the proposed reduction of the transitional price limit from 15,000 to 10,000 €/MWh is not sufficiently justified. The TSOs provide largely the same justification in the Proposal as was provided in support of the initial transitional price limits of ±15,000 €/MWh.
Nord Pool questions the notion that if an upper (or lower) threshold has been reached as many times as required in given Methodology to trigger an adjustment of the max (min) limit then also an identical shift of the min (max)	ACER agrees that symmetric HMMBEP are not needed for the efficient functioning of balancing

limit should take place. They do not see a fundamental basis to assume that the nominal positive (max) price limit and the negative (min) price limit must be "identical", e.g. in case of economically justifiable.	energy markets (see para (65) of this Decision).
IFIEC Europe is of the opinion that the caps for the balancing markets should be higher than those for the day ahead and intraday markets, to avoid that market parties would take the risk to source their energy on the balancing markets, which is not the purpose of these markets. Moreover, market caps should also allow for a correct investment signal in case insufficient capacity/energy would be available in these markets. **IFIEC Europe is also concerned about the potential overall costs impact of too high price caps in markets.** **IFIEC Europe is in any case opposed to put price caps beyond the level of VoLL. Price caps and their amendment process should also consider the market structure, both in liquidity but also in type of market, as well as to what extent any unfulfilled balancing needs existed. And if no lacking volumes are observed, because of overall costs, any process for amending price caps should take this aspect duly into account.** **IFIEC Europe don't want to commit to any specific value, except that it should be above the caps for the day ahead and intraday markets and should be balanced with the requirement to keep overall system costs under control.** **IFIEC Europe is also not necessarily convinced that maximum and minimum bid caps should necessarily be symmetrical, as the inherent structure of the balancing markets in the upward and downward direction is also fundamentally different, as is also reflected in markets outcomes.**	ACER agrees that the harmonised maximum balancing energy price must be higher than the harmonised maximum clearing price for SIDC and that the harmonised minimum balancing energy price must be lower than the harmonised minimum clearing price for SIDC (see section 6.2.5 of this Decision). ACER is of the opinion that an optimal outcome is achieved when market prices are allowed to reflect marginal costs of electricity provision, including opportunity costs (see ACER Decision 03/2022, para (61)). ACER agrees that the adjustment mechanism must account for the specificities of balancing markets (see section 6.2.3 of this Decision). ACER agrees that symmetric HMMBEP are not needed for the efficient functioning of balancing energy markets (see para (65) of this Decision).
Next Kraftwerke GmbH views, it makes sense that the technical minimum price is always higher than the maximum/minimum clearing price for SIDC to give the BRPs the incentive to balance their balancing groups correctly.	ACER agrees that the harmonised maximum balancing energy price shall be higher than the harmonised maximum clearing price for SIDC and that the harmonised minimum balancing energy price shall be lower than the harmonised minimum clearing price for SIDC (see section 6.2.5 of the Decision).
Eurelectrics and CEZ stands against setting a price cap that could restrict the free formation of prices and argue in favour of a balancing price limit set at a value	ACER is of the opinion that the introduction of a harmonised maximum/minimum balancing

representing the willingness to pay of European consumers to avoid a disruption in supply, the value of lost load in all markets. **Eurelectrics and CEZ consider that, as the price cap revision is motivated by concerns of price manipulation, the application of REMIT guidelines is the most efficient measure to address the root causes of strategic bidding.** **Eurelectrics, CEZ and BDEW consider that the proposed adjustments appear premature because of the market's current developmental stage and the incomplete participation of all TSOs. Further maturity and investigations on the root causes of market abuse by strategic bidding, are necessary before implementing such measures.**	energy prices is needed for the efficient functioning of the market (see paras (45) and (46) of this Decision). The rules for protecting market integrity and transparency (REMIT) and those preventing anticompetitive behaviour (competition law) are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the structure and characteristics of balancing markets (see paras (75) and (81) of this Decision). ACER monitors and regularly reports on REMIT breaches taking place in the energy markets, [2] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by Commission Regulation (EU) 2017/2195 ('EB Regulation').
Eurelectric considers that if a price cap different than the maximum VoLL is set, it should foresee a mechanism for a harmonised automatic adjustment of the technical price limits for balancing energy market in the event that existing price limits may be reached. This mechanism should seek to adjust the balancing energy price cap based on both the maximum and minimum clearing prices for SIDC. Eurelectric believes that there should be a consistency of maximum and minimum clearing prices across timeframe, respecting an increasing rule for	ACER agrees that the harmonised maximum balancing energy price must be higher than the harmonised maximum clearing price for SIDC and that the harmonised minimum balancing energy price must be lower than the harmonised

[2] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

maximum clearing prices with respect to the timeframe when approaching real time (that is 0 < maxDA < maxID < maxBAL) and a decreasing rule for minimum clearing prices with respect to the timeframe when approaching real time (that is 0 > minDA > minID > minBAL). Being closer to real time means being closer to potential real physical scarcity or over-supply which only is discovered/realized in the real-time time frame (balancing).	minimum clearing price for SIDC (see section 6.2.5 of this Decision).
RWE Supply & Trading GmbH considers that the TSOs' proposed decrease in the price limits for balancing energy lacks a justifiable basis. The TSOs had already proposed on 26 August 2021 to lower the technical price limits from €99,999/MWh and -€99,999/MWh to €15,000/MWh and -€15,000/MWh respectively. At that time, the TSOs had also justified the reduction of the technical price limit by stating that these technical price limits were necessary for the efficient functioning of the market. The TSOs had expressed particular concerns regarding the transition risks in connection with the commissioning of the European platforms. On the one hand, market participants would need time to adapt to the new market rules and adjust to the new market conditions. On the other hand, the TSOs would also need time to familiarise themselves operationally with the new processes to be created. **ACER had already rightly rejected this proposal in its decision of 25 February 2022 (No. 03/2022) because it was not compatible with the principles of operation of the electricity market in accordance with Art. 3 (a) and (b) of the Electricity Market Regulation, as the proposal restricts free price formation. This assessment also applies to the new proposal, as the legal situation and the applicable principles have not changed.** **Both then and now, the TSOs have not provided any evidence that the technical price limits are necessary for the efficient functioning of the market in accordance with Article 30(2) of the EB Regulation and no new arguments have been brought forward in the accompanying document. The current proposal also lacks any explanation of the extent to which and why the balancing energy market is currently not functioning, even though there is currently a (temporary) price cap of +/- 15.000 Euro.**	ACER disagrees that the present proposal is the same as in the previous amendment. The present amendment introduces an automatic adjustment mechanism for the HMMBEP based on balancing prices. It was not the case of the 2021 TSO proposal.

Insofar as the TSOs claim that there is a risk of "fat finger errors", such errors have according to our knowledge never materialized in this context and are not considered problematic by market participants. Furthermore, no change to the existing technical price limit is necessary or sensible for this purpose alone. RWE Supply & Trading GmbH concludes that the proposed price limit is of commercial nature and does not constitute a technical price limit at all. As a commercial price limit, the TSOs' proposal violates EU law and not least because of this, it should not be approved by ACER. The TSOs see the technical price limit as a means of regulating the bidding behaviour of the bidders. However, according to Article 10 of the Electricity Regulation, this is explicitly not permitted. The ACER decision of 25 February 2022 also takes this view. It would be up to the legislator to change this.	ACER considers that the introduction of harmonised maximum/minimum balancing energy prices is needed for the efficient functioning of the market (see paras (45) and (46) of this Decision).
Bundesverband der Energie- und Wasserwirtschaft (BDEW) argues that the TSOs had already proposed on 26 August 2021 to lower the technical price limits from €99,999/MWh and -€99,999/MWh to €15,000/MWh and -€15,000/MWh respectively and justified it by the necessity of these technical price limits for the efficient functioning of the market. It had been rejected by ACER because not compatible with the principles of operation of the electricity market in accordance with Art. 3 (a) and (b) of the Electricity Market Regulation. Free price formation would have been restricted otherwise. Since the legal situation as well as the applicable principles remain unchanged, price methodology should not be used to address these issues.	ACER disagrees that the present proposal is the same as in the previous amendment. The present amendment introduces an automatic adjustment mechanism for the HMMBEP based on balancing prices. It was not the case of the 2021 TSO proposal.
There should be a consistency of maximum and minimum clearing prices across timeframe, respecting an increasing rule for maximum clearing prices with respect to the timeframe when approaching real time (that is 0 < maxDA < maxID < maxBAL) and a decreasing rule for minimum clearing prices with respect to the timeframe when approaching real time (that is 0 > minDA > minID > minBAL). Indeed, being closer to real time means being closer to potential real physical scarcity or over-supply which only is discovered/realised in the real-time time frame (balancing).	ACER agrees that the harmonised maximum balancing energy price must be higher than the harmonised maximum clearing price for SIDC and that the harmonised minimum balancing energy price must be lower than the harmonised m**inimum** clearing price for SIDC (see section 6.2.5 of this Decision).
Energy Traders Europe are concerned about planning uncertainty in the context of fluctuating price caps, which can undergo alterations depending on market circumstances.	In ACER's view, devising an adjustment mechanism already in this amendment is beneficial because it enhances

