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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011

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2022/0094 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011

(Text with EEA relevance)

{SEC(2022) 167 final} - {SWD(2022) 87 final} - {SWD(2022) 88 final} - {SWD(2022) 89 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Regulation (EU) No 305/2011 of the European Parliament and of the Council (the 'Construction Products Regulation' or CPR) lays down harmonised conditions for the marketing of construction products.[1] The CPR ensures the smooth functioning of the single market and the free movement of construction products in the EU. It does so through harmonised technical specifications, which provide for a common technical language on how to test and communicate the performance of construction products (e.g. reaction to fire, thermal conductivity or sound insulation). The use of standards is mandatory when they are cited in the Official Journal of the European Union (OJEU). Construction products covered by such standards must bear the CE marking which indicates that they comply with their declared performance. Such products can then freely circulate within the single market. EU Member States are not allowed to require any additional marks, certificates or testing. The CPR does not set product requirements. EU Member States are responsible for the safety, environmental and energy requirements applicable to buildings and civil engineering works.

The Commission's 2016 implementation report on the CPR[2] identified certain shortcomings in its implementation and a significant number of challenges linked among others to standardisation, simplification for micro-enterprises, market surveillance and enforcement, deserving further examination and discussion. The evaluation of the CPR[3], opinions of the REFIT platform as well as Member States' and stakeholders' feedback pointed clearly to the shortcomings of the framework, hindering the functioning of the single market for the construction products, and therefore failing to achieve the CPR's objectives.

The November 2016 Clean Energy for all Europeans Communication[4] stressed the need to unlock the growth and jobs potential by improving the functioning of the still fragmented single market for construction products. The European Green Deal Communication,[5] the Circular Economy action plan[6] and the Renovation Wave Communication[7] highlighted the role of the CPR as part of efforts towards energy- and resource-efficient buildings and

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[1] Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, OJ L 88, 4.4.2011, p. 5-43.

[2] Report from the Commission to the European Parliament and the Council on the implementation of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, COM/2016/0445 final.

[3] Commission Staff Working Document SWD(2019)1770 - Evaluation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC.

[4] Communication from the Commission to the European Parliament, Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, Clean Energy For All Europeans, COM(2016) 860.

[5] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, the European Green Deal, COM(2019) 640.

[6] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A new Circular Economy Action.

[7] COM(2020) 662 final.

renovations, and in addressing the sustainability of construction products. The proposal for a revised Energy Performance of buildings Directive[8] highlighted the importance of the life cycle GHG emissions of buildings and building materials to calculate the Global Warming Potential of new buildings as of 2030. The EU Forest Strategy[9] and the Sustainable Carbon Cycle[10] Communication announced, in the context of the revision of the Construction Products Regulation, the development of a standard, robust and transparent methodology to quantify the climate benefits of construction products and carbon capture and utilisation. Also, both the European Parliament and the Council have called for actions to promote circularity of construction products, to address barriers in the single market for construction products and contribute to the objectives of the European Green Deal and the Circular Economy action plan.[11]

Therefore, the two general objectives of the CPR revision are to (1) achieve a well-functioning single market for construction products and to (2) contribute to the objectives of the green and digital transition, particularly the modern, resource-efficient and competitive economy.

This is an initiative within the Regulatory Fitness Programme (REFIT) as the proposal aligns with the aims of the REFIT programme, which are to make the EU laws simpler, more targeted and easier to comply with.[12]

This proposal aims to tackle the following problems:

Problem 1: Single market for construction products not achieved.

The standardisation process at the core of the CPR has been underperforming. In the recent years, draft harmonised standards developed by the European Standardisation Organisations (ESOs) could rarely be cited in the Official Journal (OJEU) mainly due to legal deficiencies. The lack of citation of up-to-date harmonised standards for construction products is a key factor undermining the smooth functioning of the single market, creating trade barriers and additional costs and administrative burden on economic operators. Outdated harmonised standards also mean that they are not always market-relevant, as the process cannot keep pace with the developments in the sector. Moreover, the current situation does not allow to fulfil the regulatory needs of the Member States. Due to these deficiencies, Member States apply national marks, certifications and approvals. This is in breach of the CPR and not in line with the jurisprudence of the European Court of Justice. In addition, given the underperformance of the conventional standardisation route, the workload has progressively increased on the alternative route to obtaining the CE marking via the European assessment documents

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8 Proposal for a Directive of the European Parliament and of the Council on the energy performance of buildings (recast), COM(2021) 802 final

9 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: New EU Forest Strategy for 2030, COM (2021) 572 final.

10 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Sustainable Carbon Cycles, COM (2021) 800 final.

11 Implementation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products (the Construction Products Regulation), 2020/2028(INI) and https://www.consilium.europa.eu/media/41508/st14523-en19.pdf

12 With the aim to demonstrate the simplification and reduction of unnecessary regulatory costs, while achieving the underlying policy objectives, a table illustrating the REFIT cost savings of the preferred option was elaborated in the impact assessment. Moreover, the new 'one-in, one-out' approach is applied, strengthening the REFIT programme.

(EADs). This increase in workload has therefore led to the Commission needing more time to carry out its assessments and it may even risk to paralysing the system.

Problem 2: Implementation challenges at national level.

These issues also add to the complexity of the legal framework and contribute to the fact that market surveillance activities widely vary (in quality and effectiveness) from one Member State to another. Ineffective market surveillance and enforcement in general limits the trust in the regulatory framework and is therefore a disincentive for companies to comply with the legislation.

Drawbacks linked to the functioning of the Notified Bodies were identified in the implementation report indicating that relevant CPR provisions would benefit from more accuracy, e.g. on requirements for them (Article 43 of the CPR), on operational obligations for them (Article 52) and on coordination of them (Article 55).

Problem 3: Complexity of the legal framework /simplification not achieved.

Harmonised technical specifications provide for a common technical language on how to test and communicate the performance of construction products (e.g. reaction to fire, thermal conductivity or sound insulation). The CE marking under the CPR is linked to the assessment of the performance of a construction product, and not to its conformity with product requirements, as these are not set by the CPR. Given that this is a rather exceptional situation compared to other NLF legislation, the meaning of the CE marking is often misunderstood and misinterpreted.

Other provisions of the CPR are insufficiently clear or create overlaps either within the framework itself (e.g. the overlap between the information required for the declaration of performance and for the CE marking), or between the CPR and other EU legislation (potentially parallel routes to CE marking for some construction products under the CPR and the Ecodesign Directive[13]). Moreover, the uptake of the simplification provisions of the CPR aimed mainly at SMEs[14] has been limited, due to lack of awareness and lack of clarity of the provisions. The smallest companies bear the largest administrative burden. Overlaps and inconsistencies create inefficiencies.

In addition, there are no specific provisions on providing information in the digital format. This will become a challenge particularly as reliable product information, from manufacturing to the installation in the building and demolition, will be necessary in the context of the digital building logbooks[15], Level(s)[16] or other tools for assessing and reporting on the sustainability performance of buildings.

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[13] Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products.

[14] I.e. Article 5 (derogations from drawing up a declaration of performance - DoP), Article 36 (intended to avoid unnecessary repetition of testing), Article 37 (simplified procedures for micro-enterprises) and Article 38 (simplified procedures for products individually manufactured or custom-made in a non-series process).

[15] A digital building logbook is a dynamic tool that allows a variety of data, information and documents to be recorded, accessed, enriched and organised under specific categories. It represents a record of major events and changes over a building's life cycle, such as change of ownership, tenure or use, maintenance, refurbishment and other interventions. Definition of the digital building logbook - Publications Office of the EU (europa.eu).

[16] Level(s) is an assessment and reporting tool, developed by the European Commission, for sustainability performance of buildings, firmly based on circularity: Level(s) (europa.eu)

Problem 4: The CPR is unable to deliver on broader policy priorities, such as the green and digital transition, and product safety.

The available harmonised assessment methods for the performance of construction products cover only some elements linked to the environmental impacts such as pollution but have not been established with regards to sustainable use of natural resources. Furthermore, the CPR does not allow to establish environmental, functional and safety product requirements for construction products, therefore hampering the possibility to address non-performance based issues. However, to stimulate the incentives and demand for low-carbon and carbon-storing construction products, coherent and transparent information on the climate, environmental and sustainability performance of the construction products is needed as well as the possibility to govern inherent product characteristics such as durability or reparability. Enhancing the circularity of construction products will also strengthen the EU's resilience regarding access to construction materials[17]. Moreover, digital information on construction products is not sufficiently available to address the goals of circularity and sustainability and to provide information required by other related legislation (e.g. the Energy Performance of Buildings Directive or the Ecodesign for Sustainable Products Regulation).

The CPR significantly limits the possibilities for the sector to declare, in a consistent and harmonised way, the performance of their products and to differentiate the products with regard to climate, environment and sustainability performances. It also significantly limits the possibilities for Member States to define national requirements for buildings or to include criteria in public procurement on sustainability objectives without putting at risk the functioning of the single market.

- **Consistency with existing policy provisions in the policy area**

The initiative is consistent with the do not significant harm principle, as it contributes to the objectives of the green transition of the European Green Deal (in particular the Renovation Wave) and the Circular Economy action plan. It promotes a greener manufacturing, re-use, remanufacturing and recycling of construction products. It ensures climate adaptation. It supports the revision of the Energy Performance of Buildings Directive by providing information on the environmental performance of construction products and thereby facilitating the calculation of energy performance of buildings, of their Global Warming Potential and of carbon removals associated to carbon storage.

The Circular Economy action plan announced the Sustainable Products Initiative (SPI) aiming to make products fit for a climate-neutral, resource-efficient and circular economy, in particular with the adoption of the Ecodesign for Sustainable Products Regulation (ESPR). Where product-specific EU legislation, like this proposal, regulates the environmental and climate sustainability aspects of products, further policy and legislative development should remain in the dedicated instrument, with the same level of stringency as the ESPR. This contributes to better coherence of EU rules on specific products and avoids administrative burden on economic actors who would otherwise have to comply with requirements laid down in different EU legislations.

Therefore, given the strong interlinkages between the environmental and structural performance of construction products, including health and safety aspects, this proposal lays down sustainability requirements for construction products. However, specific circumstances

[17] [placeholder: 2nd in-depth review]

may justify targeted intervention on construction products under the ESPR. This will be the case for example for energy related construction products, which are already regulated under the existing Ecodesign Directive, such as solid fuel stoves.

'A New Industrial strategy for Europe' Communication[18] of March 2020 sets out a plan for EU industry to lead the twin green and digital transitions, drawing on the strength of its traditions, its businesses and its people to enhance competitiveness. To deliver on these goals, an industrial ecosystem-based approach was defined in order to better connect the needs and support the key players in each value chain. The Communication updating the 2020 New Industrial strategy[19] identified construction as one of the priority ecosystems that face the most important challenges meeting climate and sustainability goals and embracing the digital transformation, and whose competitiveness depends on this. The Commission has been developing a transition pathway for the construction industry ecosystem, in a process of co-creation with industry, stakeholders and Member States, as part of the updated Industrial Strategy. As part of this work, the Commission published on 15 December 2021 a staff working document[20] that proposes scenarios for construction to become more green, digital and resilient. An enabling and regulatory framework fit for the future, that fosters investments and the building of trust is key to the ecosystem's resilience and a prerequisite for the twin transition.

The SME Strategy for a sustainable and digital Europe[21] stressed the important role of the SMEs in driving the green transition and reiterated the need to equip them with instruments to understand and mitigate environmental risks, including in the construction sector.

'An EU strategy on Standardisation: Setting global standards in support of a resilient, green and digital EU single market'[22] identified construction as one of the most pertinent areas where harmonised standards could improve competitiveness and reduce market barriers.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The proposal is based on **Article 114 of the Treaty on the Functioning of the European Union** (TFEU) because the main purpose of the Regulation is to remove obstacles to the circulation of construction products within the single market.

• Subsidiarity (for non-exclusive competence)

Without an EU regulation, the shortcomings of the CPR cannot be remedied by national laws, as the Member States have no powers to amend the CPR framework nor for correcting its failures through national measures. Currently, in the absence of appropriate standardisation at the EU, environmental and safety performances of construction products are addressed in

[18] COM(2020) 102 final, 'The 2020 Industrial Policy package' includes also a dedicated Strategy for small and medium-sized enterprises (SMEs; COM(2020) 103 final) and Specific actions to address barriers to a well-functioning the Single Market and improve enforcement of commonly agreed rules, COM(2020) 93 final and COM(2020) 94 final

[19] COM(2021) 350 final, Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery.

[20] SWD(2021) 419 final, https://ec.europa.eu/docsroom/documents/47996

[21] COM(2020) 103 final.

[22] COM(2022) 31 final.

different ways at the national level, leading to a divergence in the requirements for economic operators. **EU action is therefore justified and necessary.** Only at the EU level can the conditions to ensure the free circulation of construction products be set while ensuring a level playing field and pursuing sustainability goals.

As for the **added value of action at the EU level**, the proposal will contribute to the improvement of the overall functioning of the single market for construction products by increasing legal certainty as well as predictability, improving the level playing field for the construction ecosystem and addressing the aspects of climate and environmental performance and circularity of construction products, which can only be tackled at the EU level.

- **Proportionality**

The proposal is consistent with the principle of proportionality because it does not go beyond what is necessary to achieve a well-functioning single market for construction products and is proportionate in achieving the intended objective.

The proposal aims at addressing the identified shortcomings of the CPR and the objectives of the European Green Deal and the Circular Economy action plan in relation to construction products, while building on the core principles of the CPR (including the harmonised standards developed by the European Standardisation Organisations). Addressing and improving the core functioning of the CPR framework, in particular the standardisation process, is imperative in delivering of the policy objectives. Some of the new features such as product requirements or Commission acts containing technical specifications will be applied only when needed for specific products.

The proposal **addresses all the problems that have been identified in the most effective and efficient way**. It proposes a future proof and comprehensive regulatory framework, integrates fall-back solutions and new regulatory tools that can be activated, if a specific product category or group, based on a detailed analysis needs it. Given the broad variety of construction products, only this approach can ensure that the goals of the proposal are effectively pursued without creating unnecessary burdens for economic operators.

- **Choice of the instrument**

The proposal takes the form of **Regulation**, repealing the CPR currently in force. It ensures a common implementation of the proposed legislation across the EU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In 2016, the Commission published a supporting study for the Fitness Check on the construction sector.[23] The study assessed the coherence of selected EU acts applying to the construction sector and considered the legal overlaps between the CPR and Ecodesign Directive (2009), and Energy Labelling Directive. It also confirmed the inconsistencies in definitions, lack of cross-references and overlaps between the three pieces of legislation.

[23] Economisti Associati, Milieu & CEPS (2016). Supporting study for the Fitness Check on the construction sector: EU internal market and energy efficiency legislation.

In 2019, the Commission published the evaluation[24] of the CPR. The overarching issues identified in this evaluation, in order of importance, were (i) underperforming standardisation system at the core of the CPR, (ii) ineffective and widely varying (from one Member State to another) market surveillance and (iii) less simplification achieved by the CPR than expected.

The conclusions of both documents have been taken into account in the proposal.

- **Stakeholder consultations**

Throughout the preparation of the proposal, various stakeholders were consulted: Member States, European technical bodies and associations, national authorities, companies/manufacturers, importers and distributors, consumer associations, market surveillance authorities, European/international organisations (industry associations), notified bodies, workers/professionals' associations and others, such as individuals and other NGOs.

In line with the EU better regulation guidelines, several consultation activities took place. A brief description is set out in the bullet points below.

- Horizontal online survey (survey on horizontal issues)[25]

The horizontal survey targeted selected experts and aimed at identifying how to address the various horizontal issues identified during the evaluation of the CPR in order to collect input to be used to further refine of the policy options.

- Two dedicated meetings with Member States' experts on the CPR review took place in March and September 2020

The purpose of the meetings was to discuss about the process and the refined indicative options paper[26], as well as to collect Member States' views on the following topics: scope and relationship with other EU law, harmonised sphere, national law and information needs, Annex I (basic requirements for construction works) and environmental requirements.

- Company survey[27]

The purpose of the company survey was to assess how the refined indicative policy options were expected to impact companies in the European construction products sector. The survey targeted economic operators in the sector.

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[24] Evaluation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, SWD(2019)1770.

[25] Copenhagen Economics (CE), Danish Technological Institute (DTI) and Office for Economic Policy and Regional Development Ltd. (EPRD) (2021). Supporting study for the impact assessment of the CPR Review, Annex VI: Results of the horizontal survey (Inception report). The survey was conducted between 11 October 2019 and 31 October 31 2019.

[26] Refined indicative options paper (2020), https://ec.europa.eu/docsroom/documents/40762.

[27] Copenhagen Economics (CE), Danish Technological Institute (DTI) and Office for Economic Policy and Regional Development Ltd. (EPRD) (2021). Supporting study for the impact assessment of the CPR Review, Annex VII: Results of the Company Survey (Second Progress Report). The survey was conducted between 10 August 2020 and 25 October 2020.

- Public consultation[28]

The public consultation showed that all stakeholder groups strongly rejected a repeal of the CPR (policy option E). In most stakeholder groups, the largest groups were in favour of maintaining the current CPR (i.e. baseline policy option A). A substantial part of the stakeholder groups preferred a revision of the CPR (i.e. policy options B, C or D)[29].

In addition, the company survey showed that although economic operators were broadly in favour of the current CPR, they highlighted a number of issues that needed to be addressed, which required a revision. Primarily, this concerned the standardisation process.

- **Collection and use of expertise**

The quantitative and qualitative analysis of the impacts of different options was supported by a specific technical support contract.[30]

The study collected and complemented available evidence to analyse the policy options and assess their possible impacts. The policy options have been explored to assess preferences and impacts mainly through the survey and public consultation findings.

Moreover, additional expertise was identified through relevant reports, studies and meetings with the Member State representatives, business associations, companies, technical bodies and testing bodies.

- **Impact assessment**

The Commission carried out an impact assessment on the revision of the CPR. After addressing the Regulatory Scrutiny Board's comments issued in its first negative opinion of 26 July 2021, the impact assessment received a positive opinion with reservations on 26 January 2022. The Board's opinions as well as the final impact assessment and its executive summary are published together with this proposal.

The impact assessment examined and compared five policy options to address the problems relating to the CPR:

Option A – Baseline (no revision)

The baseline scenario implied no revision of the Regulation but improving implementation through guidance and other soft law measures. The baseline scenario meant therefore a continuation of the harmonisation system and its implementation.

Option B – Repairing the CPR

Option B aimed at addressing the issues highlighted in the evaluation with the following actions:

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[28] Copenhagen Economics (CE), Danish Technological Institute (DTI) and Office for Economic Policy and Regional Development Ltd. (EPRD) (2021). Supporting study for the impact assessment of the CPR Review, Annex VIII: Results of the open public consultation survey (First Findings Report). The survey was conducted between 4 September 2020 and 25 December 2020.

[29] Copenhagen Economics (CE), Danish Technological Institute (DTI) and Office for Economic Policy and Regional Development Ltd. (EPRD) (2021). p.68.

[30] "Supporting study for the Impact Assessment for the CPR review", Contract No 575/PP/2016/FC, led by Civic Consulting GmbH.

- Address the challenges of the technical harmonisation system, option B introduces an **empowerment for the Commission to rely on a 'fall-back'** solution in case the standardisation system is not delivering standards in time and of sufficient quality.

- Continued existence of national requirements and marks will be mitigated by **clearly defining the area regulated at the EU level**.

- Enable a harmonised framework to **assess and communicate the environmental performance** of construction products.

- Set up a digital structure compatible with the **Digital Product Passport**.

- Promote the **reuse** of construction products.

- **Enhance market surveillance** by strengthening enforcement powers and aligning the performance of different market surveillance authorities and possibly setting a minimum number of checks and minimum level of human resources to be deployed in the market surveillance of construction products.

- Enhance **common decision-making** amongst all authorities and notified bodies.

- Mitigate overlaps with other EU legislation by **introducing collision rules** and ensuring coherence.

- Introduce a **specific marking** for construction products (European Construction Product – ECP) to clarify that the marking refers to performance declaration and not to conformity.

- **Targeted provisions and** an empowerment for Member States to exempt conditionally certain micro-enterprises from the CPR obligations.

Option C – Focusing the CPR

This option builds on the elements described in option B. However, in option C, **the CPR's scope of application is limited to certain areas**, depending on the following three sub-options which can be combined:

- Sub-option C1: Harmonised standards and Commission Acts containing technical specifications would include only assessment methods for performance calculation, with no performance threshold levels, classes or other requirements to be established at EU level.

- Sub-option C2: The CPR's scope would focus on the core areas only, according to the Member States' regulatory needs, the relevance for the environment or for product safety and the market relevance.

- Sub-option C3: Member States would have the option to offer an alternative path to market access based on national regulations and not relying on harmonised standards and Commission Acts containing technical specifications.

Option D – Enhancing the CPR

Building on option B, requirements dealing with **product inherent characteristics** may also be introduced to protect public health, safety and the environment. Such product-specific requirements can be formulated via three sub-options/approaches (sub-options D1 and D2 could be combined):

- Sub-option D1: new legislative framework approach for products requirements (relying on standardisation developed by the European Standardisation Organisations);
- Sub-option D2: Common technical specifications approach (developed by or under the supervision of the Commission);
- Sub-option D 3: hybrid between D1 and D2.

Option E - Repealing the CPR

The CPR would be repealed. Trade in construction products would rely on mutual recognition.

The preferred option

Option D was found to be the preferred option because it paves the way for the objectives and the main shortcomings of the CPR framework to be addressed with the highest degree of effectiveness and coherence. This ensures the free movement of construction products within the single market and fully responds to the ambitions stemming from the European Green Deal and Circular Economy action plan. The main changes are as follows:[31]

- Provide a clearer definition of the scope and inclusion of reused and 3D-printed construction products and pre-fabricated houses.
- Introduce a new empowerment for the Commission to (1) adopt technical specifications via Commission acts for cases where the standardisation system is not delivering on time and of sufficient quality; (2) set product requirements.
- Introduce environmental, functional and safety product requirements for construction products.
- Establish a 'harmonised zone', a clearer division of Member States' roles and a mechanism to gather information on to exchange proactively on Member States' regulatory needs or measures and address those in the respect of the single market objectives.
- Introduce a new obligation for manufacturers to provide a declaration of conformity (compliance with product requirements) in addition to a declaration of performance; possibility to provide information via electronic means.
- Provide a list of general sustainability requirements (to be further defined per product family in Commission acts/harmonised standards).

[31] See the detailed explanation of the specific provisions of the proposal for more information.

- Introduce and improve simplification and exemption provisions for micro-enterprises.
- Strengthen enforcement powers of market surveillance authorities.
- Extending the role of the product contact points for construction to support economic operators.
- Establish a new Commission system allowing any natural or legal person to share complaints or reports related to possible breaches of the Regulation.
- Align with the Ecodesign for Sustainable Products Regulation on climate and environmental sustainability and on the Digital Product Passport.

Option D had envisaged replacing the CE marking by a new label ('European Construction Product' or 'ECP' marking). However, there is also a risk that such a change could increase the unclarity for economic operators instead of reducing it, especially during the transition period while two markings would have been required. Therefore, the CE marking will be kept and manufacturers will have to affix it on products for which they have drawn up a declaration of performance or conformity.

While the study supporting the impact assessment concluded that option D may lead to additional costs for the economic operators, mainly due to the introduction of environmental performance information declaration, there were certain limitations linked to the data used. Because of the additional simplification implied by option D, it may actually bring about net reduction of around EUR 180 million in terms of administrative burden (see Annex III to the impact assessment report).

- **Regulatory fitness and simplification**

The proposal will minimise compliance costs through a well-performing standardisation process, by clearer provisions, incentivising re-use of products, less additional national requirements and creating a level playing field for all manufacturers, especially SMEs, in all Member States. Moreover, the planned work sharing and the technical fine-tuning with the Ecodesign for Sustainable Products Regulation will avoid unnecessary costs for businesses, especially SMEs.

The proposal makes maximum use of the potential of digitalisation to reduce administrative burden, considering that the CPR does not provide for the application of digital tools. All of the proposal's related information and documentation may be processed in digital form (e.g. Digital Product Passport) and stored, shared and accessed durably in an information system. This will lead to greater transparency along supply chains, allow construction products' data to be stored in building logbooks and used for calculations required under other legislation (e.g. Energy Performance of Buildings Directive). This will also facilitate market surveillance.

Further reducing the administrative burden for manufacturers will be achieved by eliminating the overlap between the CE marking and the declaration of performance. Member States will also be able to exempt micro-enterprises not trading across borders from the obligations.

By introducing a new empowerment for the Commission to introduce a minimum number of checks to be performed by market surveillance authorities, the proposal aims to improve the

uneven application of the CPR rules on the market. This may require more capacity for market surveillance authorities, but will allow better support for Member States in exercising their responsibility to ensure the safety and sustainability of construction works.

- **Fundamental rights**

The proposal has **no** impact on the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposal will require additional resources to effectively manage the CPR framework. The requested **increase in staff needs of 7 FTE**[32] is proportionate to the objectives. Commission staff will carry out the following main activities:

- Develop and implement the CPR;
- Develop secondary legislation (implementing and delegated acts);
- Develop and manage standardisation requests and Commission acts;
- Assess and cite harmonised technical specifications;
- Develop common technical specifications;
- Liaise with the European Standardisation Organisations on pre-standardisation work and standardisation;
- Engage with stakeholder on technical issues;
- Provide support to Member State authorities;
- Provide training to Member States authorities, notified bodies and other bodies;
- Provide guidance to Member States and businesses.

These activities are of a legal, technical and administrative nature and need to be carried out within (or, in some cases, under the supervision of) Commission departments. In this context, staff numbers in charge of managing the current CPR framework would need to be increased and supported by other Commission departments (i.e. JRC) or by use of outsourcing. In particular, for the scientific and technical support to the preparation of delegated and implementing acts and to horizontal tasks. The degree to which the proposal will be able to respond to the objectives will largely dependent on the Commission resources available.

[32] See the legislative financial statement annexed.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will monitor the implementation, the application and compliance with these new provisions to assess their effectiveness. Policy monitoring and evaluation related to the proposal would be centred around the core issues to be addressed by the revision: functioning of the standardisation process, availability of environmental and product safety information, and environmental and product safety requirements incorporated in technical specifications, impacts on the functioning of the market surveillance.

It is proposed that an evaluation of the proposal should take place no sooner than 8 years after the date of application, allowing the results and impacts of the new rules to take shape.

- **Explanatory documents (for directives)**

As the legal instrument is a Regulation, which is directly applicable in the Member States, there is no need for an explanatory document.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I of the Regulation contains the general provisions.

Article 1 describes the subject matter, explicitly referring to environmental, climate and safety performance of construction products in relation to their essential characteristics, as well as to environmental, climate, functional and safety product requirements.

Article 2 defines the scope, including construction products, 3D-printing related products and services, key parts, part or materials if requested by the manufacturer, kits or assemblies covered harmonised technical specification or EADs, pre-fabricated one-family houses. In specified cases, the Regulation also applies to used products. Compared to the CPR, the scope is amended to avoid overlaps e.g. with the Drinking Water Directive[33] and the Urban Waste Water Directive.[34]

Article 3 lays down the definitions.

Article 4 defines the basic work requirements and modalities to establish the essential characteristics (performance-based, e.g. recycled content) of construction products. This will be done based on the basic requirements for construction works set out in Part A of Annex I and, together with assessment methods, will form part of standards rendered mandatory for purposes of application of this Regulation. The Commission is also empowered to adopt delegated acts defining thresholds and classes of performance in relation to the essential characteristics. In addition, in case of delays or deficiencies of the standardisation process, the Commission is empowered to adopt delegated acts containing technical specifications. Furthermore, the Commission is empowered to amend Annex I Part A, through delegated acts, in the light of technical progress or to cover new risks and environmental aspects.

[33] Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption, EUR-Lex - 32020L2184 - EN - EUR-Lex (europa.eu).

[34] Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, EUR-Lex - 31991L0271 - EN - EUR-Lex (europa.eu).

Article 5 states that all products covered by the Regulation need to satisfy the generic, directly applicable requirements and the respective product family or category requirements, set out in Annex I Part D. It also gives the empowerment to the Commission to adopt delegated acts defining more precisely product requirements according to Annex I Part B, C and D. These delegated acts may be further complemented by voluntary harmonised standards developed under a standardisation request. In addition, the Commission is also empowered to amend Annex I Part B, C and D, through delegated acts, in the light of technical progress or cover new risks and environmental aspects.

Article 6 provides an empowerment for the Commission to determine the applicable assessment and verification system, including the additional steps needed to counter systematic non-compliances.

Article 7 defines the 'harmonised zone', as opposed to the areas under the responsibility of Member States. In addition, it sets up a mechanism to deal with Member States imperative regulatory needs on health, safety or protection of the environment, including climate.

