

Product Risk Radar

EU Market Surveillance Regulation

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An overview of the Market Surveillance Regulation 2019/1020

The Market Surveillance Regulation 2019/1020 (“**MSR**”), which came into force on 16 July 2021, aims to improve and modernise market surveillance of almost all non-food products in the EU by providing an efficient and harmonised approach to the implementation of EU regulations and directives. Articles relating to the EU Product Compliance Network (a support network established by the MSR to aid cooperation, enforcement, and good practice between market surveillance authorities in the EU) and financing activities came into force on 1 January 2021.

What are the key provisions?

The MSR applies only to products subject to harmonised legislation (as listed in Annex 1 of the MSR). It seeks to address the challenges posed by increased use of e-commerce and online trade. In particular, the MSR:

- introduces a new economic actor (i.e., a “*fulfilment service provider*” – the person or company responsible for warehousing, packaging, addressing and/or dispatching products);
- plugs the gap in respect of the representation of overseas companies in the EU – pursuant to the MSR, suppliers must have an economic operator established within the EU to sell their products on the EU market;
- places new operational and risk responsibilities on economic operators – for instance, they will be required to display their name and contact details on the product, packaging, or accompanying document; and
- strengthens the power of authorities to ensure effective market surveillance of products subject to EU harmonised legislation that is sold offline and online, within their territory (in particular, authorities are provided with the power to enter any premises, to impose penalties, and to take appropriate measures in lieu of the economic operator).

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What impact does the MSR have on me?

The MSR mainly affects (i) manufacturers based outside of the EU and selling into the EU, who will now need to ensure they have an economic operator within the EU; (ii) consumers in the EU, who have been given more protection in respect of online sales; and (iii) fulfilment service providers. Companies engaging in online sales where their business is based outside of the EU and the consumer is in the EU need to take protective measures to avoid penalties.

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