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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	24 February 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2017) 1143 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 24.2.2017 on the classification of horizontal settlement and short term water absorption performance for in-situ formed loose fill cellulose (LFCI) thermal insulation products under EN 15101-1 pursuant to Regulation (EU) No 305/2011 of the European Parliament and of the Council

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Delegations will find attached document C(2017) 1143 final.

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Encl.: C(2017) 1143 final



Brussels, 24.2.2017  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 24.2.2017**

**on the classification of horizontal settlement and short term water absorption performance for in-situ formed loose fill cellulose (LFCI) thermal insulation products under EN 15101-1 pursuant to Regulation (EU) No 305/2011 of the European Parliament and of the Council**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

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<sup>1</sup>, acknowledges two main alternatives to establish classes of performance in relation to the essential characteristics of construction products. According to Articles 27(1) and 60(f), this can be done by delegated acts of the Commission, whereas Article 27(2) allows for the use of harmonised standards for this purpose, on the basis of a revised mandate. In accordance with Article 27(2), first subparagraph, where the Commission has established such classes, the European standardisation bodies shall use those classes in harmonised standards.

According to the definition comprised in Article 2(7) of Regulation (EU) No 305/2011, “class” means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product. Classes in Regulation (EU) No 305/2011 are thus always expressing a given range of determined performance of the product.

Moreover, Regulation (EU) No 305/2011 does not distinguish, unlike its predecessor Council Directive 89/106/EEC, different kinds of classes, depending on their origin. Classes of performance established by the Commission and such classes established by the European standardisation bodies are thus to be acknowledged and respected quite in the same manner.

Furthermore, the whole classification of performance would need to be defined open-ended, entailing all possible levels of performance in relation to a given essential characteristic for the products covered by the standard in question. Otherwise, also a threshold level for such performance would be established at the same time.

The European product standard EN 15101-1 on in-situ formed loose fill cellulose (LFCI) thermal insulation products was adopted by European Committee for Standardisation (CEN) in September 2013. It contains classifications for the performance of the products covered by it notably in relation to two of its essential characteristics, settlement for horizontal applications, lofts and floors, with seven classes of performance introduced, as well as short term water absorption, with two classes of performance introduced.

The first one of these classifications, concerning horizontal settlement, differs from that previously introduced in the harmonised product standard EN 14064-1, which covers certain mineral wool thermal insulation products. According to the available information, these existing classes are not sufficient for the products at hand, since using cellulose as base material causes the horizontal settlement to become generally higher. Therefore, and to extend the classification to the whole typical range of performance in relation to this essential characteristic, it has been enlarged to cover also the upper performance levels, by adding four classes to the said previously used classification. This resembles the practices currently in use for certain Member States.

The second classification, concerning short term water absorption, relates to the customary intended use circumstances for cellulose-based thermal insulation products. These are not

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<sup>1</sup> OJ L 88, 4.4.2011, p. 5.

expected to be used where subject to water penetration. However, and to avoid the establishment of a hidden threshold level for this performance, the classification needs to remain open-ended. This is to be achieved by adding one upper class to the classification included in the standard EN 15101-1 as adopted by CEN in September 2013. For the products in question, it has been deemed necessary to adjust this classification, so as to ensure that the classification foreseen for their performance in relation to short term water absorption covers all levels of performance for these products. The development of such a new version of EN 15101-1 is currently underway in CEN.

Since under the application of Regulation (EU) No 305/2011 the introduction of such new classifications into a harmonised standard by the European standardisation bodies themselves would require the issuing of a new revised mandate, which has not taken place, it has been considered more opportune to proceed with this draft delegated Regulation.

It has not been considered appropriate to include other performance classifications contained in the standard EN 15101-1 within the scope of the draft Regulation, because pursuant to Regulation (EU) No 305/2011 such classifications comprised in harmonised standards, the reference to which has been published under Directive 89/106/EEC in the Official Journal of the European Union, are to be deemed applicable under Regulation (EU) No 305/2011 without any further actions necessitated.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The draft Regulation was discussed in the meeting of the Advisory Group for Construction (the AG) on 14 June 2016 and also submitted for a written consultation of experts between 31 May and 28 June 2016. Before these steps, all Member States were presented an opportunity to nominate experts to participate in them. In addition to these experts, also other external stakeholders were consulted. The documents discussed in the AG and relevant to the written consultation were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts. The observations presented in these contexts have been taken into account when preparing the final draft version of this act for the inter-service consultation.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Pursuant to Article 27 of Regulation (EU) No 305/2011, classes of performance may be established in relation to the essential characteristics of construction products. According to Articles 27(1) and 60(f), this can be done by delegated acts of the Commission. In accordance with Article 27(2), first subparagraph, where the Commission has established such classes, the European standardisation bodies shall use those classes in harmonised standards.

According to Article 2(7) of Regulation (EU) No 305/2011, “class” means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product. Regulation (EU) No 305/2011 does not distinguish different kinds of classes. Classes of performance established by the Commission and such classes established by the European standardisation bodies are thus to be acknowledged and respected quite in the same manner.

Since under the application of Regulation (EU) No 305/2011 the introduction of new classifications of performance into harmonised standards by the European standardisation

bodies themselves would require the issuing of new revised mandates, which has not taken place, it has been considered more opportune to proceed with this draft delegated Regulation.

For these reasons, the draft Regulation should be adopted to establish new classes of performance for in-situ formed loose fill cellulose (LFCI) thermal insulation products under the European standard EN 15101-1.

The draft Regulation conforms to the principle of proportionality. It results in alleviating certain difficulties caused by the impact of Regulation (EU) 305/2011 on the establishment of classification systems for the performance of construction products, and therefore can be assessed to benefit the whole European construction sector.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 24.2.2017**

**on the classification of horizontal settlement and short term water absorption performance for in-situ formed loose fill cellulose (LFCI) thermal insulation products under EN 15101-1 pursuant to Regulation (EU) No 305/2011 of the European Parliament and of the Council**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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<sup>2</sup>, and in particular Article 27(1) thereof,

Whereas:

- (1) Where the Commission has not established classes of performance in relation to the essential characteristics of construction products, according to Article 27(2) of Regulation (EU) No 305/2011 they may be established by the European standardisation bodies, but only on the basis of a revised mandate.
- (2) The European product standard EN 15101-1 on in-situ formed loose fill cellulose (LFCI) thermal insulation products contains classifications of performance concerning two of its essential characteristics, settlement for horizontal applications, lofts and floors, as well as short term water absorption. These classifications represent a step forward for the consolidation of the internal market for the products in question.
- (3) For those new classifications, a revised mandate has not been issued,
- (4) New classification systems to be used for products covered by EN 15101-1 should therefore be established,

HAS ADOPTED THIS REGULATION:

*Article 1*

The performance of in-situ formed loose fill cellulose (LFCI) thermal insulation products, in relation to their essential characteristics settlement for horizontal applications, lofts and floors,

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<sup>2</sup> OJ L 88, 4.4.2011, p. 5.

as well as short term water absorption, shall be classified in accordance with the classification systems set out in the Annex.

*Article 2*

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

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

Done at Brussels, 24.2.2017

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*