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 [1] empowers the Commission to adopt delegated acts to establish classes of performance in relation to the essential characteristics of construction products. The Regulation also provides that the manufacturers of construction products should not be subjected to unnecessary administrative burdens or costs.

When the performance of certain construction products has already been sufficiently demonstrated by stable test results or other existing data, their manufacturers should be permitted, under conditions to be specified, to declare a certain class of performance without testing or further testing these products, as foreseen in Article 27(5) and Article 36(1)(a) of Regulation (EU) No 305/2011. This simplified procedure further reduces administrative burdens and costs for manufacturers.

During the consultation of experts nominated by Member States, based on extensive evidence on testing results by industry, it has been demonstrated that cross laminated timber products covered by the harmonised standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374 have proven to have a stable and predictable performance concerning their fire protection ability expressed as resistance to fire, when they meet certain conditions. For this reason, the fire protection ability performance of these products can be deemed, without the need for any further testing, to achieve certain classes of performance where those conditions are fulfilled.

This draft Regulation sets out the conditions under which these simplified procedures for determining the performance in relation to fire protection ability of cross laminated timber products covered by the harmonised standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374 can be applied.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft Regulation was discussed in the meeting of the Advisory Group on Construction Products [2] (the AG) on 9 December 2016. It was also submitted for a written consultation of the experts between 25 November 2016 and 16 January 2017. Before these steps, all Member States were presented an opportunity to nominate experts to

participate. 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 were taken into account when preparing the final draft version of this act for the inter-service consultation.

It was published for public feedback on the Better Regulation Portal from … to … 2017; [wording on feedback and any follow-up to be included subsequently].

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 Article 27(1), this can be done by delegated acts of the Commission, whereas Article 27(2) allows for the use of harmonised standards for this purpose.

Moreover, in accordance with Article 27(5), the Commission may establish conditions under which a construction product shall be deemed to achieve a certain class of performance without testing or without further testing, in order to avoid the unnecessary testing of construction products for which performance has already been sufficiently demonstrated by stable test results or other existing data.

These conditions are then to be fulfilled when a manufacturer wishes to replace type-testing of his product by these levels or classes of performance, as set out in Article 36(1)(a) of Regulation (EU) No 305/2011.

The European classification system established by Commission Decision 2000/367/EC [3] , regarding the fire protection ability expressed as resistance to fire of construction products, is applicable to cross laminated timber products covered by the harmonised standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374.

According to the expert group consultations carried out, the fire protection ability performance of cross laminated timber products covered by the harmonised standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374, within the classification provided for in Decision 2000/367/EC, is well established. For this reason, the fire protection ability performance of these products can be deemed, without the need for any further testing, to achieve a certain class of performance, as defined in the European classification system mentioned above.

The draft Regulation conforms to the principle of proportionality, since

adopting a delegated act is the most efficient way to achieve the desired outcome, the alleviation of administrative burdens, while continuing to guarantee legal certainty. It results in alleviating administrative obligations for market actors otherwise to be complied with under Regulation (EU) No 305/2011, concerning the testing of products under its scope.

COMMISSION DELEGATED REGULATION (EU) …/...

of XXX

on the conditions for classification, without testing, of cross laminated timber products covered by the harmonised standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374 with regard to their fire protection ability

(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 [4] , and in particular Article 27(5) thereof,

Whereas:

(1) A system for classifying the performance of construction products with regard to their resistance to fire was adopted by Commission Decision 2000/367/EC [5] . Cross laminated timber products and laminated veneer lumber products are construction products to which that Decision applies.

(2) Tests have shown that cross laminated timber products covered by the harmonised standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374 have a stable and predictable performance concerning their fire protection ability provided that they fulfil certain conditions regarding the form of the product as well as its installation, mean density and thickness.

(3) Cross laminated timber products covered by the harmonised

standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374 should therefore be deemed to satisfy certain classes of performance for fire protection ability established by Decision 2000/367/EC without testing being required, where they fulfil those conditions,

HAS ADOPTED THIS REGULATION:

Article 1

Cross laminated timber products covered by the harmonised standard EN 16351 and laminated veneer lumber products covered by the harmonised standard EN 14374 which fulfil the conditions set out in the Annex shall be deemed to satisfy the classes of performance indicated in the Annex without testing.

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,

For the Commission
The President
Jean-Claude Juncker

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(1) OJ L 88, 4.4.2011, p. 5.
(2) Code E01329 in the Register of Commission Expert Groups and other Similar Entities.
(3) Commission Decision 2000/367/EC of 3 May 2000 implementing Council Directive 89/109/EEC as regards the classification of the resistance to fire performance of construction products, construction works and parts thereof (OJ L 133, 6.6.2000, p. 26).
(4) OJ L 88, 4.4.2011, p. 5.
(5) Commission Decision 2000/367/EC of 3 May 2000 implementing Council Directive 89/109/EEC as regards the classification of the resistance to fire performance of construction products, construction works and parts thereof (OJ L 133, 6.6.2000, p. 26).

ANNEX

TABLE 1
CLASSES OF FIRE PROTECTION ABILITY PERFORMANCE
FOR CROSS LAMINATED TIMBER PRODUCTS

Product [1]	Product detail [2]	Minimum mean density [3] (kg/m3)	Minimum thickness (mm)	K Class [4]
Cross laminated timber products covered by the harmonised standard EN 16351	without tongue and groove [5]	450	54	K210 [6]
Cross laminated timber products covered by the harmonised standard EN 16351	with tongue and groove [7]	450	54	K260

TABLE 2
CLASSES OF FIRE PROTECTION ABILITY PERFORMANCE
FOR LAMINATED VENEER LUMBER PRODUCTS

Product [8]	Product detail [9]	Minimum mean density [10] (kg/m3)	Minimum thickness (mm)	K Class [11]
Laminated veneer lumber products covered by the harmonised standard EN 14374	with tongue and groove and a minimum layer thickness of 3 mm [12] or without tongue and groove and with a minimum layer thickness of 3 mm [13]	450	15	K210 [14]

Laminated veneer lumber products covered by the harmonised standard EN 14374	with tongue and groove and a minimum layer thickness of 3 mm [15]	450	26	K230
Laminated veneer lumber products covered by the harmonised standard EN 14374	with tongue and groove and a minimum layer thickness of 3 mm [16]	450	52	K260

(1) Mounted directly on the substrate (particle board of density ≥ 680 kg/m³ in accordance with standard EN 14135) without an air gap.
(2) Joints with square edges or tongue and groove profile and with the same thickness as the wood product and without gaps.
(3) Conditioned in accordance with standard EN 13238.
(4) Class as set out in Decision 2000/367/EC.
(5) Screw length minimum 75 mm and spacing maximum 200 mm.
(6) K110 for substrates of density ≥ 300 kg/m³.
(7) Screw length minimum 75 mm and spacing maximum 200 mm.
(8) Mounted directly on the substrate (particle board of density ≥ 680 kg/m³ in accordance with standard EN 14135) without an air gap.
(9) Joints with square edges or tongue and groove profile and with the same thickness as the wood product and without gaps.
(10) Conditioned in accordance with standard EN 13238.
(11) Class as set out in Decision 2000/367/EC.
(12) Screw length minimum 30 mm and spacing maximum 200 mm.
(13) Screw length minimum 30 mm and spacing maximum 200 mm.
(14) K110 for substrates of density ≥ 300 kg/m³.
(15) Screw length minimum 50 mm and spacing maximum 200 mm.
(16) Screw length minimum 75 mm and spacing maximum 200 mm.