Article 8 provides for an empowerment to adopt delegated acts determining to avoid double assessment of products under this Regulation and other Union law.

Chapter II (Articles 9 to 18) sets out the procedure, declarations and marking.

Articles 9 to 12 govern the declaration of performance (DoP) and its applicable exemptions (including for micro-enterprises who do no trade cross-border, under certain conditions: for remanufactured products or for parts of construction works prepared for re-use or remanufactured).

Articles 13 and 14 lay down rules on declaration of conformity (DoC, conformity with product requirements pursuant to Article 5). To minimise the administrative burden, the DoC shall be combined with the DoP.

Under Article 15, a DoP and a DoC can be supplied in an electronic format or via a permalink. They shall be supplied in the languages required by the Member States where the manufacturer intends to make the product available.

Articles 16 to 18 set the general principles and conditions for the CE marking and for use of other markings.

Chapter III (Articles 19 to 33) defines the rights and obligations of economic operators. It sets out general and detailed obligations for manufacturers, including on how to use the relevant harmonised technical specification (harmonised standards and delegated acts) to assess and declare the performance of the product.

In particular, Article 22 defines the environmental obligations for manufacturers including the obligation to declare the mandatory sustainability characteristics set out in Annex I Part A Section 2, the global warming potential, and performance-based requirements or the minimum recycled content. Following the adoption of delegated acts for a given product family, the manufacturers are also required to

- Design and manufacture products and their packaging in such a way that their overall environmental and climate sustainability reaches the state of the art level.

- Give preference to recyclable materials and materials produced from recycling;
- Respect the minimum recycled content obligations and other limit values for environmental sustainability contained in harmonised technical specifications;
- Prevent premature obsolescence of products, use reliable parts and design products in such a way that their durability does not fall below the average durability of products for their respective category;
- Design products in such a way that they can be easily repaired, refurbished and upgraded.

Further Articles define the specific obligations of authorised representatives (Article 23), importers (Article 24) such as to ensure that products remain safe while under their control, to check that the manufacturer has fulfilled their general obligations, distributors (Article 25), obligations of fulfilment service providers, brokers, online market places, online sellers and online shops (thereby integrating them into a compliance-ensuring architecture) (Article 27) and 3D-printing providers (Article 28). It thus introduces provisions allowing the framework to address also the new business models. It also introduces new specific obligations of economic operators de-installing or dealing with used products for re-use or remanufacturing (Article 29) and obligations for double use and pseudo products (Article 31). It regulates online or distance sales of construction products (Article 32).

Chapter IV (Articles 34 to 42) contains rules on construction products standards and European assessment documents (EADs). It includes mandatory application for all performance-based requirements and voluntary for inherent product requirements. It establishes rules for the EADs and their relationship with the DoP and DoC (Article 35), EADs development, adoption (Article 36) and publication (Article 38), the content requirements for the EADs (Article 40) and for addressing the unjustified proliferation of EADs (Article 36). It also governs rules for dispute resolution in cases of disagreement among technical assessment bodies (TABs) (Article 39).

Chapter V (Articles 43 to 46) establishes requirements for designating authorities in charge of TABs and rules on how to designate, monitor and evaluate them. It also introduces empowerments to the Commission to lay down the requirements for TABs in terms of staffing and to set out the coordination tasks of TABs.

Chapter VI (Articles 47 to 63) describes the role of notifying authorities (Article 48) requirements applicable to these authorities (Article 49), including most important operational and information obligations. It establishes the requirements for the notified bodies (Art. 50), their operational obligations (Article 60) and information obligations (Article 61) and lists the obligations of a notified body with regard to its subcontractor or subsidiary (Article 53). It also lays down the rules on the use of facilities other than the testing laboratory of the notified body (Article 54). A procedure for Member States and the Commission raising formal objections to harmonised standards for accreditation is envisaged (Article 52).

Chapter VII (Articles 64 to 67) provides for simplified procedures. In order to reduce the administrative burden, particularly for SMEs and micro-enterprises, this chapter lays down simplification procedures, including Article 64 on using appropriate technical documentation, Article 65 allowing micro-enterprises to use the more lenient verification system, Article 66 reducing the requirements for custom-made non-series products installed in an identified

single construction work, Article 67 on the recognition of the assessment and verification of another notified body.

Chapter VIII (Articles 68 to 76) sets out rules on market surveillance and safeguard procedures. Article 68 empowers the Commission to set up a system allowing any natural or legal person to share complaints or reports on possible non-compliances with this Regulation.

Article 70 provides for how to deal with non-compliance, Article 71 for the EU safeguard procedure for cases in which the Member States can validly refer to imperative grounds of health, safety or protection of the environment. Article 72 sets out rules to deal with complying products presenting a risk. Article 73 contains an empowerment for the Commission to lay down a minimum number of checks to be performed by market surveillance, as well as to lay down minimum human resources to be deployed by the market surveillance authorities for construction products. Article 74 provides for market surveillance coordination and an administrative cooperation group (ADCO). To strengthen the capacities of market surveillance authorities, market surveillance authorities have the right to recoup the costs of inspections and testing from economic operators (Article 75). Market surveillance authorities are required to report annually to the Commission on their activities (Article 76).

Chapter IX (Articles 77 to 81) defines the principles on information and administrative cooperation. It is introduced to strengthen the overall system and the application of the Regulation, to avoid diverging decisions that could create an uneven playing field.

In line with these objectives, Article 77 establishes and maintains an information and communication system to ensure a harmonised interpretation and application of this Regulation.

Article 78 empowers the Commission to set up an EU construction products database or system to facilitate the access to product information (especially DoP, DoC and instructions for use). Article 79 revises the rules on the product contact points for construction in order to better support the economic operators. Article 80 requires the market surveillance authorities, product contact points for construction, designating authorities, TABs, notifying authorities and notified bodies to remain up-to-date in their area of work and to receive training on the common interpretation and application of the rules. It also requires the Commission to organise the training at least once a year. Article 81 allows Member States to jointly designate authorities to fulfil their obligations under the Regulation and to share resources and responsibilities.

Chapter X (Article 82) sets the conditions for a cooperation with non-EU countries, also with a view of limiting the negative effects of non-compliance of economic operators based in these countries on the single market.

Chapter XI (Articles 83 and 84) addresses Member States' incentives and green public procurement. Article 83 sets out the approach for the Member States to incentivise the use of more sustainable construction products. Article 84 empowers the Commission to develop sustainability requirements for green public procurement of construction products.

Chapter XII (Article 85) empowers the Commission to determine whether a specific item is a construction product.

Chapter XIII (Article 86) amends Regulation (EU) 2019/1020 so that Regulation (EU) 2019/1020 also applies to construction products.

Chapter XIV (Articles 87 to 94) sets out the final provisions. Article 87 lays down the conditions for the adoption of delegated acts in the Regulation. Article 88 mandates the role of the Standing Committee on Construction. Under Article 91, Member States shall lay down the rules that apply to penalties for breaching with the Regulation. Article 91 requires an evaluation of the Regulation no sooner than eight years after the date of application of the Regulation. Article 93 provides transitional provisions, permitting the phased transfer of all harmonised standards from the CPR to the new Regulation and thus a smooth phasing-in for economic operators. Article 94 provides for the date of entry into force and the date of application of the Regulation.

Similarly to the CPR, the enacting terms of the proposal are accompanied by several annexes, namely:

- Annex I on the basic requirements for construction works (Part A), as in the CPR, and on new elements: performance-based product requirements (Part B), inherent product requirements, particularly related to safety and environment (Part C) and information requirements (Part D);

- Annex II on the content of the declaration of performance (DoP) and declaration of conformity (DoC);

- Annex III on the procedure for adoption of a European assessment document (EAD);

- Annex IV on the product areas and requirements for technical assessment bodies (TABs);

- Annex V on the Assessment and Verification Systems;

- Annex VI on the essential characteristics for which a reference to a relevant harmonised technical specification is not required in the context of notification of notified bodies;

- Annex VII on the correlation table.

2022/0094 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee [1],

Acting in accordance with the ordinary legislative procedure [2],

Whereas:

(1) Regulation (EU) No 305/2011 of the European Parliament and of the Council was adopted in the context of the internal market, in order to harmonise conditions for the marketing of construction products and to remove obstacles to trade in construction products between Member States.

(2) In order for a construction product to be placed on the market, the manufacturer is obliged to draw a declaration of performance for such product. The manufacturer assumes the responsibility for the conformity of the product with such declared performance. Certain exemptions to this obligation are provided.

(3) Experience with the implementation of Regulation 305/2011, the evaluation conducted by the Commission in 2019 as well as the report on the European Organisation for Technical Assessment have shown the underperformance of the framework in various respects, including as regards the development of standards and the market surveillance. In addition, feedback received in the course of the evaluation has pointed to the need of reducing the overlaps, contradictions and repetitive requirements, including in relation to other Union legislation, in order to provide more legal clarity and limit the administrative burden on the economic operators. It is therefore necessary to lay down more specific and detailed legal obligations for economic operators, as well as new provisions including as regards technical specifications and market surveillance, so that legal certainty is increased and that diverging interpretations are avoided.

(4) It is necessary to establish well-functioning information flows, including via electronic means, to ensure that coherent and transparent information about construction products performances is available along the supply chain. This is expected to increase transparency and to improve efficiency in terms of information transfer. Ensuring digital access to comprehensive information about construction products would contribute to the digitalisation of the construction sector altogether, making the framework fit for the digital age. Access to reliable and durable information would also mean that economic operators and other actors do not contribute to each other's non-compliance.

(5) The European Parliament resolution of 10 March 2021 on the implementation of Regulation (EU) No 305/2011[35] welcomed the Commission's objective to make the construction sector more sustainable by addressing the sustainability performance of construction products in the revision of Regulation 305/2011, as announced in the Circular Economy Action Plan. The Council Conclusions on the Circular Economy in the Construction Sector from 28 November 2019[36] urged the Commission to facilitate the circularity of construction products when revising the Construction Products Regulation (EU) No 305/2011. The Commission Communication 'A New Industrial Strategy for Europe'[37] stressed the need to address the sustainability of construction products and highlighted a more sustainable built environment as essential for Europe's transition towards climate-neutrality. The Commission Communication 'Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery'[38] identified construction as one of the priority ecosystems that face the most important challenges meeting climate and sustainability goals and embracing the digital transformation, and on which the competitiveness of the construction sector depends. It is therefore appropriate to lay down rules for declaring environmental and sustainability performance of construction products, including the possibility of establishing relevant thresholds and classes.

(6) Similarly, the 2022 EU Strategy on Standardisation[39] identified construction as one of the most pertinent areas where harmonised standards could improve competitiveness and reduce market barriers.

(7) Pursuing the environmental goals, including the fight against climate change, makes it necessary to establish new environmental obligations and to lay the ground for the development and the application of an assessment method for the calculation of the environmental sustainability of construction products. For the same reason, it is

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35 European Parliament resolution of 10 March 2021 on the implementation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products (the Construction Products Regulation) (2020/2028(INI))

36 Circular Economy in the Construction Sector – Council Conclusions, adopted 28 November 2019, 14653/19

37 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A New Industrial Strategy for Europe COM(2020)102 final.

38 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery COM(2021)350 final.

39 Communication from the Commission of 2 February 2022 to the European Parliament, the European Economic and Social Committee and the Committee of the Regions, 'An EU Strategy on Standardisation Setting global standards in support of a resilient, green and digital EU single market', COM/2022/31 final

necessary to extend the range of regulated economic operators, since distributors, suppliers and manufacturers all have a role to play in the calculation of the environmental sustainability in the construction sector. That range should therefore be extended into two directions, downstream from the distributors to the economic operators preparing re-use and remanufacturing of construction products and upstream from the manufacturer over the suppliers of intermediate products and/or raw materials. Moreover, certain operators coming into play in the context of dismantling used products or other parts of construction works or remanufacturing and re-use thereof need to contribute to a safe second life of construction products.

(8) To ensure safety and functionality of construction products and, by extension, of construction works, it is necessary to avoid that items that are not intended by their manufacturers to be construction products are placed on the market as construction products. Importers, distributors and other downstream economic operators should therefore ensure that those pseudo construction products are not sold as construction products. Moreover, certain service providers such as fulfilment service providers or 3D-printing service providers should not contribute to the non-compliances of other economic operators. It is therefore necessary to render relevant provisions applicable also to these services and their providers.

(9) It is possible that different economic operators provide a 3D-printing dataset, a 3D-printing machine or mould, and the material to be used therein, leading to a situation where none of those operators would be responsible for the safety and appropriate performance of the 3D-printed product. To avoid possible safety risks in this respect, it is therefore necessary to lay down provisions for 3D-printing datasets, materials intended to be used for 3D-printing and for 3D-printing services that permit 3D-printing of construction products, so that, by respecting these provisions, the economic operators jointly reach a level of safety similar to the one ensured for ordinary construction products.

(10) In order to ensure safety and protection of the environment and to close a regulatory loophole that would otherwise exist, it is necessary to clarify that construction products manufactured on the construction site for immediate incorporation into the construction works are subject to the same rules as other construction products. Micro-enterprises, however, often individually manufacture and install products on site. Subjecting those micro-enterprises under all circumstances to the same rules as other enterprises would disproportionally affect those micro-enterprises. It is therefore necessary to enable Member States to exempt micro-enterprises from drawing up a declaration of performance in specific situations, where the interests of other Member States are not affected.

(11) Ensuring the free movement of kits or assemblies of construction products on the internal market will bring tangible benefits to citizens, consumers and businesses, particularly. However, for reasons of legal certainty, their composition should be precisely defined in harmonised technical specifications or European assessment documents.

(12) Creating a Union market for small prefabricated one-family houses has a potential to reduce the price of housing and to have positive social and economic effects. Fairness to consumers remains a priority, specifically but not limited to ensuring affordability of housing in the context of the green transition, in line with Proposal for Council

Recommendation on Ensuring a fair transition towards climate neutrality[40], in particular recommendations 7 a)-c). It is therefore necessary to lay down harmonised rules for such small houses. However, small houses are also construction works, for which the Member States are competent. As it might not be possible to integrate cumulatively all national requirements for small prefabricated one-family houses into the future harmonised technical specifications, Member States should have the right to opt out of the application of rules that are to apply to those pre-fabricated one-family houses.

(13) The compliance of construction products with Union legislation often depends on the compliance of their key parts with that legislation. However, because key parts are often integrated into various construction products, the protection of safety and of the environment, including climate, is better achieved when those key parts are assessed upstream, that is when the performance and conformity of key parts will be assessed beforehand and independently from the assessment of the final construction product into which they are integrated. Similarly, market surveillance becomes more efficient when non-compliant key parts can be identified and targeted. Hence, it is necessary to lay down rules applicable to key parts of construction products.

(14) Construction products that have already been assessed and are reused should not be subject to the rules that apply to new construction products. However, used construction products that have never been placed on the Union market before, should be subject to the same rules as new construction products, given that such products have never been assessed.

(15) To ensure that safety and functionality of construction products is safeguarded, rules applicable to new construction products should also apply to used construction products where the intended use is changed, except to decoration purposes, for used construction products with unclear initial intended use, for used construction products which have undergone an important transformative process and for used construction products for which an economic operator claims additional characteristics or the fulfilment of product requirements.

(16) The fact that used construction products should, in principle, not undergo a new assessment, should not prevent the economic operator from having those construction products assessed if that helps to make the use of those used construction products more attractive by proving that those construction products still have certain characteristics or fulfil the applicable product requirements.

(17) Construction products placed on the market in the outermost regions of the European Union are often imported from neighbouring countries, and are therefore not subject to requirements laid down in Union law. Subjecting those construction products to such requirements would be disproportionately costly. At the same time, construction products manufactured in the outermost regions hardly circulate in other Member States. Accordingly, Member States should have the possibility to exempt construction products placed on the market or directly installed in the outermost regions of the European Union from those requirements.

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[40] Proposal for a Council Recommendation on Ensuring a fair transition towards climate neutrality COM(2021)801final 2021/0421 (NLE)

(18) In order to strive for a maximum of regulatory coherence, this Regulation should to the extent possible build on the horizontal legal framework, in this case namely on Regulation (EU) No 1025/2012 of the European Parliament and of the Council. It follows the recent trend in product legislation to develop a fall-back solution where the European Standardisation Organisations do not deliver harmonised standards which can be cited in the Official Journal. As no harmonised standards for construction products could be cited in the Official Journal since late 2019 and only some dozen since Regulation (EU) No 305/2011 came into force, the new back-up empowerments for the Commission should be even more comprehensive, permitting to optimise the overall output of technical specifications so to catch up the delay in the adaptation to technical progress.

(19) Where harmonised standards lay down the rules for the assessment of performances with regard to essential characteristics relevant for the construction codes of Member States, harmonised standards should be rendered mandatory for purpose of application of this Regulation, as only such standards reach the goal of permitting the free circulation of products, whilst ensuring the Member States' ability to request safety and environmental, including climate-related, product characteristics in view of their specific national situation. When pursued together, these two goals require that products are assessed by a single assessment method, therefore the method needs to be mandatory. However, voluntary standards can be used to make product requirements, specified for the relevant product family or category by Delegated Acts, even more concrete, following the path of Decision 768/2008 of the European Parliament and of the Council. In line with Decision 768/2008, those standards should be able to provide a presumption of conformity with the requirements covered by them.

(20) In order to contribute to the objectives of the European Green Deal and the Circular Economy Action Plan, and to ensure safe construction products, safety being one of the goals to be pursued in the legislation based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), inherent product requirements related to safety, functionality and protection of environment, including climate, are necessary. When setting these requirements, the Commission should take into account their potential contribution to achieving Union climate, environmental and energy efficiency objectives. These requirements do not merely relate to the performance of construction products. Contrary to its predecessor Directive 89/106/EC, Regulation (EU) No. 305/2011 does not provide for the possibility to establish such inherent product requirements. However, certain harmonised standards for construction products contain such inherent product requirements which can relate to environment, to safety or simply to the good functioning of the product. These standards demonstrate that there is a practical need for such requirements on safety, the environment or simply the functioning of products. Article 114 TFEU as the legal base of this Regulation also imposes the pursuit of a high level of protection of the environment, health and human safety. Thus, this Regulation should (re-)introduce or validate inherent product requirements. Whilst these requirements need to be laid down by the legislator, there is a need for specifying them for the more than 30 product families, each with several categories. Hence, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to specify the requirements for the respective construction product family or category.

(21) Manufacturing and distribution of construction products becomes ever more complex, leading to the emergence of new specialised operators, such as fulfilment service providers. For reasons of clarity, certain generic obligations, including on cooperation with authorities, should be applicable to all those involved in the supply chain, the manufacturing, the distribution, own-brand-labelling, the repackaging or secondary trade, installation, de-installation for re-use or remanufacturing, and the remanufacturing itself. Moreover, suppliers should be obliged to cooperate with market surveillance authorities for purposes of environmental sustainability assessment. For those reasons and to avoid repetition of obligations, the term 'economic operator' should be defined widely, encompassing all those actors so that basic generic obligations can in one strike be established for all of them.

(22) In order to foster harmonised practices amongst Member States even where a consensus about these practices could not be found, the Commission should be empowered to adopt, with regard to a limited range of issues, implementing acts on the implementation of this Regulation. The respective empowerments concern the definitions, the obligations and rights of economic operators and the obligations and rights of notified bodies.

(23) In order to improve the legal certainty and to mitigate the fragmentation of the EU market for construction products due to the existence of national requirements and marks, it is necessary to clearly define the area regulated at the EU level, the so-called 'harmonised zone', as opposed to the elements remaining within the remit of Member States' national regulatory sphere.

(24) At the same time, in order to strike a balance between mitigating the fragmentation of the market and the legitimate interests of Member States to regulate construction works, it is necessary to provide for a mechanism to better integrate Member States' needs into the development of harmonised technical specifications. For the same reason, a mechanism allowing Member State to set, based on imperative grounds of health, safety or environmental protection, additional requirements for construction products should be established.

(25) A circular economy, the key element of the Circular Economy Action Plan, can be promoted by mandatory deposit-refund systems and the obligation to take back unused products. Member States should therefore be allowed to take such measures.

(26) In order to enhance legal clarity and reduce the administrative burden for the economic operators, it is necessary to avoid that construction products are subject to multiple assessments regarding the same aspect of health, safety or protection of the environment, including climate, under different Union legislation. This was confirmed by the REFIT platform recommending that the Commission gives priority to addressing the problems of overlapping and repetitive requirements. The Commission should thus be able to determine the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations of this Regulation, where otherwise the same aspect of health, safety or protection of the environment, including climate, would be assessed in parallel under this Regulation and other Union law.

(27) Moreover, in order to avoid diverging practices of Member States and economic operators, the power to adopt acts in accordance with Article 290 TFEU should be

delegated to the Commission to determine whether certain construction products fall within the definition of construction product.

(28) In particular, in the case of energy-related products included in ecodesign working plans which are also construction products and for intermediary products, with the exception of cement, priority for the setting of sustainability requirements will be given to the [ESPR]. This should be the case for instance for heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic products, excluding building-integrated photovoltaic panels. This Regulation may still intervene in a complementary manner where needed, mainly in relation to safety aspects also taking account of other Union legislation on products such as on gas appliances, low voltage, and machinery. For other products, in order to avoid unnecessary burden for economic operators, the need may arise in future to determine the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations under this Regulation. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to determine such conditions.

(29) In order to create an incentive for compliance, the manufacturer of construction products should be liable for incorrect declarations of performance and conformity.

(30) The increased use of re-manufactured products is part of a shift towards a more circular economy and a reduction of the environmental and carbon footprint of construction products. Moreover, the market of re-manufacturing is currently not very developed and requirements for remanufactured products vary widely amongst Member States. Therefore and to respect the subsidiarity principle, Member States should have the possibility to exempt re-manufactured products from the obligation to draw up a declaration of performance. Such exemption should however not be possible for products that are not suitable for remanufacturing or where interests of other Member States are at stake.

(31) To enhance access to easily available and comprehensive information on construction products, thereby contributing to their safety, functionality and sustainability, it should be ensured that the declaration of performance provides all information necessary for users and authorities. In view of its utility for users, manufacturers should be able to include into that declaration additional information, provided that the declarations of performance remain uniform and easily readable and that they are not abused as advertisement.

(32) To render the reuse and remanufacturing of construction and the use of surplus construction products nonetheless possible at large scale, an alleviated procedure for drawing up the declaration of performance should be set out for those construction products. In the case of surplus construction products, where alteration by use is excluded, the alleviated procedure should be limited to those cases where the initial manufacturer refuses to take responsibility for the surplus construction product, as it is always preferable that construction products remain under responsibility of the initial, competent manufacturer where they have not been altered.

(33) In order to reduce the burden for economic operators and in particular manufacturers, economic operators issuing declarations of performance and declarations of conformity should provide those declarations by electronic means, be authorised to

provide those declarations by permalink to an unamendable document or to include in those declarations permalinks to unamendable documents.

(34) In order for the manufacturers to demonstrate that the construction products benefitting from the free movement of goods fulfil relevant Union requirements, it is necessary to require a declaration of conformity complementing the declaration of performance, thus also bringing the regulatory system for construction products closer to Regulation (EC) No 765/2008. However, in order to minimise the potential administrative burden, the declaration of conformity and the declaration of performance should be combined and provided by electronic means. The administrative burden on SMEs should be further minimised through targeted simplification provisions, including on the use of appropriate technical documentation replacing type testing, permitting micro-enterprises to use the more lenient verification system and reducing the requirements for custom-made non-series products installed in an identified single construction work. The Member States should also have the possibility to exempt micro-enterprises which do not trade cross-border from the obligation to draw a declaration of performance.

(35) In order to reach alignment with other product legislation and subject to the general principles of Regulation (EC) No 765/2008, the CE marking should be affixed to construction products for which the manufacturer has drawn up a declaration of performance or conformity. The manufacturer thereby takes the responsibility for the conformity of the product with the declared performance and applicable product requirements.

(36) To ensure safety, functionality and sustainability of construction products, and by extension of construction works, all economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they place or make available on the market only construction products which are in compliance with the binding Union requirements. In order to improve the legal clarity, it is necessary to set explicitly the obligations of economic operators.

(37) It is necessary for manufacturers of construction products to determine the product type in a precise and unequivocal manner in order to ensure a precise basis for assessing the compliance of such product with Union requirements. At the same time, in order to avoid circumvention of the applicable requirements, manufacturers should be prohibited from creating ever new product types where the products in question are, in view of the crucial characteristics, identical.

(38) To avoid misleading claims, any claims made by manufacturers of construction products should either be based on an assessment method contained in harmonised technical specifications or, where no such assessment method exists, on methods representing the best available techniques, where no such assessment method provided by a harmonised technical specification exists.

(39) Technical documentation about construction products, drawn by the manufacturer, facilitates the verification of those products by authorities and notified bodies against the Union requirements. To enhance access to comprehensive information, that technical documentation should include an assessment of the environmental sustainability of the construction product.

(40) To create transparency for users of construction products and to avoid inappropriate use of those products, construction products and their intended use should be precisely identified by the manufacturer. For the same reason, the manufacturer should make clear whether the construction products are intended for professional use only, or also for use by consumers. To ensure that construction products can be traced back, manufacturers should be indicated on the product or, where this is not possible e.g. due to the product's size or surface, on its packaging or, where that is not possible either, in a document accompanying it.

(41) To ensure that requirements of this Regulation are fulfilled, manufacturers should actively search, store and evaluate information and take appropriate measures where non-conformity or under-performance has been confirmed or where there is a risk.

(42) To optimise the pursuit of the goals of the European Green Deal and of the Circular Economy Action Plan, the manufacturers should be obliged to reach a fair level of environmental sustainability, both for their products and their manufacturing. This obligation requires trade-off-decisions between different environmental aspects and between environmental and safety aspects, whilst both environmental and safety aspects can relate to the product as such or to the construction works. To give manufacturers certainty about how to make these trade-off decisions, this Regulation should set out clear trade-off rules.

(43) With the goals of ensuring sustainability and durability of construction products, manufacturers should ensure that products can be used for a very long time. Such long use requires adequate design, use of reliable parts, reparability of products, availability of information on repair and access to replacement parts.

(44) In view of enhancing the circularity of construction products, in line with the goals of the Circular Economy Action Plan, manufacturers should favour re-use, remanufacturing and recycling of their products. The (preparation for) re-use, remanufacturing and recycling require certain design, namely by facilitating the separation of components and materials at the later stage of recycling and avoiding mixed, blended or intricate materials. As the usual instructions for use will not necessarily reach the economic operators in charge of (preparation for) re-use, remanufacturing and recycling, the necessary information in this regard should be made available in product databases or systems and on the manufacturer's websites, in addition to the instructions for use.

(45) To deliver safe, functional and environmentally sustainable construction products, it is necessary to establish comprehensive sustainability and safety obligations for manufacturers. Given the importance of these obligations and achieving the right balance between the functionality, safety and sustainability, the Commission should be empowered to determine the conditions by delegated acts under which, for a specific product family or category, these obligations are fulfilled or presumed to be fulfilled.

(46) Some construction products become waste though they were never used. To avoid this waste of resources, manufacturers should accept to regain, directly or via their importers and distributors, ownership of products that, after delivery onto a construction site or to the user, have not been used and are in a state equivalent to the one in which they were placed on the market.

(47) In order to be able to make informed choices, users of construction products should be sufficiently well informed about the environmental performances of products, about their conformity with environmental requirements and of the degree of fulfilment of manufacturer's environmental obligations in this regard. Therefore, the Commission is empowered to adopt delegated acts to establish specific labelling requirements which might include the easily understandable traffic light labelling.

(48) Certain manufacturer's obligations, such as assessment of environmental sustainability or giving preference to recyclable materials, can hardly be fulfilled in case of used, remanufactured or surplus products. Economic operators enabling reuse or undertaking remanufacturing should thus be exempted from these obligations, the more so as the reuse and remanufacturing are beneficial to the environment.

(49) The authorised representatives are often the only reachable persons in case of imported products whilst manufacturers often attribute to them very limited tasks and do not provide them with all the necessary information to effectively represent the manufacturers. Hence, the role and responsibilities of authorised representatives should be clarified and strengthened.

(50) An economic operator who modifies a product in such a way that its performance or safety might be affected should be subject to the obligations of manufacturers, to ensure the verification whether performance or safety of the product are still the same. However, this obligation should not be imposed on an economic operator who repackages products to make them available in another Member State, as otherwise secondary trade and thus free circulation of products would be hampered and repackaging in principle should not affect performance nor safety of the construction product. Still, and with the aim to preserve the performance and safety of products, the economic operator undertaking the repackaging should be responsible for the correct execution of these operations to ensure that the product is not damaged and that the users are still correctly informed in the language set out by the Member State where the products are made available.