The need for renegotiation arises each time a change is anticipated, creating a lack of legal certainty regarding the stability of contract terms over the agreed duration. Introducing legal clauses to address this risk proves burdensome for market participants. **In case the technical cap is kept at +/-€99,999/MWh, such a mechanism is redundant.** **However, in case the cap is lowered, such a mechanism should be considered depending on which level the cap is eventually set. The exact design, triggers and conditions of such a mechanism would require further discussion. At the same time, such mechanism should be in place at the time of a reduction of price caps.**	transparency and predictability for market participants, who can prepare themselves for the coming changes. Moreover, it allows the TSOs to simulate the functioning of the adjustment mechanism, enabling them to gain practical experience. This experience will help the TSOs to assess whether (and what kind of) amendments are still needed before the mechanism's entry into force in July 2026 (see para (57) of this Decision).
EDF is favourable to set a fix price cap, at the level of highest VOLL among the member State for the maximum price and at the level of minimum SIDC price for the minimum price. EDF considers that it is not needed to implement a mechanism to adjust the minimum/maximum prices. **On the balancing market not each buyer can express its willingness to pay and not each seller can express the minimum to which it would like to sell:** **For upward activation, TSO buys on behalf of the community but has an inelastic demand. It does not express the willingness to pay of the community and is charged balancing energy prices at the price of the marginal offer. Hence, balancing energy prices may be respectively higher than the players' willingness to pay, which would not be expected to happen in a perfect market. For the maximum balancing price, the highest VoLL appears to be the best estimate of maximum real time value of energy that the customers in general would be willing without affecting the free formation of balancing energy prices.** **For downward activation, TSO "sells" electricity on behalf of the community but has an inelastic offer. The minimum price expresses the minimum price to which TSO is ready to sell but contrary to upward activations there is no risk of energy non served (ENS). EDF sees no justification to set the minimum price an estimation of VOLL. EDF also sees no reason to "sell" this electricity surplus at a lower price (the price is negative) than the RES curtailment costs, it means the opportunity costs of not producing. This cost cannot be higher than the maximum price on SIDC market. EDF recommends aligning the minimum**	ACER is of the view that setting the technical price limit at the VoLL with no adjustment mechanism would infringe the principle of free price formation (see ACER Decision 03/2022, para (76)). ACER agrees that it is more difficult for BRPs to express their valuation compared to market participants in day-ahead and intraday (see para (75) of this Decision). In ACER's understanding, the RES curtailment costs are not straightforward to compute given the fact that part of the renewable units are behind the meters.

balancing price on the maximum price on SIDC (but in negative because the maximum price is a cost) while respecting the following rule: min price on SIDC is higher or equal than min price on balancing. Therefore, with the rules in force, the minimum price on balancing should be equal to -9,999 €/MWh. **These minimum/maximum balancing prices allow to ensure that there is currently a consistency of maximum and minimum clearing prices across timeframe, respecting an increasing rule for maximum clearing prices with respect to the timeframe when approaching real time (that is 0 ≤ maxDA ≤ maxID ≤ maxBAL) and a decreasing rule for minimum clearing prices with respect to the timeframe when approaching real time (that is 0 ≥ minDA ≥ minID ≥ minBAL).**	ACER agrees that the harmonised maximum balancing energy price must be higher than the harmonised maximum clearing price for SIDC and that the harmonised minimum balancing energy price must be lower than the harmonised minimum clearing price for SIDC (see section 6.2.5 of this Decision).
EnBW Energie Baden-Württemberg AG is not convinced that a price cap should be applied as a mitigation measure. The "simple" applicability of marginal pricing theory to the balancing energy market can be questioned as necessary preconditions are not met to do so. **As TSOs base their argumentation on observable strategic and bidding behaviour, EnBW is not aware of any confirmation of abusive strategic bidding provided by the market at the EBSG.** **TSOs consider that the balancing energy market does not meet prerequisites for a marginal pricing market and so a significant share of the settlement is performed according to the pay-as-bid principle. They claim that this is valid for aFRR only based on the provisions of the Pricing Methodology (Article 7(6), Article7(7)).** **EnBW comments that Pay-as-bid also applies to mFRR-DA which is the required activation mode for all pre contracted bids. Balancing energy is not a homogeneous good due to the different dispatch probability at different levels of the merit-order. Market delineation is unclear, e.g. different time slices constitute separate markets with different fundamentals and participants. The demand cannot be estimated in advance. but is basically random.** **TSOs declare that prerequisites for a marginal pricing market are rarely met in real-world markets.** **EnBW considers that TSOs are using this justification to ignore several preconditions, but market theory cannot**	ACER monitors compliance with REMIT and regularly reports on REMIT breaches taking place in the energy markets in its REMIT quarterly reports[3]. Thus, contrary to EnBW's suggestion, ACER considers the risk of market abuse as real and that this risk should be addressed. Ignoring this risk in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, compromising the objectives of the EB Regulation. ACER disagrees with BDEW. The pay-as-bid principle does not apply to directly activatable bids for manual Frequency Restoration Reserve.

[3] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

be applied if all of them are not met. In addition to that, pointing to other real-world markets not meeting the requirements is not an acceptable argument. **TSOs are convinced that mitigation measures are necessary to strive towards the theoretical optimal market outcome, that is cannot be reached but inefficiencies must be limited.** **ENBW comments that it cannot follow the approach to formulate a desired market outcome ("theoretical optimal") and then apply mitigation measures to drive market participants towards the envisaged bidding behaviour. It is not an inefficiency for a rational market participant to take into account the real-world circumstances of a market. Trying to prevent this by mitigation measures will cause side-effects (e.g. non-participation) that can definitely be classified as inefficiency.** **Voestalpine Rohstoffbeschaffungs GmbH considers that marginal pricing at times provides non-intuitive prices, that cannot be explained by consistent scarcity-signals throughout all market timeframes. Hence, strict price-limits are needed to at least mitigate the most severe impacts. Consistency throughout market timeframes is not needed for limits, as it does not exist in prices anyhow.**	ACER considers that the discussion on the benefits of marginal pricing is out of scope of this Decision. ACER does not consider the introduction of harmonised maximum/minimum balancing energy prices with the automatic adjustment mechanism as a mitigation measure to drive market participants towards the envisaged bidding behaviour, but as a measure necessary for the efficient functioning of the balancing markets (See paras (45) and (46) of this Decision). ACER considers that the discussion on the benefits of marginal pricing is out of scope of this amendment.
Südvolt GmbH considers that for purposes of integrating industrial flexibility / demand response into the balancing energy market, a higher price than EUR 10,000/MWh is needed. This is because there are high costs that are being incurred if industrial processes are being altered with regards to providing balancing energy, as well as local grid costs that can be extremely high. Altering price limits is extremely adverse to planning a business and represents many obstacles to establishing and running a business. **The price must be higher than the Intraday price to keep liquidity from entering the market.**	ACER considers that the technical price limits must be high enough to allow prices to be formed based on supply and demand. At the same time, price limits shall not be unnecessarily high. ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the VoLL in ERAA and above the SIDC price limits, is a reasonable starting point for the HMMBEP (see paras (45) and (46) of this Decision). ACER agrees that the harmonised maximum balancing energy price must be higher than the harmonised maximum clearing price for SIDC and that the harmonised minimum balancing energy price must be lower than the harmonised

	minimum clearing price for SIDC (see section 6.2.5 of this Decision).
2. Do you consider that the introduction of a harmonised maximum/minimum price for balancing energy, at a lower level than the technical price limit (99,999 €/MWh) would be acceptable, if there would be a transparent mechanism to adjust the harmonised maximum/minimum price for balancing energy?	
12 respondents agree. **4 respondents disagree.** **6 respondents partially agree.**	
Europex, Sympower, Quadra Energy GmbH, All TSOs, Nord Pool and Bnewable agree that it is possible to introduce an harmonised maximum/minimum balancing energy prices at a lower level than the previous technical price limit if there would be a transparent mechanism to adjust the harmonised maximum/minimum price for balancing energy	ACER agrees that the introduction of harmonised maximum/minimum balancing energy prices is needed for the efficient functioning of the market (See paras (45) and (46) of this Decision).
Edison and Enel Group consider that the proposed limits are wide enough to avoid distortions on market dynamics and to preserve the free formation of market prices.	ACER agrees that the proposed harmonised maximum/minimum balancing energy prices with the automatic adjustment mechanism allows price to be formed on the basis of supply and demand (see paras 45 and 46 of this Decision).
Voestalpine Rohstoffbeschaffungs GmbH and Edison consider that strict price-limits are needed to avoid extremely high activation price.	ACER considers that the technical price limits must be high enough to allow prices to be formed based on supply and demand. At the same time, price limits shall not be unnecessarily high. ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the VoLL in ERAA and above the SIDC price limits, is a reasonable starting point for the HMMBEP (see paras (45) and (46) of this Decision).
Westnetz GmbH Germany considers that the balancing energy markets by structure do not ensure offers just above marginal cost.	ACER has accounted for the specific structure and characteristics of balancing

	markets in the automated adjustment mechanism (see section 6.2.3 of this Decision).
Eurelectric, ČEZ, EDF consider that as European consumers cannot directly express their willingness to pay in balancing markets, a cap at the maximum of European VOLLs would be acceptable. Refer to Q.1. **EDF believes that a price floor based on SIDC maximum/minimum price, independently of the implementation of mechanism to adjust the harmonised maximum/minimum price for balancing energy.**	See answer to Q1.
Next Kraftwerke GmbH is not against lowering the price limit if there is a sufficient incentive for the BRPs to balance their balancing groups.	ACER considers that the settlement processes should provide incentives to balance responsible parties to be in balance or help the system to restore its balance as required by Article 44(1)(c) of the EB Regulation.
Südvolt GmbH considers that a price higher than the Intraday price of EUR 10,000/MWh - 15,000 was a fine compromise so it makes no sense to alter that again.	ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the VoLL in ERAA and above the SIDC price limits, is a reasonable starting point (see paras (45) and (46) of this Decision).
EnBW Energie Baden-Württemberg AG considers that the technical price limit could be even closer to marginal pricing of providers.	ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the VoLL in ERAA and above the SIDC price limits, is a reasonable starting point for the HMMBEP (see paras (45) and (46) of this Decision).
BDEW considers that technical price limits should not restrict free formation of prices.	ACER considers that technical price limits can be introduced if they are needed for the efficient functioning of the market (see paras (45) and (46) of this Decision).
EnBW Energie Baden-Württemberg AG and Energy Traders Europe consider that the current proposal also lacks any explanation of the extent to which and why the balancing energy market is currently not functioning, even though there is currently a (temporary) price cap. Moreover, TSOs have not provided any evidence that the	Reasons for introducing HMMBEP are set out in section 6.2.3 of this Decision.

