INTEGRATED SCIENTIFIC SERVICES
A MEDTECH COMPANY

IMPLEMENTATION OF THE NEW EU MEDICAL DEVICE REGULATIONS MDR (2017/745) AND IVDR (2017/746)

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Content

1 Introduction

The EU's Medical Device Regulation (EU 2017/745) and In Vitro Diagnostic Regulation (EU 2017/746) – MDR and IVDR, respectively –entered into force on 26 May 2017. The transitional period, ranging from six months to five years, has now come to an end, which means that both regulations are now in full force.

Guidance documents are necessary to support the implementation of the forthcoming MedTech Regulations, as these make provisions for implementing and delegated acts. Common specifications are necessary and the functioning of the medical device database, EUDAMED, is a prerequisite for the full employment of the new regulatory framework.

ISS AG, Integrated Scientific Services has been entrusted by the Federal Office of Public Health FOPH (Bundesamt für Gesundheit BAG) to report on the ongoing developments related to these Regulations, as well as their implementation and further elaboration. Subsequent reports will be published at three-month intervals. The thematic focus of the reports will be on the research, in particular clinical trials; related aspects of the Regulations and their implementation; and the relevant modules in EUDAMED.

2 Abbreviations

AIMDD	Active Implantable Medical Devices Directive (90/385/EEC)
CAMD	Competent Authorities for Medical Devices
CAB	Conformity Assessment Body
CEN	European Committee for Standardization
CENELEC	European Committee for Electrotechnical Standardization
CFS	Certificates of Free Sale
COCIR	European Trade Association representing the medical imaging, radiotherapy, health ICT and electromedical industries
CS	Common Specifications
EC	European Commission
EMA	European Medicines Agency
EFPIA	European Federation of Pharmaceutical Industries and Associations
EUON	European Union Observatory for Nanomaterials
EURLs	European Referece Laboratories
IVDD	In Vitro Diagnostics Medical Devices Directive (98/79/EC)
IVDR	In Vitro Diagnostics Regulation (EU) 2017/746
MDCG	Medical Device Coordination Group
MDD	Medical Device Directive (93/42/EEC)
MDR	Medical Device Regulation (EU) 2017/745
NANDO	New Approach Notified and Designated Organisations
NB	Notified Body
UDI	Unique Device Identification

3 Notified body capacity and availability of medical devices and IVDs

The outcome of a recent extensive survey by MedTech Europe indicates an urgent need for immediate action by decision-makers to help keep necessary medical devices available in Europe. With the document MDCG 2022-14, the challenges in ensuring sufficient NB capacity to allow manufacturers to certify their devices under

the MDR and the IVDR within the transition periods, have been acknowledged. Data collected by notified bodies and submitted to Competent Authorities in December 2021 shows that almost 37 % of manufacturers' applications have been rejected due to incomplete applications This highlights a general lack of preparation on the part of manufacturers. It is further stated that about 70% of AIMDD/MDD certificates will expire in 2024 (26 May 2024 at the latest). These figures emerged in the April 2022 notified body survey.

The MDCG proposes several measures to address the significant and urgent challenges associated with insufficient notified body capacity and manufacturers' inadequate preparation, to ensure the transition from the Directives to the Regulations can occur within the foreseen transition periods. The proposed measures aim to improve the capacity of notified bodies, the access to notified bodies and the readiness of manufacturers. Notably, MDCG 2022-14 suggests measures and solutions within the existing legal framework, without the need to amend the legislative texts. However, the MDCG will monitor the market closely, assess the progress and impact of these measures (once adopted) and evaluate whether further action is needed.

This document follows MDCG 2022-11, in which the responsibility for timely compliance with the MDR requirements was entirely placed on the manufacturers. In a recently issued statement, the Competent Authorities for Medical Devices (CAMD) agrees with the MDCG, that solutions to the capacity challenges should not include a reduction, removal or unnecessary reinterpretation of the regulations. A derogation of the conformity assessment undertaken by Competent Authorities is also not a suitable solution to the problem. But the CAMD also states that finding a solution is a shared responsibility, therefore taking a softer approach towards manufacturers than the MDCG in its first position paper.

The MedTech industry association, COCIR has also published a position paper on proposed actions to enhance notified bodies' capacity and preparedness.
This paper presents 27 suggestions for certification, clinical evaluation, technical documentation review and designation of notified bodies to tackle these issues.

4 Implementing and delegated acts & guidelines

4.1 Another update of the implementation rolling plan issued

A revised version of the implementation rolling plan was issued in July 2022, with only four items left:

- Common specifications for products without a medical purpose
- Reclassification of certain Annex XVI active products as a derogation from Annex VIII of the MDR
- Setting up of EU reference laboratories under the IVDR
- Unique Device Identification (UDI) System

4.2 Implementing regulations on EU reference labs

The European Commission has adopted two new implementing regulations laying down rules for EU reference labs. The first regulation lists requirements for EU reference labs regarding the availability and qualification of staff, the required training, and documentation requirements etc. The labs are required to apply state-of-the-art standards. The act further outlines under what circumstances EU reference labs may outsource their activities.