(51) In order to increase compliance of manufacturers with the obligations under this Regulation and to contribute to addressing the identified shortcomings and improve the market surveillance, service providers, online market places and brokers should be empowered and requested to verify certain easily verifiable characteristics of products and their manufacturers, such as determination of product type and drawing up a comprehensive technical documentation, and should actively contribute to ensuring that only compliant products reach the users.

(52) In order to avoid that 3D-printing is used to circumvent the obligations under this Regulation, 3D-printing service providers should have certain information obligations.

(53) The safe use of used and re-manufactured products often depends on precise information on their first use. Economic operator de-installing used products for re-use or remanufacturing should therefore take protocols on the place, conditions and presumed length of use of the de-installed product.

(54) The performance and safety of products also depend on the components used and on the services provided by calibrators or other service providers for their design and manufacturing. For these reasons, certain obligations should be established for

suppliers of components and service providers involved in the manufacturing of products. Where a non-compliance or risk might have been caused by a supplied component or service of a certain economic operator, the supplier or service provider should inform thereof his other clients who have received the same component or service, so that non-compliances and risks can be effectively tackled for other products too.

(55) Certain items used for construction have multiple potential purposes. Their manufacturers should have the freedom to decide whether these items are intended for construction or not, also in order to avoid that they have to undergo performance and conformity assessment where not necessary. However, if they decide that a certain item is not intended for construction whilst it could be used for it ("pseudo product"), the manufacturers and other economic operators should ensure that it is not used in construction works. Otherwise some of the items would end up in construction whilst not fulfilling the requirements of this Regulation.

(56) For the same reason, where, however, manufacturers of items which can, by nature, be used for construction and for other purposes ("double use products"), do not explicitly exclude the use for construction, they should fulfil the obligations under this Regulation for all the items of the respective type.

(57) To clarify the applicability of this Regulation to online and other distance sales, it should be defined under which conditions a certain product is deemed to be offered to clients in the Union. As online trade has a higher likelihood of non-compliance, Member States should make a special effort and designate a single centralised market surveillance authority for detecting distance sales offers targeting clients on their territory, so that the responsible market surveillance authorities can take appropriate measures. As the detection of such offers requires the knowledge of research specialists or dedicated artificial intelligence software, the detection task should be centralised and entrusted to a single market surveillance authority.

(58) Digital technologies, which provide a significant potential for reducing administrative burden and costs for economic operators and public authorities, while also fostering innovative and new business opportunities and models, are evolving at rapid pace. The uptake of digital technologies will also contribute significantly towards achieving the objectives of the Renovation Wave, including energy efficiency, life-cycle assessments and monitoring and of the building stock. Accordingly, the Commission should be empowered to seize further opportunities of digitisation by implementing acts.

(59) As harmonised standards developed for construction products (hereafter: construction products standards) are mostly mandatory, to create legal certainty, these standards should not only be in line with the relevant standardisation requests and with this Regulation, but also with the general principles of Union law.

(60) In order to ensure a timely citation of references of construction products standards in the Official Journal of the European Union, the European Commission should be empowered to limit in scope or overrule deficient standards for purposes of legal effects under this Regulation by delegating acts instead of refusing to cite their references in the Official Journal.

(61) To ensure the coherence of the system, this Regulation should build on the horizontal legal framework for standardisation. Hence, Regulation (EU) No 1025/2012 should also apply to the extent possible to standards rendered mandatory in accordance with this Regulation. Regulation (EU) No 1025/2012 is thus to provide, among others, for a procedure for objections to harmonised construction products standards where those standards do not entirely satisfy the requirements set out in the relevant standardisation request or other requirements of this Regulation.

(62) As they are not acts of general applicability but the first step of a two steps administrative procedure leading to the CE marking, European assessment documents should not qualify as harmonised technical specifications. However, basic principles of the elaboration of harmonised standards, such as transparency for competitors, can and should also apply to European assessment documents. Moreover, the European assessment documents should be referred to in performance and conformity assessment procedures in the same way as harmonised standards. Hence and to avoid lengthy repetition of provisions, the principal rules on harmonised standards should also apply to European assessment documents. To create transparency for competitors, European assessment documents should be made publicly available and the references of all European assessment documents should be published in the Official Journal.

(63) Currently, the increasing number of hardly distinguishable European assessment documents which often have little added value when compared to others or existing harmonised standards, risks to slow down their publication. In order to deal with this risk in a cost-effective way, certain principles for the development and adoption of European assessment documents should be established or be made more concrete. Moreover, the control by the Commission should be enhanced.

(64) The requirements applicable to designating authorities of Technical Assessment Bodies (TABs) should not fall behind those applicable to notifying authorities given the similarities between their respective roles. For the same reason, TABs should have the same degree of independence and control of decision-making as notified bodies.

(65) In order to respond to a noteworthy percentage of notifications which were based on incomplete or erroneous assessments, in particular where legal bodies without own in-house technical competence were notified, it is necessary to strengthen the resources capacity of notifying authorities, namely by setting up minimum requirements; to make requirements for notified bodies more precise, namely with regard to their independence, delegation to other legal entities and own ability to perform; to require adequate qualified staffing of notified bodies and to verify the adequacy of the staffing, for which the tool of a qualification matrix has proven to be most efficient; to ensure and verify that the notified body is effectively in control of staffing, attribution of external experts, procedures, criteria and decision making, and not a subcontractor, subsidiary or another company belonging to the same family of companies; and to enlarge the documentation to be provided by bodies when applying for designation as notified body so as to provide a deeper and comparatively fairer basis for decision to notifying authorities.

(66) To counter a common deficient practice of accreditation bodies, it is necessary to ensure that accreditation bodies take as a basis for accreditation this Regulation and not the often deviating standards. It also important to ensure that the accreditation

bodies assess the ability of the applicant body and not of a group of companies, as it is the applicant body itself that must be in control of future certification.

(67) To reach a level playing field and to avoid legal uncertainty, the obligations of notified bodies should be more clearly defined and rendered explicit, and this both for their assessment and verification activities and the related aspects.

(68) In order to avoid involvement between notified bodies' staff and the manufacturers, notified bodies should ensure rotation between the personnel carrying out different conformity assessment tasks.

(69) Authorities of Member States might have questions that only a certain notified body can answer. Notified bodies should thus respond also to the questions authorities of other Member States may have.

(70) To enable all authorities an easier identification of non-compliances of notified bodies, manufacturers and products, and to ensure a level playing field, notified bodies should be empowered, and where the non-compliance can be clearly demonstrated even obliged to, proactively forward information on non-compliances to relevant market surveillance authorities or notifying authorities. Notified bodies should however not trespass the information obligation by investigating other operators than their own clients or peers.

(71) In view of creating a level playing field for notified bodies and manufacturers, the coordination amongst notified bodies should be enhanced. As only half of the current notified bodies participate on their own initiative in the activities of the already currently existing notified body coordination group, participation thereto should thus become mandatory.

(72) The attempts of establishing simplified procedures for small and medium-sized enterprises in Regulation (EU) No 305/2011 and thus reducing the burden and costs on SMEs and microenterprises have not been entirely effective and have often remained misunderstood or not used due to the lack of awareness or the lack of clarity regarding their application. By addressing the identified shortcomings while building on the previously established rules, it is necessary to clarify and facilitate their application and hence achieve the objective of supporting SMEs while ensuring performance, safety and environmental sustainability of construction products.

(73) The recognition of test results obtained by another manufacturer, provided for in Article 36(1)(b) of Regulation (EU) No 305/2011, should be generalised, in order to generally reduce the burden of economic operators and namely manufacturers. Such recognition mechanism is particularly needed to avoid multiple assessment of environmental sustainability of raw materials, interim products and final products.

(74) To ensure legal certainty in case of safety or performance problems, such recognition should only be permitted where both the two involved economic operators and the two involved notified bodies commit to cooperate and where the economic operator obtaining certification is in technical command of the product.

(75) The evaluation of Regulation (EU) No 305/2011 showed that market surveillance activities carried out at national level, widely vary in quality and effectiveness. In addition to measures set out in this Regulation in favour of better market surveillance,

the compliance of economic operators, bodies and products with this Regulation should be facilitated by also involving third parties such as by the possibility of any natural or legal person to submit information on possible non-compliances through a complaint portal.

(76) To address the identified shortcomings with regards to the market surveillance under Regulation (EU) No. 305/2011, this Regulation should contain more empowerments for Member States authorities and for the Commission that should enable authorities to act under all potential problematic circumstances.

(77) Market surveillance practice has proved that when evaluating products, at a certain point in time, there is a risk of non-compliance but no non-compliance incidence whereas, at a later point in time, the opposite is to be stated. Moreover, there are situations where there is a non-compliance other than a formal one that does not trigger a risk. For these reasons, Member States should be empowered to act in all cases of suspected non-compliance or risk, whilst the definition of 'product presenting a risk' has to be extended to include risk for the environment. It is necessary to offer Member States enough procedural flexibility to distinguish between high and low priority cases of non-compliance, whilst all Member States should also be informed about less important cases.

(78) To ensure effective enforcement of the requirements and to strengthen market surveillance in Member States, as well as to ensure alignment with the Ecodesign for Sustainable Products Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to lay down a minimum number of checks to be performed by the market surveillance authorities on specific product group or family or in relation to specific requirements and to establish minimum resources requirements.

(79) In addition, to strengthen the on average weak capacities of market surveillance authorities in terms of market surveillance and to further align with the Ecodesign for Sustainable Products Regulation, it is necessary provide more detailed administrative coordination support and to provide them with the right to retrieve costs of inspections and testing from economic operators.

(80) To create an incentive for increasing the capacities of market surveillance authorities in terms of market surveillance and to reach alignment with the Ecodesign for Sustainable Products Regulation, Member States should report on their market surveillance activities regarding products covered by this Regulation, including regarding the penalties imposed.

(81) To better serve economic operators, product contact points for construction should become more effective and therefore should obtain more resources. In order to facilitate the work of economic operators, the tasks of product contact points for construction should be fine-tuned and extended so as to include information on product related provisions of this Regulation and on acts adopted in accordance with it.

(82) It is necessary to establish an appropriate, efficient and cost-effective coordination mechanism to ensure a consistent application of the obligations and requirements set and to strengthen the overall system, also taking into consideration the fact that new

interpretative questions may arise in relation to safety and sustainability of products and construction works. As diverging decisions create an uneven playing field, contribute to rendering the legal framework more complex, create barriers to the free movement of the internal market and additional administrative burden and costs on economic operators, such diverging decisions should be prevented by that coordination mechanism.

(83) In particular, a European information system should therefore be established to collect interpretative questions, to find appropriate common solutions and to improve the sharing of information in this regard. To facilitate information sharing, such a system should rely on national systems. These national systems should also identify cases of uneven application of this Regulation, to ensure that diverging practices do not become a common practice and permanent.

(84) The centralised registration of product information increases transparency to the benefit of safety of products and the protection of the environment and human health while also reducing administrative burden and costs for economic operators. Accordingly, the power to adopt acts in accordance with Article 291 TFEU should be delegated to the Commission to establish a centralised Union construction products database or system. At this point in time it is not possible to assess the advantages and disadvantages of possible solutions, the Commission should thus be empowered to pursue any of these paths, as appropriate.

(85) To improve their level of competence, harmonise their decision making and create a level playing field for economic operators, trainings should be organised for market surveillance authorities, product contact points for cConstruction, designating authorities, TABs, notifying authorities, and notified bodies. The same goals should also be pursued by exchanges of staff between the market surveillance authorities, notifying authorities and notified bodies of two or more Member States.

(86) Member States do not always have the technical competence to fulfil all obligations incumbent on them in accordance with Union legislation cumulatively for all product sectors. They therefore obtain informal support, from other bigger Member States. Since such support is unavoidable in some cases and advisable in others, this Regulation should set out the basic rules for such support, namely to clarify responsibilities. Moreover, Member States are challenged by the increasing technical complexity of products and the legislation applicable with regard to all aspects and product sectors cumulatively, which indicates a potential for better results by virtue of specialisation and work-sharing amongst Member States. This Regulation should therefore both reflect the particular situation of the Member States and allow exploring the potential added value of specialisation and work-sharing amongst any Member States.

(87) Business on construction products becomes slowly but steadily more and more international. Hence, situations arise where non-compliances of economic operators based outside the Union need to be countered as well. As third countries hardly are ready to support the enforcement of Union law on their territory where the Union does not in return provide for the possibility to assist them, some empowerments for international cooperation should be provided for in this Regulation.

(88) A certain number of third countries applies Union product legislation or at least recognises certificates issued in accordance with it, be it on the basis of international agreements or unilaterally, both being in the interest of the Union. In order to give these third countries an incentive to continue this practice and other third countries to do the same, certain additional possibilities should be provided to third countries applying Union product legislation or recognising certificates issued in accordance with it. For this reason, it should be possible to support these particularly cooperative third countries by allowing them to participate in certain trainings and to participate in the EU construction products database or system, to the information system for harmonised decision-making and to the information exchange amongst authorities. Moreover, for the same reason, it should be possible to inform these particularly cooperative third countries about non-compliant or risky products.

(89) In order to incentivise the use of sustainable construction products whilst avoiding market distortions and to remain in line with the Ecodesign for Sustainable Products Regulation, incentives for the use of sustainable construction products provided by Member States should target the most sustainable products and be embedded in an exchange of information amongst Member States.

(90) In order to enhance the use of sustainable construction products whilst avoiding market distortions and to reach alignment with the Ecodesign for Sustainable Products Regulation, Member States' public procurement practice should target the most sustainable amongst the compliant products. Requirements applicable to public procurement contracts set out by implementing acts should be established according to objective, transparent and non-discriminatory criteria.

(91) Public procurement amounts to 14% of the Union's GDP. To contribute to the objective of reaching climate neutrality, improving energy and resource efficiency and transitioning to a circular economy that protects public health and biodiversity, contracting authorities and entities should, where appropriate, be required to align their procurement with specific green public procurement criteria or targets, to be set out in the delegated acts adopted pursuant to this Regulation. The criteria or targets set by delegated acts for specific product groups, should be complied with not only when directly procuring those products in public supply contracts but also in public works or public services contracts where those products will be used for activities constituting the subject matter of those contracts. Compared to a voluntary approach, mandatory criteria or targets will ensure that the leverage of public spending to boost demand for better performing products is maximised. The criteria should be transparent, objective and non-discriminatory.

(92) In order to take into account technical progress and knowledge of new scientific evidence, ensure proper functioning of the internal market, facilitate access to the information and ensure homogeneous implementation of rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of establishing and amending product specific technical provisions and requirements; defining the applicable assessment and verification systems; determining the conditions under which obligations under other Union law fulfil certain obligations of this Regulation; amending the declaration of performance and declaration of conformity model; establishing additional obligations to manufacturers; revising and supplementing procedural rules for the development of European assessment documents; establishing

minimum requirements to market surveillance authorities; setting up a Union construction products database or system; establishing green public procurement requirements and defining minimum penalties. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[41]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(93) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission establishing means to transmit information; providing details on how to execute obligations and rights of economic operators; adopting the format of the European technical assessment; establishing minimum resources required by notified bodies and giving access to authorities of third countries to the information systems for harmonised decision-making to the EU construction products database or system and to trainings in the context of this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[42].

(94) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to human health or safety or the protection of the environment, imperative grounds of urgency so require.

(95) Regulation (EU) 2019/1020 of the European Parliament and of the Council lays down rules on a horizontal framework for market surveillance and control of products entering the Union market. In order to ensure that products under this Regulation, which are benefiting from the free movement of goods within the Union, fulfil requirements providing a high level of protection of public interests, such as the protection of human health and safety and the protection of the environment, that Regulation should apply also to products covered by this Regulation, in so far as there are no specific provisions with the same objective, nature or effect in this Regulation. Therefore, Regulation (EU) 2019/1020 should be amended accordingly.

(96) To render the implementation of this Regulation more efficient and to reduce the burden for economic operators, it should be possible to make applications and decisions on paper or in a commonly used electronic format. To obtain legal certainty, applications and decisions should only be valid where the electronic signature fulfils the requirements of Regulation (EU) No 910/2014 of the European Parliament and of the Council and where the signing person is entrusted to represent the body or economic operator, according to the law of the Member States or Union law respectively.

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41 OJ L 123, 12.5.2016, p. 1.

42 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(97) To further reduce the burden on economic operators, it should be possible to provide documentation in a commonly used electronic format, and to fulfil information requirements electronically by default.

(98) In order to ensure a high level of compliance with this Regulation, Member States should lay down rules on penalties applicable to non-compliances and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive. In order to ensure these goals and harmonised penalties, the Commission should be empowered to establish minimum penalties by acts adopted in accordance with Article 290 of the Treaty on the Functioning of the European Union.

(99) In order to create legal certainty, it should be specified whether and for how long designations of product contact points for construction, TABs, or notified bodies and harmonised standards, European assessment documents, European technical assessments and notified bodies certificates or test reports adopted or issued under Regulation (EU) 305/2011 maintain legal effects under this Regulation. The respective transition periods should be long enough to avoid bottlenecks in respect of notified bodies and TABs designation and of the adoption or issuing of European assessment documents, European technical assessments, and notified body certificates or test reports.

(100) To create legal certainty, it should be clarified for how long products placed on the market on the basis of European assessment documents adopted under Regulation (EU) No 305/2011 may remain in the distribution chain and thus be further made available on the market. Similarly to the practice under other product legislation, the appropriate period is considered to be five years after the expiry of the European technical assessment on the basis of which they have been placed on the market. In this way, six years after the entry into force of a harmonised technical specification adopted under this Regulation all products sold to users will comply with that harmonised technical specification and this Regulation.

(101) Both the essential characteristics of construction products and their assessment methods can only be determined by harmonised technical specifications to be developed for the various product groups and families. Accordingly, requirements and obligations incumbent on economic operators with regard to a certain product group or family should only apply mandatorily as from six months after the entry into force of harmonised technical specification covering the respective product group or family.

(102) To facilitate a smooth phasing-in of future harmonised technical specifications and taking into consideration the time needed for drawing up the declaration of performance or conformity, economic operators should be permitted to opt for the voluntary application of this Regulation as from the entry into force of these harmonised technical specifications.

(103) It is necessary to avoid that economic operators can permanently circumvent the application of this Regulation by applying the harmonised technical specifications adopted under Regulation (EU) No 305/2011. For this reason, the Commission should withdraw from the Official Journal the references to harmonised standards and EADs published in support of Regulation (EU) No 305/2011 and covering a certain product group or family, by two years after the entry into force of harmonised technical

specification adopted under this Regulation covering that respective product group or family.

(104) In order to fully cover the environmental assessment of construction products and to appropriately cover product requirements which exist even in current harmonised technical specifications, a more comprehensive Annex I should be developed, including also a detailed list of essential characteristics related to lifecycle assessment and a complete framework for the product requirements. On that occasion, overlaps between basic requirements for construction works should be eliminated and clarifications should be brought forward.

(105) In order to reach a minimum control intensity of the assessment and verification of manufacturers by notified bodies and to create a level playing field both for manufacturers and notified bodies, Annex V on assessment and verification systems should more precisely and comprehensively determine the tasks of manufacturers and notified bodies under different possible assessment and verification systems. Moreover, that Annex should determine the assessments and verifications to be undertaken to verify the environmental sustainability of products, in terms of product performance and product requirements.

(106) The objectives of this Regulation, namely the free circulation of construction products on the internal market, the protection of human health and safety, and the protection of the environment, cannot be sufficiently achieved by the Member States, as Member States tend to establish very diverging requirements for construction products, with an uneven level of protection of human health and safety and of the environment. These objectives can rather be better achieved at Union level by establishing a harmonised assessment framework for the performance of construction products and certain product requirements for the protection of human health and safety and of the environment. Accordingly, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes harmonised rules for the making available on the market and direct installation of construction products, regardless of whether undertaken in the framework of a service or not, by establishing:

(a) rules on how to express the environmental, including climate, and safety performance of construction products in relation to their essential characteristics;

(b) environmental, including climate, functional and safety product requirements for construction products.

This Regulation also establishes obligations incumbent on economic operators dealing with construction products or their components or with products that could be regarded as construction products whilst not being intended by their manufacturer to be construction products.

Article 2

Scope

1. This Regulation shall apply to construction products and to the following items:

(a) 3D-datasets placed on the market to permit the 3D-printing of construction products covered by this Regulation and 3D-printed construction products and moulds;

(b) materials intended to be used for the 3D-printing of construction products on or close to the construction site or for the manufacturing using moulds on or close to the construction site;

(c) construction products manufactured on the construction site for immediate incorporation into construction works, without separate commercial action for the placing on the market;

(d) key parts of products covered by this Regulation;

(e) parts or materials intended to be used for products covered by this Regulation, if the manufacturer of those parts or materials so requests;

(f) kits or assemblies, where their composition is specified in and covered by harmonised technical specifications or European assessment documents (EADs);

(g) prefabricated one-family-houses of less than 180 m^2 surface floor space with one floor or of less than 100 m^2 surface floor space on two floors.

Member States may decide not to apply this Regulation for the houses referred to in point (g) by notification to the Commission.

2. This Regulation shall also apply to used construction products and to used items referred to in paragraph 1 in any of the following cases:

(a) those used construction products or items are imported from third countries without having been placed on the Union market before;

(b) the economic operator has changed the intended use of those used construction products or items from the intended use assigned to those construction products or items by the initial manufacturer in another way than by a reduction in terms of performance or intended uses or to mere decoration" purposes, those purposes being defined by the absence of any structural function for the construction works;

(c) the economic operator making the used construction products or items available on the market claims for them characteristics or the fulfilment of product requirements set out in Annex I, additional to or different from the characteristics and requirements declared pursuant to this Regulation or Regulation (EU) 305/2011 when the used construction product or item was first placed on the market;

(d) the used construction products or items have been subject to a transformative process going beyond repair, cleaning and regular maintenance ('remanufactured product');

(e) the economic operator making the used construction products or item available on the market opts for the application of this Regulation.

3. This Regulation shall not apply to:

(a) lifts subject to Directive 2014/33/EU of the European Parliament and of the Council[43], escalators and their components;

(b) boilers, pipes, tanks and ancillaries and other products intended to be in contact with water for human consumption;

(c) systems treating waste water;

(d) sanitary appliances;

(e) traffic signalling products.

4. This Regulation also shall also apply to 3D-printing services of construction products and of items covered by this Regulation. 3D-printing services include renting out of 3D-printing machines that could be used for construction products and items covered by this Regulation.

This Regulation shall also apply to services linked to:

– the manufacturing and commercialisation of construction products and or items covered by this Regulation, and

– to the de-installing, preparation for re-use, remanufacturing and dealing with used construction products or items covered by this Regulation.

[43] Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (OJ L 96, 29.3.2014, p. 251).

5. Member States may exempt from the application of this Regulation construction products and items covered by this Regulation that are placed on the market or directly installed in the outermost regions of the European Union in the meaning of Article 349 of the Treaty on the Functioning of the European Union. Member States shall notify to the European Commission and to the other Member States the regulations providing such exemptions. They shall ensure that exempted construction products or items do not bear the CE marking in accordance with Article 16. Construction products or items placed on the market or directly installed on the basis of such exemption shall not be deemed to be placed on the market or directly installed in the Union in the meaning of this Regulation.

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

(1) 'construction product' means any formed or formless physical item, including its packaging and instructions for use, or a kit or assembly combining such items, that is placed on the market or produced for incorporation in a permanent manner in construction works or parts thereof within the Union, with the exception of items that are necessarily first integrated into an assembly, kit or other construction product prior to being incorporated in a permanent manner in construction works;

(2) 'permanent' means for a duration of two years or longer;

(3) 'product' means a construction product or other item covered by this Regulation in accordance with Article 2(1) to (3);

(4) 'making available on the market' means any supply of a product for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge, regardless whether in the framework of providing a service or not;

(5) 'direct installation' means the installation of a product into a construction work of a client without prior making available on the market or the installation of a one-family house covered by this Regulation, regardless whether in the framework of providing a service or not;

(6) 'performance' means the degree to which a product has certain scalable essential characteristics;

(7) 'essential characteristics' means those characteristics of the product which relate to the basic requirements for construction works as set out in Annex I Part A Point 1 or which have been listed in Annex I Part A Point 2;

(8) 'product requirements' means a threshold level or another characteristic with which a product has to comply before it can be placed on the market or installed directly, including those requirements relating to labelling and instructions for use or other information to be provided;

(9) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider, the 3D-printing service provider, manufacturer, importer or distributor of materials intended for 3D-printing of products, online seller, the broker, the supplier, the service provider, the own-brand-labeller or any other natural or legal person, other than authorities, notified bodies, technical assessment bodies and product contact points for construction who is subject to this Regulation in relation to the manufacturing, de-installation for re-use, re-manufacturing or repackaging of products, or making those products available on the market or installing those products directly in accordance with this Regulation, and economic operators as defined in Article 3, point (13) of Regulation (EU) 2019/1020 of the European Parliament and of the Council[44];

(10) ‘3D-printing service provider’ means any natural or legal person offering, in the course of a commercial activity, one of the following services: renting or leasing out 3D-printers, printing out 3D-printing datasets, or brokering one of these services, regardless of whether the printing material is provided by that person or not;

(11) ‘materials intended for 3D-printing of products’ means any material intended or the 3D-printing of products for which the respective economic operators have not explicitly and consistently excluded the use as materials for 3D-printing;

(12) ‘manufacturer’ means a manufacturer as defined in Article 3, point (8), of Regulation (EU) 2019/1020;

(13) ‘3D-datasets’ means a set of numerical data describing the shape of an object by its outer dimensions and its cavities in view of permitting the 3D-printing of that object;

(14) ‘construction works’ means buildings and civil engineering works that may both be over or in the ground or water, including bridges, tunnels, pylons and other facilities for transport of electricity, communication cables, pipelines, aqueducts, dams, airports, ports, water ways, and installations which are the basis for rails of railways, but excluding wind mills, oil platforms or chemical plants, industry manufacturing installations, agricultural installations, electricity generation installations, military installations, whilst their shelters may be buildings;

(15) ‘buildings’ means facilities, other than containers, giving shelter to humans, animals or objects, which either are permanently fixed to the ground or can only be transported by the help of special equipment whilst having a surface floor space of at least $20m^2$ on one or several levels;

(16) ‘level’ means the result of the assessment of the performance of a product in relation to its essential characteristics, expressed as a numerical value;

(17) ‘class’ means a range of levels, delimited by a minimum and a maximum value, of performance of a product;

(18) ‘threshold level’ means a mandatory minimum or maximum performance level of a product with regard to a certain essential characteristic;

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[44] Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

(19) ‘placing on the market’ means the first making available of a product on the Union market or the first making available of a used product where any of the conditions of Article 2(2) are fulfilled or of a remanufactured product;

(20) ‘key part’ means a part which is intended by the manufacturer of a product or another economic operator to be used as component or spare part for a product and that has been specified by harmonised technical specifications as essential for the characterisation, safety or performance of a product;

(21) ‘kit’ means a product placed on the market by a single economic operator as a set of at least two separate items, none of which needs to be a product itself, intended to be incorporated together in construction works;

(22) ‘assembly’ means a set of at least two separate items, one of which is a product;

(23) ‘European assessment document’ means a document adopted by the organisation of technical assessment bodies for the purposes of issuing European technical assessments;

(24) ‘used product’ means a product that is not waste as defined in Article 3, point (1), of Directive 2008/98/EC of the European Parliament and of the Council , and which has been installed at least once into a construction work, and that:

(a) has not been subject to a process going beyond repair, cleaning or regular maintenance, as specified by the original manufacturer in its instructions for use or acknowledged to be necessary according to common civil engineering knowledge;

(b) has not undergone a process going beyond repair, cleaning and regular maintenance or ‘preparing for re-use’ in the meaning of Article 3, point (16) of Directive 2008/98/EC after being de-installed;

(25) ‘intended use’ means the use intended by the manufacturer, including the conditions for usage, as laid out in technical documentation, on labels, in instructions for use, or in publicity material, whilst usages mentioned only in one of these are already part of the ‘intended use’;

(26) ‘repair’ means the process of returning a faulty product to a condition where it can fulfil its intended use;

(27) ‘maintenance’ means an action carried out to retain a product in a condition where it is able to function as required;

(28) ‘remanufactured product’ means a product that is not waste as defined in Article 3, point (1), of Directive 2008/98/EC, but that has been installed at least once into a construction work, and that has been subject to a transformative process going beyond repair, cleaning and regular maintenance;

(29) ‘risk’ means risk as defined in Article 3, point (18), of Regulation (EU) 2019/1020;

(30) ‘preparing for re-use’ means checking, cleaning or repairing retrieval operations, by which products or components of products are prepared so that they can be re-used without any other pre-processing;

(31) ‘product type’ means the abstract model of individual products, determined by the intended use and a set of characteristics which exclude any variation with regard to performance or to the fulfilment of product requirements set-out in or in accordance with this Regulation, produced in a specific production process using a given combination of raw materials or components, whilst identical items of different manufacturers also belong to different product types;

(32) ‘state of the art’ means a way to achieve a certain goal which is either the most effective and advanced or close to it and thus above the average of ways which can be chosen;

(33) ‘recycling’ means recycling as defined in Article 3, point (17), of Directive 2008/98/EC;

(34) ‘fulfilment service provider’ means a fulfilment service provider as defined in Article 3, point (11), of Regulation (EU) 2019/1020;

(35) ‘product family’ means all product types belonging to the product areas listed in Annex IV, Table 1;

(36) ‘product category’ means a subset of the product types of a certain product family encompassing those product types which have in common a certain intended use as specified in harmonised technical specifications or European assessment documents;

(37) ‘factory production control’ means the documented, permanent and internal production control in a factory with regard to certain parameters or quality aspects, reflecting the specificities of a respective product family or a group and manufacturing processes, and which aim at the constancy of performance or of continuous fulfilment of product requirements, executed in accordance with Annex V;

(38) ‘harmonised zone’ means the sphere jointly covered by this Regulation, the harmonised technical specifications, and the Commission acts of general applicability adopted pursuant this Regulation;

(39) ‘Union law’ means the TEU, the TFEU, general principles of law, acts of general applicability referred to in the second, third and fourth paragraph of Article 288 TFEU and any international agreements to which the Union is party or the Union and its Member States are parties;

(40) ‘importer’ means an importer as defined in Article 3, point (9), of Regulation (EU) 2019/1020;

(41) ‘distributor’ means a distributor as defined in Article 3, point (10), of Regulation (EU) 2019/1020;

(42) ‘individually manufactured’ means that, due to the specifications of the client, there is a variation in terms of manufacturing method when compared with all other products produced for other clients by the economic operator in question;

(43) ‘micro-enterprise’ means a micro-enterprise as referred to in the Annex to Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises ;

(44) ‘custom-made’ means that, due to the specifications of the client, there is a variation in terms of size or material when compared with all other products produced for other clients by the economic operator in question.