technical price limits are necessary for the efficient functioning of the market.	
RWE Supply & Trading GmbH argues that no change to the existing technical price limit is necessary or sensible. The proposed price limit is of a commercial nature and does not constitute a technical price limit at all. As a commercial price limit, the TSOs' proposal violates EU law, and not least because of this, it should not be approved by ACER. The TSOs see the technical price limit as a means of regulating the bidding behaviour of the bidders. However, according to Article 10 of the Electricity Regulation, this is explicitly not permitted and is reassured by the ACER decision of 25 February 2022. It would be up to the legislator to change this. The TSOs propose comparing the introduction of price limits in the balancing timeframe to the limits imposed within the day-ahead and intraday timeframes and argue that the latter do not restrict price formation. However, the mere comparison of different products and the assertion that a similar adjustment mechanism can be applied, based on the argument that the limits imposed within the day-ahead and intraday timeframes do not restrict price formation, is inherently flawed.	ACER considers that technical price limits can be introduced if they are needed for the efficient functioning of the market (see paras (45) and (46) of this Decision).
3. 1.5 At what level, in your view, shall the initial value of the harmonised maximum/minimum price for balancing energy be set? **- 10,000 €/MWh** **- 15,000 €/MWh** **- 99,999 €/MWh (just keeping the technical price limit)** **- At the value of highest VoLL among member states**	
4 respondents agree with 10,000 €/MWh. **8 respondents agree with 15,000 €/MWh.** **3 respondents agree with 99,999 €/MWh.** **5 respondents agree with the value of highest VoLL among member states.** **2 respondents did not respond.**	
Quadra Energy GmbH considers that a price limit of 10,000 €/MWh currently seems to be sufficient to cover the marginal costs for system balancing being above the maximum and minimum prices for SIDC while on the other hand protecting BRPs from exaggerating balancing prices.	ACER considers that the technical price limits must be high enough to allow prices to be formed based on supply and demand. At the same time, price

Westnetz GmbH Germany considers that this ensures a reasonable distance above day-ahead pricing.	limits shall not be unnecessarily high. ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the VoLL in ERAA and above the SIDC price limits, is a reasonable starting point for the HMMBEP (see paras (45) and (46) of this Decision).
Eneco Energy Trade B.V. considers that a lower value facilitates growth and profitability of Renewables.	
Nord Pool recognizes that VoLL is a parameter to consider but there is no logical way to conclude what national VoLL value to apply for a pan-EU harmonised technical max price limit for Balancing, and therefore finds that 15,000 EUR/MWh is a technical max limit that would not restrict free and fair price formation, and especially when considering fundamentals and application of adjustment mechanisms as referred to in reply to Q.2 above.	ACER agrees that an adjustment mechanism to the HMMBEP is needed (see paras (45) and (46) of this Decision)).
Edison believes that the initial value of the harmonised maximum/minimum price for balancing energy set to 15,000€/MWh, as initially proposed by the TSOs, is in principle in line with the PICASSO platform dynamics, as expressed in response to Q.2.	ACER agrees (See ACER's views in Q.2)
Enel Group considers this value high enough to start with. Afterwards, it can be adjusted based on the actual functioning of the balancing markets. **Regarding more in general the price limits, it should be noted that Italy is discriminated against other EU countries as bid limits for Italian BSPs (3000 €/MWh upward, 0 €/MWh downward) are too much restrictive compared to other countries.**	ACER agrees (See answer Q.2). ACER notes that once a TSO joins the balancing platform, the limits envisaged in this decision would apply to the BSPs connected to that TSO.
Illwerke vkw AG considers that the already small gap between the maximum Intraday prices and the maximum energy price (10.000,- vs. 15.000,- €) or energy balancing price must be maintained. Otherwise, the incentive to level out the balancing groups at every (Intraday) price is lost. Moreover, they advocate a long-term stable price cap with – as described above – a corresponding gap to the Intraday price cap. Frequently changing price caps reduce planning security and lead to reduced investment	ACER considers that the technical price limits must be high enough to allow prices to be formed based on supply and demand. At the same time, price limits shall not be unnecessarily high. ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the

incentives in prospectively needed flexibility. Therefore, they reject a temporary reduction of the energy price cap.	VoLL in ERAA and above the SIDC price limits, is a reasonable starting point for the HMMBEP (see paras (45) and (46) of this Decision).
All TSOs support their original proposal and support the reasoning that was put forward.	ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the VoLL in ERAA and above the SIDC price limits, is a reasonable starting point for the HMMBEP (see paras (45) and (46) of the Decision).
Südvolt GmbH considers that this is a price level above the Intraday level and helps industrial flexibility / demand response enter the market and bring liquidity.	ACER considers that setting the initial value of the HMMBEP at ±15,000 €/MWh, equal to the VoLL in ERAA and above the SIDC price limits, is a reasonable starting point for the HMMBEP (see paras (45) and (46) of the Decision).
Sympower argues that a clear value such as €15,000/MWh seems more appropriate than a calculation that considers the VOLL of the member states.	
Energy Traders Europe, RWE Supply & Trading GmbH and EnBW Energie Baden-Württemberg AG conclude that the proposed price limit is of a commercial nature and does not constitute a technical price limit. Hence, the TSO proposal violates EU Regulation 2019/943, and for this reason, it should not be submitted to ACER. The TSOs view the technical price limit as a means of regulating the bidding behaviour of the bidders.	ACER considers that technical price limits can be introduced if they are needed for the efficient functioning of the market (see paras (45) and (46)).
Eurelectric considers that the technical price limit should not hinder the ability of imbalance prices to reach the VoLL theoretically in all market. This aligns with the objective to avoid disrupting the optimal functioning of the balancing market and the imbalance price to correctly signal the cost of balancing actions by TSOs. Additionally, setting the harmonised price at the highest VoLL fosters consistency and fairness across member states / market players.	In para (76) of ACER Decision 03/2022, ACER explained that setting the technical price limit at the VoLL with no adjustment mechanism would infringe the principle of not having a limit to the price formation.
EDF does not see a reason to revise this value considering the reasoning stated in Q.1.	See Answer Q1.

4. Do you agree with the general settings of the considered balancing adjustment mechanism?	
7 respondents agree. **8 respondents disagree.** **5 respondents partially agree.** **2 respondents did not respond.**	
Enel Group agrees that because for the balancing markets, the requirements are symmetrical, the price adjustment should be symmetrical too.	ACER disagrees and is of the opinion that symmetric HMMBEP are not needed for the efficient functioning of balancing energy markets (see para (65) of this Decision).
Eurelectric supports the present cap at 15k€/MWh to rise back to 99k€/MWh by July 2026 and suggests that any modification to the current price limits should apply only after a thorough analysis is conducted and its results discussed with market participants. If a decision is made to lower this cap, it should not fall below the highest VoLL among members states. **Additionally, if the cap is set lower than 99k€/MWh, they are of the opinion that it must be accompanied by a symmetrical increase/decrease mechanism.**	In ACER's view, devising an adjustment mechanism already in this amendment is beneficial for two main reasons. First, it enhances transparency and predictability for market participants, who can prepare themselves for the coming changes. Second, it allows the TSOs to simulate the functioning of the adjustment mechanism, enabling them to gain practical experience. This experience will help the TSOs to assess whether (and what kind of) amendments are still needed before the mechanism's entry into force in July 2026. For these reasons, ACER has introduced an adjustment mechanism for the HMMBEP already though this amendment, in Article 10 of the pricing methodology. ACER disagrees and is of the opinion that symmetric HMMBEP are not needed for the efficient functioning of balancing energy markets (see para (65) of this Decision).
Europex considers that to avoid potential arbitrage between the different markets, it would be preferable to apply the same criteria as the adjustment mechanism for	ACER has set the adjustment steps in the same way as for the day-ahead and intraday

SDAC and SIDC to balancing markets. Thus, the adjustment steps in case the upward or downward threshold is reached should be set in a similar way.	adjustment mechanisms (see para (65) of this Decision).
Nord Pool has reservations against the logic to make an equal shift of upper and lower limit and applied at the same in case of Balancing price results having reached the threshold price for only upper (max) or lower (min) limit.	ACER agrees that symmetric HMMBEP are not needed for the efficient functioning of balancing energy markets (see para (65) of this Decision).
All TSOs do not necessarily have objections to the approach where the development of an adjustment mechanism for balancing energy would use the intraday adjustment mechanism as a starting point. Nevertheless, the specific conditions at the balancing markets have to be considered through adequate trigger criteria besides balancing energy clearing prices. To All TSOs' understanding, ACER proposes to replace price spikes definition applying in the intraday adjustment mechanism by the specific conditions listed in the questions below. All TSOs see the need to establish a wholistic adjustment mechanism. The conditions proposed by ACER do not sufficiently reflect limited competition in the balancing energy markets and no proposal for a concrete condition reflecting this was put forward by ACER. Therefore, All TSOs prefer their original proposal to develop a suitable price adjustment mechanism for a later submission.	ACER agrees with TSOs that the limited competition in balancing markets shall be accounted for in the design of the adjustment mechanism. This is discussed in section 6.2.3.2 of the Decision. ACER recognises the complexity of designing an appropriate adjustment mechanism to the HMMBEP. With this amendment, ACER only intends to offer the TSOs the initial considerations and a direction in approaching the design of the HMMBEP adjustment mechanism. In this way, the TSOs can already start the required simulations to be able to analyse the behaviour of the mechanism across diverse market scenarios. On that basis, the TSOs can propose improvements they deem necessary before the mechanism is applied in a real market setting.
BDEW is against price limits that hinder free price formation. They remind that such an analysis was not provided when setting the parameters for the SIDC market and may, in any case, require to be adapted to the balancing market. **BDEW supports the symmetrical adjustment in the mechanism.**	ACER considers that technical price limits can be introduced if they are needed for the efficient functioning of the market (see paras (45) and (46) of this Decision). ACER disagrees and is of the opinion that symmetric HMMBEP are not needed for the efficient functioning of balancing energy markets (see para (65) of this Decision).

