



## Future revision of the EU Recreational Craft Directive

### Joint industry & user position paper

#### 1. Introduction

To ensure a strong European perspective from consumers/boat users and the industry, European Boating Association and European Boating Industry jointly issue this position paper and support the recommendations herein.

European Boating Association (EBA) is a civil, not for profit association of recreational boat users' organisations, founded in 1982, and established as an Unincorporated Association whose members agree to be governed by its constitution. The EBA member organisations (see <http://www.eba.eu.com/participantorgs>) collectively represent in excess of 1.5 million recreational boaters and an estimated 20 million active participants.

The purpose of the EBA is to represent the mutually agreed common interests of national recreational boat users' organisations in Europe, and in particular to:

- Coordinate and develop recreational boating activities in Europe by exchange of information, and action on matters of mutually agreed common interest.
- Promote the practice of all activities on the water, promoting and exchanging knowledge and experience between recreational boat users' organisations in Europe.
- Represent EBA members in environmental, regulatory and technical matters affecting their safe enjoyment of recreational boating activities on the water.
- Encourage the safe, unhampered and environmentally sustainable use of recreational boats on all European waters.
- Provide the link between the European institutions and EBA Members for consultation and information on proposed EU directives and regulations.
- Provide the link between other relevant global and regional organisations and EBA Members.

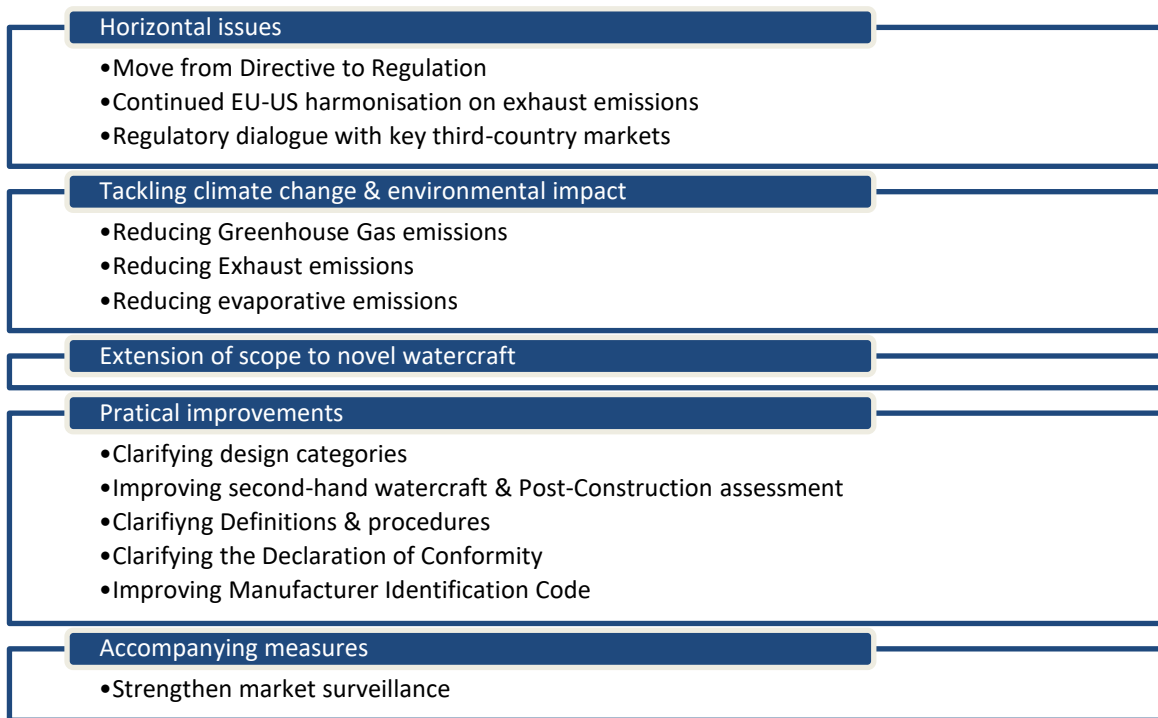
European Boating Industry (EBI) represents the European recreational boating industry, made up of European manufacturers of boats, engines, components, dealers, and importers. It also represents the entire value chain and ecosystem that includes charter, rental, marinas, and all related services. EBI's membership includes all stakeholders affected by the Recreational Craft Directive (RCD). EBI's mission is to **advance and represent a sustainable boating and nautical tourism industry #MadeInEurope**.