(45) ‘permalink’ means an internet link to a website which is stable both for its content and the address (“URL”);

(46) ‘harmonised technical specifications’ means construction products standards established in accordance with Article 4(2) the reference of which has been published in the Official Journal in accordance with Article 34 and thereby were rendered mandatory for purposes of application of this Regulation, and delegated acts adopted in accordance with Article 4(3) and (4), Article 5(2), or Article 22(4) that contain technical prescriptions;

(47) ‘Construction products standard’ means a standard adopted by a European standardisation organisation on the basis of a request made by the Commission for the application of this Regulation the reference of which has been published in the Official Journal in accordance with Article 34, regardless of whether the use of such standard is rendered mandatory for purposes of application under this Regulation in accordance with Article 4(2) and Article 34(2) or whether they stay voluntary in accordance with Article 5(2), Article 22(4) and Article 34(3);

(48) ‘double use product’ means a product that is, by its manufacturer, intended to be used as product and as an item with another intended use that would fall outside of the scope of this Regulation if it had only that other intended use;

(49) ‘European standardisation organisation’ means a European standardisation organisation as defined in Article 2(8), of Regulation (EU) 1025/2012;

(50) ‘European technical assessment’ (ETA) means the documented assessment of the performance of a product, in relation to its essential characteristics, in accordance with the respective European assessment document;

(51) ‘full-time equivalence’ means the work-power of one person employed full-time as defined by the Member State concerned or the work-power of several persons employed part-time working together the same number of hours per day or week;

(52) ‘non-series process’ means a process that is neither prevailingly automated or produced using assembly-line techniques, nor repeated more than 100 times per year by the economic operator in question or the economic operators belonging to the same group of companies, defined by a common controlling natural or legal person, or the same organisational structure;

(53) ‘withdrawal’ means withdrawal as defined in Article 3, point (23), of Regulation (EU) No 2019/1020;

(54) ‘recall’ means withdrawal as defined in Article 3, point (22), of Regulation (EU) No 2019/1020;

(55) ‘online marketplace’ means a provider of an intermediary service using software, including a website, part of a website or an application, that allows customers to conclude distance contracts with economic operators for the sale of products;

(56) ‘online interface’ means online interface as defined in Article 3, point (15), of Regulation (EU) 2019/1020;

(57) ‘broker’ means any natural or legal person providing an intermediation service for the placing on the market or direct installation of products;

(58) ‘own-brand-labeller’ means any natural or legal person other than the manufacturer who wishes to sell a product as his own and therefore affixes his name, trade-mark or label in addition to the mandatory inscriptions of other economic operators;

(59) ‘supplier’ means any natural or legal person providing raw materials or interim products to manufacturers or to other persons providing raw materials or interim products to manufacturers;

(60) ‘service provider’ means any natural or legal person providing a service to a manufacturer or to a supplier of a key part, provided that the service is relevant for the manufacturing of products, including their design;

(61) ‘accreditation’ means ‘accreditation’ as defined in Article 2(10), of Regulation (EC) No 765/2008;

(62) ‘market surveillance authority’ means an authority as defined in Article 3, point (4), of Regulation (EU) 2019/1020;

(63) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, from raw material acquisition or generation from natural resources over manufacturing, de-installation, possibly reuse with or without prior remanufacturing to final disposal;

(64) ‘reuse’ means any operation by which a product or its components, having reached the end of their first use, are used for the same purpose for which they were conceived;

(65) ‘competent authority’ means the market surveillance authority designated in accordance with Article 69(1);

(66) ‘national competent authority’ means the market surveillance authority designated in accordance with Article 69(2);

(67) ‘notifying authority’ means the single public administration in charge of the designation and supervision of notified bodies, designated in accordance with Article 48, unless specified otherwise in the respective provision: only in the Member State where the respective notified body is located;

(68) ‘designating authority’ means the single public administration in charge of the designation and supervision of Technical Assessment Bodies, designated in accordance with Article 43, unless specified otherwise in the respective provision: only in the Member State where the respective technical assessment body is located;

(69) ‘authority’ means the European Commission, its agencies, and any notifying authority, designating authority or market surveillance authority, unless specified otherwise in the respective provision: regardless of in which Member State it is located;

(70) ‘product presenting a risk’ means a product that, whenever during its entire life-cycle and even when created indirectly, has an inherent potential to affect adversely the health and safety of persons, the environment or the fulfilment of basic requirements for construction works when incorporated in those works, to a degree which, taking account of the state-of-the-art, goes beyond what is considered reasonable and acceptable in relation to its intended use and under normal or reasonably foreseeable conditions of use;

(71) ‘product presenting a serious risk’ means a product presenting a serious risk as defined in Article 3, point (20), of Regulation (EU) 2019/1020.

Article 4

Essential characteristics of products

1. The basic requirements for construction works, set out in Annex I Part A Point 1 shall constitute the basis for the preparation of standardisation requests and harmonised technical specifications.

2. The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and the methods for their assessment shall be laid down in standards which are rendered mandatory for purposes of application of this Regulation. The essential characteristics of products shall be identified in view of the basic requirements for construction works, taking account of the regulatory needs of Member States.

   The Commission may issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012 laying down the basic principles and corner stones for the establishment of these essential characteristics and their assessment methods.

   The respective standardisation requests may also include a request that the European standardisation organisation determine in the standards referred to in the first subparagraph the voluntary or mandatory threshold levels and classes of performance in relation to the essential characteristics and which of the essential characteristics may or shall be declared by manufacturers. In that case, the Commission shall lay down the basic principles and corner stones for the establishment of the threshold levels, classes and mandatory characteristics in the standardisation request.

The Commission shall verify that the basic principles and corner stones, and the Union law are respected in the standards prior to publishing the reference thereof in the Official Journal in accordance with Article 34.

3. By way of derogation from paragraph 2 and in order to cover the regulatory needs of Member States and to pursue the goals of Article 114 of the Treaty on the Functioning of the European Union, the Commission is empowered to supplement this Regulation by means of delegated acts in accordance with Article 87, by establishing, for particular product families and categories, voluntary or mandatory essential characteristics and their assessment methods in any of the following cases:

(a) there are undue delays in the adoption of certain standards referred to in the first subparagraph of Article 4(2)by the European standardisation organisations, whilst an undue delay is given where the European standardisation organisation does not submit a standard within the time-frame set out in the standardisation request;

(b) there is an urgency for the adoption of more harmonised technical specifications that cannot be matched with standards referred to in the first subparagraph of Article 4(2) alone;

(c) one or more essential characteristics referring to basic work requirements set out in Annex I Part A, Point 1 or included in Annex I Part A, Point 2 are not covered by the standards referred to in the first subparagraph of Article 4(2) the references of which are already published in the Official Journal;

(d) the standards referred to in the first subparagraph of Article 4(2) are for other reasons considered not sufficient to cover regulatory needs of Member States or the needs of economic operators;

(e) the standards referred to in the first subparagraph of Article 4(2) are not in line with EU climate and environmental legislation and ambition;

(f) references to standards referred to in the first subparagraph of Article 4(2) cannot be published in the Official Journal for the reasons set out in Article 34(4) or other legal reasons;

(g) references to standards referred to in the first subparagraph of Article 4(2) have been withdrawn from the Official Journal or were published with a restriction.

4. In order to cover the regulatory needs of Member States and to pursue the environmental, safety and harmonisation goals of Article 114 of the Treaty on the Functioning of the European Union, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by determining, for particular product families and categories, the following:

(a) threshold levels and classes of performance in relation to the essential characteristics and which of the essential characteristics may or shall be declared by manufacturers;

(b) conditions under which a product shall be deemed to satisfy a certain threshold level or to qualify for a class of performance without testing or without further testing.

5. The Commission is empowered to amend Annex I Part A by means of delegated acts in accordance with Article 87 in order to adapt it to technical progress and to cover new risks and environmental aspects.

Article 5

Product requirements

1. All products covered by this Regulation shall, prior to their placing on the market or direct installation, satisfy the generic, directly applicable product requirements set out in Annex I Part D and the product requirements laid down in Annex I Part B and C as specified for the respective product family or category in accordance with paragraph 2. The product requirements laid down in Annex I Part B and C are only applicable where they have been specified in accordance with paragraph 2.

2. In order to specify the product requirements set out in Annex I Part B, C and D, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by specifying, for particular product families and categories, these product requirements and by laying down the corresponding assessment methods. Once the Commission has specified these product requirements by delegated acts, it may issue standardisation requests which aim at the elaboration of voluntary harmonised standards providing presumption of conformity with these mandatory product requirements as specified by these delegated acts.

3. The Commission is empowered to amend Annex I Part B, C and D by means of delegated acts in accordance with Article 87 in order to adapt it to technical progress and in particular to cover new risks and environmental aspects.

Article 6

Assessment and verification systems and their product specific modalities

1. In order to apply a tailor-made approach and to minimise the potential burden on manufacturers whilst ensuring a high level of protection of health, safety and the environment, the Commission is empowered to supplement this Regulation by means of delegated acts in accordance with Article 87, by determining for each product family or category the applicable assessment and verification system among those set out in Annex V. It may also determine different assessment and verification systems to the same product family or category when differentiating by essential characteristic or product requirement.

2. In order to facilitate and to harmonise the application of the requirements or obligations contained in Annex V, the Commission is empowered to supplement this

Regulation, by means of delegated acts in accordance with Article 87, by specifying these requirements and obligations for a given product family or category

3. In order to counter systematic non-compliances of notified bodies or manufacturers or in view of adaptation to technical progress, the Commission is empowered to amend this Regulation, by means of delegated acts in accordance with Article 87, by introducing additional assessment or verification steps in the systems of Annex V.

Article 7

Harmonised zone and national measures

1. The harmonised zone shall be presumed to be comprehensive, covering all potential requirements for products other than those covered by other Union law.

2. Member States shall respect the harmonised zone in their national law, other rules or administrative action and shall not set additional requirements for products covered by it. They shall in particular apply the following:

   (a) no information, registration or other requirements other than those laid down in the harmonised zone shall be established;

   (b) no assessments other than those set out in the harmonised zone shall be made mandatory;

   (c) unless otherwise specified in accordance with Article 5(3), national law, other rules or administrative action shall not duplicate or go beyond product requirements specified in accordance with Article 5 or the threshold levels established in accordance with Article 4(4);

   (d) national law, other rules or administrative action shall not require more assessments and verifications than those set out in Annex V and shall not extend the scope of the assessments and verifications of Annex V;

   (e) national law, other rules or administrative action shall replicate and not request more or less than what has been required by threshold levels established in accordance with Article 4(4);

   (f) national law, other rules or administrative action shall not be based on classes, sub-classes or additional classes other than those established in accordance with Article 4(4);

   (g) where assessment methods have been established in accordance with Article 4(2) or in Article 5(2), national law, other rules or administrative action shall, both for construction works and in relation to the characteristics of or requirements for products, not refer to other assessment methods or modify or complement these assessment methods or select just a part thereof.

   This paragraph shall also apply to public tenders or direct attributions of contracts where those public tenders or direct attributions are executed under direct or indirect

control of public entities or are executed with reference to public provisions on public tenders or direct attribution of contracts. This paragraph shall also apply to grants or other positive incentives with the exception of fiscal incentives. However, harmonised technical specifications may permit or recommend Member States to link the decisions on the attribution of public tenders, of contracts or of grants or other positive incentives to sub-classes or additional classes other than those established in accordance with Article 4(4) where these still relate to environmental performances assessed in accordance with these harmonised technical specifications.

3. Member States shall communicate to the other Member States and to the Commission the essential characteristics they require for each product family or category, the respective product requirements and the assessment methods they apply. They shall refer to these essential characteristics, requirements and assessment methods proactively in all fora and on all occasions relevant for the elaboration of harmonised technical specifications. Fora elaborating harmonised technical specifications shall take note of these essential characteristics, requirements and assessment methods. The essential characteristics shall be covered by harmonised technical specifications to the extent possible.

4. Where a Member State deems it necessary, on imperative grounds of health, safety or protection of the environment, including climate, to establish requirements by regulation or to take administrative measures in derogation of paragraph 2, it shall notify the Commission thereof, justifying the need for the procedural obligations established and explain the regulatory need it aims to address and provide evidence both for the existence of the regulatory need and the lack of coverage by the harmonised zone and other Union law. Member States shall to that end use the notification procedure under Directive (EU) 2015/1535, where applicable.

5. The Commission shall, by means of implementing acts, authorise the national measure notified under paragraph 4 where:

(a) it ascertains that the regulation or administrative measure appears duly justified in the light of imperative grounds of health, safety or protection of the environment referred to in paragraph 4;

(b) the regulatory need is not covered by the harmonised zone or by other Union law;

(c) the notified regulation or administrative measure does not discriminate against economic operators of other Member States;

(d) the notified regulation or administrative measure is able to cover the respective regulatory need;

(e) the notified regulation or administrative measure does not constitute a disproportionally large obstacle to the functioning of the Union market; and

(f) the Commission does not indicate by a letter of intent addressed to the Member States its intention to publish or cite, within one year as from the date of notification in accordance with paragraph 4, in the Official Journal the harmonised technical specification or to adopt an act of general applicability covering the respective need.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

On duly justified imperative grounds of urgency relating to human health and safety or the protection of the environment, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 88(3).

6. Member States shall register all their national regulation, and administrative measures directly or indirectly influencing the usability of products on their territory, into the Single Digital Gateway.

7. This Regulation does not hinder Member States to introduce mandatory deposit-refund systems, to oblige manufacturers to take back used or not used products directly or via their importers and distributors and to establish obligations regarding the collection and the treatment of products for waste, provided that all of the following is complied with:

   (a) the owner of the product, whilst having a choice amongst the manufacturer, the importer or the distributor as addressee, is in charge of the transport back to the distributor, importer or manufacturer;

   (b) economic operators in other Member States are not otherwise directly or indirectly discriminated.

8. Member States may ban the destruction of products taken back in accordance with Article 22(2), point (j) and Article 26 or make the destruction of these products dependent on their prior making available on a national brokering platform for non-commercial use of products.

Article 8

Relationship with other Union law

To avoid double assessment of products, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 87 by determining the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations under this Regulation, where otherwise the same aspect of health, safety or protection of the environment would be assessed in parallel under this Regulation and other Union law.

CHAPTER II

PROCEDURE, DECLARATIONS AND MARKINGS

Article 9

Declaration of performance

1. Where a product is covered by a harmonised technical specification adopted in accordance with Article 4(2) or (3), the manufacturer shall undergo the applicable assessment and verification system set out in Annex V and draw up a declaration of performance before such a product is placed on the market. A manufacturer of a product which is not covered by any harmonised technical specification may issue a declaration of performance in accordance with the relevant European assessment document and European technical assessment.

2. Where a product is covered by a harmonised technical specification, information about its performance in relation to the essential characteristics laid down in the applicable harmonised technical specification may be provided elsewhere than in the declaration of performance only if in parallel provided in the declaration of performance. This obligation shall not apply to situations where, in accordance with Article 10, no declaration of performance has been drawn up.

3. By drawing up the declaration of performance, the manufacturer assumes responsibility for the conformity of the product with such declared performance and becomes liable in accordance with Union and national laws on contractual and extra-contractual liability, and this even where it did not act negligently. In the absence of objective indications to the contrary, Member States shall presume the declaration of performance drawn up by the manufacturer to be accurate and reliable.

Article 10

Exemptions from drawing up a declaration of performance

1. By way of derogation from Article 9(1), a manufacturer may refrain from drawing up a declaration of performance when placing a product covered by a harmonised technical specification on the market where any of the following applies:

   (a) the product is, otherwise than by 3D-printing or already existing moulds, individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work, by a manufacturer who is also responsible for the safe incorporation of the product into the construction work in compliance with the applicable national rules, and under the supervision of those responsible for the safe execution of the construction works designated under the applicable national rules;

(b) the product is otherwise than by 3D-printing or already existing moulds manufactured on the construction site, in a non-series process for its incorporation in the respective construction work in compliance with the applicable national rules and under the supervision of those responsible for the safe execution of the construction works designated under the applicable national rules; or

(c) the product is manufactured in a manner exclusively appropriate to heritage conservation and in a non-series process for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit.

2. A Member State may exempt from Article 9(1) remanufactured products based on products which remain safe after remanufacturing provided that it ensures that the product does not to circulate outside the territory of that Member State.

3. A Member State may exempt from Article 9(1) parts of construction works other than products that are prepared for re-use or remanufactured provided that the part does not to circulate outside the territory of that Member State.

4. A Member State may exempt from Article 9(1) products where all of the following applies:

(a) the manufacturer is a micro-enterprise without belonging to a family of companies or other commercial organisation, including networks, able to determine or organise the manufacturer's activities;

(b) the manufacturer uses exclusively or in essence components or materials with commonly known stable characteristics or products which have been voluntarily subject to this Regulation and, in all instances, the characteristics of the product depend in essence on the characteristics of these components or materials;

(c) the product does not to circulate outside the territory of that Member State.

Article 11

Content of the declaration of performance

1. The declaration of performance shall express the performance of products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications or European assessment document.

2. The declaration of performance shall be drawn up using the model set out in Annex II without the section relating to conformity. The declaration of performance shall at least cover the performance with regard to the mandatory essential characteristics listed in Annex I Part A Point 2, the essential characteristics mandatory by virtue of harmonised technical specifications or delegated acts adopted in accordance with Article 4(3), and the assessment of environmental sustainability referred to in Article 22(1).

3. The Commission is empowered to amend the model set out in Annex II by delegated acts adopted in accordance with Article 87 to permit the inclusion of further information in order to allow economic operators to cover new information needs.

4. The information referred to in Article 31 or, as the case may be, in Article 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council[45] shall be provided together with the declaration of performance.

Article 12

Modified declaration of performance for used, remanufactured and surplus products

1. Where a declaration of performance, issued by the initial manufacturer or another economic operator pursuant to this Regulation or Regulation (EU) 305/2011, is available for a used product, the new declaration of performance may, in derogation from Article 11(1), refer to the initial declaration of performance in relation to the characteristics declared therein if:

   (a) the intended use is not changed otherwise than by reduction in terms of performance or intended uses or to merely decorative purposes;

   (b) the lifespan of the initial product or the relevant durability performance has been specified in the initial declaration of performance, the harmonised technical specification on which the initial declaration of performance was based, or is generally known on the basis of common civil engineering knowledge;

   (c) the time that expired after the first integration of the product into a construction work does not exceed the lifespan of the product or the relevant durability performance, whatever is shorter.

   The economic operator shall attach the initial declaration of performance to the declaration of performance issued by him, whilst the latter shall be labelled "declaration of performance for used product".

2. Where there is no declaration of performance available for a used product issued by the initial manufacturer or another economic operator pursuant to this Regulation or Regulation (EU) 305/2011, an economic operator may issue a new declaration of performance without undergoing a full procedure in accordance with this Regulation where it limits the intended use to "decoration". Where the economic operator has used this derogation, the declaration of performance shall be labelled "declaration of performance for used product".

3. Paragraphs 1 and 2 shall not apply where:

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[45] Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1.).

(a) the mechanical and chemical properties of the used product cannot be assumed to be stable enough anymore for the new intended use;

(b) health and safety of persons would be at risk due to the properties of the product;

(c) the product has been subject to stresses that makes it unsuitable for the new intended use; or

(d) such stress is not very unlikely according to the protocol established by the de-installer in accordance with Article 29 and the documentation on the conditions of a certain building ("building log-book").

Member States shall set-up requirements for de-installers and the certification to be provided in accordance with the last sentence, including on the definition of stresses that render the product unsuitable.

4. Paragraphs 1 to 3 shall also apply to remanufactured products, if the transformative process, whilst going beyond repair, cleaning or regular maintenance or preparing for re-use as defined in Article 3, point (16), of Directive 2008/98/EC after being de-installed, does not jeopardise the compliance with this Regulation or the performance of the product in relation to the relevant characteristics because, by their design, the transformative process cannot negatively influence the performance and the compliance or because the used replacement part has been assessed as equivalently performing and compliant. Where the economic operator has used this derogation, the declaration of performance shall be labelled "declaration of performance for re-manufactured product".

5. Paragraphs 1 to 4 shall apply to all of the following:

(a) products which have reached the user or have left the distribution chain, but were never installed and for which the initial manufacturer no longer assumes any responsibility as new product ("surplus products");

(b) for which the initial manufacturer refused to confirm its responsibility within one month after receiving the respective request of the economic operator wishing to make available on the market the surplus product.

Where the economic operator has used this derogation, the declaration of performance shall be labelled "declaration of performance for surplus product".

6. Article 21(3) and Article 22(1) shall only apply to products falling under the derogations of paragraphs 1 to 5 where the economic operator making them available on the market requests their application.

Article 21(2) shall not apply to products falling under the derogations of paragraphs 1 to 5. However, the economic operators shall provide the information set out in Annex I Part D.

7. Unless the economic operator opts for the application of harmonised technical specifications, the products falling under the derogations of paragraphs 1 to 5 shall

be exempted from threshold levels, product requirements and applicable harmonised technical specifications.

8. By issuing the declaration of performance, the economic operator assumes responsibility for the conformity of the product with such declared performance and becomes liable in accordance with EU and national laws on contractual and extra-contractual liability. In the absence of objective indications to the contrary, Member States shall presume the declaration of performance to be accurate and reliable.

9. This article shall not apply to used, remanufactured or surplus products which have never been placed on the Union market or which have never been installed in the Union.

Article 13

Declaration of conformity

1. Before placing a product on the market, the manufacturer who is not exempted from the obligation to produce a declaration of performance shall:

   (a) verify the product's compliance with the product requirements of Annex I Part B and C to the extent that they have been specified by delegated acts in accordance with Article 5(2), and with the product requirements of Annex I Part D;

   (b) undergo the respective assessment and verification system set out in Annex V; and

   (c) draw up a declaration of conformity.

2. The manufacturer may decide to issue a declaration of conformity in accordance with paragraph 1 even where exempted from the obligation to produce a declaration of performance.

3. By the declaration of conformity, the manufacturer assumes responsibility for the conformity of the product with the product requirements and becomes liable in accordance with national laws on contractual and extra-contractual liability, and this even where it did not act negligently. In case of non-compliance or absence of a declaration of conformity, the product may not be made available on the market. In the absence of objective indications to the contrary, Member States shall presume the declaration of conformity drawn up by the manufacturer to be accurate and reliable.

Article 14

Content of the declaration of conformity

1. The declaration of conformity shall express conformity of a product with product requirements referred to in Article 5(1) and (2).

2. The manufacturer shall combine the declaration of conformity with the declaration of performance into a single declaration, to be labelled "Declaration of performance and conformity" as set out in Annex II.

3. Article 11(2) to (4) and Article 12 shall apply with regard to the declaration of conformity.

4. The manufacturer shall fulfil the obligations of this Article as from the first revision of the declaration of performance undertaken by the manufacturer after the date of application of harmonised technical specification, for the respective product family or category, but at the latest 3 years after that date.

Article 15

Supply of the declaration of performance and of the declaration of conformity

1. The manufacturer shall supply by electronic means a copy of the declaration of performance and of the declaration of conformity of each product which is made available on the market.

   However, where a batch of the same product is supplied to a single user, it may be accompanied by a single copy of the declarations.

2. Where the declaration is provided by electronic means, the manufacturer shall issue that declaration in a commonly readable, but unamendable electronic format. Alternatively, the manufacturer may use a permalink provided that the permalink and the document accessible via the permalink are unamendable. Commission Delegated Regulation (EU) No 157/2014[46] shall apply under this Regulation.

   The manufacturer shall supply a paper copy of the declarations if the recipient requests for such paper copy.

3. Declarations may contain permalinks to unamendable environmental product declarations or other unamendable documents containing the requested information if those documents follow the order and structure of the declarations or if a correlation table linking the order of the declarations to the order of these documents is provided together with the permalink.

4. The manufacturer shall supply the declaration of performance and the declaration of conformity in the language or the languages required by the Member States where the manufacturer intends to make the product available. Another economic operator who makes a product available in another Member State shall make available a translation of the declaration of performance and the declaration of conformity in the languages required by that Member State together with the original, and shall comply with paragraphs 1 and 2.

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[46] Commission Delegated Regulation (EU) No 157/2014 of 30 October 2013 on the conditions for making a declaration of performance on construction products available on a website; OJ L 52, 21.2.2014, p. 1.

Article 16

General principles and use of CE marking

1. The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

2. The CE marking shall be affixed to those products for which the manufacturer has drawn up a declaration of performance or conformity in accordance with Articles 9 and 11 to 14. The CE marking shall be affixed to key parts. The CE marking may not be affixed to parts which are not key parts.

3. If neither a declaration of performance nor a declaration of conformity has been drawn up by the manufacturer, the CE marking shall not be affixed.

4. By affixing or having affixed the CE marking, the economic operator indicates that it takes responsibility for the conformity of the product with the declared performance and applicable product requirements of this Regulation or laid down in accordance with this Regulation. By affixing the CE marking, the economic operator becomes liable for the declared performance and the fulfilment of these requirements in accordance with national law on contractual and extra-contractual liability.

5. The CE marking shall be the only marking which attests the performance of the product with regard to assessed essential characteristics and the conformity of the product with this Regulation.

   Member States shall not introduce any references or shall withdraw any references in national measures to a marking attesting conformity with requirements or the declared performance in relation to the essential characteristics covered by the harmonised zone.

6. A Member State shall not prohibit or impede, within its territory or under its responsibility, the making available on the market or the use of products bearing the CE marking, when the declared performances correspond to the requirements for such use in that Member State.

   A Member State shall not prohibit or impede, within its territory or under its responsibility, the making available on the market or the use of products bearing the CE marking, when the product conforms with product requirements set-up in or by means of this Regulation, unless it is specified in the respective harmonised technical specification that the respective requirements constitute only minimum requirements.

7. A Member State shall ensure that the use of products bearing the CE marking shall not be impeded by rules or conditions imposed by public bodies or private bodies acting as a public undertaking, or acting as a public body on the basis of a monopoly position or under a public mandate.

Article 17

Rules and conditions for the affixing of CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the product or to a label attached to it. Where this is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging or to the accompanying documents.

2. The CE marking shall be followed by:

   (a) the two last digits of the year in which it was first affixed;

   (b) the name and the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity;

   (c) the name and the registered address of the authorised representative, or the identifying mark allowing identification of the name and address of the authorised representative easily and without any ambiguity where the manufacturer does not have a place of business in the Union or where the manufacturer chooses to have an authorised representative;

   (d) the unique identification code of the product-type, the permalink to the manufacturer's products registration(s) in Union databases and the precise location therein where the product can be found;

   (e) the permalink to the manufacturer's own product presentation website, if any there is any;

   (f) the reference number of the declaration of performance; and

   (g) the identification number of the notified body, if applicable.