Energy Traders Europe considers that the TSOs evidently misunderstand the purpose of a technical price cap for the SDAC and SIDC. In the last explanatory note from the NEMOS regarding the amendment of the technical price cap, it states: **"The HMMCP allows for price limit only as a technical way to allow manage in an efficient way the cost of collaterals which Market Participants have to post to Organized Market Places in order to enter into wholesale negotiations, but such price limit should never prevent the free formation of prices on the market." Essentially, the goal is to prevent market distortions resulting from uncontrolled counterparty defaults due to mandatory collateral.** **The TSOs fail to acknowledge that NEMOS are neutral parties in the market who, by virtue of their business model, have a natural interest in fostering a platform for a free, transparent, and liquid market. Consequently, the technical price limit in SDAC and SIDC serves as an instrument to enhance market participants' confidence by bolstering financial stability, thereby supporting market liquidity and the resultant free price formation.** **This fundamental misunderstanding has evidently led to no effort being made to explain why an identical measure is necessary in the balancing market, which lacks these specific features. Due to this lack of engagement with the topic, the price limit must be recognized for what it truly is: a commercial limit intended to actively interfere with free pricing.** **Only in the case the price cap is lowered, which we strongly oppose, the introduction of such a mechanism is a necessary evolution.** **In order for the adjustment mechanism to become active effectively, when the price cap is restricting the efficient functioning of the market, an adjustment step needs to be sufficiently large. The current proposal of adjusting the price by 5% is insufficient.**	ACER considers that technical price limits can be introduced if they are needed for the efficient functioning of the market (see para (45) and (46) of this Decision). ACER does not see any reason and Energy Traders Europe have not provided any justification either, for having larger steps in the balancing adjustment mechanism compared to the day-ahead and intraday adjustment mechanisms.
RWE Supply & Trading GmbH considers that, in Section 1.2.4 of the Explanatory Document, TSOs argue that the balancing market does not function effectively. They do so from their role as buyers of balancing energy, in which they allegedly see themselves confronted with a supply side dominated by a small number of market participants.	

A price cap is considered an adequate instrument to safeguard them against high costs. **They legitimise this in the Explanatory Document, section 1.3.2, as follows: "If setting a maximum/ minimum price in a market which is deemed to have sufficient liquidity so as to avoid any abuse of market power, where both seller and buyer may adjust both the amount of energy they are willing to sell or buy and the price they are willing to pay or sell for, is deemed legally compliant, this - a fortiori - must be true for the balancing energy market, in which both of the above mentioned requirements are not fulfilled."** **The TSOs evidently misunderstand the purpose of a technical price cap for the SDAC and SIDC. In the last explanatory note from the NEMOS regarding the amendment of the technical price cap, it states:** **"The HMMCP allows for price limit only as a technical way to allow manage in an efficient way the cost of collaterals which Market Participants have to post to Organized Market Places in order to enter into wholesale negotiations, but such price limit should never prevent the free formation of prices on the market." Essentially, the goal is to prevent market distortions resulting from uncontrolled counterparty defaults due to mandatory collateral.** **The TSOs fail to acknowledge that NEMOS are neutral parties in the market who, by virtue of their business model, have a natural interest in fostering a platform for a free, transparent, and liquid market. Consequently, the technical price limit in SDAC and SIDC serves as an instrument to enhance market participants' confidence by bolstering financial stability, thereby supporting market liquidity and the resultant free price formation.** **This fundamental misunderstanding has evidently led to no effort being made to explain why an identical measure is necessary in the balancing market, which lacks these specific features. Due to this lack of engagement with the topic, the price limit must be recognized for what it truly is: a commercial limit intended to actively interfere with free pricing.**	ACER considers that technical price limits can be introduced if they are needed for the efficient functioning of the market (see paras (45) and (46) of this Decision).

Without this fundamental examination of the problem, it makes no sense in our view to consult on possible adjustment mechanisms. Furthermore, such matters fall outside the purview of the TSOs or ACER, and this methodology is not the appropriate means to assess or enforce competition rules.	
EDF does not share the ACER's view concerning the symmetry between the maximum and the minimum prices (see question 1) as a price peak and a price bottom represent different market/system statuses. Therefore, there no reason to apply the balancing adjustment symmetrically to the harmonised maximum and minimum prices for balancing energy.	ACER agrees that symmetric HMMBEP are not needed for the efficient functioning of balancing energy markets (see para (65) of this Decision).
Voestalpine Rohstoffbeschaffungs GmbH considers that as a sign of lack of market-maturity peak will occur regularly, that do not reflect real market-scarcity. Under such conditions it is not due process to automatically increase price-limits, as is due practice in SIDC or SDAC. Additional indicators, especially individual investigations of peaks are needed to confirm, whether they were caused by real market-scarcity. Anyhow, no alterations of price-limits should be made before all TSOs (or at least a sufficient majority) have joined the platforms, and sufficient competition can be assumed.	In ACER's view, devising an adjustment mechanism already in this amendment is beneficial because it enhances transparency and predictability for market participants, who can prepare themselves for the coming changes. Moreover, it allows the TSOs to simulate the functioning of the adjustment mechanism, enabling them to gain practical experience. This experience will help the TSOs to assess whether (and what kind of) amendments are still needed before the mechanism's entry into force in July 2026 (see para (57) of this Decision).
5. Do you agree that the balancing adjustment mechanism shall account for the specificities of balancing markets through specific conditions?	
9 respondents agree. **6 respondents disagree.** **3 respondents partially agree.** **4 respondents did not respond.**	
4 respondents (Quadra Energy GmbH, Europex, Westnetz GmbH Germany, Sympower) considers that the balancing adjustment mechanism should also account for the specificities of balancing markets through specific conditions.	ACER agrees that the adjustment mechanism for the HMMBEP shall account for the specificities of balancing markets.

Voestalpine Rohstoffbeschaffungs GmbH agrees with ACER's reasoning on the specificities of the balancing-market, especially individual investigations of peak-prices, before altering price-limits.	ACER agrees that the adjustment mechanism for the HMMBEP shall account for the specificities of balancing markets. However, ACER has concluded that an ex-post analysis under REMIT/competition laws was not most suitable in practice (see para (77) of this Decision).
All TSOs consider it necessary to add trigger criteria besides balancing energy clearing prices to take into account specific conditions of balancing markets (e.g., the facts that TSOs are mostly price-takers and that there are interactions between the balancing capacity and the balancing energy markets), limited competition and insufficient liquidity.	ACER agrees that the adjustment mechanism for the HMMBEP shall account for the specificities of balancing markets, including the limited competition. This is described in section 6.2.3.2.
Eurelectric stands against a price cap at a lower level than the highest VoLL among members. **Should such a adjustment mechanism be applied Eurelectric acknowledges that it should account for some specificities of balancing markets. As developed below, Eurelectric disagrees with some of the conditions considered by ACER.**	See the answer to Q1. ACER agrees that the adjustment mechanism for the HMMBEP shall account for the specificities of balancing markets.
For maximum price, EDF considers that it is needed to consider the balancing specificities if a such mechanism was implemented. However, for minimum price, the cap should be linked to those in force on the SIDC market. It should be based on the maximum price on SIDC (but in negative because the maximum price is a cost) while respecting the following rule: min price on SIDC is higher or equal than min price on balancing.	See answer to Q.1.
BDEW, Energy Traders Europe and EnBW Energie Baden-Württemberg AG consider that requiring additional conditions for the adjustment mechanism is basically preventing most of the updates. The need for updating the price cap should arise from the actual market price formation only.	ACER disagrees. In ACER views, there are specificities in the way prices are formed in balancing markets compared to day-head and intraday markets. These must be accounted for in the adjustment mechanism (see sections 6.2.3.1 and 6.2.3.2 of this Decision).
Next Kraftwerke GmbH suggests keeping the logic as simple as possible. Maybe a simple linking to the adjusted SIDC prices is sufficient so that the specific conditions are not needed to consider.	ACER has strived to devise an adjustment mechanism that is sufficiently simple to verify and transparent for the market participants.

RWE Supply & Trading GmbH considers that this methodology is not the vehicle to assess or enforce competition rules. Refer to Q.4.	REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. Complementing these rules with additional safety mechanism to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of this Decision. ACER monitors and regularly reports on REMIT breaches taking place in the energy markets,[4] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation.
Südvolt GmbH considers that it is overregulation of a functioning market.	ACER disagrees. ACER considers that an adjustment mechanism shall consider the specificities of the market to which it applies.
6. Do you agree with specificity 1 and the associated condition?	
8 respondents agree. **6 respondents disagree.** **4 respondents partially agree.** **4 respondents did not respond.**	
EDF, Enel Group, Voestalpine Rohstoffbeschaffungs GmbH support that the BRP is not exposed to 4 second-	ACER agrees (see para (66) of this Decision).

[4] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

price and it would not be relevant to consider this price in the revision mechanism.	
Sympower considers that a 15-minute time span is more appropriate than 4 seconds to evaluate potential price spikes that trigger the price adjustments. Therefore, the cross-border marginal price for mFRR and the weighted average of the cross-border marginal prices for aFRR are an acceptable and correct approach.	ACER agrees (see para (66) of this Decision).
Quadra Energy GmbH agrees that the different granularity of aFRR and mFRR should be considered as a specificity. Apart from that they believe that the weighted average of the CBMPs for aFRR is overweighting short periods with very high CBMPs and propose to use an unweighted average.	ACER is of the opinion that the weighted average better represents the value of energy in the 15-minute period.
All TSOs do not necessarily have objections to the principle that the trigger for mFRR should be a CBMP above/below the threshold and, for aFRR, the weighted average of the CBMPs during the imbalance settlement period above/below the threshold. **Nevertheless, All TSOs disagree with the reasoning put forward by ACER that assumes that the BRP is the counterpart of the BSP in the balancing energy market. TSO does not fix a price on its demand to reflect the "willingness to pay" of a BRP. The TSO is price-taker as it largely has to maintain the system within operational security limits at any cost. Except for the covering intra-QH variations of the system imbalance (which is TSO task in any case), the TSO compensates for the failure of the BRP to balance its position on the previous market timeframes and does this at any price. This puts the BSP in a position that they can artificially increase the price of their offer and that high market prices do not necessarily reflect a scarcity in the balancing energy markets.** **Therefore, All TSOs prefer their original proposal to develop a suitable price adjustment mechanism for a later submission to discuss the specificities of the balancing energy markets and develop suitable trigger criteria.**	ACER considers that BRPs can react to the imbalance price in real-time by activating their assets, and by doing so, they influence the TSO demand for the next MTUs and therefore implicitly bring some elasticity to the TSO demand (see para (75) of this Decision). ACER recognises the complexity of the issue. With this amendment, ACER only intends to offer the TSOs the initial considerations and a direction in approaching the design of the HMMBEP adjustment mechanism. In this way, the TSOs can already start the required simulations to be able to analyse the behaviour of the mechanism across diverse market scenarios.
BDEW and EnBW Energie Baden-Württemberg AG consider that the aFRR demand is determined by TSOs and not by BRPs. This demand is provided and remunerated based on the BEPP. Therefore, it is only	ACER considers that the demand of TSOs is driven by the BRP imbalance and that BRPs are settled at the ISP granularity.