The boating industry in Europe is a **dynamic and competitive sector**, as well as a **significant contributor** to the European economy. This is especially felt in peripheral regions, which are primarily coastal and along inland waterways. The industry is mainly made up of **small and medium-sized enterprises** (more than 95% of businesses are SMEs and over 50% are micro-SMEs). On its own, the boatbuilding sector consists of 3,600 companies and over 82,000 employees with 280,000 direct employees in the wider

sector. Within the maritime sector, boat-building is unique in having maintained and increased production in Europe in the past years, building global competitiveness.

The co-signatories **welcome the European Commission report** on application of the RCD<sup>1</sup> (Article 51) and review of the design categories and emissions<sup>2</sup> (Article 52). This position paper lays out the views of the European sector with regards to a future revision of the RCD following these reports.

### Overview of proposed changes in future revision of RCD



<sup>1</sup> [https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2022\)21&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2022)21&lang=en)

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2022%3A358%3AFIN>

## 2. Overall position

The two associations consider the current RCD **overall fit for purpose** and support a targeted revision to **adapt to technological developments and new market trends**. This should ensure that the RCD remains relevant and world-leading this decade and beyond. Among the key aims should therefore be adaptation to the environmental transition, changing consumer and industry trends, as well as digitalisation to ensure the continued strength and positive impact of the European recreational boating industry.

## 3. Horizontal issues

One of the concerns of the sector is that the RCD is transposed into national legislation in different ways, which leads to different interpretations and ambiguities that can harm the EU internal market and lead to administrative burdens and costs for manufactures. We therefore support, in principle, for the RCD to **be changed from a Directive to a Regulation**. This can also solve some of the issues identified by Member States in the report submitted by the European Commission. However, a Regulations should retain the provision in Article 5 of the RCD, which allows Member States to lay down such requirements as they may deem necessary concerning:

- navigation on certain waters to protect the environment from e.g. noise pollution;
- the fabric of waterways
- the safety of waterways.

This is currently allowed as long as these provisions do not require change to the watercraft which would already be in conformity with this Directive, and that they are justified and proportionate to the objectives to be achieved.

One of the key achievements from the 2013 revision was the alignment of exhaust emission standards with the US, which should be kept as the guiding line. Given the relatively small size of the global market of which the EU and US together make up around 80%, **EU-US harmonisation** – where in the best interest of the European industry and environmental impact – should be continued. In a similar vein, the perspective of the UK as an export market should be considered given that the two legal frameworks are currently aligned with no substantive changes made by the UK Government to the Recreational Craft Regulations after leaving the EU. A **close regulatory dialogue with key third-country markets, such as the UK and US**, including stakeholders, is highly necessary to avoid regulatory divergence. This would otherwise create administrative burden, costs, potential loss of export markets for the European industry and has the potential for consumer confusion.

In addition, the Commission report includes several recommendations to improve application of the RCD without changing the RCD, which both associations very much support and look forward to being involved in.