   The items listed in points d) to f) may be replaced by a permalink to the combined declaration of performance and of conformity (electronic CE marking).

3. The CE marking shall be affixed before the product is placed on the market or directly installed into a construction work. It may be subsequently followed by a pictogram or any other mark indicating a special risk or use.

Article 18

Other markings

Markings other than the CE marking, including private ones, may be affixed on a product only if they do not cover or refer to harmonised technical specifications or to product requirements or essential characteristics or assessment methods included in the harmonised zone.

No other marking than marking set out by Union legislation may be affixed on a product in a distance smaller than the double length of the CE marking measured from any point of the CE and the other marking set out by Union law.

No other marking than the CE marking may be placed on the declaration of performance or the declaration of conformity.

CHAPTER III

OBLIGATIONS AND RIGHTS OF ECONOMIC OPERATORS

Article 19

Obligations of all economic operators

1. An economic operator shall take all necessary measures to ensure continued compliance, including of products, with this Regulation. Where non-compliance of the economic operator or of a product has been stated and corrective action has been requested by a market surveillance authority in accordance with Article 70(1), the economic operator shall submit progress reports to that authority until that authority decides that the corrective action can be closed.

2. Where diverging statements of non-compliance of an economic operator or of a product and requests for corrective action emanate from authorities of different Member States, an economic operator shall take differentiated measures, subject to where the products are intended to be made available on the market or directly installed. Where this is not possible or where a more severe measure imposed by one Member State encompasses the less severe measure imposed by another, the more severe measure shall be taken. Where these rules do not lead to a clear result, the Member States concerned and the Commission, and, on their request, other Member States shall try to find a common solution and, if need is, adopt an implementing act in accordance with Article 33.

3. An economic operator shall, on request of an authority, communicate any economic operator or other actor to that authority:

   (a) who has supplied it with a product, including components or replacement parts of products, or services, with relevance for a product, and the quantity of that supply;

   (b) to who it has supplied a product, including components or replacement parts of products, or services, with relevance for a product, and the quantity of that supply;

   (c) who is involved in financial and other collateral services linked to the making available or direct installation of products.

When identifying the operators referred to in first subparagraph, an economic operator shall inform the authority about to all connected data, including:

(i) addresses of the operators referred to in the first subparagraph;

(ii) contact details of these operators;

(iii) email addresses, websites and social media profiles of these operators;

(iv) tax and company registration numbers of these operators;

(v) bank accounts of these operators; and

(vi) names, addresses, contact details of natural or legal persons acting for those operators.

4. An economic operator shall be able to present all documentation and information referred to in this Chapter to authorities for a period of ten years after they have last been in possession or dealing with the product in question, unless they are permanently available via the product registration database or system established in accordance with Article 78. It shall present the documentation and information within 10 days of receipt of a request by the respective authority.

5. An economic operator shall provide all the requested data into the database or system established in accordance with Article 78 within two months after the availability of that database or system has been stated in a publication of the Official Journal and bear the fees of registration linked thereto. It shall at least bi-annually verify the correctness of the provided data.

An economic operator shall register into its respective national system established in accordance with Article 77(5).

An economic operator shall make available to consumers and users communication channels, including telephone numbers, e-mail or dedicated sections of its website and social media page, allowing it to communicate any accident, other incident or safety issue it has experienced with the product.

6. An economic operator may inform authorities of any likely infringement of this Regulation it becomes aware of. Where this economic operator considers that non-conforming products present a risk to human safety or to the environment, it shall immediately inform the competent authorities of the Member States in which it made the product available thereof, giving details, in particular, of the non-compliance and of any corrective measures taken.

7. An economic operator subject to certification by a notified body or supplying services or parts to manufacturers shall permit notified bodies to have access to its documentation and to its premises to the extent that this is needed for the activities of the notified bodies. It shall produce correct information for notified bodies and shall correct any incorrect information. Moreover, this economic operator shall inform the notified body within one month of all changes that might affect the compliance with this Regulation.

Article 20

Procedural rights of economic operators

1. Any definitive or interim measure, decision or order taken or made by authorities pursuant to this Regulation against an economic operator and the natural or legal persons acting on their behalf shall state the exact grounds on which it is based.

2. Any such measure, decision or order shall be communicated without delay to the relevant economic operator and the natural or legal persons acting on their behalf, who shall at the same time be informed of the remedies available to them under the law of the Member State concerned and of the time limits to which those remedies are subject.

3. Before a measure, decision or order referred to in paragraph 1 is taken or made, the economic operator concerned shall be given the opportunity to be heard within an appropriate period of not less than 10 working days, unless there is urgency of the measure, decision or order, based on health or safety requirements or other grounds relating to the public interests covered by this Regulation.

4. If the measure, decision or order is taken or made without the economic operator being given the opportunity to be heard, the economic operator shall be given that opportunity as soon as possible thereafter and that measure, decision or order can be reviewed promptly by the market surveillance authority.

5. Member States shall ensure that any measure covered by this Article can be appealed, with or without prior administrative appeal procedure, before a competent court. That court shall also be competent for deciding on the suspensive effect of the appeal or interim measures to be imposed by the court in view of both the public interest and the interests of the economic operator.

Article 21

Obligations of manufacturers

1. The manufacturer shall determine the product type, respecting the boundaries set up therefore by the definition provided in Article 3 point (31). The product type shall be processed in accordance with the applicable assessment and verification system set out in Annex V. The manufacturer shall draw up a declaration of performance and a declaration of conformity in accordance with Articles 9 and Articles 11 to 15 and affix the CE marking in accordance with Articles 16 and 17.

2. The manufacturer shall refrain from any claim about the characteristics of a product that is not based on:

   (a) the assessment method contained in a harmonised technical specification where the relevant characteristic is covered by such; or

(b) where no such assessment method exists, an assessment method which represents the most effective and advanced method to achieve an accurate assessment.

3. The manufacturer shall, as the basis for the declarations referred to in paragraph 1, draw up a technical documentation describing the intended use including the precise conditions for use and all the elements necessary to demonstrate performance and conformity.

That technical documentation shall contain the mandatory or facultative calculation of environmental, including climate sustainability assessed in accordance with harmonised technical specifications adopted under this Regulation or with Commission acts adopted under this Regulation.

The second subparagraph shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation for new products.

4. The manufacturer shall ensure that procedures are in place to ensure that series production maintains the declared performance and conformity. Changes in the production process, in product design or in characteristics, and changes in the harmonised technical specifications by reference to which performance or conformity of a product is declared or by application of which its performance or conformity is verified, shall be adequately taken into account and, in case the product's performance or conformity is affected, shall trigger a re-assessment in accordance with the relevant assessment procedure.

The manufacturer shall, where deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance and of the conformity of a product, carry out sample testing of products placed or made available on the market, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep importers and distributors informed of any such monitoring.

The procedures referred to in the first subparagraph, the sample tests referred to in the second subparagraph and the application of the applicable system of Annex V shall be described in the technical documentation referred to in paragraph 3.

5. The manufacturer shall ensure that its product bear a manufacturer-specific type number and a batch or serial number. If this is impossible, the required information shall be provided on the packaging, on an affixed tag or, as last resort, in a document accompanying the product.

The manufacturer shall in the same way as set out in the first subparagraph label a product as "Only for professional use" if it is not intended for consumers or other non-professional users. Products not labelled "Only for professional use" shall be deemed to be also intended for non-professional users and consumers in the meaning of this Regulation and the Regulation (EU) … [Regulation on General Product Safety].

The manufacturer shall, in a visible manner, display to customers before it is bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications.

6. When making a product available on the market in a certain Member State, the manufacturer shall ensure that the product is accompanied by the information set out in harmonised technical specifications and in Annex I Part D in a language determined by the Member State concerned or, in absence of such determination, in a language which can be easily understood by users.

   The Commission may, by means of implementing acts determine the format and the way of transmission of information to be provided by the manufacturer in accordance with the first subparagraph.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

7. The manufacturer shall upload the data of the declaration of performance, of the declaration of conformity, the information referred to in paragraph 6 and the technical documentation in the EU product database or system established in accordance with Article 78.

8. The manufacturer who has reason to believe that a product which it has placed on the market is not in conformity with requirements of this Regulation or adopted in accordance with this Regulation, shall immediately take the necessary corrective measures to bring that product into conformity, or, if appropriate, to withdraw or recall it. If the issue is linked to a supplied component or an externally provided service, the manufacturer shall inform the supplier or service provider and the manufacturer's national competent authority thereof; the latter shall transmit the respective information to the national competent authority responsible for the supplier or service provider and suggest appropriate measures.

9. Where the product presents a risk or is likely to present a risk, the manufacturer shall within two working days thereof inform the authorised representative, importers, distributors, fulfilment service providers, and online market places involved in the distribution, as well as the competent national authorities of the Member States in which the manufacturer or – to its knowledge – other economic operators made the product available. The manufacturer shall, to that effect, provide all useful details and, in particular, specify the type of the non-compliance, the frequency of accidents or incidents and the corrective measures taken or recommended. In case of risks caused by products which have already reached the final user or consumer, the manufacturer shall also alert the media and inform them about appropriate measures to eliminate or, if not possible, to reduce the risks. In case of a "serious risk" in the meaning of Article 3, point (71) the manufacturer shall withdraw and recall the product at their own cost.

10. The manufacturer shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.

Article 22

Additional environmental obligations of manufacturers

1. For the product characteristics specified in Annex I Part A Point 2, the manufacturer shall assess the environmental characteristics of the product in accordance with harmonised technical specifications or with Commission acts adopted under this Regulation and use, once available, the latest version of the software made freely available on the website of the European Commission. However, this shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.

2. Unless product safety or the safety of construction works is thereby negatively impacted, the manufacturer has the following obligations:

   (a) design and manufacture products and their packaging in such a way that their overall environmental, including climate sustainability reaches the state of the art level, unless a lower level:

      (i) is proportionate when compared to the environmental sustainability improvement triggered by them at the level of the construction works; and

      (ii) is either necessary to improve the environmental sustainability at the level of the construction works.

   (b) under the conditions set out in point (a)(i) and (ii) give preference to recyclable materials and materials gained from recycling;

   (c) respect the minimum recycled content obligations and other limit values regarding aspects of environmental, including climate sustainability contained in harmonised technical specifications;

   (d) prevent premature obsolescence of products, use reliable parts and design products in such a way that their durability does not fall beyond the average durability of products of the respective category;

   (e) design products in such a way that they can be easily repaired, refurbished and upgraded, unless such design triggers non-compliance with other requirements of this Regulation, or other Union law, or repairing, refurbishing or upgrading is risky for human safety or the environment, in which case the manufacturer shall refrain from repairable, refurbishable or upgradable design and warn against repairing in accordance with point (f);

   (f) make available, in product databases, instructions for use and on permalinks of their own websites, information on how to repair the products and any additional information necessary for repairing, including relevant warnings;

   (g) make available on the market itself or by specially designated distributors or by manufacturers of spare parts, with reasonably short delivery time, spare parts

for their products for 10 years after the last product of the respective type has been placed on the market or directly installed and inform proactively about this availability;

(h) design products in such a way that re-use, remanufacturing and recycling are facilitated, namely by facilitating the separation of components and materials at the later stage of recycling and avoiding mixed, blended or intricate materials, unless remanufacturing and recycling are risky for human safety or the environment. In this case the manufacturer shall refrain from such design and warn against remanufacturing and recycling in accordance with the following point;

(i) make available, in product databases, instructions for use and on their own websites, information on how to remanufacture or recycle the products and any additional information necessary for re-use, remanufacturing or recycling, including relevant warnings;

(j) accept to regain, directly or via their importers and distributors, ownership of surplus and unsold products that are in a state equivalent to the one in which they were placed on the market.

Where obligations of this paragraph cannot be cumulatively fulfilled due to a conflict arising between different obligations, the manufacturer shall choose a trade-off solution that brings the highest and most cost-effective benefits in terms of environmental sustainability for the products and construction works combined. However, the "safety first" principle, applicable both for the construction product and the construction works, shall in all instances be respected, and shall encompass protection of health.

3. Paragraph 2, points (a) to (c) and paragraph 2 point (j), shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.

4. In order to specify the obligations set out in paragraph 2, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by specifying, for particular product families and categories, these obligations. Alternatively, the Commission may issue standardisation requests which aim at the elaboration of harmonised standards providing presumption of conformity with the obligations of paragraph 2 for a specific product family or category. The obligations contained in paragraph 2 shall not apply before such a delegated act or a harmonised standard has become applicable.

5. In order to ensure transparency for the users and to promote sustainable products, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 87 to establish specific environmental sustainability labelling requirements including "traffic-light-labelling" in relation to environmental obligations set out in paragraph 1, product inherent environmental requirements set out in Annex I Part C Point 2, and environmental performance classes established in accordance with of Article 4(4), point (a).

6. The manufacturer shall affix the traffic light label in the way set out in the delegated acts adopted in accordance with paragraph 5.

Article 23

Obligations of authorised representatives

1. A manufacturer may appoint, by a written mandate, any natural or legal person established within the Union as a single authorised representative. A manufacturer not established in the Union shall appoint a single authorised representative.

2. Authorised representatives shall act with due care in relation to the obligations of this Regulation. They shall be liable for gross negligence or conscious infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.

3. The authorised representative shall perform the tasks specified in the mandate. The mandate shall allow the authorised representative to carry out at least the following tasks and shall give the authorised representative the following rights:

(a) keep the declaration of performance and the technical documentation at the disposal of national market surveillance authorities;

(b) provide the market surveillance authorities with all the information and documentation necessary to demonstrate the conformity of the product with the declaration of performance and compliance with other applicable requirements in this Regulation at their reasoned request;

(c) terminate the contract where the manufacturer infringes this Regulation and inform thereof the competent national authorities of the Member States where the product is placed on the market and the national competent authority of his own place of business;

(d) when having reason to believe that a product in question is non-compliant or presents a risk, inform the national competent authorities of the Member States where the product is placed on the market and the national competent authority of his own place of business thereof; and

(e) cooperate with the market surveillance authorities, at their request, on any action taken

– to eliminate risks posed by products covered by the mandate of the authorised representative; or

– to remedy non-conformities.

The drawing up of technical documentation shall not form part of the authorised representative's mandate, but may become subject to a separate contract between the manufacturer and the authorised representative.

4. The authorised representative shall verify the compliance of the product with requirements regarding marking, labelling, instructions for use, declaration of performance and conformity. The authorised representative shall also verify at a documentary level that the manufacturer satisfies his obligations set out in Article 19(4) to (6), Article 21(1) to (3) and (5) to (7), Article 22(1) and Article 22(2) points (f) and (i), and Article 27(6).

5. Where an authorised representative considers that there is a non-compliance mentioned in the paragraph 4, the authorised representative shall ask the manufacturer to remedy the non-compliances. The manufacturer shall thereon stop the placing on the market and ask other economic operators involved in the distribution to stop their commercial activities, until the authorised representative regards the infringements as remedied. Where the non-compliances are not remedied within one month whilst products possibly continue to be made available on the market, the authorised representative shall be allowed to terminate his contract with the manufacturer and thereof inform the national competent authorities of the Member States where the products are placed on the market and the national competent authority of his own place of business. The latter shall coordinate joint actions of all competent authorities, unless the national competent authorities agree on another national competent authority to coordinate.

Article 24

Obligations of importers

1. The importer shall place on the Union market only products which are compliant with this Regulation. Before placing a product on the market, the importer shall verify at a documentary level that the manufacturer has complied with the obligations set out in Article 21(1), (3) and (5) to (7) and in Article 22(2), points (f) and (i). It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.

2. The importer shall verify that the intended use of the product has been precisely and correctly determined by the manufacturer and shall ensure that the product is accompanied by a clear indication of the information set out in harmonised technical specifications and in Annex I Part D in a language determined by the Member State concerned which can be easily understood by users. The importer shall, in a visible manner, display to customers before they are bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications.

3. The importer shall ensure that, while a product is under its responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Regulation.

4. After having assembled all available product information from the manufacturer and the de-installer, the importer shall in particular scrutinise used and remanufactured products, namely with regard to damages or indications for loss of performance or non-compliance and changed mechanical or chemical properties, and assess all risks; when necessary to ensure safety or the protection of the environment, the importer

shall reduce the intended use or refrain from selling. This obligation shall also apply to used and remanufactured products for which no declaration of performance is mandatory.

5. Where an importer considers or has reason to believe that the product is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Regulation, the importer shall not place the product on the market until it conforms to the accompanying declaration of performance and it complies with the other applicable requirements in this Regulation or until the declaration of performance is corrected. Furthermore, where the product presents a risk, the importer shall inform the manufacturer and the geographically responsible national competent authority thereof.

6. The importer shall indicate its name, registered trade name or registered trade mark, its place of business, its contact address and, where available, electronic means of communication on the product or, where that is not possible, on its packaging or in a document accompanying the product.

7. The importer shall investigate complaints, and, if necessary, keep a register of complaints, of non-conforming products and of product withdrawals or recalls, and shall keep manufacturers and distributors informed of any such monitoring.

8. The importer selling to final users shall also fulfil the obligations incumbent on distributors.

Article 25

Obligations of distributors

1. When making a product available on the market, the distributor shall act with due care in relation to the obligations of this Regulation. It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.

2. When making a product available on the market, the distributor shall fulfil the obligations incumbent on importers in accordance with Article 24(1) to (5) whilst references to "placing on the market" shall be understood as "further making available on the market".

3. The distributor shall ensure that no products are sold to consumers or other non-professional users which are labelled "for professional use only". These products shall, in their premises, online and on paper publicity material, be presented as products for professional use only.

Article 26

Cases in which obligations of manufacturers apply to importers and distributors

1. An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of a manufacturer pursuant to Articles 21 and 22, where:

   (a) there is no manufacturer in the meaning of this Regulation;

   (b) it places a product on the market as manufacturer under its name or trademark;

   (c) it modifies a product in such a way that compliance with the declaration of performance and of conformity or with the requirements set out in and in accordance with this Regulation may be affected;

   (d) it treats a product in a way that changes the hazards or increases the level of risk caused by it during its life-cycle;

   (e) it makes a product available on the market with an intended use that is different from the intended use attributed by the manufacturer in the performance and conformity assessment procedure; or

   (f) it claims for it characteristics deviating from the characteristics claimed by the manufacturer.

2. Paragraph 1 shall also apply to:

   (a) an importer of used or remanufactured products, unless the used or remanufactured product have been placed on the Union market before being used;

   (b) an importer or distributor of used products who does either of the following:

      (i) subjects those used products to a transformative process going beyond repair, cleaning and regular maintenance after being de-installed;

      (ii) opts for assuming the role of the manufacturer.

3. Paragraph 1 shall not apply where the economic operator only:

   (a) adds translations of the information supplied by the manufacturer;

   (b) replaces the outer packaging of a product already placed on the market, including when changing the pack size, if the repackaging is carried out in such a way that the original condition of the product cannot be affected by it and that the information to be provided in accordance with this Regulation is still correctly provided.

4. An economic operator providing the activities listed in paragraph 3 shall inform thereof the manufacturer or its authorised representative, regardless of whether they own the products or whether they provide services. It shall carry out the repackaging

in such a way that the original condition of the product cannot be affected by the repackaging and that the information to be provided in accordance with this Regulation is still correctly provided. The economic operator shall act with due care in relation to the obligations of this Regulation. It shall be liable for infringement of this Regulation.

Article 27

Obligation of fulfilment service providers, brokers, online market places, online sellers, online shops and online search engines

1. When contributing to the making available on the market or direct installation of a product, fulfilment service provider or broker shall act with due care in relation to the obligations of this Regulation. It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.

2. A fulfilment service provider, online seller or broker shall:

   (a) display, in a visible manner, to customers before they are bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications;

   (b) verify that the manufacturer has complied with the obligations set out in Article 21(1), (3) and (5) to (7) and Article 22(2), points (f) and (i);

   (c) fulfil the obligations laid down in Article 24(5), whilst references to "placing on the market" shall be understood as "supporting the making available on the market";

   (d) eliminate all offers for products which are non-compliant or likely to be risky in the meaning of Article 21(9) last sentence on their own initiative or, within two working days, on request of the market surveillance authorities;

   (e) inform concerned authorities on the measures taken in accordance with points (b), (c) and (d);

   (f) support product withdrawals or recalls, regardless of whether initiated by authorities, the manufacturer, the authorised representative or the importer. In cooperation with the economic operator concerned, the fulfilment service provider or broker shall inform consumers directly of product withdrawals or recalls. It shall keep the concerned authorities informed of any action taken.

3. An online marketplace shall:

   (a) design and organise its online interface in such a way that it allows third party traders to provide to the customers of these traders any information referred to in paragraph 2, point (a);

(b) establish a single contact point for direct communication with Member States' authorities in relation to non-compliant, under-performing or unsafe product. This contact point may be the same as the one referred to in [Article 20(1)] of Regulation (EU) …/… [the General Product Safety Regulation] or [Article 10(1)] of Regulation (EU) …/… [the Digital Services Act];

(c) give an appropriate answer without undue delay, and in any event within five working days, in the Member State where the online marketplace operates, to notices related to notification of accidents and other incidents with products received in accordance with [Article 14] of Regulation (EU) […/…] on a Single Market for Digital Services (Digital Service Act) and amending Directive 2000/31/EC;

(d) cooperate to ensure effective market surveillance measures, including by abstaining from putting in place obstacles to such measures;

(e) inform the market surveillance authorities of any action taken;

(f) establish a regular and structured exchange of information on offers that have been removed on the basis of this Article by online marketplaces;

(g) allow online tools operated by market surveillance authorities to access their interfaces in order to identify non-compliant products;

(h) upon request of the market surveillance authorities, when the online marketplace or its online sellers have put in place technical obstacles to the extraction of data from their online interfaces, allow those authorities to scrape such data for product compliance purposes based on the identification parameters provided by the requesting market surveillance authorities.

4. As far as powers conferred by Member States in accordance to Article 14 of Regulation (EU) 2019/1020 are concerned, Member States shall confer on their market surveillance authorities the power, for all products covered by this Regulation, to order an online marketplace to remove specific illegal content referring to a non-compliant product from its online interface, to disable access to it or to display an explicit warning to end users when they access it. Such orders shall comply with [Article 8(1)] of Regulation (EU) …/… [the Digital Services Act].

5. An online marketplace shall take the necessary measures to receive and process in accordance with [Article 8] of Regulation (EU) …/…[the Digital Services Act] the orders referred to in paragraph 4.

6. The paragraphs 1 and 2, paragraph 3, points (b) to (i) and paragraphs 4 and 5 shall also apply to manufacturers, importers, distributors or other economic operators offering products online without involvement of an online marketplace ("online shops").

7. The paragraph 3, points (d) to (h) shall also apply to online search engines.

8. A fulfilment service provider shall ensure that the conditions during warehousing, packaging, addressing or dispatching, do not jeopardise the products' compliance with the requirements set out in this Regulation.

Article 28

Obligations of 3D-printing service providers and of providers of moulds, of 3D-printing datasets, and of 3D-printing materials

1. A 3D-printing service provider shall:

   (a) refrain from placing on the market or directly installing products for clients without satisfying the obligations incumbent on manufacturers;

   (b) inform its clients that they may use 3D-printing services only for the fabrication of products for their own use, unless satisfying the obligations incumbent on manufacturers;

   (c) inform its clients that the 3D-datasets and the materials to be used shall have undergone the procedures applicable to products under this Regulation; and

   (d) inform its clients that both the information provided by the manufacturer of the 3D-dataset and the information provided by the manufacturer of the printing material shall coincide and confirm the usability of the material for that type of 3D-dataset and the given 3D-printing technology.

2. Providers of moulds and of 3D-datasets intended to produce items covered by this Regulation shall produce 10 such items and shall make them available to the notified body, technical assessment body and to authorities on request. Providers of moulds and of 3D-datasets intended to produce items covered by this Regulation shall assess and document the fulfilment of requirements of this Regulation with regard to the produced items.

3. Providers of materials intended to be used for the 3D-printing of items covered by this Regulation on or close to the construction site shall produce 10 such items for each intended use and shall make them available to the notified body, technical assessment body and to authorities on request. Providers of materials intended to be used for the 3D-printing of items covered by this Regulation on or close to the construction site shall assess and document the fulfilment of requirements of this Regulation with regard to the produced items.

Article 29

Obligations of economic operators de-installing or dealing with used products for re-use or remanufacturing

1. An economic operator de-installing used products for re-use or re-manufacturing shall establish protocols on the place, conditions and presumed length of use of the de-installed product and make them available together with the products, regardless whether it exert its activity on its own behalf or for somebody else. The economic operator shall also make the protocols available on request to authorities, to later users of these products and to owners of the construction works in which they were re-installed.

2. Where an economic operator brokers, sells or otherwise makes available de-installed used products on its own behalf or for somebody else, it shall also fulfil the obligations of importers or distributors with regard to used products.

Article 30

Obligations of suppliers and service providers involved in the manufacturing of products

1. A supplier or service provider involved in the manufacturing of products shall:

   (a) provide to manufacturers, notified bodies and authorities all available information on the environmental sustainability of their supplied component or service;

   (b) ensure the correctness of such information namely by respecting this Regulation and correct any errors made by communication to all their clients and, if potentially useful, to notified bodies and authorities;

   (c) permit, in absence of such information, their customers to assess that environmental sustainability on their own expense and support that assessment, namely by giving access to all documents, including those of commercial character, relevant for that assessment;

   (d) permit notified bodies to verify the correctness of any calculation of the environmental sustainability and support that verification;

   (e) permit notified bodies to verify the performance and compliance of the supplied component or service and support that verification.

2. Where a supplier or service provider has been informed in accordance with the last sentence of Article 21(8), it shall forward that information to his other clients who have, in the last 5 years, received components or services which are identical with regard to the issue in question. In case of a serious risk as defined in Article 3, point (71) or a risk falling under the last sentence of Article 21(9), the supplier or service provider shall also inform the national competent authorities of the Member States where products with that component or manufacturing service have been made available on the market or directly installed; where it cannot identify these Member States, it shall inform all national competent authorities.

Article 31

Double use and pseudo products

1. A manufacturer of double use products shall satisfy the obligations of this Regulation for all the items of the respective type, unless they are specifically marked as “not for construction”.

2. Other economic operators dealing with double use products shall fulfil the obligations incumbent on them in accordance with this Regulation. In their

commercial contracts, they shall establish an obligation of their clients to do the same and not to sell or to use items for construction which are marked as "not for construction".

3. For items suitable for construction for which the manufacturer has never intended such use and which, therefore, have not been CE-marked ("pseudo products"), other economic operators shall:

   (a) not acquire or sell them as items being intended for construction without undergoing the procedures set out in this Regulation to be undergone by manufacturers;

   (b) ensure by presentation that they cannot be understood as being intended for construction; and

   (c) establish a contractual obligation of their clients to do the same and not to use these items for construction.

Article 32

Online and other distance sales

1. Products offered for sale online or through other means of distance sales shall be deemed to be made available on the market if the offer is targeted at clients in the Union. An offer for sale shall be considered to be targeted at clients in the Union if the relevant economic operator directs, by any means, its activities to a Member State. Inter alia, an offer shall be considered to be targeted at clients in the Union where:

   (a) the economic operator uses an official language of a Member State, unless selling to the Union is explicitly excluded by effective means;

   (b) the economic operator uses the currency of the Member States or a crypto-currency covered by Regulation (EU) […][47] unless, in the latter case, selling to the Union is explicitly excluded by effective means;

   (c) the economic operator has the used internet domain name registered in one of the Member States or uses an internet domain that refers to the Union or one of the Member States; or

   (d) the geographical areas to which dispatch is available includes a Member State.

2. Member States shall designate a single centralised market surveillance authority responsible for detecting products offered from economic operators outside the Union to clients on their territory online and via other distance sales methods.

[47] Future Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937, see COM/2020/593 final.

Article 33

Implementing acts on economic operators' obligations and rights

Where this is necessary to ensure a harmonised application of this Regulation and only to the extent necessary to prevent diverging practices creating an uneven playing field for economic operators, the Commission may adopt implementing acts providing details on how to execute the obligations and rights of economic operators contained in this Chapter.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

CHAPTER IV

CONSTRUCTION PRODUCTS STANDARDS AND EUROPEAN ASSESSMENT DOCUMENTS

Article 34

Construction products standards

1. Construction products standards shall be established by the European standardisation organisations on the basis of a standardisation request issued by the Commission.