consistent to use the 4sec clearings for determining an excess of the current threshold.	
Energy Traders Europe disagrees because this is an option that deserves further analysis.	In ACER's view, devising an adjustment mechanism already in this amendment is beneficial because it enhances transparency and predictability for market participants, who can prepare themselves for the coming changes. Moreover, it allows the TSOs to simulate the functioning of the adjustment mechanism, enabling them to gain practical experience. This experience will help the TSOs to assess whether (and what kind of) amendments are still needed before the mechanism's entry into force in July 2026 (see para (57) of this Decision).
EnBW Energie Baden-Württemberg AG considers that if the trigger for the price adjustment mechanism will be evaluated on a weighted 15 min average, the definition for a price incident should be adjusted, accordingly.	ACER considers that there is no link between the definition of price incidents and the adjustment mechanism. The definition of price incidents is used for reporting purpose.
RWE Supply & Trading GmbH considers that this methodology is not the vehicle to assess or enforce competition rules. See explanation Q.4.	See Answer Q5.
7. Do you agree with specificity 2 and the associated condition?	
5 respondents agree. **10 respondents disagree.** **4 respondents partially agree.** **3 respondents did not respond.**	
Quadra Energy GmbH considers that as the balancing market consists of different, complementary products high CBMPs for one of these products are not indicating insufficient price limits but are rather dependent on the TSOs' choice of balancing products.	ACER agrees that high CBMPs for one of these products are not necessarily indicating insufficient price limits.
Sympower suggests that a specific contingency that leads to a price incident can potentially involve only one service between aFRR and mFRR. This could be due to	ACER agrees that the trigger should involve both the aFRR and mFRR platforms.

the combined effect of different factors impacting only one specific service, rather than an actual scarcity of FRR balancing resources. Therefore, Sympower agrees that the trigger should involve both the MARI and PICASSO platforms.	
Europex considers that despite having different characteristics, aFRR and mFRR products pursue the same objective of preserving system security. If TSOs cannot procure aFRR because of price incidents, there is still the possibility to guarantee system security through the acquisition of manual reserve on MARI, if economically convenient. Consequently, they agree with the application of this triggering specificity. Nevertheless, while they believe that this would currently be meaningless as most of TSOs have not completed the adhesion process to both platforms yet, this trigger condition may be still effective in the long-term.	The time to restore frequency defined in Regulation (EU) 2017/1485 (system Operation Guideline) is 15 minutes. Both mFRR and aFRR products are part of the frequency restoration reserve, which aims to respect the time to restore frequency.
EDF wonders if different price caps between platforms could exist. If this is possible, the cap on each platform would evolve independently provided that maxPriceaFRR>=maxPricemFRR and minpriceaFRR<=minPricemFRR. To achieve this, a price spike on aFRR would lead to a price cap adjustment on all platforms but the contrary would not necessarily be verified. This is because aFRR can be the only reserve capable to solve a given imbalance while, for other reserves, it may be that a price peak on mFRR could have been handled more economically through an aFRR activation.	ACER considers that the technical price limits apply to balancing energy and therefore to all balancing platforms.
In principle, All TSOs do not necessarily have objections to the principle that there may be both a trigger in PICASSO and in MARI for the same 15min period or imbalance settlement period. However, please refer to All TSOs' response to Q.6 regarding the fact that high prices not necessarily reflect the scarcity in balancing energy markets. **Therefore, All TSOs prefer their original proposal to develop a suitable price adjustment mechanism for a later submission to discuss the specificities of the balancing energy markets and develop suitable trigger criteria.**	See answer to Q6.
Eurelectric and BDEW consider that mFRR and aFRR are different products that may be covering different needs of the system.	The time to restore frequency defined in the SO Regulation is 15 minutes. Both mFRR and aFRR products are part of the frequency restoration reserve,

Eurelectric and BDEW consider that activations of one type of product consistently beyond the price threshold over a full ISP should lead to a price cap adjustment regardless of the price reached for the other type of reserve. For instance, situations where only aFRR was capable to respond to a given contingency thus inducing a price spike on aFRR and not mFRR should lead to a price cap adjustment. Eurelectric also considers that price adjustments should be coordinated across platforms.	which aims to respect the time to restore frequency. ACER disagrees. Unlike in day-ahead and intraday, supply in the balancing market consists of two different products (aFRR and mFRR), so two platforms are running independently at the same time (aFRR platform and mFRR platform respectively). This can lead to a situation where high CBMPs are in one balancing platform while low bids are still available in another balancing platform. In this situation, it would not make sense to increase the HMMBEP because there is still cheap supply available in one of the platforms (see para (66) of this Decision).
Energy Traders Europe and EnBW Energie Baden-Württemberg AG want a market response to hitting the price cap, not a TSO activation behaviour change. Since if the price cap on one product is reached, there is demand from TSOs for that product and the price cap should be increased.	ACER disagrees. Unlike in day-ahead and intraday, supply in the balancing market consists of two different products (aFRR and mFRR), so two platforms are running independently at the same time (aFRR platform and mFRR platform respectively). This can lead to a situation where high CBMPs are in one balancing platform while low bids are still available in another balancing platform. In this situation, it would not make sense to increase the HMMBEP because there is still cheap supply available in one of the platforms (see para (66) of this Decision).
ČEZ believes mFRR and aFRR are different products and hence any adjustment to the price limit shall be done separately for each market.	ACER considers that the technical price limits apply to balancing energy and therefore to all balancing platforms.
Enel Group considers that the balancing price limits should reflect the cost of the most expensive resources. It makes sense to have the higher prices in aFRR that is the market with the highest quality resources. Therefore,	ACER disagrees. Unlike in day-ahead and intraday, supply in the balancing market consists of two different products (aFRR and

the adjustment should consider the maximum prices of all markets.	mFRR), so two platforms are running independently at the same time (aFRR platform and mFRR platform respectively). This can lead to a situation where high CBMPs are in one balancing platform while low bids are still available in another balancing platform. In this situation, it would not make sense to increase the HMMBEP because there is still cheap supply available in one of the platforms (see para (66) of this Decision).
Illwerke vkw AG considers that due to inertia of mFRR (activation time 7.5 minutes) price spikes occur with a delay to the peak in balancing demand. mFRR can't be activated within the time of a short peak of demand (< 7.5 minutes) and therefore cannot contribute to meet this demand. Thus, MARI should not be taken into account for the definition of a price spike, only PICASSO should.	The time to restore frequency defined in the SO Guideline is 15 minutes. Both mFRR and aFRR products are part of the frequency restoration reserve, which aims to respect the time to restore frequency.
For RWE Supply & Trading GmbH view refer to Q.4.	See answer to Q4.
8. Do you think that the adjustment mechanism should be triggered if there were concerns about market competition (specific condition 3)?	
4 respondents agree. **12 respondents disagree.** **2 respondents partially agree.** **4 respondents did not respond.**	
Enel Group considers that the lack of market competition is a very severe problem that has a deeper affection beyond the adjustment of prices. Therefore, it should be addressed independently.	ACER agrees that limited competition in balancing markets is in itself an issue that may require redress beyond the adjustment mechanism. Yet, this does not preclude addressing this issue also through the adjustment mechanism. ACER considered that REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules with additional safety

	mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of the Decision. ACER monitors and regularly reports on REMIT breaches taking place in the energy markets, [5] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation.
For Westnetz GmbH Germany view refer to Q.9.	
Sympower, Eneco Energy Trade B.V considers that market competition shall be accounted for in the adjustment mechanism.	ACER agrees that the adjustment mechanism shall account for the limited competition in balancing markets (see section 6.2.3.2 of the Decision)
Eurelectric firmly considers that assessing the competition status of markets falls outside the scope of TSOs roles and responsibilities. **Eurelectric is concerned that the proposed criteria are unclear and could lead to uncertainties and lack of visibility regarding the evolution of balancing energy prices. Eurelectric understands that the competition concern is temporary and linked to the limited number of accession to the mFRR and aFRR platforms so far. A more simple approach that would provide greater visibility could be for example to consider any price adjustment once a sufficient number of TSOs has joined the platform. Eurelectric also underlines that a swift accession of TSOs would alleviate the risk they seem to see.**	ACER has strived to devise an adjustment mechanism that is sufficiently simple to verify and transparent for the market participants. ACER agrees that the participation of more TSOs will improve the competition in the market. However, the amount of TSOs connected to the balancing platforms is not the only factor for the competitivity of the market. For instance, it also depends on the amount of cross-zonal capacities available.