### Recommendations

- Change the Recreational Craft Directive to a Regulation (keeping two years for application transition)

- Continued harmonisation of exhaust emission requirements between the EU and US and regulatory dialogue, as well as the UK
- Close regulatory dialogue with the UK to avoid regulatory divergence

#### 4. Reducing Greenhouse Gas Emissions

EBI and EBA call for an innovative approach to reducing Greenhouse Gas (GHG) emissions and environmental impact of the sector in the RCD. A **comprehensive approach** to reducing environmental impact and reducing GHG emissions impact can be found through a **life cycle approach** that goes beyond tailpipe emissions and covers boat design, material use and end-of-life treatment, as well as other factors. This should be included in the RCD through a consideration of the full life cycle and potentially conduct Life Cycle Assessment (LCA) and displaying results to consumers. This will incentivise cost-efficient reduction of environmental impact and GHG emissions through better boat design, potential for comparison and consumer choice. However, the potential implications and burden for SMEs should be considered, as well as the development of a European or global standard making LCA comparable.

A future RCD should encourage best practice among manufacturers, encouraging a boat design process which minimises the impact of the boat on the environment.

It is necessary to include **all types of propulsion systems and sustainable fuels** in the scope of the RCD (hydrogen, electric, hybrid, etc.). More boats are appearing on the market that are not powered by combustion engines. The variety ranges from hybrid drives to pure electric drives. Hydrogen fuel cells are also entering the market. These technologies are only partially covered by the current RCD, leaving manufacturers in an uncertain legal space. This also applies to consumers and Notified Bodies. Such propulsion systems should be included within the scope of the RCD and future legislation should be **open for further innovation** and technological developments. This would very much support the environmental transition of the recreational boating industry where there is no “one-size, fits-all” zero-emission solution given the different boat types, their uses, and requirements.

An additional approach that the RCD can encourage is **building awareness and skills of recreational craft users** in the fuel-efficient operation of engines and environmentally-aware boating through addition of relevant information to the **owners’ manual**. This could very practically and substantially reduce fuel consumption and emissions.

Other **measures outside the RCD** need to be encouraged together with Member States and stakeholders, such as roll-out of alternative fuel and infrastructure in marinas (eFuels, biofuels, hydrogen, and electric charging), engines replacement schemes, tax, and VAT incentives. This must target the existing boat fleet consisting of over 6 million boats. These are responsible for the vast majority of the emissions from the sector. As highlighted in the report, more than 80% of engines currently in service were placed on the market before the current exhaust emission in the latest RCD.

#### Recommendations:

- Extension of essential requirements to ensure boat builders implement a life cycle approach in boat design and construction, as well as potential use of LCA tool (based on ISO 14040 standard for LCA) with specific recreational craft LCA standard to be developed
- Encourage best practice among manufacturers, and make minimising the impact of the boat on the environment an integral part of the design and production process.
- Change of Article 3 “Definitions” through change of Point (5) *“‘propulsion engine’ means any ~~spark or compression ignition, internal combustion~~ engine used directly or indirectly for propulsion purposes;”*
- Changes to Annex I “Essential Requirements in points B “Essential requirements for exhaust emissions from propulsion engines” and C “Essential requirements for noise emissions” to include the specificities of low-, and zero-emission propulsion technologies (hydrogen, electrical, hybrid)
- Changes to Annex I “Essential Requirements” in points B, 2.5 “Test fuels” to include openness for biofuels or synthetic fuels (based on common standards at ISO level of future Delegated Acts)
- Change of Annex I, Point 2.5 “Owner’s Manual”: *Each product shall be provided with an owner’s manual in accordance with Article 7(7) and Article 9(4). That manual shall provide all the information necessary for safe use of the product drawing particular attention to set up, maintenance, environmentally sustainable boating and low-emission operation, regular operation, prevention of risks and risk management.*
- Recital: Call to Member States to promote and put in place alternative fuel and relevant infrastructure for recreational boating at national level

## 5. Reducing exhaust emissions

As identified in the third-party review study on the RCD<sup>3</sup>, the “US and EU fleets for recreational craft are the most important ones in the world and in the last decades their regulations have set the pace for emission reduction in this market”. Where technically feasible, emission of air pollutants should continue to be reduced across the entire sector, and **further harmonisation of EU-US limits should be prioritised**.