2. Construction products standards developed pursuant to Article 4(2) shall be of mandatory application for purposes of this Regulation as of six months after the publication of their reference in the Official Journal in accordance with paragraph 4, but may be voluntarily applied on request of the manufacturer as from the date of that publication. They shall provide the methods and the criteria for assessing the performance of the products in relation to their essential characteristics. These standards shall, where appropriate and without endangering the accuracy, reliability or stability of the results, provide methods less onerous than testing for assessing the performance of the products in relation to their essential characteristics, classes, threshold levels or product requirements.

3. Construction products standards developed pursuant to the second sentence of Article 5(2) or the third sentence of Article 22(4) shall be voluntary. Products which are in conformity with voluntary standards adopted in accordance with Article 5(2), or parts thereof, the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the requirements laid down in Annex I Part B and C, as specified for the respective product family or category by harmonised technical specifications adopted in accordance with the second sentence of Article 5(2), to the extent that those requirements are covered by such voluntary standards and that this coverage has been precisely stated in the respective harmonised standard. Manufacturers who comply with voluntary standards adopted in accordance with Article 22(2), or parts thereof, the references of which have been published in the Official Journal of the European Union shall be

presumed to be in conformity with the obligations set out in Article 22(2), to the extent that those obligations are covered by such standards and that this coverage has been precisely stated in the respective standard.

4. The Commission shall assess the conformity of construction products standards established by the European standardisation organisations with the relevant standardisation requests, with this Regulation and with other Union law. The Commission shall publish or publish with restrictions in the Official Journal of the European Union the list of references of accepted conforming construction products standards that have been made available at an affordable price. Where a reference to a standard cannot be published otherwise in the Official Journal, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 86 to modify the respective standards for purposes of legal effects under this Regulation.

Article 35

European assessment document

1. Article 4(1) and (4), Article 6, Article 9 and Articles 11 to 17 shall apply to European assessment documents. Where the CE marking is issued on the basis of a European assessment document and European technical assessment, the European assessment document shall be referred to in the declaration of performance and the declaration of conformity.

2. Following a request for a European technical assessment by a manufacturer or a group of manufacturers or on initiative of the Commission, a European assessment document may be drawn up and adopted by the organisation of technical assessment bodies ('TABs') in agreement with the Commission for any product not covered by:

   (a) a harmonised technical specification;

   (b) a harmonised technical specification intended to be adopted in the next 2 years as from the date of verification with the Commission;

   (c) another European assessment document already cited in the Official Journal or submitted to the Commission for citation therein.

   The product shall not be considered as covered by the harmonised technical specification where:

   (i) the intended use of the product is different than the intended use supposed in the document,

   (ii) the materials used are not identical to the materials intended to be used under the document, or

   (iii) the assessment method of the document is not appropriate for that product.

3. The organisation of TABs and the Commission may bundle or reject requests for the development of a European assessment document. The procedure for adopting the

European assessment document shall respect Article 36 and shall comply with Article 37 and Annex III.

4. The Commission is empowered to amend Annex III by delegated act adopted in accordance with Article 87 to establish supplementary procedural rules for the development and adoption of a European assessment document, where this is necessary to ensure the good functioning of the European assessment documents system.

Article 36

Principles for the development and adoption of European assessment documents

1. The procedure for developing and adopting European assessment documents shall respect the following principles:

   (a) be transparent to Member States, the manufacturer concerned and to other manufacturers or stakeholders that request to be informed;

   (b) disclose as little as possible information protected by intellectual property rights, and protect commercial secrecy and confidentiality;

   (c) specify appropriate mandatory time limits in order to avoid unjustified delay;

   (d) allow at any stage for adequate participation by the Member States and the Commission;

   (e) be cost-effective for the manufacturer; and

   (f) ensure sufficient collegiality and coordination amongst TABs designated for the product in question.

   The balancing of principles laid down in points (a) and (b) shall at least allow for the disclosure of the name of the product at the stage of the approval and the communication of the work programme, as set out in Annex III, point 3., and the detailed contents of the draft European assessment document set out in Annex III, point 7.

2. The TABs shall, together with the organisation of TABs, bear the full costs of the development and adoption of European assessment documents, unless it is started on initiative of the Commission.

3. TABs and the organisation of TABs shall avoid any proliferation of European assessment documents where there is no technical justification for differentiating between products and therefore in particular give preference to the extension of a scope of an existing European assessment document.

4. TABs and the organisation of TABs shall refrain from developing European assessment documents where there is a high likelihood of duplication with harmonised technical specifications or pre-existing European assessment documents and shall withdraw duplicating European assessment documents.

Article 37

Obligations of the TAB receiving a request for a European technical assessment

1. The TAB receiving a request for a European technical assessment from a manufacturer, a group of manufacturers or the manufacturers' association shall inform the applicant if the product is covered, fully or partially, by a harmonised technical specification or European assessment document as follows:

   (a) where the product is fully covered by a harmonised technical specification, the TAB shall inform the manufacturer, the group of manufacturers or the manufacturers' association that, in accordance with Article 35(2), a European technical assessment cannot be issued;

   (b) where the product is fully covered by a European assessment document the reference of which has been cited in the Official Journal, the TAB shall inform the manufacturer, the group of manufacturers or the manufacturers' association that such a document will be used as the basis for the European technical assessment to be issued;

   (c) where the product is not covered by any harmonised technical specification or European assessment document and where no such harmonised technical specification is intended to be adopted in the next two years, or no such or European assessment document is already in the procedure of developing pursuant to Annex III, the TAB shall apply the procedures set out in Annex III or those established in accordance with Article 35(4).

2. In the cases referred to in paragraph 1, points (b) and (c), the TAB shall inform the organisation of TABs and the Commission of the content of the request and of the reference to a relevant Commission act determining the assessment and verification system, which the TAB intends to apply for that product, or of the lack of such a Commission decision.

3. If the Commission considers that an appropriate Commission act determining the assessment and verification system does not exist for the product, it may adopt such act in accordance with Article 6(1).

Article 38

Publication of references

1. The Commission shall assess the conformity of European assessment documents with harmonised technical specifications, with this Regulation and with other Union law. The Commission shall publish or publish with restriction in the Official Journal of the European Union the list of references of accepted conforming European assessment documents. The Commission shall publish any updates to that list.

2. Only European assessment documents referred to in that list and published in at least one language of the Union by either the Commission or by the organisation of TABs

shall authorise the issuing of European technical assessments in accordance with Article 42 and trigger legal effects in accordance with Article 42(5), including with regard to the manufacturer who requested the development of the European assessment document. This legal effect of European assessment documents shall expire ten years after their first citation in the Official Journal of the European Union unless they have been renewed in the last year prior to expiry and the Commission decides to maintain the listing.

Article 39

Dispute resolution in cases of disagreement between TABs

If the TABs do not agree upon the European assessment document within the time limits provided for, the organisation of TABs shall submit this matter to the Commission for appropriate resolution, including instructions to this organisation how to complete its work.

Article 40

Content of the European assessment document

1. A European assessment document shall contain the following elements:

   (a) a description of the product covered; and

   (b) the list of essential characteristics, relevant for the intended use of the product as set out by the manufacturer and agreed between the manufacturer and the organisation of TABs, and the methods and criteria for assessing the performance of the product in relation to those essential characteristics.

2. Principles for the applicable factory production control to be applied shall be set out in the European assessment document, taking into account the conditions of the manufacturing process of the product concerned.

3. Where the performance of some of certain essential characteristics of the product can appropriately be assessed with methods and criteria established in harmonised technical specifications or European assessment documents, those existing methods and criteria shall be incorporated as parts of the European assessment document, unless there are good reasons to deviate from this rule.

Article 41

Formal objections against European assessment documents

1. A Member State shall inform the Commission of all of the following:

   (a) where it considers that a European assessment document does not entirely satisfy applicable legal requirements or the demands to be met in relation to the

basic requirements for construction works or product requirements set out in Annex I;

(b) where it considers that a European assessment document raises a major concern for human health and safety, the protection of the environment or consumer protection;

(c) where it considers that a European assessment document does not fulfil the requirements set out in Article 35(2),

The Member State concerned shall substantiate its viewpoints. The Commission shall consult the other Member States on the issues raised by the Member State concerned.

2. In the light of the views of all the Member States, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the references to the European assessment documents concerned in the Official Journal of the European Union.

3. The Commission shall inform the organisation of TABs of its decision referred to in paragraph 2 and, where necessary, request the revision of the European assessment document concerned.

Article 42

European technical assessment

1. The European technical assessment shall be issued by a TAB, at the request of a manufacturer on the basis of a European assessment document established in accordance with the procedures set out in Article 37 and Annex III the reference of which has been cited in the Official Journal of the European Union in accordance with Article 38.

Provided that there is a European assessment document, a European technical assessment may be issued even in the case where a standardisation request has been issued. Such issuing shall be possible until the citation of the construction products standard in the Official Journal of the Union.

2. The European technical assessment shall include the performance to be declared, by levels or classes, or in a description, of those essential characteristics agreed by the manufacturer and the TAB receiving the request for the European technical assessment for the declared intended use, and technical details necessary for the implementation of the assessment and verification system.

3. The Commission may adopt implementing acts to establish the format of the European technical assessment.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

4. European technical assessments issued on the basis of a European assessment document remain valid for five years after the expiry date of the European assessment document in accordance with Article 38(2).

5. Products covered by a European assessment document for which a European technical assessment has been issued may be CE marked and thereby obtain the same status as products CE marked on the basis of harmonised technical specifications, where the manufacturer satisfies the obligations set out in this Regulation. Where these obligations refer to harmonised technical specifications, the manufacturer shall refer to the European assessment document instead or, where the harmonised technical specifications are also relevant, in addition.

CHAPTER V

TECHNICAL ASSESSMENT BODIES

Article 43

Designating authorities

1. Member States wishing to designate technical assessment bodies shall designate a single authority in charge of technical assessment bodies (hereafter: the "designating authority"). Designating authorities shall satisfy the requirements for notifying authorities set out in Articles 48(1) and Article 49. The designating authority shall not be eligible for designation in accordance with Article 44(1).

2. Unless otherwise specified in this Chapter, the provisions applicable to notifying authorities and to notification procedures apply also to designating authorities and to the designation procedures. However, Member States may not use accreditation.

Article 44

Designation, monitoring and evaluation of TABs

1. Member States may designate Technical Assessment Bodies (TABs) within their territories for one or several product areas listed in of Annex IV, Table 1. The Commission is empowered to amend this table by delegated acts adopted in accordance with Article 87 to adapt it to technical progress.

   Member States shall communicate the name of the technical assessment body, its address and the product areas referred to in the first sentence to the Commission.

2. The Commission shall publish the list of those TABs that satisfy applicable legal requirements referred to Article 45(1) and (2) by electronic means and indicate the

product areas for which they are designated and any limitations in the most precise possible way.

The Commission shall publish any updates to that list.

3. The designating authority designated in accordance with Article 43 shall monitor the activities and competence of the TABs designated in their respective Member State, and where necessary their subsidiaries and subcontractors, and evaluate them in relation to the respective requirements set out in this Chapter. The designating authority shall instruct the TABs wherever there is an infringement of law or common practice agreed between the Member States and the Commission. In case of repeated infringement of the law, it may revoke the designation of the TAB.

Member States shall inform the Commission of their national procedures for the designation of TABs, of the monitoring of their activity and competence, and of any changes to that information.

4. TABs shall, without delay, and at the latest within 15 days, inform the relevant Member State and notified authority of any changes which may affect their compliance with the requirements set out in this chapter or their ability to satisfy their obligations under this Regulation.

5. The Commission may investigate the compliance of TABs with the requirements set out in this chapter, as well as the fulfilment by the responsible designating authorities of their monitoring obligations.

6. TABs shall, upon request by the relevant designating authority, supply all relevant information and documents, required to enable the authority, the Commission and the Member States to verify compliance.

7. Where a TAB no longer complies with the requirements of this Regulation, the Member State shall withdraw the designation of that TAB for the relevant product area and inform the Commission and the other Member States thereof. Articles 58 and 59 apply.

Article 45

Requirements for TABs

1. A TAB shall be competent and equipped to carry out the assessment in the product area for which it has been designated. The decision making staff and at least half of the technical competent staff of the TAB shall be located in the designating Member State.

2. The TAB shall satisfy the requirements set out in Annex IV, Table 2 within the scope of its designation. Article 50(1) to (5), Article 50(6) points (a) and (b), Article 50(7), (8) and (10) and Article 51 shall apply.

3. A TAB shall have made publicly available its organigram and the names of the members of its internal decision-making bodies.

Where a TAB no longer complies with the requirements referred to in paragraphs 1 and 2, the Member State shall withdraw the designation of that TAB for the relevant product area and inform the Commission and the other Member States thereof.

Article 46

Coordination of TABs

1. The TABs shall establish an organisation for technical assessment ("organisation of TABs") under this Regulation.

2. The organisation of TABs shall at least carry out the following tasks:

   (a) investigate the potential for new harmonised technical specifications and inform the Commission of such potential;

   (b) organise the coordination of the TABs and, if necessary, ensure cooperation and consultation with other stakeholders;

   (c) ensure that examples of best practice are shared between TABs to promote greater efficiency and provide a better service to industry;

   (d) develop and adopt European assessment documents;

   (e) coordinate the application of the procedures set out in Article 65(2) and in Article 66(1), as well as provide the support needed to that end;

   (f) inform the Commission of any question related to the preparation of European assessment documents and of any aspects related to the interpretation of the procedures set out in Article 65(2) and in Article 66(1) and suggest improvements to the Commission based on experience gained;

   (g) communicate any observations concerning a TAB not satisfying its tasks in accordance with the procedures set out in Article 65(2) and in Article 66(1) to the Commission and the Member State which designated the TAB;

   (h) report annually to the Commission on the fulfilment of the tasks referred to above, and in particular on the geographical distribution of the TABs, the allocation of European assessment document development tasks to the TABs and the performance and the independence of TABs; and

   (i) ensure that adopted European assessment documents and references to European technical assessments are kept publicly available in all EU languages.

   The organisation of TABs shall asset up a secretariat in order to carry out these tasks.

3. Member States shall ensure that the TABs contribute with financial and human resources to the organisation of TABs. The value of the contribution of each TAB shall not be less than 2% of its annual budget or turn-over.

4. The weight in the decision making process of the organisation of TABs shall not depend on the TABs' financial contribution, the number of European assessment documents developed or the number of European technical assessments issued by them.

5. The Commission shall be invited to participate in all meetings of the organisation of TABs.

6. The Commission may make the financing of the organisation of TABs, regardless of via grants or public tenders, subject to the fulfilment of certain organisational and performance requirements, including with regard to a fair geographic distribution of TABs.

CHAPTER VI

NOTIFYING AUTHORITIES AND NOTIFIED BODIES

Article 47

Notification

Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party tasks in the assessment and verification of performance, assessment of conformity and of the verification of environmental sustainability calculations for the purposes of this Regulation (hereinafter referred to as 'notified bodies').

Member States shall inform the Commission of their national procedures for the assessment and notification of bodies to be authorised to carry out these tasks. The Commission shall make that information publicly available.

Article 48

Notifying authorities

1. Member States shall designate a notifying authority responsible for setting up and carrying out the necessary procedures for the assessment and notification of the bodies to be authorised to carry out third-party tasks in the assessment and verification process for the purposes of this Regulation, and for the monitoring of notified bodies, including their compliance with requirements laid out in Article 50.

2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by their national accreditation bodies in accordance with Chapter II of Regulation (EC) No 765/2008. Member States shall instruct their national accreditation body to take as a basis for accreditation only the precise legal body applying for accreditation and to assess that body against the relevant requirements and tasks laid down in this Regulation.

3. Where the notifying authority delegates the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity that body shall be a legal person and shall comply with the requirements laid down in Article 49. In addition, it shall have arrangements to cover liabilities arising from its activities.

4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraphs 2 and 3.

5. The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for policy on notification and notifying authorities.

Article 49

Requirements relating to notifying authorities

1. The notifying authority shall be established in such a way that no conflicts of interest with notified bodies occur.

2. The notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

3. The notifying authority shall be organised in such a way that each decision relating to notification of a body to be authorised to carry out third party tasks in the assessment and verification process is taken by competent persons different from those who carried out the assessment.

4. The notifying authority shall not offer or provide activities performed by notified bodies, or consultancy services on a commercial or competitive basis.

5. The notifying authority shall safeguard the confidentiality of the information obtained. However, it shall, upon request, exchange information on notified bodies with the Commission, with notifying authorities of other Member States and with other relevant national authorities.

6. The notifying authority shall have a sufficient number of competent personnel and sufficient funding at its disposal for the proper performance of its tasks. The Commission may adopt implementing acts laying down a minimum number of full-time equivalences considered sufficient for the proper monitoring of notified bodies, where appropriate in relation to specific conformity assessment tasks. Where monitoring is carried out by a national accreditation body or a body referred to in Article 48(3), this minimum number shall apply to that body.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

Article 50

Requirements for notified bodies

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.

2. A conformity assessment body shall be established under national law and have legal personality.

3. A conformity assessment body shall be independent of the organisation or the product it assesses.

   It shall be independent of any and all business ties with organisations having an interest in the products it assesses, manufacturers, their trade partners or their shareholding investors, as well as with other notified bodies and their business associations, parent companies or subsidiaries. This does not preclude the notified body from carrying out assessment and verification activities for competing manufacturers.

   A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such an independent body.

4. A notified body, its top-level management and the personnel responsible for carrying out the third party tasks in the assessment and verification process shall not be the designer, manufacturer, supplier, importer, distributor, installer, purchaser, owner, user or maintainer of the products which it assesses, nor the representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the notified body or the use of products for personal purposes.

   A notified body, its top-level management and the personnel responsible for carrying out the third party tasks in the assessment and verification process shall not become directly involved in the design, manufacture or construction, marketing, installation, use or maintenance of those products, nor represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement and integrity related to the activities for which they have been notified nor provide consultancy services.

   A notified body shall ensure that activities of its parent or sister companies, its subsidiaries or subcontractors do not affect the confidentiality, objectivity and impartiality of its assessment and/or verification activities.

   The establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of personnel to specific tasks and the conformity assessment decisions may not be delegated to a subcontractor or a subsidiary.

5. A notified body and its personnel shall carry out the third party tasks in the assessment and verification process with the highest degree of professional integrity and requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment and/or verification activities, especially from persons or groups of persons with an interest in the results of those activities.

6. A notified body shall be capable of carrying out all the third party tasks in the assessment and verification process assigned to it in accordance with Annex V in relation to which it has been notified, whether those tasks are carried out by the notified body itself or on its behalf and under its responsibility.

At all times and for each assessment and verification system and for each kind or category of products, essential characteristics and tasks in relation to which it has been notified, the notified body shall have the following at its disposal:

(a) the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the third party tasks in the assessment and verification process. Personnel responsible for taking assessment decisions shall be employed by the notified body under the national law of the notifying Member State, shall not have any other potentially conflicting loyalty obligation or potential conflict of interest, shall be competent to verify the assessments made by other staff, external experts or subcontractors. Its number shall be sufficient to ensure business continuity and a consistent approach to conformity assessments;

(b) the necessary description of procedures according to which the assessment process is carried out, ensuring the transparency and the ability of reproduction of these procedures. This shall include a qualification matrix matching relevant personnel, their respective status and tasks within the conformity assessment body with the conformity assessment tasks in relation to which the body intends to be notified;

(c) appropriate policies and procedures in place that distinguish between the tasks it carries out as a notified body and other activities;

(d) the necessary procedures to perform its activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

A notified body shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it intends to be notified in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out the activities in relation to which the body intends to be notified, shall have the following:

(a) sound technical and vocational training covering all the third party tasks in the assessment and verification process within the relevant scope for which the body has been notified;

(b) satisfactory knowledge of the requirements of the assessments and verifications it carries out and adequate authority to carry out such operations;

(c) appropriate knowledge and understanding of the applicable harmonised technical specifications and of the relevant provisions of the Regulation;

(d) the ability required to draw up the certificates, records and reports to demonstrate that the assessments and the verifications have been carried out.

8. The impartiality of the body, its top-level management and assessment personnel shall be guaranteed.

The remuneration of the body's top-level management and assessment personnel shall not depend on the number of assessments carried out or on the results of such assessments.

9. A notified body shall take out liability insurance unless liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the assessment and/or the verification performed.

10. The personnel of the notified body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks under Annex V, except in relation to the competent administrative authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11. A notified body shall ensure that its assessment personnel is informed of the relevant standardisation activities and shall participate in, and ensure that its assessment personnel is informed of, activities of the notified body coordination group established under this Regulation and shall apply as general guidance the administrative decisions and documents produced as a work result of that group.

Article 51

Presumption of conformity

A conformity assessment body to be authorised to carry out third party tasks in the assessment and verification process which demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, shall be presumed to comply with the requirements set out in Article 50 in so far as the applicable harmonised standards cover those requirements.

Article 52

Formal objection

Where a Member State or the Commission has a formal objection to the harmonised standards referred to in Article 51, the provisions of Article 11 of Regulation (EU) 1025/2012 shall apply.

Article 53

Subsidiaries and subcontractors of notified bodies

1. Where a notified body subcontracts specific tasks connected with the third party tasks in the assessment and verification process or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 50, and shall inform the notifying authority accordingly.

2. The notified body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established. The relevant notified bodies shall establish procedures for the on-going monitoring of the competence, activities and performance of its subcontractors or subsidiaries, taking into account the qualification matrix referred to in Article 50(6) point (b).

3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4. The notified body shall keep at the disposal of the notifying authority the relevant documents concerning the assessment and monitoring of the qualifications of any subcontractor or the subsidiary and the tasks carried out by such parties under Annex V.

Article 54

Use of facilities outside the testing laboratory of the notified body

1. On request of the manufacturer and where justified by technical, economic or logistic reasons, notified bodies may decide to carry out the tests referred to in Annex V, for the assessment and verification systems 1+, 1 and 3 or have such tests carried out under their supervision, either in the manufacturing plants using the test equipment of the internal laboratory of the manufacturer or, with the prior consent of the manufacturer, in an external laboratory, using the test equipment of that laboratory.

   Notified bodies carrying out such tests shall be specifically designated as competent to work away from their own test facilities and shall in that regard comply with the requirements laid down in Article 50.

2. Before carrying out the tests referred to in paragraph 1, notified bodies shall verify whether the requirements of the test method are satisfied and shall evaluate whether:

   (a) test equipment has an appropriate calibration system and the traceability of the measurements is guaranteed; and

   (b) the quality of the test results is ensured.

   Notified bodies shall assume full responsibility for the tests in their entirety, including the accuracy and traceability of calibration and measurements, and for the reliability of the test results

Article 55

Application for notification

1. A body to be authorised to carry out third party tasks in the assessment and verification process shall submit an application for notification to the notifying authority of the Member State in which it is established.

2. The application shall be accompanied by a description of the activities to be performed, the assessment and/or verification processes for which the body claims to be competent, the qualification matrix referred to in Article 50(6), point (b), an accreditation certificate, where one exists, issued by the national accreditation body within the meaning of Regulation (EC) No 765/2008, attesting that the body meets the requirements laid down in Article 50. The accreditation certificate shall relate only to the specific conformity assessment body applying for notification and not take account of the capacities or personnel of parent or sister companies. It shall be based, in addition to relevant harmonised standards, on the specific requirements and assessment tasks.

3. Where the body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 50.

Article 56

Notification procedure

1. Notifying authorities may notify only bodies which have satisfied the requirements laid down in Article 50.

2. They shall notify the Commission and the other Member States, notably using the electronic notification tool developed and managed by the Commission.

   Exceptionally, for cases set out in Annex VI, for which the appropriate electronic tool is not available, a hard copy of the notification shall be accepted.

3. The notification shall include full details of the functions to be performed, reference to the relevant harmonised technical specification and, for the purposes of the system set out in Annex V, the essential characteristics for which the body is competent.

   However, reference to the relevant harmonised technical specification is not required in the cases set out in Annex VI.

4. Where a notification is not based on an accreditation certificate as referred to in Article 55(2), the notifying authority shall provide the Commission and the other Member States with all documentary evidence which attests to the body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 50.

5. A notification may become valid only where no objections are raised by the Commission or the other Member States within 2 weeks of notification, where an accreditation certificate is used, or within 2 months of notification, where an accreditation certificate is not used.

The notification shall become valid the day after the body is included in the list of notified bodies referred to in Article 57(2) by the Commission. The Commission shall not list a body if it is aware or becomes aware that the relevant body does not meet the requirements laid down in Article 50.

6. The body concerned may perform the activities of a notified body only after the notification has become valid. Only such a body shall be considered as a notified body for the purpose of this Regulation.

7. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

Article 57

Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to each notified body.

It shall assign a single such number even where the body is notified under several Union acts.

2. The Commission shall make publicly available the list of bodies notified under this Regulation, including the identification numbers that have been allocated to them and the activities for which they have been notified, notably using the electronic notification tool developed and managed by the Commission.

The Commission shall ensure that this list is kept up-to-date.

Article 58

Changes to the notification

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 50, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw the notification as appropriate, depending on the seriousness of the failure to meet those requirements or to fulfil those obligations.

2. In the event of withdrawal, restriction or suspension of notification or where the notified body has ceased its activity, the notifying Member State concerned shall take the appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 59

Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.

2. The notifying Member State shall provide the Commission, on request, with all information related to the basis for notification or the maintenance of the competence of the body concerned.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

Article 60

Operational obligations for notified bodies

1. Notified bodies shall, in accordance with Annex V:

   (a) assess the performance and the conformity of products;

   (b) verify the conformity of products and of the manufacturer;

   (c) verify the constancy of performance of products;

   (d) verify the calculation of environmental sustainability calculations undertaken by the manufacturer.

   These tasks are hereafter referred to as "assessments and verifications".

2. Assessments and verifications shall be carried out with transparency as regards the manufacturer, and in a proportionate manner, avoiding an unnecessary burden for economic operators. The notified bodies shall perform their activities taking due account of the size of the undertaking, the sector in which the undertaking operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

   In so doing, the notified bodies shall nevertheless respect the degree of rigour required for the product by this Regulation and the part played by the product for the fulfilment of all basic requirements for construction works.

3. Where, in the course of the initial inspection of the manufacturing plant and of factory production control, a notified body finds that the manufacturer has not ensured the constancy of performance and conformity of the manufactured product, it shall require the manufacturer to take appropriate corrective measures and shall not issue a certificate.

4. Where, in the course of the monitoring activity aiming at the verification of conformity and of the constancy of performance of the manufactured product, a notified body finds that a product no longer has the same performance to that of the product-type, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw its certificate if necessary.

5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.

6. When taking assessment decisions, including when deciding on the need to suspend or withdraw a certificate or approval decisions in light of possible non-compliances, notified bodies shall apply clear and pre-determined criteria.

7. Notified bodies shall ensure rotation between the personnel carrying out different assessment tasks.

Article 61

Information obligations for notified bodies

1. Notified bodies shall inform the notifying authority of the following:

   (a) any refusal, restriction, suspension or withdrawal of certificates;

   (b) any circumstances affecting the scope of, and conditions for, notification;

   (c) any request for information on assessment or verification activities carried out which they have received from market surveillance authorities; and

   (d) on request, third party tasks in accordance with the systems of assessment and verification carried out within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

2. Notified bodies shall provide the other bodies notified under this Regulation carrying out similar third party tasks in accordance with the assessment and verification systems and for products covered by the same harmonised technical specification with relevant information on issues relating to negative and, on request, positive results from these assessments verifications, and therein in particular any refusal, restriction, suspension, or withdrawal of certificates or test reports. On request from other notified bodies or an authority, a notified body shall confirm the status of certificates or test reports issued by it.

3. Where the Commission or the market surveillance authority of a Member State submits a request to a notified body established on the territory of another Member State relating to an assessment carried out by that notified body, it shall send a copy of that request to the notifying of that other Member State. The notified body concerned shall respond without delay and within 15 days at the latest to the request. The notifying authority shall ensure that such requests are resolved by the notified body unless there is a legitimate reason for not doing so.

4. 4. Notified bodies shall share with the market surveillance or notifying authority concerned, as appropriate, evidence on all of the following:

(a) another notified body does not comply with the requirements laid down in Article 50 or its obligations;

(b) a product placed on the market does not comply with this Regulation;

(c) a product placed on the market, due to its physical condition, is likely to cause a serious risk.

Article 62

Implementing acts on notified bodies' obligations and rights

Where this is necessary to ensure a harmonised application of this Regulation and only to the extent necessary to prevent diverging practices leading to unequal treatment of and creating an uneven playing field for economic operators, the Commission may, adopt implementing acts providing details on how to execute the obligations of notified bodies contained in Articles 60 and 61.

Those implementing acts shall be adopted in accordance with examination procedure referred to in Article 88(2).