[5] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

Quadra Energy GmbH and Europex considers that market competition shall be accounted for in the adjustment mechanism.	ACER agrees that the adjustment mechanism shall account for the limited competition in balancing markets (see section 6.2.3.2 of the Decision).
Energy Traders Europe and EnBW Energie Baden-Württemberg AG oppose the argumentation linking it to market concentration or the existence of pivotal BSPs due to the lack of competition in the market. **Generally, there is no physical scarcity in balancing markets. In most of the markets there is abundant prequalified capacity or technically capable units available. The TSOs restrict the market concentration measurement to the BSPs active in the balancing energy market. This does provide an incomplete picture. It is each BSP's individual commercial decision to participate in the balancing capacity and energy markets.** **Neither of the currently proposed measures will increase the attractiveness of the market and may further aggravate the issue of limited liquidity and the observed market concentration.** **The current accession roadmaps, however, do provide a natural mitigation measure for increasing market liquidity. Most liquidity concerns, if any, should have been addressed in July 2024 when the TSOs were supposed to access the platforms.** **The TSOs correctly state that the relevant market consists of all prequalified volumes. Hence, the market concentration measures proposed in condition 3 and evaluated in the quarterly reports need to be applied to all technically available capacity.**	ACER does not consider that the prequalified capacity is the right measure of market competitivity. The reason being that some assets can only deliver balancing services if they are started. It would therefore not make sense to count them as bringing competition if they are not started even though they are prequalified. ACER agrees that the participation of more TSOs will improve the competition in the market. However, the amount of TSOs connected to the balancing platforms is not the only factor for the competitivity of the market. For instance, it also depends on the amount of cross-zonal capacities available.
ČEZ considers that if there are any concerns about market competition, REMIT guidelines shall be used by relevant NRAs. Assessing the competition status of markets falls outside the scope of TSOs roles and responsibilities.	ACER considered that REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of the Decision. ACER monitors and regularly reports on REMIT breaches

	taking place in the energy markets,[6] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation.
EDF considers that the proposed criteria, is not clearly defined and could raise uncertainties. Moreover, EDF would like to underline that issues concerning the competition are covered by competition laws and the REMIT which should be enforced by relevant authorities. It is in no way the task of TSOs to evaluate nor to take measures to prevent neither to remedy to such kind of behaviour. In any case, price limits are not the right tool for this purpose as they would induce market inefficiencies and could hinder prices signals as well as the European level playing field. It is why EDF is not favourable to this proposal. **Should a cap below the maximum of VOLLs be applied, a way to avoid triggering a revision process due to a lack of liquidity in the market would be distinguish two periods. This revision mechanism could be implemented after the 1st of July 2026 in order to ensure that there is enough liquidity on the both platforms. Before the 1st of July 2026, the price revision would be only based on SIDC price revision mechanism.**	ACER has developed a criterion for the adjustment mechanism that is clear and transparent (see para (78) of this Decision). REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of the Decision. ACER monitors and regularly reports on REMIT breaches taking place in the energy markets,[7] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation.

[6] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.
[7] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

	The adjustment mechanism will only enter into force in July 2026.
Illwerke vkw AG considers that if concerns about market competition occur, the incentive to participate in the market should be increased. Concerns about market competition are an argument for rather than against triggering the adjustment mechanism.	ACER considers that it would not be appropriate to adjust HMMBEP if the prices triggering the adjustment are caused by the exercise of market power. Such adjustment would fail to meet its intended objective of allowing free price formation since, in case of market power, there is no free price formation in the first place. It would also increase the risk on BRPs, transferring social welfare from consumers to producers with little or no trade taking place. This would hamper the efficient development of the EU electricity market, going against the objectives of the EB Regulation.
For RWE Supply & Trading GmbH views refer to Q.4.	See answer Q4.
BDEW chooses not to tick a box. As previously stated, BDEW views the application of REMIT guidelines as the correct form to tackle any concerns regarding price manipulation that may occur. It firmly believes that it falls outside the scope of TSOs roles and responsibilities to assess the competition status of markets. **TSO Response: "All TSOs take note that maximum and minimum balancing energy may affect the attractiveness of the market. Nevertheless, prequalified volumes show sufficient volumes available today."** **BDEW comment: The TSOs correctly state that the relevant market consists of all prequalified volumes. Hence, the market concentration measures proposed in condition 3 and evaluated in the quarterly reports need to be applied on all technically available capacity.**	REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of the Decision. ACER monitors and regularly reports on REMIT breaches taking place in the energy markets,[8] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead

[8] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

	to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation. ACER does not consider that the prequalified capacity is the right measure of market competitivity. The reason being that some assets can only deliver balancing services if they are started. It would therefore not make sense to count them as bringing competition if they are not started even though they are prequalified.
9. In case a condition about the lack of competition in the market would be introduced, what type of conditions would have your preference? ***- Ex-ante condition*** ***- Ex-post assessment*** ***- Other***	
3 respondents chose ex-ante condition. **2 respondents chose ex-post assessment.** **8 respondents chose other.** **9 respondents did not respond.**	
Quadra Energy GmbH considers that ex-ante indicators for the competitivity of the market are a good way to check if there is a lack of competition as they do not additional information.	ACER agrees (see para (77) of this Decision).
Eneco Energy Trade B.V. considers that with ex-ante condition as it is safer to have checks in place than reassessing afterwards if prices need to be amended. With the ex-post condition, it is unclear how long market participants will need to wait for conclusion/reimbursement.	ACER agrees that ex-post assessment can be long and create uncertainty (see para (77) of this Decision).
Voestalpine Rohstoffbeschaffungs GmbH doubts that a comprehensive set of conditions could be defined ex-ante that would capture all possible scenarios of lacking market-maturity. Hence, ex-ante conditions could still lead to undue alterations of price-limits.	ACER is of the opinion that ex-ante conditions are the best available option as explained in para (77) of this Decision.
Sympower considers that an ex-post assessment appears to be more effective in evaluating the market conditions that trigger the adjustment mechanism.	ACER is of the opinion that, although theoretically sound, the ex-post approach must be

	discarded as not most suitable in practice, given the length of REMIT/competition law investigations (including possible appeals) and the ensuing late redress (see para (77) of this Decision).
Eurelectric and EDF call for a condition that can be verified and forecasted easily (e.g. a hard deadline).	ACER has developed a criterion for the adjustment mechanism that is clear and transparent (see para (78) of this Decision).
BDEW chooses not to tick a box. BDEW does not agree with any sort of the adjustments by TSOs in case of a "concern about market competition". It should be out of scope TSOs to address such matters.	REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules and policies with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of the Decision. ACER monitors and regularly reports on REMIT breaches taking place in the energy markets,[9] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation.
Europex considers that the lack of competition is a condition that needs to be taken into consideration in order to avoid episodes of price peak in the market. To this end, it would be preferable to evaluate through an ex-post assessment if the CBMP has overcome the threshold because of an inefficient price formation. Nevertheless, they also believe that an ex-ante analysis	ACER is of the opinion that, although theoretically sound, the ex-post approach must be discarded as not most suitable in practice, given the length of REMIT/competition law investigations (including possible

[9] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

related to the competitiveness level within balancing markets may be useful for the application of mitigation measures preventing price peak incidents. Overall, it is important to ensure that any adjustments of realised price peaks do not occur too frequently and do not undervalue the reliability of the fact that aFRR/mFRR prices will be kept firm and applicable.	appeals) and the ensuing late redress. ACER is therefore of the opinion that ex-ante conditions are preferable (see para (77) of this Decision).
ČEZ disagrees with such conditions that are detrimental to market functioning.	ACER disagrees. REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules and policies with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of the Decision. ACER monitors and regularly reports on REMIT breaches taking place in the energy markets,[10] indicating that the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation.
EnBW Energie Baden-Württemberg AG refers to Q.8 And considers that the market concentration measures proposed in condition 3 and evaluated in the quarterly reports would need to be applied on all technically available capacity.	See Answer to Q8.
Additional comments on the design of a balancing adjustment mechanism.	

[10] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

Eurelectric and BDEW considers that TSOs again neglect the reasoning brought forward by the market participants. All of the proposed measures will further reduce the commercial attractiveness of the balancing energy market.	The proposed design of the HMMBEP ensures that it remains higher than the harmonised maximum/minimum clearing price for SIDC. This maintains the commercial attractivity of balancing markets.
Nord Pool finds that beyond possible adjustments, temporarily or until further notice, of harmonised technical max/min price limits for Balancing (aFRR/mFRR) it would be valuable with an assessment of the general bidding and matching rules, including any optimization criterions, applied in the matching algorithm of aFRR/mFRR to see if that in itself is a potential source of at times perceived, right or wrong, fundamentally non-justifiable high or low aFRR/mFRR prices in a given Bidding Zone/TSO Control Area.	ACER observes that there are reporting obligations on TSOs in the pricing methodology. ACER has also carried out an analysis of balancing markets in the 2023 market integration report.
Next Kraftwerke GmbH proposes to keep the logic as simple as possible. Maybe a simple linking to the adjusted SIDC prices is sufficient.	ACER considers that an appropriate adjustment mechanism to the HMMBEP is necessary for the efficient functioning of the market (see paras (45) and (46) of this Decision).
Voestalpine Rohstoffbeschaffungs GmbH suggests that ex-post investigation should be carried out carefully. The burden of proof should lay on the side arguing the adjustment of price-limits. It should be identified without a doubt, that price-spikes occurred due to real market-scarcity, before taking any action.	ACER is of the opinion that, although theoretically sound, the ex-post approach must be discarded as not most suitable in practice, given the length of REMIT/competition law investigations (including possible appeals) and the ensuing late redress. ACER is therefore of the opinion that ex-ante conditions are preferable (see para (77) of this Decision).
Given the complexity of the issue and the short timing of the formal approval procedure, all TSOs prefer their original proposal to take more time to develop a suitable price adjustment mechanism. All TSOs stay available for the discussions and are willing to continue discussing this topic with ACER and stakeholders.	ACER recognises the complexity of designing an appropriate adjustment mechanism to the HMMBEP. With this amendment, ACER only intends to offer the TSOs the initial considerations and a direction in approaching the design of the HMMBEP adjustment mechanism. In this way, the TSOs can already start the required simulations to be

	able to analyse the behaviour of the mechanism across diverse market scenarios. On that basis, the TSOs can propose improvements they deem necessary before the mechanism is applied in a real market setting.
Südvolt GmbH considers it to be too complicated and to be overregulation of a functioning market.	ACER is of the opinion that the introduction of an harmonised maximum/minimum balancing energy prices is needed for the efficient functioning of the market (See paras (45) and (46) of this Decision).
10. Do you agree with the change proposed by TSOs of the maximum transitional price limit from 15,000 €/MWh to 10,000 €/MWh and of the minimum transitional price limit from -15,000 €/MWh to -10,000 €/MWh?	
8 respondents agree. **11 respondents disagree.** **3 respondents partially agree.**	
Quadra Energy GmbH proposes that the permanent maximum and minimum price limits should be set to 10,000 €/MWh. Transitional price limits should not be higher.	See ACER's views in Q3.
Edison believes that the limits proposed are wide enough to avoid distortions on market dynamics and to preserve the free formation of market prices.	
For Bnewable NV views refer to Q.2.	
Eneco Energy Trade B.V. considers that it is acceptable for the price cap to be lower, to be more reflective to marginal pricing of providers. A lower cap will support renewable business, which is more exposed to imbalance prices due to their intermittent nature.	
Enel Group agrees that in the initial phases of the platforms there is a high risk of having peak prices due to the uncertainty that the BSP will have about the functioning of those platforms. Therefore, BSP would try to protect themselves from these uncertainties by increasing the prices of their bids.	It is not clear to ACER why bidding at high prices would mitigate the uncertainty linked to peak prices.

