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ANNEX TO EASA OPINION 08/2013

COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of **XXX**

**on additional airworthiness requirements for operations as well as amending
Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical
requirements and administrative procedures related to air operations pursuant to
Regulation (EC) No 216/2008 of the European Parliament and of the Council**

COMMISSION IMPLEMENTING REGULATION (EU) No .../..

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on additional airworthiness requirements for operations as well as amending Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (), as amended by Commission Regulation (EU) No 6/2013 of 8 January 2013 (), and in particular Article 5 thereof,

Whereas:

- (1) Pursuant to Regulation (EC) No 216/2008 (hereinafter referred to as the ‘Basic Regulation’), the Commission, assisted by the European Aviation Safety Agency (hereinafter referred to as the ‘Agency’), is required to adopt the necessary implementing rules for common airworthiness requirements throughout the Union.
- (2) Such requirements, covering the entire life cycle of aeronautical products, may include additional requirements for a given type of operations to be implemented after the initial issuance of an airworthiness approval in the interest of safety.
- (3) Already in 1998, the Joint Aviation Authorities (JAA) had issued JAR-26 ‘Additional (joint) Airworthiness Requirements for Operations’.
- (4) The technical requirements of JAR-26 need to be transferred to the EU regulatory framework.
- (5) In order to ensure consistency and clarify obligations, a reference to this Regulation is needed in Commission Regulation (EU) No 965/2012/ laying down requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.
- (6) The Agency prepared draft implementing rules and submitted them as an Opinion to the Commission in accordance with Article 19(1) of Regulation (EC) No 216/2008.
- (7) The measures provided for in this Regulation are in accordance with the Opinion of the European Aviation Safety Agency Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down common additional airworthiness requirements to support the continuing airworthiness and safety improvements of:

1. aircraft registered in a Member State;
2. aircraft registered in a third country and used by an operator for which a Member State ensures oversight.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'Maximum operational passenger seating configuration (MOPSC)' means the maximum passenger seating capacity of an individual aircraft, excluding crew seats, established for operational purposes and specified in the operations manual.
2. 'Large aeroplane' means an aeroplane that has the Certification Specifications for large aeroplanes 'CS-25' or equivalent in its certification basis. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Article 3

Additional airworthiness requirements for operations

Aircraft registered in a Member State or registered in a third country and used by an operator for which a Member State ensures oversight shall comply with the provisions of Annex I (Part-26) to this Regulation.

Article 4

Amendment to Commission Regulation (EU) 965/2012

Annex III (Part-ORO) to Commission Regulation (EU) No 965/2012 laying down requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, is amended in accordance with Annex II to this Regulation.

Article 5

Transition provision

Aircraft for which compliance with JAR-26 Amendment 3 of 1 December 2005 requirements is demonstrated shall be deemed to comply with equivalent requirements of this Regulation.

Article 6

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

*For the Commission
The President*

ANNEX I

PART-26

ADDITIONAL AIRWORTHINESS REQUIREMENTS FOR OPERATIONS

SUBPART A — GENERAL PROVISIONS

26.10 Competent authority

For the purpose of this Part, the competent authority to which compliance with the requirements needs to be demonstrated by operators shall be the authority designated by the Member State in which the operator has its principal place of business.

26.20 Temporary inoperative equipment

A flight shall not be commenced when any of the aircraft's instruments, items of equipment, or functions required by this Part are inoperative or missing unless waived by the operator's Minimum Equipment List as defined in Part-ORO.MLR.105 and approved by the competent authority.

26.30 Demonstration of compliance

- (a) The Agency shall issue, in accordance with Article 19 of Regulation (EC) No 216/2008, certification specifications as standard means to show compliance of products with this Part. The certification specifications shall be sufficiently detailed and specific to indicate to operators the conditions under which compliance with the requirements of this Part may be demonstrated.
- (b) Operators may demonstrate compliance with the requirements of this Part by complying with:
 - (i) the detailed specifications issued by the Agency under (a) or the equivalent specifications issued by the Agency under Part 21.A.16A; or
 - (ii) technical standards offering an equivalent level of safety as those included in those specifications.