It is essential that the emissions of air and noise pollution from recreational craft are reduced to prevent regulation at a local level (e.g. by imposing speed limits or zero emission technology) which might lead to certain boats being unnecessarily excluded from more sensitive areas in the future.

Further reduction based on **best-in-class limits**, could reduce all types of emissions, including CO<sub>2</sub> as

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<sup>3</sup> <https://single-market-economy.ec.europa.eu/system/files/2021-11/Final%20Report%20Review%20Study%20on%20the%20Recreational%20Craft%20Directive%202013%2053%200EU.pdf>

recognised in the third-party study. According to the scenario described in the study this has a payback period of 9 years rather than up to 20 years when introducing additional technology. This would achieve a CO<sub>2</sub> emission reduction with a substantial economic benefit and as the third-party report recognises, this scenario offers the least uncertainty. It should be ensured that these can be implemented by all engine manufacturers.

The use of selective catalytic reduction (**SCR**) and exhaust gas recirculation (**ECR**) technology is **not possible** for craft below 24m due to substantial space and weight constraints for boats that have very low space availability and limited yearly use (35- 50 hours/per year on average). In the case of SCR, the storage of the reagent fluid (urea-water mixture) on-board will also be highly challenging. The space for the engine in recreational boats is usually very small (compared to ships). Engines with after-treatment technology usually work with higher temperatures due to the filtration of gasses before the cooling. In a smaller “engine room” there is a higher risk of overheating the engine, leading to higher space needs.

In general, SCR technology is appropriate for continuous use and therefore not a relevant solution for recreational craft that are used intermittently and largely seasonally. One month without use may require total clean-up of SCR system before running the engine, meaning that all craft should be prepared with an SCR system clean-up for summer season in a very short time.

Another concern is the need to switch to low sulphur (EGR) or ultra-low sulphur fuel (SCR), which is not necessarily guaranteed to be available from the side of fuel suppliers and may lead to lack of **fuel availability**. This will also further reduce the relatively **limited market attractiveness** for fuel suppliers and negatively impact European manufacturing by making **export of second-hand boats not possible** due to lack of these fuels in regions outside of Europe, thereby also negatively impacting the new boat market. It should also be considered that second-hand boats are often exported outside the EU or move there as part of normal operation, including regions where such fuel will not be available. The possibility for boat owners to move around the world with their boat should also not be overlooked.

Besides significant costs for the boating industry and consumers, it also ties up resources by fuel suppliers that should invest in new fuels (bio-based, synthetic) to comprehensively decarbonise the full fleet.

The **supply of the urea-water mixture** would also have to be ensured across Europe, as well as outside Europe ensuring second-hand boats can be exported and boats moved freely across borders. It is unlikely that this would be possible even for the main boating regions outside of EU Europe, such as North America. This would also have a major impact on charter activities where same boats are operated in multiple areas of the world in one year.

From a comprehensive decarbonisation perspective, applying SCR technology would make **retrofitting with more efficient engines almost impossible** as the space available on boats currently in the market and in the existing fleet is small and would not suit the space needs for SCR technology. Engine manufacturers would not be able to supply engines that suit “old-type” boats and thereby risk making refitting of old boats with more fuel-efficient engines impossible. An engine replacement would also lead to a Post-Construction Assessment, thereby making stricter emission limits applicable that cannot be

implemented in old craft due to the above-described space issues.