Voestalpine Rohstoffbeschaffungs GmbH considers that there is a severe lack of market-maturity, that leads to undue balancing-energy prices, and therefore imbalance-prices. The balancing-energy-market shows major restrictions, that prevent marginal-pricing from working effectively and providing efficient price-signals. At least the most severe impacts on the risk-profile of consumers should be prevented, until these issues are solved. – Even 10,000 €/MWh seems very high. Even lower limits (1,000 – 5,000 €/MWh) should be investigated to protect consumers against undue risk, that currently exists without reason.	In ACER Decision 03/2022, a transitional price limit has been established on all balancing platforms at ±15,000 €/MWh as a temporary measure for mitigating the risks in the initial phase of the platforms and allow time for TSOs to gather experience on the functioning of European platforms. ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh.
Europex expresses caution about reducing the price technical limits in the transitional period. It would be preferable to set price technical limits now in order to avoid in the future transitional costs, due to a new modification of the technical price limit.	The TSOs' proposal was to reduce the transitional price limits, which are not technical price limits.
For IFIEC views refer to Q.1.	See answer Q1.
Sympower considers that it is reasonable to expect electricity balancing platforms to operate at full efficiency when most countries are active. Before that occurs, price inefficiencies should be limited, and lower transitional price limits can help address these issues. Nevertheless, we observe once again that the proposal restricts free price formation and the generation of price signals.	In ACER Decision 03/2022, a transitional price limit has been established on all balancing platforms at ±15,000 €/MWh as a temporary measure for mitigating the risks in the initial phase of the platforms and allow time for TSOs to gather experience on the functioning of European platforms. ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh.
Eurelectric and BDEW believe that setting a price cap at 10k€/MWh without demonstrating market manipulation through formal inquiry makes it challenging to claim that	

all observed bids above 10k€/MWh are irrational. Therefore, asserting that the choice of a 10k€/MWh price cap will not push units out of the market is questionable. The elastic demand should tackle the issue of price sensitivity well enough. **They recommend that TSOs consider a more nuanced approach for evaluating bid efficiency and not rely solely on SDAC and SIDC for this purpose. Indeed, the emergence of new technology assets in the market has increased and is displacing thermal plants out of the reserve market. They are not always primarily dedicated to balancing services and have different cost structures and energy constraints, which can lead to different balancing energy bidding behaviour.** **As TSOs have yet to present any analysis or new justification for lowering the temporary price limit to EUR 10,000, we believe that the 10,000€/MWh price cap lacks a robust economic rationale and is too restrictive, particularly compared to the SIDC price cap.**	ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh.
Energy Traders Europe, Eurelectric, BDEW, EDF and Illwerke vkw AG considers that a transitional price limit too close to the HMMCP for SIDC would not provide a sufficient incentive for market participants to minimize their imbalances.	ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh. ACER considers that the harmonised maximum balancing energy price must be higher than the harmonised maximum clearing price for SIDC and that the harmonised minimum balancing energy price must be lower than the harmonised minimum clearing price for SIDC (see section 6.2.5 of this Decision).
Nord Pool considers that it seems more appropriate to decide on more long lasting, until further notice, technical max/min price limits in July 2026 at e.g. the +/- 15,000 EUR or other level that is beyond the SIDC limits, then to make a temporary lowering of the limits now, and also since an assessment of pricing rules etc. as referred to in our response to Q.9 can be more valuable to focus on to address any perceived unjustified aFRR/mFRR prices.	In ACER Decision 03/2022, a transitional price limit has been established on all balancing platforms at ±15,000 €/MWh as a temporary measure for mitigating the risks in the initial phase of the platforms and allow time for TSOs to gather experience on the functioning of European

	platforms. ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh. See Answer to Q9.
EDF is not favourable to set a transitional maximum/minimum price and disagrees with the rationale proposed by the TSOs. **It is in no way the task of TSOs to evaluate nor to take measures to prevent neither to remedy to such kind of behaviour. In any case, price limits are not the right tool for this purpose as they would induce market inefficiencies and could hinder prices signals as well as the European level playing field.** **It does not seem legitimate to change the market conditions also for mFRR and RR since the proposed price limits are compelling for all balancing energy standard products even though the recent price incidents were only observed for aFRR on PICASSO.** **Moreover, ENTSOE proposes to introduce voluntary elastic aFRR demand in order each TSO decides up to what price it wants to satisfy (part of) its aFRR demand. It is better to wait the consequences of prices spikes on Picasso, before setting a transitory lower than the permanent one.** **Therefore, EDF considers that there is no reason to set a transitory cap different from the permanent cap.**	In ACER Decision 03/2022, a transitional price limit has been established on all balancing platforms at ±15,000 €/MWh as a temporary measure for mitigating the risks in the initial phase of the platforms and allow time for TSOs to gather experience on the functioning of European platforms. ACER considers that TSOs have not provided sufficient justifications compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh.
Bnewable NV welcomes the use of transitional price limits at 10.000€/MWh as higher prices are not justified in the current market situation.	ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh.
illwerke vkw AG advocates a long-term stable price cap with a corresponding gap to the Intraday price cap. Frequently changing price caps reduce planning security and lead to reduced investment incentives in prospectively needed flexibility. Therefore we reject a temporary reduction of the energy price cap.	ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional

	price limits to ±15,000 €/MWh. ACER has therefore kept the transitional price limit at ±15,000 €/MWh.
Südvolt GmbH considers that it is overregulation of a functioning market. It should be kept at EUR 15,000/MWh for purposes of integrating industrial flexibility / demand response into the balancing energy market, a higher price than EUR 10,000/MWh is needed. This is because there are high costs that are being incurred if industrial processes are being altered with regards to providing balancing energy, as well as local grid costs that can be extremely high. **They consider that altering the price is extremely adversal to planning a business and represents many obstacles to establishing and running a business.** **Also, the price must be higher than the Intraday price.** **This will prevent liquidity from entering the market.**	ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh. ACER has therefore kept the transitional price limit at ±15,000 €/MWh.
RWE Supply & Trading GmbH argues that the price limit proposed by the TSOs restricts the free formation of prices determined by the interplay of demand and supply, potentially resulting in the withdrawal of flexibility providers from the market or impeding their entry into the balancing market altogether. Restricting free price formation is problematic, as there is a need for additional investment in aFRR provision as early as 2026. It is evident that a €10k price limit acts as an obstacle to free price formation. For instance, balancing energy from storage facilities should be priced based on the costs of replacing this energy, typically observed in intraday trading. If replacement prices in the intraday market reach up to €10k per MWh, the inherent efficiency losses in storage power plants can result in actual costs exceeding €10k per MWh for the provision of balancing energy. **In order to address the TSOs' concerns regarding possible transition risks, ACER agreed to the introduction of a temporary price cap in its decision of 25 February 2022 , which was to apply for up to four years. The TSOs should report regularly to ACER during this period and carry out an assessment on the functioning of the balancing market after 36 months in order to analyse whether other technical price caps are necessary for the efficient functioning of the market. The TSOs' current proposal therefore comes too early in any case. Furthermore, the TSOs have not presented any analysis, let alone a justification for lowering the temporary price**	In ACER Decision 03/2022, a transitional price limit has been established on all balancing platforms at ±15,000 €/MWh as a temporary measure for mitigating the risks in the initial phase of the platforms and allow time for TSOs to gather experience on the functioning of European platforms. ACER considers that TSOs have not provided sufficient justifications for the lowering of the transitional price limits to ±10,000 €/MWh compared to the reasoning that was used as a support to set the transitional price limits to ±15,000 €/MWh. ACER has therefore kept the transitional price limit at ±15,000 €/MWh. Based on Articles 6(3), 5(2)(f) and 30(1) of the EB Regulation, all

limit to EUR 10,000. Instead, the existing justifications provided by TSOs have remained largely unchanged since 2022, which were previously regarded as insufficient by ACER.	TSOs may propose amendments to the pricing methodology at any point in time.
Although ACER had made clear in its previous decision, that it did not consider maximum or minimum prices to be an appropriate tool to address market abuse or manipulation, TSOs have once again used such unsubstantiated allegations as justification (effectively claiming that REMIT does not work).	REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules and policies with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets, as described in section 6.2.3.2 of this Decision.
ACER had additionally emphasized the significance of ensuring a secure and timely integration of all TSOs into the European platforms. Rather than creating additional regulatory uncertainty after the brief implementation period thus far, TSOs should progress platform implementation.	ACER considers that the participation of more TSOs will improve the competition in the market. However, the amount of TSOs connected to the balancing platforms is not the only factor for the competitivity of the market. For instance, it also depends on the amount of cross-zonal capacities available.
In addition, the legal admissibility of the introduction of temporary price limits is currently the subject of an action before the European Court of Justice, the outcome of which should be awaited before an adjustment of such price limit is applied for.	ACER considers that the introduction of the present price limits is necessary and in accordance with the legal framework. In the absence of a Court ruling to the contrary, ACER sees therefore no justification for rejecting those price limits on the mere ground that pending Court proceedings might be relevant also for the present price limits.