The second regulation addresses the fees levied by EU reference labs. While the labs are responsible for determining the appropriate fees for different tasks and resources, they need to be transparent about the pricing.

4.3 Commission issues revised standardisation request

The draft revision of Implementing Decision C(2021) 2406, amends both Annex I (harmonised standards for Regulation (EU) 2017/745 on medical devices) and Annex II (harmonised standards for Regulation (EU) 2017/746 on in vitro diagnostic medical devices) of the standardisation request. In addition, the European Commission has published a consolidated reference list, which includes the current MDR/IVDR standardisation mandates and the associated CEN and CENELEC Joint Work Programme, to provide an overview of the relevant activities.

4.4 EMA published new documents on companion diagnostics consultation procedure

EMA has published guidance on the procedural aspects of the consultation procedure, whereby notified bodies seek a scientific opinion from the agency. In addition, a Q&A on practical modalities and an application form have been published, which notified bodies could use to request a follow-up consultation with EMA.

4.5 Commons specifications for high-risk IVDs adopted

The European Commission has adopted common specifications (CS) for several types of high-risk IVDs (such as HIV tests and SARS-CoV-2 tests). The CS determine benchmarks for tests across the EU and clarify the requirements for market actors.

4.6 MDCG guidance outlines alternative solutions for IVD manufacturers until EUDAMED is ready

With the news of another postponement of EUDAMED, the MDCG has published guidance to help IVD manufacturers understand in detail what they should do in the interim. MDCG 2022-12 provides a table with alternative solutions to the provisions that were foreseen in the implementation of the IVDR, had the database been ready on time.

4.7 MDCG document on designation, re-assessment, notification of conformity assessment bodies and notified bodies issued

MDCG 2022-13 guides the designation, re-assessment, notification of conformity assessment bodies and notified bodies. This guidance provides a streamlined approach conducting assessments of conformity assessments bodies (CABs) that apply for notified body designation and re-assessments of NBs.

4.8 Public consultation on draft implementing regulation on active devices without an intended medical purpose

The European Commission launched a four-week public consultation on a draft implementing regulation, on the reclassification of active devices without a medical purpose. The public consultation is open until 8 September 2022. This initiative aims to ensure that such devices are classified according to their risks and subject to the same pre- and post-market requirements as comparable medical devices.

5 EUDAMED

5.1 Postponement of EUDAMED implementation

The EC has published an updated timeline for delivering EUDAMED, postponing thecommunicated timeline in February 2022 for another year:

- Q4 202**3**: End of the EUDAMED minimal viable product development for all six modules
- Q1-Q2 202**4**: Independent audit
- Q2 202**4**: Presentation of audit results to MDCG
- Q2 202**4**: Achievement of full functionality after successful audit; publication of notice in Official Journal of the European Union
- Q4 202**4**: End of 6 months transitional period after publication of the notice; fully functional EUDAMED (all 6 modules) available; the use

of EUDAMED becomes mandatory concerning the obligations and requirements related to Actors, Vigilance, Clinical Investigation & Performance Studies and Market Surveillance modules

– Q2 202**6**: End of 24 months transitional period after publication of the notice; the use of EUDAMED becomes mandatory concerning the obligations and requirements related to UDI/Device and NB & Certificate modules

5.2 New EUDAMED information centre available

The European Commission has again published a new product version of the EUDAMED Actors, UDI/Devices registration and NBs & Certificates modules. With this release, the Commission has published the first BETA version of the new EUDAMED information centre. The new website includes all EUDAMED user guides, provides quick and structured access to relevant information and provides a contact form where users can reach the EUDAMED support team.

5.3 New EUDAMED playground version available

The European Commission allows economic operators to test and comment on version 3.1 (released July 2022) of the EUDAMED playground until September 2022.

5.4 Updated technical documentation on UDI/device module available

The European Commission published the technical documentation regarding the UDI/devices module in April 2022. This technical documentation has been updated. Version 2.8 consists of:

– EUDAMED UDI/Device data dictionary v2.8: This document explains which data is to be provided in the UDI module of EUDAMED, for the registration of devices.
– UDI Device Business rules v2.8: This document contains the constraints, restrictions and business rules that drive the implementation of EUDAMED.
– UDI Device Enumerations v2.8: This document contains the value lists for drop-down elements and lists from which a limited number of values can be selected.
– DTX service definition for Economic Operators v2.8
– Economic Operators DTX notes v2.8
– Economic Operators - XML samples v2.8

6 Notified body designation

Thirty-two notified bodies are currently designated under the MDR and seven under the IVDR.

The following additional NBs with MDR designation are listed in NANDO:
– Berlin Cert Prüf- und Zertifizierstelle für Medizinprodukte GmbH, Germany
– CENTRO NACIONAL DE CERTIFICACION DE PRODUCTOS SANITARIOS, Spain
– BUREAU VERITAS ITALIA S.P.A., Italy

7 Implementation activities on national levels

7.1 Germany: National provisions of IVDR in absence of EUDAMED

Since EUDAMED is not fully operational, national provisions for registrations and notifications continue to apply. A new notice clarifying Germany's national requirements was issued in May 2022. The notice lists how the various obligations and requirements referred to in Article 113(3)(f) of the IVDR, which related to

EUDAMED are to be fulfilled. This notice emphasises the obligations of economic operators, notified bodies and sponsors, which are applicable from 26 May 2022 until at least the later date referred to in Article 113(3)(f) of the IVDR.