For smaller companies, the development of an SCR system for the entire range is too big of an investment and may mean that these, mainly EU-based manufacturers, go out of business thereby damaging manufacturing in a strategic and economically important sector. A specific consideration should be made for **SMEs**, given the **limited investment** on production technology and research possibilities due to low volume and difficulty to get specifically developed components due to low volume. The third-party study assumes the payback period to apply catalyst technologies is 16-20 years, assuming a volume of 25.000 units/year per a family of 11 kW OB. For SMEs this number will not be reached and therefore result in a longer payback period given an average production of 1000 units/year x family for SME engine manufacturers

#### Recommendations:

- Stricter limits for exhaust emissions as proposed by the review study (to be discussed with engine manufacturers)
  - Stricter limitations for OB and PWC SI-engines: a 30% reduction of NOx+HC for engines with P < 75 kW, a 31-33% reduction of CO, no limit for PM.
  - Stricter limitations for IB SI engines: a 50% reduction of Nox+HC only.
  - Stricter limitations for IB CI engines, in harmonisation with the EPA Tier 3 emission targets for engines with P < 37 kW regarding HC+Nox and PM.
  - Introducing of NTE-limits in dedicated NTE-areas as in the EPA-legislation.
  - Consideration of inclusion of limits for outboard CI engines (small, but growing market segment)
- Extended transition periods for SME producers of engines in order to allow them time to adapt to new emission limits as implemented in the last RCD (Article 55, Point 2)

#### 6. Reducing evaporative emissions

Based on the evidence of the study and the European perspective of the industry and environmental impact, **evaporative emission limits for fuel hoses/lines** should be included in the RCD based on-US standards. As the Commission report recognises, evaporative emissions will naturally decrease with the ongoing roll-out of low and zero emission technologies. To increase the speed of emission reduction, it is suggested to introduce evaporative emission limits for fuel hoses in the RCD. This offers the **most cost-beneficial option** for reducing evaporative emissions from the recreational craft sector according to the third-party study, reducing HC emissions by 11%. As recognised in the third-party study, *“controlling permeation emissions from fuel hoses and lines will deliver the highest benefits within the shortest amount of time”*.

Further restrictions, meaning full introduction of US evaporative emission standards, are costly with a payback time of 22 years and total costs of at least €47 million, which would tie up investment better put to use for low and zero-emission technology that truly reduce evaporative emissions. This would

come at a time period where the roll-out of low and zero emission engines will pick up pace and naturally reduce evaporative emissions.

## Recommendations

- Introduction of evaporative emission limits for fuel hoses and lines of 15 g/m<sup>2</sup>/day (US EPA standard)

## 7. Improving design categories

The co-signatories call on keeping the overall structure of design categories in place, with introduction of clarified definitions and an upper limit for Category A. The current design categories have proven themselves as relevant, safe, and informative. Some clarifications (wind force, significant wave height) and addition of an upper limit to category A can be made to ensure better consumer understanding. This scenario also came out as the most beneficial scenario in the third-party study offering no costs but positive benefits.

## Recommendations

- Amendment to the Annex I Table

Design category	Wind force (Beaufort scale)	Significant wave height (H $\frac{1}{3}$ , metres)
A	<u>up to, and including, 9</u> <del>exceeding 8</del>	<u>up to, and including, 7</u> <del>exceeding 4</del>

- Changes to explanatory notes

A. A recreational craft given design category A is considered to be designed for a wind force up to, and including, 9 and significant wave height up to, and including, 7 m. ~~winds that may exceed wind force 8 (Beaufort scale) and significant wave height of 4 m and above but excluding abnormal conditions, such as storm, violent storm, hurricane, tornado and extreme sea conditions or rogue waves.~~

E. Maximum average wind speeds for categories A, B, C and D are 24,4 m/s, 20,7 m/s, 13,8 m/s and 7,9 m/s respectively. These values are taken from WMO No 306 Vol I.1 Part A 2019 edition. They depict the wind speed averaged over a period of 10 minutes at 10 meters above sea level. Depending on atmospheric conditions, gusts may temporarily increase the wind speed by about 30% to 50%.

F. The significant wave height is the mean height of the highest one-third of the waves, which approximately corresponds to the wave height estimated by an experienced observer. Maximum wave height may be double the significant wave height.



## 8. Extension of the scope to novel watercraft

The aim of the RCD should be to maintain and build a **single legal framework for the recreational boating industry** that incorporates new trends and technologies. These should address both environmental challenges as laid out above and the constant, and ever-increasing, evolution of innovation, consumer and industry trends.