11. Do you agree with the alternative way to compute the aFRR CBMP proposed by TSOs?	
11 respondents agree. **4 respondents disagree.** **2 respondents partially agree.** **5 respondents did not respond.**	
Enel Group, Sympower, Eneco Energy Trade B.V., Edison and Quadra Energy agree that it makes sense to prevent that the price is set by a bid that is not activated by the TSO controller.	ACER agrees (see para (100) of this Decision).
Eurelectric, Energy Traders Europe, CEZ, EnBW Energie Baden-Württemberg AG and BDEW have reservations due to the lack of quantitative assessment provided by TSOs proving the effectiveness of this measure. Only with a graphical illustration in the Explanatory Notes, the envisaged effect is highlighted. Therefore, the changes should be accompanied by an evaluation of the efficiency and impact of the measure compared to its objective once the platform has reached a certain level of maturity, i.e. 2 years after all TSOs have joined. **Energy Traders Europe, EnBW Energie Baden-Württemberg AG and CEZ have concerned that the amendment would lead to a situation in which the speed of the TSOs controller would have an impact on the cross-border marginal price.**	ACER understands that there are already reporting obligations on the deviations between the activation of bids by each participating TSO and the selection of bids by the AOF. ACER also notes that an analysis to compare alternative control models and the options to minimise the reported deviations is already foreseen by Article 13(4) of the aFRR IF.
EFET, EnBW Energie Baden-Württemberg AG and Eurelectric point to the advantages of the current approach outlined in the Explanatory Document of the Pricing Proposal "[..] transparency, auditability and robustness of the price determination approach. The price determination is not affected by local behaviour of TSOs or BSPs [..]" and according to stakeholder preference the "simplicity of the approach and consistency with other market time frames, that also determine the prices based on the clearing result."	ACER considers that the comparison with other timeframes is not appropriate because the reason of this amendment is the interaction between the AOF and the TSO controllers. This effect is not present in day-ahead or intraday.
Energy Traders Europe and EnBW Energie Baden-Württemberg AG considers that the alternative CBMP calculation will result in more occasions where a BSP is remunerated according to pay-as-bid instead of receiving the marginal price. **The BEPP choice was originally intended as a mitigation to sensitive CBMP behaviour due to large variations in**	ACER is of the opinion that the remuneration of some BSPs according to pay-as-bid in the aFRR platform reflects the specificity of the aFRR product. Through this amendment, ACER aims to ensure that the price is

aFRR demand. If this mitigation is no longer required, the BEPP choice could be revised as well.	based on supply and demand (see para (100) of this Decision).
Eurelectric and BDEW asks that irrespective of the CBMP determination, TSOs enhance their efforts to provide transparency on the CBMP formation.	ACER agrees that TSOs shall ensure transparency on the way the cross-border marginal price is computed.
Comments on other topics.	
Comment regarding Art. 3 of the "Second amendment of Methodology for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process" related to the amendment of Art.9.c of the Pricing Methodology: **Eurelectric opposes any reduction in the granularity or frequency of quarterly pricing reports and advocate against the proposed simplification of these reports from quarterly to annual. Additionally, we stress the importance of maintaining this reporting not only during the transitional period but also beyond, ensuring its accessibility to the public.**	ACER considers that Article 9.4 of the methodology relating to reporting is out of scope of the present amendment.
The following BDEW comments have been developed without the German TSOs. BDEW cannot agree with key conclusions drawn by TSOs. **They comment on the topic of the applicability of auction theory for balancing energy markets.** **TSO response: "All TSOs emphasise that their argumentation was not based on any proven market manipulation/abuse but on observable strategic bidding behaviour (confirmed by the market within the framework of Electricity Balancing Stakeholder Group (EBSG)) leading to inefficient market outcomes."** **BDEW comment: We are very concerned about this statement. We are not aware of any confirmation of abusive strategic bidding provided by the market at the EBSG.**	ACER disagrees. REMIT and competition rules are vital for detecting and deterring market abuse on wholesale energy markets, including balancing markets. However, complementing these rules and policies with additional safety mechanisms to further combat market abuse is specifically justified in balancing markets given the specific structure and characteristics of balancing markets described in section 6.2.3.2 of the Decision. ACER monitors and regularly reports on REMIT breaches taking place in the energy markets,[11] indicating that

[11] See, e.g. REMIT Quarterly, Issue No 32/Q1 2023, p. 5, Table 1.

TSO response: "All TSOs acknowledge that the respondent agrees with all TSOs' theoretical argumentation why the balancing energy market does not meet prerequisites for a marginal pricing market. The respondent mainly refers to the fact that "a significant share of the settlement is performed according to the pay-as-bid principle". This is valid for aFRR only based on the provisions of the Pricing Methodology (Article 7(6), Article7(7)).” **BDEW comment: Pay-as-bid also applies to manual Frequency Restoration Reserve directly activated (mFRRda), which is the required activation mode for all pre-contracted bids, i.e. the majority of bids. Balancing energy is not a homogeneous good, due to the different dispatch probability at different levels of the merit order. Market delineation unclear, e.g. different time slices actually constitute separate markets with different fundamentals and participants. The demand cannot be estimated in advance but is basically random.**	the risk of market abuse is real, and ignoring it in the adjustment mechanism for the HMMBEP would not provide sufficient protection of the BRPs and lead to inefficient market outcomes, thereby compromising the objectives pursued by the EB Regulation. ACER disagrees with BDEW. The pay-as-bid principle does not apply to directly activatable bids for manual Frequency Restoration Reserve.
TSO response: "With regard to the theoretical assessment of prerequisites for a marginal pricing market, it is important to note that in real-world markets, these conditions are rarely met perfectly.” **BDEW comment: It seems that TSOs are using this line of reasoning as an explanation why several preconditions can be ignored. Market theory, however, cannot be applied if the pre-conditions are not met. Pointing to other real-world markets not meeting the requirements is not an acceptable argument.**	ACER considers that the discussion on the benefits of marginal pricing is out of scope of this Decision.
TSO response: "Additionally, all TSOs are convinced that mitigation measures are necessary to strive towards the theoretical optimal market outcome, where it is clear that it cannot be reached in reality, but inefficiencies (deviations from the optimum) must be limited.” **BDEW comment: It is an unusual approach to formulate a desired market outcome ("theoretical optimal") and apply mitigation measures to drive market participants towards the envis-aged bidding behaviour. It is not an inefficiency for a rational market participant to take into account the real-world circumstances of a market. Trying to prevent this by mitigation measures will cause side-effects (e.g. non-participation) that can definitely be classified as inefficiency.**	ACER does not consider the introduction of harmonised maximum/minimum balancing energy prices with the automatic adjustment mechanism as a mitigation measure to drive market participants towards the envisaged bidding behaviour, but as a measure necessary for the efficient functioning of balancing markets.

Edison expresses the necessity of prioritizing the implementation process of the aFRR amendments. Given the current situation with regards to the PICASSO platform : the temporary suspension of Terna's participation in the platform, following the Italian NRA decision, and the amendments to the Implementation Framework and Pricing Methodology at the European level, subject of this consultation, they believe that a number of countries that were meant to join the platform during 2024 could be possibly oriented to postpone their planned go-live, waiting for a more consolidated regulatory framework. Therefore, there is a sizable risk that the current situation will delay a wider participation in the aFRR platform, which could significantly improve the social welfare that can be obtained through the European integration of the aFRR market. Thus, Edison underlines the importance of an implementation process of the proposed amendments as streamlined and swift as possible, with the intention of supporting a clear, transparent, and safe participation in the platform of all the PICASSO members. Finally, Edison stresses the need to improve transparency regarding the functioning and the results of the aFRR platform.	ACER agrees that the implementation of the amendment shall be a priority for TSOs, which is reflected in the one-month implementation timeline set by this Decision. ACER also agrees that a wide participation of TSOs would significantly improve the social welfare that can be obtained through the European integration of the aFRR market.
ČEZ notes that the first reason behind high price spikes is the fact that TSOs did not meet the legal deadline to join PICASSO / MARI platforms. Accession should be the first measure considered.	ACER considers that the connection of more TSOs would increase the efficiency of balancing markets.
Next Kraftwerke GmbH considers that in order to achieve a level playing field, it is important that there are equal conditions for prequalifications, redundancies and penalties across PICASSO/MARI countries.	ACER considers that this is out of the scope of this Decision.
Enel Group considers that European and local mitigation measures are urged, to let ARERA restore TERNA's participation in PICASSO. TERNA'S suspension and delay of other participation of other TSOs to PICASSO penalise those BSPs who, having already invested in adapting to the new system, are and were already ready for PICASSO. Regarding "local" mitigation measures, as far as the Italian specific context is concerned, one of the causes of the spikes in Italian imbalance prices is due to "local" problems, i.e. (as emerged from the ARERA Investigation) Terna's sharing of an amount of offers on Picasso that is lower than the needed. Then, it is necessary to implement as soon as possible – in addition to the European measures – the "local" mitigation measures identified by ARERA aimed at maximising the	ACER does not consider the introduction of harmonised maximum/minimum balancing energy prices with the automatic adjustment mechanism as a mitigation measure to drive market participants towards the envisaged bidding behaviour, but as a measure necessary for the efficient functioning of balancing markets.

quantity of local bids shared by Terna in PICASSO, included allowing participation in Picasso also of the resources not reserved to Ancillary Services Market (MSD ex-ante), so-called "free bids".	
Voestalpine Rohstoffbeschaffungs GmbH sees a severe lack of ambition and are not convinced that the proposed measures will have a strong enough impact on price-spikes to sufficiently mitigate the current UNDUE risks. Electrification of industrial process currently provides major challenges for companies and its successful implementation will be a key-factor on keeping or restoring competitiveness of the EU as an industrial location. The unmitigated introduction of cross-zonal marginal-prices without due precautions was a major regulatory failure, that causes real damage in the industry and should be urgently revised as a whole. ACER has recognized some specifities of the balancing-markets in this consultation. For us, these specifities, combined with the current lack of market-maturity, do under no circumstances warrant the application of marginal-pricing. Until these issues are resolved a much broader revision of balancing-energy pricing is an imperative to avoid further damage to Europe as an industrial location.	ACER considers that the discussion on the benefits of marginal pricing is out of scope of this Decision.
RWE Supply & Trading GmbH considers that the safeguarding of balancing responsible parties should rely on competitive markets rather than regulated price caps. The promotion of free price formation and robust incentives for market participants to maintain balanced portfolios bolsters the effectiveness of energy markets and should not be undermined. The proposal contradicts the objectives linked to the target model and the broader aims outlined in the EU's "Green Deal."	ACER considers that technical price limits can be introduced if they are needed for the efficient functioning of the market (see paras (45) and (46) of this Decision). Inconsistencies of the present Decision with the objectives of the Target Model and the EU Green Deal have not been substantiated by RWE or other stakeholders. ACER did also not detect any such inconsistencies.