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 (Text with EEA relevance)

CHAPTER VII

PRODUCTS ENTERING THE UNION MARKET

Article 25

Controls on products entering the Union market

1 Member States shall designate customs authorities, one or more market surveillance authorities or any other authority in their territory as the authorities in charge of the control on products entering the Union market.

Each Member State shall inform the Commission and the other Member States of the authorities designated under the first subparagraph and of their areas of competence through the information and communication system referred to in Article 34.

2 The authorities designated under paragraph 1 shall have the necessary powers and resources for the proper performance of their tasks as referred to in that paragraph.

3 Products subject to Union law that are to be placed under the customs procedure ‘release for free circulation’ shall be subject to controls performed by the authorities designated under paragraph 1 of this Article. They shall perform those controls on the basis of risk analysis in accordance with Articles 46 and 47 of Regulation (EU) No 952/2013 and, where relevant, on the basis of risk-based approach as referred to in the second subparagraph of Article 11(3) of this Regulation.

4 Risk-related information shall be exchanged between:

a the authorities designated under paragraph 1 of this Article in accordance with Article 47(2) of Regulation (EU) No 952/2013; and

b customs authorities in accordance with Article 46(5) of Regulation (EU) No 952/2013.

Where, in relation to products subject to Union law that are either in temporary storage or placed under a customs procedure other than ‘release for free circulation’, customs authorities at the first point of entry have reason to believe that those products are not compliant with applicable Union law or present a risk, they shall transmit all relevant information to the competent customs office of destination.

5 Market surveillance authorities shall provide authorities designated under paragraph 1 with information on categories of products or the identity of economic operators where a higher risk of non-compliance has been identified.

6 By 31 March of each year, Member States shall submit to the Commission detailed statistical data covering controls performed by the authorities designated under paragraph 1 with respect to products subject to Union law during the previous calendar year. The statistical data shall cover the number of interventions in the field of controls on such products with regard to product safety and compliance.

The Commission shall draw up a report by 30 June of each year, containing the information provided by the Member States for the previous calendar year and an analysis of the data submitted. The report shall be published in the information and communication system referred to in Article 34.

7 Where the Commission becomes aware of a serious risk presented by products subject to Union law that are imported from a third country, it shall recommend to the Member State concerned to take appropriate market surveillance measures.

8 The Commission, after consulting the Network, may adopt implementing acts laying down benchmarks and techniques for checks on the basis of common risk analysis on the Union level, in order to ensure a consistent enforcement of Union law, to strengthen the controls on products entering the Union market and to ensure an effective and uniform level of such controls. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 43(2).

9 The Commission shall adopt implementing acts further specifying the details of the data to be submitted under paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 43(2).

Article 26

Suspension of release for free circulation

1 Authorities designated under Article 25(1) shall suspend the release of a product for free circulation if in the course of controls pursuant to Article 25(3), it is established that:

a the product is not accompanied by the documentation required by the Union law applicable to it or there is a reasonable doubt as to the authenticity, accuracy or completeness of such documentation;

b the product is not marked or labelled in accordance with the Union law applicable to it;

c the product bears a CE marking or other marking required by the Union law applicable to it which has been affixed in a false or misleading manner;

d the name, registered trade name or registered trade mark and the contact details, including the postal address, of an economic operator with tasks regarding the product subject to certain Union harmonisation legislation is not indicated or identifiable in accordance with Article 4(4); or

e for any other reason, when there is cause to believe that the product does not comply with the Union law applicable to it or that it presents a serious risk to health, safety, the environment or any other public interest referred to in Article 1.

2 Authorities designated under Article 25(1) shall immediately notify the market surveillance authorities of any suspension of release referred to in paragraph 1 of this Article.

3 Where the market surveillance authorities have reasonable grounds to believe that a product does not comply with the Union law applicable to it or presents a serious risk, they shall request the authorities designated under Article 25(1) to suspend the process for its release for free circulation.

4 Notifications under paragraph 2 and requests under paragraph 3 of this Article may take place by means of the information and communication system referred to in Article 34, including through the use of electronic interfaces between this system and systems used by customs authorities, when they are available.

Article 27

Release for free circulation

Where the release of a product for free circulation has been suspended in accordance with Article 26, that product shall be released for free circulation where all the other requirements and formalities relating to such a release have been fulfilled and where either of the following conditions is satisfied:

(a) within four working days of the suspension, the authorities designated under Article 25(1) have not been requested by the market surveillance authorities to maintain the suspension;

(b) the authorities designated under Article 25(1) have been informed by the market surveillance authorities of its approval for release for free circulation.

The release for free circulation shall not be deemed to be proof of conformity with Union law.

Article 28

Refusal to release for free circulation

1 Where the market surveillance authorities conclude that a product presents a serious risk, they shall take measures to prohibit the placing of the product on the market and shall require the authorities designated under Article 25(1) not to release it for free circulation. They shall also require these authorities to include the following notice in the customs data-processing system, and, where appropriate, on the commercial invoice accompanying the product and on any other relevant accompanying document:

> Dangerous product — release for free circulation not authorised — Regulation (EU) 2019/1020.

Market surveillance authorities shall immediately enter that information in the information and communication system referred to in Article 34.

2 Where market surveillance authorities conclude that a product may not be placed on the market since it does not comply with the Union law applicable to it, they shall take measures to prohibit the placing of the product on the market and shall require the authorities designated under Article 25(1) not to release it for free circulation. They shall also require those authorities to include the following notice in the customs data-processing system, and, where appropriate, on the commercial invoice accompanying the product and on any other relevant accompanying document:

> Product not in conformity — release for free circulation not authorised — Regulation (EU) 2019/1020.

Market surveillance authorities shall immediately enter that information in the information and communication system referred to in Article 34.

3 Where the product referred to in paragraph 1 or 2 is subsequently declared for a customs procedure other than release for free circulation and provided that the market surveillance authorities do not object, the notice required by paragraph 1 or 2 shall also be

included, under the same conditions as required by paragraph 1 or 2, in the documents used in connection with that procedure.

4 Authorities designated under Article 25(1) may destroy or otherwise render inoperable a product which presents a risk to the health and safety of end users where the authority in question considers that it is necessary and proportionate to do so. The cost of such measure shall be borne by the natural or legal person declaring the product for free circulation.

Articles 197 and 198 of Regulation (EU) No 952/2013 shall apply accordingly.

Changes to legislation:
There are currently no known outstanding effects for the Regulation (EU) 2019/1020 of the European Parliament and of the Council, CHAPTER VII.