EBA and EBI support an extension of the scope to **new types of craft** such as hydrofoils and other types of craft that were not on the market during the last revision of the RCD. For instance, there are more crafts equipped with hydrofoils, both sailing and power, on the market. These are handled differently in EU member states and are sometimes approved or not under the RCD. Manufacturers operate within an uncertain legal framework and are vulnerable from a liability perspective. However, it is crucial **not to add new essential requirements** as the scope of products is dedicated to the same consumers. This ensures consistency and avoids consumer misunderstanding.

### Recommendations

- Change of Article 2 “Scope” through removal of Point (xi) “Hydrofoils”
- Change of Article 2 “Scope” to include new watercraft “self-propelled surfboards” “boats pushed by jet skis” “houseboats (if self-propelled and self-maneuvrable)”, “semi-submersible units”, “jet skis equipped with outboard motors less than 2.5 m in length”
- Mechanism to change the scope of products included in a future RCD through Delegated Acts based on criteria set in a revised RCD

## 9. Better addressing the issue of second-hand watercraft & Post-Construction Assessment

EBI and EBA support improvements to the issues surrounding making alterations to **second-hand boats**, which should be facilitated rather than discouraged through Post-Construction Assessment (PCA). This issue will likely grow in importance given that the UK has left the EU, but trade of second-hand boats between the UK and the EU will continue necessitating PCA.

In addition, the requirement to conduct PCA in case of major engine modification and major craft conversion, needs to also take into account the increased retrofitting of new engines, either with RCD-compliant engines that are less polluting or are based on low-, or zero-emission propulsion technology. Given the potential of retrofitting to reduce emissions, this needs to be encouraged with a cost-efficient approach in PCA.

Greater clarity is needed regarding when a PCA is required, and this should be harmonised across member states. The cost of a PCA can be a barrier to boat owners making changes to their boat which would be advantageous for environmental sustainability. It should be clear to boat owners what changes can and can't be made without a PCA and consideration should be given to whether and if so how the requirement for a PCA on a recreational craft that is already in use can be enforced. Consistency across

member states is essential as many recreational craft move between member states.

### Recommendations

- Annex V is suitable but can be improved based on inclusion of elements of the RSG Guidelines to provide further legal clarity (where additional considerations in relation to PCA have been included over the last years)
- The Commission should also be given powers through delegated legislation to expand the use of PCA in future.
- Consideration of simple PCA in retrofitting of low-, and zero-emission propulsion engines
- Consideration of how requirements for PCA can be enforced in a harmonised way across member states.

### 10. Revising definitions and procedures

The revision also creates an opportunity to further **clarify definitions** that have been understood differently by Member State authorities, in particular ‘major craft conversion’, ‘major engine modification’, and ‘model year’. Aligning these and implementing through a **Regulation** would ensure a clearer application and legal certainty for Member States and industry.

### Recommendations

- Change of Article 3 “Definitions” to include a definition of model year: *“Model year is the year when each individual watercraft is intended to be placed on the market. The model year assigned to a specific craft is a period of twelve months and can extend across two calendar years. The manufacturer decides which of these is the model year.”* (in line with the decision of the RCD Expert Group for the Application Guide, 1 March 2021)
- Clarifications on the definition and application of ‘major craft conversion’ and ‘major engine modification’ without adding unnecessary burden for the consumer of manufacturer
- Changes to Annex I “Essential Requirements”, Point A, 2.4 “. Visibility from the main steering position” needs to be considered different for sailing craft, where all-round visibility may not always be practically possible. Adapting the requirements from the Convention on the International Regulations for Preventing Collisions at Sea would offer a practical solution *“Watercraft shall be designed so that the operator can maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.”*
- Awareness-raising towards consumers about the situations when major craft and engine conversion takes place with support of market surveillance

## 11. Declaration of Conformity

Member States handle the Declaration of Conformity (DOC) in different ways. Some consider the DOC only necessary when placing on the market while others consider it as a document that should stay with the craft forever. This should be clarified in a revision of next RCD, but also consider that the DOC is sometimes used for other administrative purposes (VAT, customs procedures).