7.2 Ireland: HPRA publishes a guide on performance studies for in vitro diagnostic devices performed in Ireland

Two regulations to further implement the IVDR have been published:

- S.I. 256 of 2022 - In Vitro Diagnostic Regulations (Irish IVDR Regulations 2022). These regulations revoke the previous Irish regulations implementing the IVDR's predecessor, Directive 98/79/EEC on in-vitro diagnostic medical devices (IVDD).
- S.I. 257 of 2022 - EU (National Research Ethics Committees for Performance Studies of In Vitro Diagnostic Medical Devices Regulations 2022 (Irish IVDR National Office Regulations).

7.3 Ireland: IVD performance studies pre-submission form and guide available

The Health Products Regulatory Authority (HPRA) has updated its information on pre-submission meetings for IVD performance studies conducted in Ireland with a new request form. The HPRA also released a guide for sponsors who want to run performance studies involving in vitro diagnostics (IVDs) in Ireland. This guide provides an overview of relevant legislation and key concepts. It also describes when and how applications or notifications must be submitted to HPRA.

7.4 Italy: Decree establishes national vigilance network

End of March 2022, the Ministry of Health Italy issued a new decree establishing a national network for the surveillance of medical devices and the supporting information system. The national network will focus on the timely and widespread exchange of information concerning incidents and safety actions of devices (including devices listed in Annex XVI of Regulation (EU) no. 2017/745).

7.5 Spain: Temporary rules for IVD notification in the online application system

In accordance with the provisions of Article 10 of Royal Decree 1662/2000, IVDs that required a certificate issued by a notified body, have to be notified in Spain's online application system *(Comunicaciones de Comercializacion de Productos Sanitarios CCPS)* before being placed on the market or commissioned. This provision applies until EUDAMED is fully operational.

8 IVD-specific issues

8.1 Information pack for EU reference laboratory (EURL) candidates

Regulation (EU) 2017/746 (IVDR) requires high-risk IVDs (class D) to be tested by EURLs in the course of the conformity assessment. However, currently, there are no EURLs designated. Therefore, the Commission has made a call for application to member states and published an information pack for potential candidates for EU reference laboratories. The information pack explains the legal framework for EURLs, the selection criteria and the overall selection process.

8.2 EC and EMA update websites with information on IVDs

A specific section on IVDs has been added to the European Commission's web pages on medical devices. A special section on high-risk products has been added to the EMA website on medical devices.

8.3 EFPIA warns of critical challenges for clinical trials with IVDs

The European Federation of Pharmaceutical Industries and Associations (EFPIA) issued a statement highlighting that sponsors of clinical trials required by IVDs face critical challenges. While voicing support for

the IVDR, the criticism highlights the perceived shortcomings of the process for reviewing applications to use IVDs in clinical trials. This could reduce clinical trial sites in Europe and delay patients' access to novel therapies.

8.4 Team NB issues a position paper on an approach to technical documentation assessment of multiplex IVDs

Team-NB has published a position paper on the technical documentation assessment of multiplex in-vitro diagnostic devices. Although these devices are considered single devices, they can be intended to detect several (100+) targets/markers simultaneously, making the assessment of the technical documentation and supporting clinical data challenging.

9 Miscellaneous

9.1 Commission issued a recommendation on the definition of nanomaterial

The European Commission has issued a new recommendation on the definition of nanomaterials. While the principal definition remains the same. However,particles with an elongated (e.g. nanotubes) or plate-like (e.g. graphene flakes) shape are now explicitly included, while single molecules are excluded from the definition. Intending to improve the transparency of nanomaterials on the EU market, the EU Commission has founded the EUON initiative (European Union Observatory for Nanomaterials).

9.2 Revised *Blue Guide* for the implementation of EU product regulations issued

The Blue Guide is a guide to general principles and concepts in EU product legislation, including the regulatory frameworks for medical devices and in vitro diagnostic medical devices. The newly published *Blue Guide* replaces the previous version from 2016. This new version builds on previous editions but also reflects recent changes in legislation. Medical devices and IVDs, in particular, are of concern in this new edition, due to the adoption of the MDR and IVDR.

9.3 CAMD issues a Q&A document on certificates of free sales

The Competent Authorities for Medical Devices (CAMD) group has published a Q&A document on Certificates of Free Sale (CFS). This includes the obligations of member states and economic operators introduced by MDR Article 60.

9.4 Medtech Europe issues a position paper on the use of MDCG documents

MedTech Europe issued a position paper on how MDCG guidance documents should be used. MDCG documents are issued to assist stakeholders in the implementation of the medical device regulations. Medtech Europe offers suggestions on how not to undermine manufacturers' efforts to transition to the new rules of the MDR and IVDR.

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