Article 63

Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between bodies notified pursuant to Article 47 are put into place and properly operated in the form of a group of notified bodies. Coordination and cooperation in the groups referred to in paragraph 1 shall aim at ensuring the harmonised application of this Regulation.

Notified bodies shall participate in the work of that group, directly or by means of designated representatives.

Notified bodies shall apply as general guidance the administrative decisions and documents produced by that group.

CHAPTER VII

SIMPLIFIED PROCEDURES

Article 64

Use of appropriate technical documentation

1. A manufacturer may replace type testing by appropriate technical documentation demonstrating that:

   (a) for one or several essential characteristics of the product, which the manufacturer places on the market, that product is deemed to achieve a certain level or class of performance without testing or calculation, or without further testing or calculation, in accordance with the conditions set out to that end in the relevant harmonised technical specification or a Commission act; or

   (b) the product, covered by a harmonised technical specification, which the manufacturer places on the market is a system made of items, which the manufacturer assembles duly following precise instructions, including compatibility criteria in case of individual items, given by the provider of such a system or of a component thereof, who has already tested that system or that item for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When these conditions are satisfied and when the manufacturer has notably verified that the precise compatibility criteria of the provider are met, the manufacturer is entitled to declare performance corresponding to all or part of the test results for the system or the item provided to him.

2. If the product referred to in paragraph 1 belongs to a family or category of products for which the applicable assessment and verification system is system 1 + or 1, as set out in Annex V, a notified body or TAB shall, in addition to the tasks set out in Annex V, assess and certify the correct fulfilment of the obligations referred to in paragraph 1.

Article 65

Use of simplified procedures by micro-enterprises

1. Micro-enterprises manufacturing products covered by a harmonised technical specification may treat products to which system 3 applies in accordance with provisions for system 4. When a manufacturer uses this simplified procedure, the manufacturer shall demonstrate compliance of the product with the applicable requirements by means of a Specific Technical Documentation.

2. The fulfilment of the requirements of this Article shall be assessed and confirmed by a TAB or a notified body.

Article 66

Custom-made non-series products

1. In relation to products covered by a harmonised technical specification and which are individually manufactured or custom-made in a non-series process in response to a specific order, and which are installed in a single identified construction work by manufacturers who are also responsible for the safe incorporation of those products into construction works, the performance assessment part of the applicable system, as set out in Annex V, may be replaced by the manufacturer by Specific Technical Documentation demonstrating compliance of that product with the applicable requirements and providing data equivalent to those required by this Regulation and the applicable harmonised technical specifications. Equivalence is given where all the data needed and requirements applicable to the particular construction work and its future dismantling, including reuse, remanufacturing and recycling of its installed products, are provided or fulfilled on the basis of state-of-the-art methods.

2. A notified body or TAB shall, in addition to the tasks set out in Annex V, assess and certify the correct fulfilment of the obligations referred to in paragraph 1.

Article 67

Recognition of assessment and verification by another notified body

1. A notified body (hereafter: recognising notified body) may refrain from the assessment and verification of a certain item to be assessed or verified in accordance with this Regulation and recognise the assessment and verification undertaken by another notified body for the same economic operator where:

   (a) the item has been correctly assessed and verified by the other notified body which is - whilst being rebuttable - to be assumed where the respective report does not contain any information suggesting an error;

   (b) there is an agreement in place between the two notified bodies obliging them to share all information regarding the assessment and verification and their respective certificates and reports;

   (c) the assessed or verified economic operator agrees to share all relevant data and documents with the recognising notified body;

   (d) the validity of the certificate is limited to the validity of the certificate issued by the other notified body.

   This paragraph shall also apply to test reports that are not followed by a certification and to assessments of calculation of the environmental sustainability undertaken under Regulation (EU) ... [Regulation on ecodesign for sustainable products].

2. Where the notified body wishes to recognise an assessment or verification undertaken by another notified body in relation to an economic operator for which

only the other notified body is in charge ("other economic operator"), and provided that there is additionally an agreement in place between the two economic operators that ensures the free flow of all information between them and the notified bodies in view of ensuring compliance with this Regulation, the recognition shall only be possible with regard to the following:

(a) with regard to the verification of the environmental sustainability calculation of the other economic operator, namely supplier or service provider, and their respective supplied goods or services, or

(b) with regard to components where these components do not constitute the entire product.

This paragraph shall also apply to assessments of calculation of the environmental sustainability undertaken under Regulation (EU) ... [Regulation on ecodesign for sustainable products].

CHAPTER VIII

MARKET SURVEILLANCE AND SAFEGUARD PROCEDURES

Article 68

Complaint Portal

1. The Commission shall set up a system allowing any natural or legal person to share complaints or reports related to possible non-compliances with this Regulation.

2. Where the Commission consider a complaint or report relevant and substantiated, it shall assign it to a market surveillance authority for it to follow-up with the relevant natural or legal person in accordance with Article 11(7), point (a) of Regulation (EU) 2019/1020.

Article 69

Competent authorities

1. Member States shall designate, amongst their market surveillance authorities, one or more 'competent authorities' that dispose of the particular knowledge needed to assess products both technically and legally.

2. Member States shall designate, amongst their competent authorities, the 'national competent authority' which is the focal point for contacts with other Member States.

Article 70

Procedure to deal with non-compliances

1. Where a market surveillance authority of one Member State has sufficient reason to believe that certain products covered by a construction products standard or for which a European technical assessment has been issued, or its manufacturer, is non-compliant, it shall carry out an evaluation in relation to the products and the manufacturer concerned covering the respective requirements laid down by this Regulation. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

   Where, in the course of that evaluation, the market surveillance authority finds that the products or its manufacturer does not comply with the requirements and obligations laid down in this Regulation, it shall without delay require the relevant economic operators to take all appropriate and proportionate corrective actions to bring the products or himself into compliance with those requirements and obligations or to withdraw the products from the market, or to recall them, all within a reasonable period and commensurate with the nature and degree of the non-compliance. The corrective action required to be taken by the economic operators may include the actions listed in Article 16(3) of Regulation (EU) 2019/1020.

   The market surveillance authority shall inform the notified bodies accordingly, if notified bodies are involved.

2. Where the market surveillance authority considers that the non-compliance is not limited to its national territory, it shall, via the national competent authority, inform the Commission and the other Member States of the results of the evaluation and of the actions which it has required the economic operators to take.

3. The economic operators shall take all appropriate corrective action in respect of all the products that that economic operators has made available on the market throughout the Union.

4. Where the relevant economic operators, within the period referred to in the second subparagraph of paragraph 1, do not take adequate corrective action or where the non-compliance persists, the market surveillance authority shall take all appropriate provisional or definitive measures to prohibit or restrict the making available on the market of the products, to withdraw these product from the market or to recall them.

   The market surveillance authority shall inform the public, and via the national competent authority the Commission and the other Member States, without delay, of those measures.

5. The information referred to in the last sentence of paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant products, the origin of the products, the nature of the non-compliance alleged and the risk involved, the nature and duration of national measures taken as well as the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

(a) failure of the products to achieve the declared performance and/or to meet the requirements related to the fulfilment of basic requirements for construction works laid down in this Regulation;

(b) failure of the manufacturer to meet obligations;

(c) shortcomings in the harmonised technical specifications or a European assessment document.

6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the products concerned, and, in the event of disagreement with the notified national measure, of their objections.

7. Where, within two months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State in relation to the product concerned, that measure shall be deemed justified.

8. The other Member States shall ensure that appropriate restrictive measures are taken without delay in respect of the product or manufacturer concerned, such as withdrawal of the products from their market.

Article 71

Union safeguard procedure

1. Where, on completion of the procedure set out in Article 70(4), objections are raised against a measure taken by a Member State or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide by means of implementing act adopted whether the measure is justified or not.

   Those implementing acts shall be adopted in accordance with advisory procedure referred in Article 88(1).

   The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic operators.

2. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant product is withdrawn from their markets and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.

3. Where the national measure is considered to be justified and the non-compliance of the product or its manufacturer is attributed to shortcomings in the construction

products standards as referred to in Article 70(5), point (c), the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.

Article 72

Complying products which nevertheless present a risk

1. Where, having performed an evaluation pursuant to Article 70(1), a market surveillance authority Member State finds that, although certain products are in compliance with this Regulation, they present a risk for the fulfilment of the basic requirements for construction works, to the health or safety of persons, to the environment or to other aspects of public interest protection, it shall require the relevant economic operators to take all appropriate measures to ensure that the products concerned, when placed on the market, no longer present that risk, to withdraw the products from the market or to recall them within a reasonable period, commensurate with the nature of the risk, which it may prescribe.

2. The economic operator shall ensure that any corrective action is taken in respect of all the products concerned which that economic operator has made available on the market throughout the Union.

3. The market surveillance authority shall, via the national competent authority, immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the product concerned, the origin and the supply chain of the product, the nature of the risk involved and the nature and duration of the national measures taken.

4. The Commission shall without delay enter into consultation with the Member States and the relevant economic operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide by implementing act whether the measure is justified or not and, where necessary, propose appropriate measures.

5. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).

6. The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic operators.

Article 73

Minimum checks and minimum human resources

1. The Commission is empowered to adopt delegated acts in accordance with Article 87 supplementing this Regulation by laying down the minimum number of checks to be performed by the market surveillance authorities of each Member State on specific products covered by harmonised technical specifications or in relation to specific

requirements set out in such measures in order to ensure checks are performed on a scale adequate to safeguard the effective enforcement of this Regulation. The delegated acts may, where relevant, specify the nature of the checks required and methods to be used.

2. The Commission is also empowered to adopt delegated acts in accordance with Article 87 supplementing this Regulation by laying down the minimum human resources to be deployed by Member States for purposes of market surveillance with regard to products covered by this Regulation.

Article 74

Market surveillance coordination and support

1. For the purposes of this Regulation, the administrative cooperation group ('ADCO') set up pursuant to Article 30(2) of Regulation (EU) 2019/1020 shall meet at regular intervals and, where necessary, at the reasoned request of the Commission or of two or more participating market surveillance authorities.

   In the context of performing its tasks set out in Article 32 of Regulation (EU) 2019/1020, the ADCO shall support the implementation of this Regulation, namely by identifying common priorities for market surveillance.

2. Based on priorities identified in consultation with the ADCO, the Commission shall:

   (a) organise joint market surveillance and testing projects in areas of common interest;

   (b) organise joint investment in market surveillance capacities, including equipment and IT tools;

   (c) organise common trainings for the staff of market surveillance authorities, notifying authorities and notified bodies, including on the correct interpretation and application of this Regulation and on methods and techniques relevant for applying or verifying compliance with it;

   (d) elaborate guidelines for the application and enforcement of requirements and obligations set out in delegated acts referred to in Article 4(3) and (4) and Article 5(2) and (3) and the delegated acts referred to in Article 22(4), including common practices and methodologies for effective market surveillance.

   The Union shall, where appropriate, finance the actions referred to in points (a), (b) and (c).

3. The Commission shall provide technical and logistic support to ensure the ADCO fulfils its tasks set out in Article 32 of Regulation (EU) 2019/1020 and this Article.

Article 75

Retrieval of costs

Market surveillance authorities shall have the right to recover from economic operators in possession of a non-compliant product or from the manufacturer the costs of document inspection and physical product testing.

Article 76

Reporting and benchmarking

1. Market surveillance authorities shall enter into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 information on the nature and severity of any penalty imposed in relation to non-compliance with this Regulation.

2. The Commission shall, every 2 years, draw up a report by 30 June based on the information entered by market surveillance authorities into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020. The first of these reports shall be published by [*OP: Please add date: two years after date of application of this Regulation*].

   The report shall include:

   (a) information on the nature and number of checks performed by market surveillance authorities during the two previous calendar years pursuant to Article 34(4) and (5) of Regulation (EU) 2019/1020;

   (b) information on the levels of non-compliance identified and on the nature and severity of penalties imposed for the two previous calendar years in relation to products covered by delegated acts adopted pursuant to Articles 4, 5, 6 and 22 of this Regulation;

   (c) indicative benchmarks for market surveillance authorities in relation to the frequency of checks and the nature and severity of penalties imposed.

3. The Commission shall publish the report referred to in paragraph 2 of this Article in the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall make public a summary of the report.

CHAPTER IX

INFORMATION AND ADMINISTRATIVE COOPERATION

Article 77

Information systems for harmonised decision-making

1. The Commission shall establish and maintain an information and communication system for the collection, processing and storage of information, in a structured form, on issues relating to the interpretation or application of the rules laid down in or pursuant to this Regulation, with the aim of ensuring the harmonised application of those rules.

   In addition to the Commission and Member States, market surveillance authorities, the single liaison offices appointed under Article 10(3) of Regulation (EU) 2019/1020, the authorities designated under Article 25(1) of Regulation (EU) 2019/1020, notifying authorities, notified bodies, and product contact points for Construction shall be able to access the information and communication system. The Commission may, by implementing decision give access to authorities of third countries that apply voluntarily this Regulation or that have regulatory systems for construction products similar to this Regulation.

   Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).

2. The bodies listed in paragraph 1 may use the information and communication system to raise any question or issue related to the interpretation or application of the rules laid down in or pursuant to this Regulation, including their relationship to other provisions of Union law. They shall raise such questions or issues where reasonable doubt exists about how to apply or interpret those rules in a given situation.

3. For purposes of paragraph 2, reasonable doubt shall be assumed to exist where the bodies listed in paragraph 1:

   (a) are aware or made aware of the application or interpretation of the rules laid down in or pursuant to this Regulation by any other body in a way that diverges from their own practise;

   (b) are aware or made aware of questions or issues raised through the information and communication system related to the situation they are confronted with or to their own practice;

   (c) are confronted with a situation not foreseen by the rules laid down in or pursuant to this Regulation when first published or referred to in the Official Journal of the European Union, especially but not limited to situations brought about by the emergence of new products or business models,;

(d) have to apply the rules laid down in or pursuant to this Regulation to a situation to which other provisions of Union law also apply and the resulting question.

4. When raising a question or issue, the relevant body shall enter into the information and communication system information concerning:

(a) any decision taken in relation to the question or issue raised;

(b) the presumable reasoning/rationale behind the approach taken;

(c) any alternative approach it has identified and its respective reasoning/rationale;

5. Member States shall establish a national information system or email list service to inform their authorities, the economic operators active on their territory, TABs and notified bodies with place of business on their territory and, on request, also other TABs and notified bodies, on all matters relevant for the correct interpretation or application of the rules laid down in or pursuant to this Regulation. In doing so, they shall take into account the information available in the information and communications system referred to in paragraph 1,.

6. Authorities, economic operators, TABs and notified bodies with place of business in the respective Member State shall register into that system or email list service and take account of all information transmitted via them.

7. The national information system or email list service shall be able to receive complaints on behalf of the national competent authority from any natural or legal person, including TABs and notified bodies, on the uneven application of the rules laid down in or pursuant to this Regulation. If deemed appropriate, the national competent authority shall forward such complaints to their peers in other Member States and to the Commission.

8. Member States and the Commission may use artificial intelligence to detect diverging decision making practices.

Article 78

EU construction products database or system

1. The Commission is empowered to supplement this Regulation by means of delegated act according to Article 87, by setting up a Union construction products database or system that builds to the extent possible on the Digital Product Passport established by Regulation (EU) ... [Regulation on ecodesign for sustainable products].

2. Economic operators may access all information stored in that database or system which regards them specifically. They may request that incorrect information is corrected.

3. The Commission may, by implementing acts give access to this database or system to certain authorities of third countries that apply voluntarily this Regulation or that

have regulatory systems for construction products similar to this Regulation provided that these countries:

(a) ensure confidentiality,

(b) are partners of a mechanism for lawful transfers of personal data compliant with the Regulation (EU) 2016/679[48] ,

(c) commit to engage actively by notifying facts that might trigger the need for action of market surveillance authorities, and

(d) commit to engage against economic operators infringing this Regulation from their territory.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).

Article 79

Product contact points for construction

1. Member States shall support economic operators by product contact points for construction. Member States shall designate and maintain at least one product contact point for construction on their territory and shall ensure that their product contact points for construction have sufficient powers and adequate resources for the proper performance of their tasks and at any rate at least one full-time equivalence per Member State and one additional full-time equivalence per each ten millions of inhabitants. They shall ensure that product contact points for construction deliver their services in accordance with Regulation (EU) 2018/1724[49] and that they coordinate with the contact points for mutual recognition established by Article 9(1) of Regulation (EU) No 2019/515[50].

2. Product contact points for construction shall provide, at the request of an economic operator or a market surveillance authority of another Member State, any useful product related information, such as:

(a) electronic copies of, or online access to, the national technical rules and national administrative procedures applicable to products in the territory in which the product contact points for construction is established,

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[48] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), *OJ L 119, 4.5.2016, p. 1–88.*

[49] Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012; *OJ L 295, 21.11.2018, p. 1–38.*

[50] Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008; *OJ L 91, 29.3.2019, p. 1–18.*

(b) information on whether those products are subject to prior authorisation under national law,

(c) rules applicable to the incorporation, assembling or installation of products.

Product contact points for construction shall also provide information on product related provisions of this Regulation and of acts adopted in accordance with it.

3. Product contact points for construction shall respond within 15 working days of receiving any request under paragraph 3.

4. Product contact points for construction shall not charge any fee for the provision of the information under paragraph 3.

5. Product contact points for construction shall be able to carry out their functions in a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE marking.

6. Paragraphs 1 to 6 apply also to products which have not yet been covered by harmonised technical specifications.

7. The Commission shall publish update a list of the national product contact points for construction.

Article 80

Trainings and exchange of staff

1. Market surveillance authorities, product contact points for construction, designating authorities TABs, notifying authorities, and notified bodies shall ensure that their staff:

(a) keep up-to-date in their area of competence and receive periodic additional training to that end; and

(b) receive periodically training on the harmonised interpretation and application of the rules laid down in or pursuant to this Regulation.

2. The Commission shall, periodically and at least once a year, organise training events jointly for the staff of market surveillance authorities, notifying authorities, and notified bodies. The Commission shall organise these training events in cooperation with the Member States.

The training events shall be open to the participation of the staff of the authorities designated under Article 25(1) of Regulation (EU) 2019/1020, the single liaison offices appointed under Article 10(3) of Regulation (EU) 2019/1020 and, where appropriate, of other authorities of the Member States involved in the implementation or enforcement of this Regulation. The Commission may, by implementing decision adopted in accordance give access to third countries that apply voluntarily this Regulation or that have regulatory systems for construction products similar to this Regulation.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).

3. The Commission may organise, in cooperation with the Member States, programmes for the exchange of staff between the market surveillance authorities, notifying authorities, and notified bodies of two or more Member States.

Article 81

Shared roles and joint decision-making

1. In order to fulfil their obligations under this Regulation with regard to market surveillance, designation and supervision of TABs, notified bodies, and product contact points for construction, Member States may designate:

   (a) a body or authority set up in cooperation with another Member State or other Member States for the purpose of joint designation;

   (b) a body or authority already designated by another Member State for the same purpose, in cooperation with that Member State;

   The Member States concerned shall jointly ensure that the shared bodies or authorities meet all relevant requirements. They shall be jointly responsible for them, whilst decisions taken towards natural or legal persons on a certain Member State shall be legally attributable only to that Member State.

2. The authorities of different Member States may, without prejudice to their individual obligations under this Regulation or other legislative acts, share resources and responsibilities in order to ensure the harmonised application or effective enforcement of this Regulation.

   To that end, they may also:

   (a) take joint decisions, especially in relation to joint cross-border activities or in relation to economic operators active on the territory of the relevant Member States;

   (b) establish common projects, such as joint market surveillance or testing projects;

   (c) pool resources for specific purposes, such as building up testing capacity or for internet surveillance;

   (d) delegate the execution of tasks to a peer authority of another Member State, whilst staying formally responsible for the decisions taken by that authority;

   (e) transfer a task from one Member State to the other, provided that such transfer is clearly communicated to all concerned.

   The relevant Member States shall be jointly responsible for the actions taken in accordance with this paragraph.

CHAPTER X

INTERNATIONAL COOPERATION

Article 82

International cooperation

1. The Commission may cooperate, including through the exchange of information, with third countries or international organisations in the field of application of this Regulation, such as:

   (a) enforcement activities and measures related to safety and protection of the environment, including market surveillance;

   (b) exchange of data of economic operators;

   (c) assessment methods and product testing;

   (d) coordinated product recalls, requests for corrective actions and other similar actions;

   (e) scientific, technical, and regulatory matters, aiming to improve product safety or the protection of the environment;

   (f) emerging issues of significant environmental, health and safety relevance;

   (g) standardisation-related activities;

   (h) exchange of officials.

2. The Commission may provide third countries or international organisations with selected information from the product database or system referred to in Article 78, to the system referred to in Article 77 and to the information exchanged amongst authorities in accordance with this Regulation and receive relevant information on products and on preventive, restrictive and corrective measures taken by these third countries or international organisations. The Commission shall share such information with national authorities, where relevant.

3. The information exchange referred to in paragraph 2 may take the form of either:

   (a) a non-systematic exchange, in duly justified and specific cases;

   (b) a systematic exchange, based on an administrative arrangement specifying the type of information to be exchanged and the modalities for the exchange.

4. Full participation in the database system referred to in Article 78, to the system referred to in Article 77 and to the information exchange amongst authorities set out in Article 80 may be open to applicant countries and third countries, provided that

their legislation is aligned with this Regulation or that they recognise certificates issued by notified bodies or European technical assessments in accordance with this Regulation. Such participation is subject to the fulfilment of the same obligations as for EU Member States according to this Regulation, including notification and follow-up obligations. Full participation in the database or system referred to in Article 78 and to the system referred to in Article 77 shall be based on agreements between the European Union and those countries.

5. Where agreements with third countries permit the mutual support in terms of enforcement, Member States may, after consultation of the Commission, use the empowerments set out in Chapter VIII also for action against economic operators acting unlawful in or with respect to third countries, provided that the third countries respect the fundamental values referred to in Article 2 TEU, including the rule of law. Member States may request via the Commission third countries to enforce measures adopted in accordance with Chapter VIII. No cooperation under this Paragraph shall happen where there is no de facto reciprocity or where the Commission raises other concerns, namely with regard to the legal conditions set out in this Article or confidentiality of data.

6. Any information exchange under this article, to the extent it involves personal data, shall be carried out in accordance with EU data protection rules. If no adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 has been adopted by the Commission in respect of the third country or international organisation concerned, the information exchange shall exclude personal data. If an adequacy decision for the third country or international organisation has been adopted, the information exchange with that third country or international organisation may contain personal data falling within the scope of the adequacy decision and only to the extent that such exchange is necessary for the sole purpose of the protection of health, safety or the environment.

7. The information exchanged pursuant to this Article shall be used for the sole purpose of the protection of health, safety or the environment and respect confidentiality rules.

CHAPTER XI

INCENTIVES AND PUBLIC PROCUREMENT

Article 83

Member State incentives

1. Where Member States provide incentives for a product category covered by a delegated act establishing performance classes in accordance with Article 4(4), point (a) or a “traffic-light-labelling” in accordance with Article 22(5), those incentives shall aim at the highest two populated classes / colour codes, or at higher classes / better colour codes.

Where a delegated act defines classes of performance in relation to more than one sustainability parameter, it shall be indicated therein in relation to which parameter this Article should be implemented.

2. Where no delegated act is adopted pursuant to Article 4(4), the Commission may specify in the delegated acts adopted pursuant to Article 4(3), which levels of performance related to product parameters the Member States incentives shall concern.

When doing so, the Commission shall take into account the following criteria:

(a) the relative affordability of the products depending on their level of performance;

(b) the need to ensure sufficient demand for more environmentally sustainable products.

Article 84

Green public procurement

1. The Commission is empowered to supplement this Regulation by delegated acts according to Article 87 by establishing sustainability requirements applicable to public contracts, including implementation, monitoring and reporting of those requirements by Member States.

2. Requirements adopted pursuant to paragraph 1 for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3, point (1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, may take the form of mandatory technical specifications, selection criteria, award criteria, contract performance clauses, or targets, as appropriate.

3. When establishing requirements pursuant to paragraph 1 for public contracts, the Commission shall take into account the following criteria:

(a) the value and volume of public contracts awarded for that given product family or category or for the services or works using the given product family or category;

(b) the need to ensure sufficient demand for more environmentally sustainable products;

(c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable products, without entailing disproportionate costs.

CHAPTER XII

REGULATORY STATUS OF PRODUCTS

Article 85

Regulatory status of products

Upon a duly substantiated request of a Member State or on its own initiative, the Commission may, by means of implementing acts, determine whether or not a specific item, or category of items, falls within the definition of 'construction product' or constitute an item referred to in Article 2(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2) of this Regulation.

CHAPTER XIII

AMENDMENTS

Article 86

Amendments to Regulation (EU) 2019/1020

Regulation (EU) 2019/1020 is amended as follows:

(1) in Article 4(5), the following text is added: "[(EU) 2020/…(*[51])]"

(2) in Annex I, the following point 72 is added to the List of Union harmonisation legislation:

"72. Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011 (the Publications Office to fill in the OJ publication details);".

[51] *[Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011 (For the Publications Office to fill in the OJ publication details)]".

CHAPTER XIV

FINAL PROVISIONS

Article 87

Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 4(3), (4) and (5), Article 5(2) and (3), Article 6(1) to (3), Article 8, Article 11(3), Article 22(4) and (5), Article 35(4), Article 44(1), Article 73(1) and (2), Article 78(1), Article 84(1) and Article 90(4) shall be conferred on the Commission for a period of five years from … [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[52].

4. The delegation of powers referred to in Article 4(3), (4) and (5), Article 5(2) and (3), Article 6(1) to (3), Article 8, Article 11(3), Article 22(4) and (5), Article 35(4), Article 44(1), Article 73(1) and (2), Article 78(1), Article 84(1) and Article 90(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 4(3), (4) and (5), Article 5(2) and (3), Article 6(1) to (3), Article 8, Article 11(3), Article 22(4) and (5), Article 35(4), Article 44(1), Article 73(1) and (2), Article 78(1), Article 84(1) and Article 90(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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[52] Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, *OJ L 123, 12.5.2016, p. 1–14.*

Article 88

Committee

1. The Commission shall be assisted by the Committee on Construction Products. This committee shall be a committee within the meaning of Regulation (EU) No 182/2011. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply (advisory procedure).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply (examination procedure).

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply (urgent examination procedure).

Article 89

Electronic applications, decisions, documentation and information

1. All applications from or to notified bodies or TABs and decisions made by these bodies or authorities made in accordance with this Regulation can be provided on paper or in a commonly used electronic format provided that the signature is compliant with Regulation (EU) No 910/2014 and the signing person is entrusted to represent the body or economic operator, according to the law of the Member States or Union law respectively.

2. All documentation required by Article 19(7),Article 21(3), Articles 64 to 66 and Annex V can be provided on paper or in a commonly used electronic format and in a way that permits downloads via unmodifiable links (permalinks).

   All information obligations set up by Article 7(3), (4) and (6), Article 19(1), (3), (5) and (6), Article 20(2) and (3), Article 21(6) to (9), Article 22(2), points (f) and (i), Article 23(5), Article 24(6), Article 25(2), Article 26(4), Article 27(2), Articles 28 to 39, Article 41(3), Article 44(3), (4), (6) and (7), Article 45(3), Article 46(2), Article 47, article 49(5), Article 50(11), Article 53(1), Article 58(1), Article 59(2), Article 61, Article 70(1), (2), (4) and (6), Article 71(2), Article 72(1), (3) and (5), Article 76, Article 77, Article 78(3), Article 79(2), Article 79(3), Article 80(2), Article 82(1) to (3), (6) and (7) and Article 91 can be satisfied by electronic means. However, information to be provided in accordance with Annex I Part D and harmonised technical specifications specifying it shall be provided on paper for products not labelled “not for consumers” or “only for professional use”. Moreover, consumers may request any other information to be provided on paper.

Article 90

Penalties

1. Member States shall lay down the rules on penalties applicable to non-compliances with this Regulation and shall take all measures necessary to ensure that these rules are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by [insert date - 3 months after to the date of entry into force of this Regulation], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

2. Member States shall especially lay down rules on penalties for the following non-compliances of economic operators:

   (a) placing on the market or making available on the market of a product which is not CE marked whilst an CE marking is mandatory;

   (b) affixing the CE marking in violation of Article 17(1) or without the correct information to be provided together with the CE marking in accordance with Article 17(2);

   (c) affixing of the CE marking without prior issuing of a declaration of performance;

   (d) issuing of a declaration of performance or declaration of conformity where the conditions therefore have not been met;

   (e) the declaration of performance or the declaration of conformity is incomplete or incorrect;

   (f) the technical documentation is missing, incomplete or incorrect;

   (g) information to be provided in accordance with Annex I Part D and harmonised technical specifications is missing, incomplete or incorrect;

   (h) the information referred to in paragraph Article 21(4), Article 22(2), points (f) and (i) or Article 21(7) and Article 24 is missing, incomplete or incorrect;

   (i) any other administrative requirement provided for in Articles 21, 22 or 24 is not fulfilled;

   (j) information due to notified bodies, TABs or authorities is not provided or is incorrect;

   (k) measures requested in case of non-compliance or risk, mandatory according to Article 21(8) and (9), Article 23(3), points (d) and (e), Article 24(5), Article 25(2) in conjunction with Article 24(5), Article 27(2), point (c) in conjunction with Article 24(5) and Article 27(2), points (d), (e) and (g) are not taken;

   (l) the product and documentation verification obligations incumbent on economic operators according to Articles 23 to 27 are not fulfilled; and

(m) 3D-printing services are provided under infringement of Article 28.