It is clear from the issues resulting from the requirement to retain paperwork to demonstrate that a boat is in free circulation in the VAT territory of the EU that requiring boat owners to retain and handover to future any owners paper documentation is problematic. EBI and EBA oppose any move to impose such a requirement on owners of recreational craft as it would further limit the second-hand market and could lead to boats reaching end of life before they cease to be serviceable, purely due to missing paperwork. It must be possible to verify compliance through markings on the craft itself without paper/digital documentation, unless that documentation is stored at the EU level.

In addition, the RCD currently requires all product information, such as the owner's manual, to be provided in printed form and economic operators must indicate their name, registered trade, name or registered trademark and the address at which they can be contacted on the craft itself. This process, while previously suitable, should be supplemented with **digital means** and take advantage of the **benefits of modern technology**. This is already being discussed for other EU Directives and is being considered as part of the evaluation of the New Legislative Framework<sup>4</sup>.

### Recommendations

- Change to Article 15 "EU declaration of conformity" to clarify that the DOC is only required when placing on the market
- Change of the RCD to allow the provision of all product information, as well as contact information, both in print form and through digital means (email address, QR code, etc.)

## 12. Assigning the Manufacturer Identification Code (MIC)

The current practical implementation of the MIC code system can and has led to **duplication of MICs** for third country manufacturers. This leads to confusion for customers and manufacturers. EBA and EBI therefore proposes adapting the procedure and coordinating with the US, UK, and other key markets.

It should also be evaluated whether it would be valuable to add simple requirements to the process of assigning the MIC, such as providing information of the skills and suitability of the applicant company. This step might however not be needed in case of more effective market surveillance uniformly is applied across all countries. A strategic decision would therefore have to be taken on which measure is more

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<sup>4</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12654-Evaluation-of-the-New-Legislative-Framework-for-EU-legislation-on-industrial-products\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12654-Evaluation-of-the-New-Legislative-Framework-for-EU-legislation-on-industrial-products_en)

valuable for consumer safety.

### Recommendations

- Amendment of the RCD (rather than Regulation 2017/1) with a provision to ensure a unique MIC (country code of the Member State where the request was made + manufacturer-specific MIC) and a provision to ensure that the third-country register kept by the European Commission is updated live/daily
- Coordination of the MIC database with the US database maintained by the US Coast Guard to facilitate international coordination and avoid duplication that should then be extended to other jurisdictions that have adopted the ISO process (such as UK, Canada, Australia)
- Evaluation of changes to the process for assigning of the MIC requiring the submission of relevant documentation proving the suitability of the company in question of building crafts under the RCD (availability of standards, experience, etc.) in contrast to more effective market surveillance

### 13. Strengthen and harmonise market surveillance

A crucial element for successful application of the RCD and the principle of consumer protection is **effective market surveillance**. Different degrees of market surveillance between Member States have become apparent, which can lead to a **distortion of the Single Market**. Sufficient resources for market surveillance authorities and implementation of best-practices specific for the recreational boating sector should be put in place and monitored by the European Commission.

Effective market surveillance should be achieved through product marking and not be reliant on paperwork or digital documentation, unless the records are kept at the EU level.

### Recommendations

- Monitoring of market surveillance activities and resources at national level by the European Commission through the RCD ADCO Group
- Implementation of best-practices in market surveillance and allocation of sufficient resources by Member States

### 14. Contact

For more information, data, or other questions, please contact EBI: [pe@europeanboatingindustry.eu](mailto:pe@europeanboatingindustry.eu) and EBA: [eba@eba.eu.com](mailto:eba@eba.eu.com) (European Boating Association) Transparency register # 205999610833-45).