3. Member States shall also lay down rules on penalties for the following non-compliances of TABs and notified bodies:

(a) issuing of certificates, test reports, or European technical assessments whilst the conditions therefore are not fulfilled;

(b) non-withdrawal of certificates, test reports, or European technical assessments where the withdrawal is mandatory;

(c) information to be provided to notified bodies, TABs or authorities is not provided, incomplete or is incorrect; and

(d) instructions of authorities are not followed.

4. The Commission is empowered to supplement this Regulation by delegated act adopted in accordance with Article 87 in order to establish proportionate minimum penalties, targeting all economic operators, TABs and notified bodies directly or indirectly involved in the infringement of obligations of this Regulation.

Article 91

Evaluation

No sooner than 8 years after the date of application of this Regulation, the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products and construction works and built environment. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.

Where appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation.

Article 92

Repeal

Regulation (EU) 305/2011 is repealed with effect from 1 January 2045.

References to Regulation (EU) 305/2011 shall be construed as references to this Regulation in accordance with the correlation table in Annex VII.

Article 93

Derogations and transitional provisions

1. Product contact points for construction designated under Regulation (EU) 305/2011 shall be deemed to be designated under this Regulation as well.

2. TABs and notified bodies designated under Regulation (EU) 305/2011 shall be deemed to be designated under this Regulation as well. However, they shall be assessed and designated anew by the designating Member States in accordance with their periodic re-assessment cycle and at the latest [5 years after entry into force]. The objection procedure set-out in Article 56(5), also applicable to TABs in accordance with Article 43(2), shall apply.

3. The following standards remain valid under this Regulation, as standards referred to in the first subparagraph of Article 4(2):

   (a)

   (b)

   (c) [to be inserted during the negotiations of the legislators].

4. European assessment documents issued before [1 year after entry into force] remain valid until [3 years after entry into force], unless they have expired for other reasons. Products placed on the market on the basis of these may be further made available on the market for another five years.

5. Notified bodies' certificates or test reports and European technical assessments issued under Regulation (EU) 305/2011 remain valid for five years after the entry into force of harmonised technical specifications for the respective product family or category adopted in accordance with Article 4(2), unless these documents have expired for other reasons. Products placed on the market on the basis of these documents may be further made available on the market for another five years.

6. The requirements set out in Chapters I, II and III applicable to economic operators with regard to a certain product group or product family shall apply as from one year after the entry into force of the harmonised technical specification covering that product group or family. However, economic operators may apply those harmonised technical specifications as from their entry into force by undergoing the procedure leading to a declaration of performance or of conformity.

7. Within two years following the entry into force of a harmonised technical specification covering a certain product group or family, the Commission shall withdraw from the Official Journal references of harmonised standards and EADs covering the respective product group or family.

Article 94

Entry into force

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

It shall apply as from [1 month after entry into force].

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011

1.2. Policy area(s) concerned

Single market for construction products. The proposal contributes to the following headline ambitions of the European Commission: the Green Deal, a Europe fit for the digital age, an economy that works for people, a stronger Europe in the world.

1.3. The proposal/initiative relates to:

☐ **a new action**

☐ **a new action following a pilot project/preparatory action**[53]

☒ **the extension of an existing action**

☐ **a merger or redirection of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objective(s)

The two general objectives of the revision are to:

1. Achieve a well-functioning single market for construction products; and to

2. Make the framework apt to contribute to the objectives of the green and digital transition, particularly the modern, resource-efficient and competitive economy.

1.4.2. Specific objective(s)

Specific objectives are:

- To unblock the technical harmonisation system;
- To reduce national barriers to trade for products covered by the CPR;
- To improve enforcement and market surveillance;

[53] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

- To provide more clarity (more comprehensive definitions, reducing overlaps, collision rules with other legislation) and simplification;
- To reduce the administrative burden, including through simplification and digitalisation
- To ensure safe construction products;
- To contribute to reducing the overall climate and environmental impact of construction products, including through the application of digital tools (Digital Product Passport).

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The CPR revision aims to repair and improve the single market for construction products. It will create a level playing field for all producers, especially SMEs in all Member States. Manufacturers will have to fulfil more obligations to bring their products to the market, but at the same time, they will have more business opportunities. Moreover, Member States will be empowered to exempt certain micro-enterprises from the CPR obligations. The intended planned work-sharing and the technical fine-tuning with the Ecodesign for Sustainable Products Regulation will avoid unnecessary burdens for businesses, SMEs and micro-enterprises. A better functioning single market will reduce production costs and thus prices and will give construction companies access to a broader choice of products. Overall, manufacturers and the construction eco-system will benefit from the revision.

1.4.4. Indicators of performance

The starting point for indicators in the area of standardisation is **the number of acceptable technical documents to be referenced as harmonised standards (hENs)** in the OJEU out of the total number of hENs submitted to the Commission for citation. This indicator allows to calculate the percentage of citation and to better monitor and identify the reasons for non-citations or withholding citation, if any are still present. Moreover, **the average length of the process from issuing a standardisation request by the Commission to delivery of draft standards** by CEN is important as it will allow to assess whether one of the problems identified by stakeholders of the standardisation process, namely lengthiness of the standardisation process, is solved/improved. This indicator has to differentiate between newly developed hENs and amended and corrected hENs which in general should require less time if the standards are evaluated in CEN in regular intervals and amended whenever needed.

Another output indicator of is **the availability of environmental information, and the quantity of environmental and product safety requirements** incorporated in technical specifications. The number of these will increase over time, making construction products and construction works safer and more sustainable. The number of technical specifications with environmental information and requirements (or product families covered by these), and their relative importance in terms of

environment are parameters helping to evaluate the extent to which environmental consideration has increased as a result of this proposal.

To measure an improved market surveillance the Commission will consult the Member States. A successful implementation would be supposed to lead first to **detecting more non-compliant construction products** and then to a reduction of this number. An indicator for monitoring could be the **level of trust** among economic operators, for which an evaluation after four to five years could provide information through stakeholder consultations.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

(1) To remedy the mismatch between the legal criteria applied by the Commission and the ability of standardisers to deliver requested output. To provide an alternative whenever the standardisation process is not delivering. To remedy the incomplete character of harmonisation.

(2) To reduce national barriers to trade for products covered by the CPR. To improve enforcement and market surveillance. To ensure clarity of the provisions and in particular the simplification provisions.

(3) To include the application of digital tools. To include reference to sustainability performances. To ensure the safety of construction products. To include products that escape the current scope of product safety legislation, e.g. 3D-printed products.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

With the CPR, the single market for construction products is not achieved. At national level, insufficient market surveillance and enforcement prevents benefits in terms of opening up markets and levelling the playing field for competitors from materialising fully. Moreover, some CPR provisions are insufficiently clear or create overlaps, either within the CPR framework itself, or between the CPR and other EU legislation. Further, there is inability of the CPR to deliver on broader policy priorities, particularly the green and digital transition.

Expected generated Union added value (ex-post)

This proposal is expected to improve the overall functioning of the single market for construction products, particularly by addressing the current issues relevant to the standardisation system and eradicating further barriers to trade, such as duplication or overlapping of regulatory provisions either at the EU or national/regional levels. This would in turn increase legal certainty as well as predictability and improve the

level playing field for the construction industry. Trust in the entire system would be leveraged thanks to more streamlined market surveillance practices across the EU. Finally, this proposal addresses the climate and environmental performance and circularity of construction products, which can only be tackled at the EU level, where the common technical language is being developed.

1.5.3. Lessons learned from similar experiences in the past

The experience with the CPR showed the following lessons:

(1) There is a need of consistency between the legal criteria applied and the ability of standardisers to deliver requested outputs.

(2) There is a need for an alternative whenever the standardisation process is not delivering.

(3) Clarity of the provisions of the Regulation should be ensured.

(4) The Regulation should be able to deliver on broader policy priorities.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The proposal is compatible with the current Multiannual Financial Framework.

The proposal lays down harmonised conditions for the marketing of construction products in the single market. Due to its complexity, some of the activities could in theory be delegated to an external agency, but this is not currently planned. As regards possible synergies, the proposal triggers synergies, in particular with other initiatives, including the Ecodesign for Sustainable Products Regulation.

1.5.5. Assessment of the different available financing options, including scope for redeployment

N/A

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY

☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

☒ **unlimited duration**

Implementation with a start-up period from 2024 onwards (adoption and publication of the proposal unlikely before 2025, but one year lead time for the most important implementing and delegated acts is a minimum) followed by full-scale operation in 2025 or later, subject to time of adoption.

1.7. Management mode(s) planned[54]

☒ **Direct management** by the Commission

☒ by its departments, including by its staff in the Union delegations;

☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

☐ third countries or the bodies they have designated;

☐ international organisations and their agencies (to be specified);

☐ the EIB and the European Investment Fund;

☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

If more than one management mode is indicated, please provide details in the 'Comments' section.

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54 Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

Comments

n/a

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Regulation could be evaluated periodically. The Commission will present a report on the implementation of the new CPR no sooner than 8 years after its entry into force, allowing the results and impacts of the revision to materialise.

Such an evaluation report should, in particular, assess the effectiveness of the revised legislation – with a special, but not exclusive, focus on the issues covered by the indicators mentioned in part 1.4.4 - as well as its efficiency, relevance, coherence and EU value added.

In addition to that, several monitoring actions might be carried out by the Commission.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The proposal regulates only the marketing of construction products, including through incorporating certain environmental features to mirror the Ecodesign for Sustainable Products Regulation. It is thus a classic type product legislation. Classic product legislation is mostly implemented by the Commission itself as the many legal actions and questions can hardly be outsourced to entities which have no primary knowledge of the respective legislation. However, for certain aspects, the use of service providers, selected via public tenders, might be necessary or at least useful. Such might in particular be the case for information systems that are necessary for the implementation.

The usual Commission single control mechanisms, including those applicable to public tenders should apply and will suffice. There is no reason for particular, deviating funding implementation mechanisms, payment modalities and control strategies.

However, the proposal will trigger an increase in terms of human resources needed. The proposal allows addressing the main shortcomings of the CPR framework e.g. standardisation and establishes the environmental and product safety requirements independently from construction works related performances. Also, it would effectively address the goals stemming from the New Industrial Strategy, the Standardisation Strategy, the European Green Deal, the Circular Economy action plan and other linked initiatives, in the context of construction products. These new features require also a consistency mechanism for the cross-border application of the new obligations under this Regulation, as well as an information and communication system for the collection, processing and storage of information.

In order to face cover the new tasks, it is necessary to appropriately resource the Commission's services. The implementation of the Regulation is estimated to require 15 FTE in total.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

To mitigate the inherent risk of conflict of interest concerning notified bodies, requirements relating to notifying authorities are established.

The Commission will monitor the risk of non-compliance with the Regulation through the reporting system that it will develop (non-compliance alert portal).

There is a clear need to manage the budget in an efficient and effective manner, and to prevent fraud and waste. However, the control system needs to strike a fair balance between attaining an acceptable error rate and the control burden required.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

N/A

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The measures set out to combat fraud are laid down in Article 35 of Regulation (EU) 1077/2011 which provides as follows:

1. In order to combat fraud, corruption and other unlawful activities, Regulation (EC) No 1073/1999 shall apply.

2. The Agency shall accede to the Interinstitutional Agreement concerning internal investigations by the European Anti-Fraud Office (OLAF) and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.

3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agencies' funding and the agents responsible for allocating it.

In accordance with this provision, the decision of the Management Board of the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Union's interests was adopted on 28 June 2012.

DG GROW's fraud prevention and detection strategy will apply.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Heading 1 **Single Market, Innovation and Digital**	Diff./Non-diff.[55]	from EFTA countries [56]	from candidate countries[57]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1	03.010101 - Support expenditure for the Single Market Programme	Non Diff.	YES	NO[6]	NO[6]	NO
1	03.020101 - Operation and development of the internal market of goods and services	Diff.	YES	NO[58]	NO[6]	NO

[55] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
[56] EFTA: European Free Trade Association.
[57] Candidate countries and, where applicable, potential candidates from the Western Balkans.
[58] Discussion ongoing on potential participation of Candidate and Third Countries to this budget line

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

☐ The proposal/initiative does not require the use of operational appropriations

☒ The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

Heading of multiannual financial framework	1	**Single Market, Innovation and Digital**

DG: GROW			Year **2024**	Year **2025**	Year **2026**	Year **2027**	**Post 2027**	**TOTAL**
○ Operational appropriations								
03.020101	Commitments	(1a)	0,860	0,860	0,860	0,860		**3,440**
	Payments	(2a)	0,258	0,688	0,860	0,860	0,774	**5,160**
Appropriations of an administrative nature financed from the envelope of specific programmes[59]								
Budget line 03.010101		(3)	**0**	**0**	**0**	**0**	**0**	**0**
TOTAL appropriations for DG GROW	Commitments	=1a+1b +3	0,860	0,860	0,860	0,860		**3,440**
	Payments	=2a+2b +3	0,258	0,688	0,860	0,860	**0,774**	**3,440**

[59] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

○ TOTAL operational appropriations	Commitments	(4)	0,860	0,860	0,860	0,860		**3,440**
	Payments	(5)	0,258	0,688	0,860	0,860	0,774	**3,440**
○ TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	**0**	**0**	**0**	**0**	**0**	**0**
TOTAL appropriations under HEADING 1 of the multiannual financial framework	Commitments	=4+ 6	0,860	0,860	0,860	0,860		**3,440**
	Payments	=5+ 6	0,258	0,688	0,860	0,860	**0,774**	**3,440**

Heading of multiannual financial framework	7	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year **2024**	Year **2025**	Year **2026**	Year **2027**	Year **2028**	**Year 2029**	**Post 2029**	**TOTAL**
DG: GROW									
□ Human resources		1,099	1,099	1,099	0,942	0,942	0,628		**5,809**
□ Other administrative expenditure		0,170	0,170	0,170	0,170	0,170	0,170		**1,020**
TOTAL DG GROW	Appropriations	1,269	1,269	1,269	1,112	1,112	0,798		**6,829**

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	1,269	1,269	1,269	1,112	1,112	0,798		**6,829**

EUR million (to three decimal places)

		Year **2024**	Year **2025**	Year **2026**	Year **2027**	Year **2028**	**Year 2029**	**Post 2029**	**TOTAL**
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	2,109	2,109	2,109	1,952	1,952	1,638		**11,989**
	Payments								

3.2.2. *Estimated output funded with operational appropriations*

The legislative proposal aims at improving the functioning of the single market of construction products, through addressing the technical harmonisation system, improving the enforcement and market surveillance, simplifying the provisions for SMEs and increasing the legal clarity of the framework altogether. It also aims at improving the safety of construction products and contributing to reducing the overall climate and environmental impact of construction products.

As such, the outputs of the initiative cannot be assimilated to products or services; no cost estimate for them can thus be provided.

3.2.3. *Summary of estimated impact on administrative appropriations*

☐ The proposal/initiative does not require the use of appropriations of an administrative nature

☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **2024**	Year **2025**	Year **2026**	Year **2027**	Year **2028**	**Year 2029**	**Post 2029**	**TOTAL**
HEADING 7 of the multiannual financial framework								
Human resources	1,099	1,099	1,099	0,942	0,942	0,628		**5,809**
Other administrative expenditure	0,170	0,170	0,170	0,170	0,170	0,170		**1,020**

Subtotal HEADING 7 of the multiannual financial framework	1,269	1,269	1,269	1,112	1,112	0,798		**6,829**

Outside HEADING 7[60] of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature	0	0	0	0	0	0		
Subtotal outside HEADING 7 of the multiannual financial framework	0	0	0	0	0	0		

TOTAL	1,269	1,269	1,269	1,112	1,112	0,798		**6,829**

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[60] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Estimated requirements of human resources

☐ The proposal/initiative does not require the use of human resources.

☒ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		Year **2024**	Year **2025**	Year **2026**	Year **2027**	Year **2028**	**Year 2029**	**Post 2029**
O Establishment plan posts (officials and temporary staff)								
20 01 02 01 (Headquarters and Commission's Representation Offices)		7	7	7	6	6	4	
20 01 02 03 (Delegations)								
01 01 01 01 (Indirect research)								
01 01 01 11 (Direct research)								
Other budget lines (specify)								
O External staff (in Full Time Equivalent unit: FTE)[61]								
20 02 01 (AC, END, INT from the 'global envelope')								
20 02 03 (AC, AL, END, INT and JPD in the delegations)								
XX 01 xx **yy zz** [62]	- at Headquarters							
	- in Delegations							
01 01 01 02 (AC, END, INT - Indirect research)								
01 01 01 12 (AC, END, INT - Direct research)								
Other budget lines (specify)								
TOTAL		7	7	7	6	6	4	

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	○ Leading on the CPR Acquis process, coordination with CEN and EOTA, liaison with HAS consultants and CPR consultants, developing the delegated acts on classes and thresholds and AVCP systems; ○ Ensuring that the 600 harmonised standards (and collateral legal acts) developed under the previous CPD and CPR will be revised and readopted by CEN and reassessed by the COM in view of eventual citation in the OJEU within five years; ○ Development and citation of new standards; ○ Processing of new EADs; ○ Defining additional product requirements and sustainability aspects of construction products to be covered in relevant standards under the proposal will

[61] AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

[62] Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

	trigger additional workload of preparing the relevant Commission acts (sectoral unit with the support of the JRC) and will mean more complex standardisation requests and subsequently standards will have to be developed and assessed; o Development of technical specifications by the Commission in case relevant harmonised standards are not delivered by the ESOs; o Setting-up and maintenance of the CPR database or system; o Processing of complaints through non-compliance alert portal; o Coordination of Notified Bodies; o Analysing national provisions targeting non-compliant products; o Implementation of the EU safeguard procedure; o Adoption of delegated acts on minimum number of checks to be performed by the market surveillance authorities; o Drafting annual reports based on detailed statistical data covering checks performed by their market surveillance authorities; o Collection and development of interpretative rules; o Providing training to market surveillance authorities, PCPCs, Notified Bodies and other relevant authorities; o Support to international cooperation (exchange of information on enforcement, data of economic operators, standardisation activities, regulatory matters, assessment and testing methods); o Organise an exchange of information between Member States on incentives to promote sustainable products in procurement, publish the results of such exchanges and publish guidelines to promote widest uptake of such incentives; o Management of projects, technical secretariat, delegated regulation linked to the fire safety; o Preparation of briefings; o Overall coordination.
External staff	

3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

☒ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts. Please provide an excel table in the case of major reprogramming.

☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

☐ requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

The proposal/initiative:

☒ does not provide for co-financing by third parties

☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**[63]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

[63] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.3. Estimated impact on revenue

☒ The proposal/initiative has no financial impact on revenue.

☐ The proposal/initiative has the following financial impact:

☐ on own resources

☐ on other revenue

please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[64]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For assigned revenue, specify the budget expenditure line(s) affected.

[…]

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[…]

[64] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.

ANNEX
to the LEGISLATIVE FINANCIAL STATEMENT

Name of the proposal/initiative:

Proposal for a regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011

This annex must accompany the legislative financial statement when the inter-services consultation is launched.

The data tables are used as a source for the tables contained in the legislative financial statement. They are strictly for internal use within the Commission.

1. COST OF HUMAN RESOURCES CONSIDERED NECESSARY

☐ The proposal/initiative does not require the use of human resources

☒ The proposal/initiative requires the use of human resources, as explained below:

EUR million (to three decimal places)

HEADING 7 of the multiannual financial framework		Year 2024		Year 2025		Year 2026		Year 2027		Year 2028		Year 2029				TOTAL	
		FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations
• Establishment plan posts (officials and temporary staff)																	
20 01 02 01 - Headquarters and Representation offices	AD	7	1,099	7	1,099	7	1,099	6	0,942	6	0,942	4	0,628				5,809
	AST																
20 01 02 03 - Union Delegations	AD																
	AST																
• External staff [65]																	
20 02 01 and 20 02 02 – External personnel – Headquarters and Representation offices	AC																
	END																
	INT																
20 02 03 – External personnel - Union Delegations	AC																
	AL																
	END																
	INT																
	JPD																
Other HR related budget lines (*specify*)																	
Subtotal HR – HEADING 7		7	1,099	7	1,099	7	1,099	6	0,942	6	0,942	4	0,628				5,809

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[65] AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT= agency staff; JPD= Junior Professionals in Delegations.

Outside HEADING 7 of the multiannual financial framework			Year 2024		Year 2025		Year 2026		Year 2027		Year 2028		Year 2029				TOTAL	
			FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations
• Establishment plan posts (officials and temporary staff)																		
01 01 01 01 Indirect Research[66] 01 01 01 11 Direct Research Other (please specify)		AD																
		AST																
• External staff [67]																		
External staff from operational appropriations (former 'BA' lines).	- at Headquarters	AC																
		END																
		INT																
	- in Union delegations	AC																
		AL																
		END																
		INT																
		JPD																
01 01 01 02 Indirect Research 01 01 01 12 Direct research Other (please specify)[68]		AC																
		END																
		INT																
Other budget lines HR related (*specify*)																		
Subtotal HR – Outside HEADING 7																		
Total HR (all MFF Headings)			7	1,099	7	1,099	7	1,099	6	0,942	6	0,942	4	0,628				5,809

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

66 Please choose the relevant budget line, or specify another if necessary; in case more budget lines are concerned, staff should be differentiated by each budget line concerned

67 AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT= agency staff; JPD= Junior Professionals in Delegations.

68 Please choose the relevant budget line, or specify another if necessary; in case more budget lines are concerned, staff should be differentiated by each budget line concerned

2. COST OF OTHER ADMINISTRATIVE EXPENDITURE

☐ The proposal/initiative does not require the use of administrative appropriations

☒ The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to three decimal places)

HEADING 7 of the multiannual financial framework	Year 2024	Year 2025	Year 2026	Year 2027	Year 2028	Year 2029		**TOTAL**
At headquarters or within EU territory:								
20 02 06 01 - Mission and representation expenses								
20 02 06 02 - Conference and meeting costs	0,170	0,170	0,170	0,170	0,170	0,170		**1,020**
20 02 06 03 - Committees[69]								
20 02 06 04 Studies and consultations								
20 04 – IT expenditure (corporate)[70]								
Other budget lines non-HR related (*specify where necessary*)								
In Union delegations								
20 02 07 01 - Missions, conferences and representation expenses								
20 02 07 02 - Further training of staff								
20 03 05 – Infrastructure and logistics								
Other budget lines non-HR related (*specify where necessary*)								
Subtotal Other - HEADING 7 of the multiannual financial framework	0,170	0,170	0,170	0,170	0,170	0,170		**1,020**

The administrative appropriations required will be met by the appropriations which are already assigned to management of the action and/or which have been redeployed, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of existing budgetary constraints.

69 Specify the type of committee and the group to which it belongs.

70 The opinion of DG DIGIT – IT Investments Team is required (see the Guidelines on Financing of IT, C(2020)6126 final of 10.9.2020, page 7)

EUR million (to three decimal places)

Outside HEADING 7 of the multiannual financial framework	**Year N**[71]	**Year N+1**	**Year N+2**	**Year N+3**	**Year N+4**	**Year N+5**	**Year N+7**	**Total**
Expenditure on technical and administrative assistance (not including external staff) from operational appropriations (former 'BA' lines):								
- at Headquarters								
- in Union delegations								
Other management expenditure for research								
Policy IT expenditure on operational programmes[72]								
Corporate IT expenditure on operational programmes[73]								
Other budget lines non-HR related (*specify where necessary*)								
Sub-total Other – Outside HEADING 7 of the multiannual financial framework								
Total Other admin expenditure (all MFFHeadings)								

71 Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years

72 The opinion of DG DIGIT – IT Investments Team is required (see the Guidelines on Financing of IT, C(2020)6126 final of 10.9.2020, page 7)

73 This item includes local administrative systems and contributions to the co-financing of corporate IT systems (see the Guidelines on Financing of IT, C(2020)6126 final of 10.9.2020)

3. TOTAL ADMINISTRATIVE COSTS (ALL HEADINGS MFF)

EUR million (to three decimal places)

Summary	Year 2024	Year 2025	Year 2026	Year 2027	Year 2028	Year 2029	Total
Heading 7 - Human Resources	1,099	1,099	1,099	0,942	0,942	0,628	**5,809**
Heading 7 – Other administrative expenditure	0,170	0,170	0,170	0,170	0,170	0,170	**1,020**
Sub-total Heading 7	1,269	1,269	1,269	1,112	1,112	0,798	**6,829**
Outside Heading 7 – Human Resources							
Outside Heading 7 – Other administrative expenditure							
Sub-total Other Headings							
1. TOTAL 2. HEADING 7 and Outside HEADING 7	1,269	1,269	1,269	1,112	1,112	0,798	**6,829**

The administrative appropriations required will be met by the appropriations which are already assigned to management of the action and/or which have been redeployed, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of existing budgetary constraints.

4. METHODS OF CALCULATION USED TO ESTIMATE COSTS

4.1. Human resources

This part sets out the method of calculation used to estimate the human resources considered necessary (workload assumptions, including specific jobs (Sysper 2 work profiles), staff categories and the corresponding average costs)

HEADING 7 of the multiannual financial framework

NB: The average costs for each category of staff at Headquarters are available on BudgWeb: https://myintracomm.ec.europa.eu/budgweb/EN/pre/legalbasis/Pages/pre-040-020_preparation.aspx

- Officials and temporary staff
  - With the revision, the scope of the CPR will be extended, both in terms of products covered and in terms of requirements (e.g. environmental/sustainability and safety requirements). There will be more harmonised standards (hENs) which will be more complex. Therefore, for hENs the assessment will imply the same resources needed as the European assessment documents (EADs) now, i.e. 2.5 working days (WDs) per hEN.
  - Considering the need to revise approximately 600 hENs within the 5 years following the entry into force, it can be assumed that every year 120 standards have to be assessed, x2.5 WDs per 1 assessment, make 300 WDs;
  - In parallel, the CPR Acquis and the development of new Standardisation Requests (SReqs) or Implementing Acts (IA) will be ongoing. The Acquis requires 1 FTE, so it makes 220 WDs;
  - Considering 5 legal acts per year (new SReqs, DAs or IAs) and approx. 30 WDs development time per act, it makes 150 WDs (including the support of a lawyer going much more beyond the usual 0.2 FTE).
  - EOTA route (EADs) will be limited to products not covered at all by hENs. There are no new requirements introduced for the EADs, thus the same assessment time as currently (2.5 WDs) can be assumed for a maximum of 30 EADs per year. This makes 75 WDs.
  - The new CPR sets out a series of additional provisions that will engage technical staff at 0.5 FTE, so approx. 110 WDs;

300+220+150+75+110= 855 WDs; that considering the previously estimation of resources where 0.66 FTE engineer is spent on technical harmonisation 855/(220*0.666)= 5 FTE engineers (rounded down due to possible redeployment of tasks within the current team).

Regarding legal and administrative support, considering the 0.2 FTE engagement on every activity of an engineer and approx. 1 FTE lawyer following the 5 legal acts per year, we need a minimum of 1 FTE lawyers + 1 AST to coordinate all the procedures.

Hence a total of 7 FTEs.

- External staff

Outside HEADING 7 of the multiannual financial framework

- Only posts financed from the research budget

- External staff

4.2. Other administrative expenditure

Give details of the method of calculation used for each budget line and in particular the underlying assumptions (e.g. number of meetings per year, average costs, etc.)

HEADING 7 of the multiannual financial framework
The number of meetings after the entry into force of the proposal should reflect the pre-Covid situation under the CPR, i.e.: - Advisory Group on the CPR: 2 meetings per year (on average 54 participants, average cost of EUR 450 per participant), approx. EUR 48 600 - Standing Committee on Construction: 2 meetings per year (on average 54 participants, average cost of EUR 450 per participant) approx. EUR 48 600 - CPR Acquis Steering Group: 3 meetings per year (on average 54 participants, average cost of EUR 450) approx. EUR 73 000 TOTAL: EUR 170 000

Outside HEADING 7 of the multiannual financial framework