SUBPART B — LARGE AEROPLANES

26.50 Seats, berths, safety belts, and harnesses

Operators of large aeroplanes used in commercial air transport, type certified on or after 1 January 1958, shall ensure, not later than [two years after the entry into force of this Regulation], that each flight or cabin crew member seat and its restraint system are configured in order to provide an optimum level of protection in an emergency landing whilst allowing the occupant's necessary functions and facilitating rapid egress.

26.100 Location of emergency exits

Except for aeroplanes having an emergency exit configuration installed and approved prior to 1 April 1999, operators of large aeroplanes used in commercial air transport having a maximum operational passenger seating configuration of more than 19 with one or more emergency exits deactivated shall ensure that the distance(s) between the remaining exits remains (remain) compatible with effective evacuation.

26.105 Emergency exit access

Operators of large aeroplanes used in commercial air transport shall provide, not later than [two years after the entry into force of this Regulation], means to facilitate the rapid and easy movement of each passenger from their seat to any of the emergency exits in case of an emergency evacuation.

26.110 Emergency exit markings

Operators of large aeroplanes used in commercial air transport shall comply with the following not later than [two years after the entry into force of this Regulation]:

- (a) means shall be provided to facilitate the location, access, and operation of emergency exits by cabin occupants under foreseeable conditions in the cabin in case of an emergency evacuation;
- (b) means shall be provided to facilitate the location and operation of emergency exits by personnel on the outside of the aeroplane in case of an emergency evacuation.

26.120 Interior emergency lighting and emergency light operation

Operators of large aeroplanes used in commercial air transport shall provide, not later than [two years after the entry into force of this Regulation], means to ensure that illuminated exit signage, general cabin and exit area illumination, and low level exit path illumination is available to facilitate the location of exits and movement of passengers to the exits in case of emergency evacuation.

26.150 Compartment interiors

Operators of large aeroplanes used in commercial air transport shall comply with the following not later than [two years after the entry into force of this Regulation]:

- (a) all materials and equipment used in compartments occupied by the crew or passengers shall demonstrate flammability characteristics compatible with minimising the effects of in-flight fires and the maintenance of survivable conditions in the cabin for a time commensurate with that needed to evacuate the aircraft;
- (b) if smoking is prohibited, this shall be indicated with placards;

- (c) if smoking is allowed, ashtrays in appropriate numbers, locations, and with suitable markings shall be provided, and illuminated signs, operable by the flight crew, shall be provided to indicate when smoking is prohibited;
- (d) disposal receptacles shall be such that containment of an internal fire is ensured; such receptacles shall be marked to prohibit the disposal of smoking materials.

26.155 Flammability of cargo compartment liners

Operators of large aeroplanes used in commercial air transport, type certified after 1 January 1958, shall ensure, not later than [two years after entry into force of this Regulation], that the liners of Class C or Class D cargo compartments are constructed of materials that adequately prevent the effects of a fire in the compartment from endangering the aircraft or its occupants.

26.160 Lavatory fire protection

Operators of large aeroplanes used in commercial air transport with a maximum operational passenger seating configuration of more than 19 shall comply with the following not later than [two years after the entry into force of this Regulation]:

Lavatories shall be equipped with:

- (a) smoke detection means;
- (b) means to automatically extinguish a fire occurring in each disposal receptacle.

26.200 Landing gear aural warning

Operators of large aeroplanes used in commercial air transport shall ensure, not later than [two years after the entry into force of this Regulation], that an appropriate landing gear aural warning device is installed in order to significantly reduce the likelihood of landings with landing gear inadvertently retracted.

26.250 Flight crew compartment door operating systems — single incapacitation

Operators of large aeroplanes used in commercial air transport shall ensure, not later than [two years after the entry into force of this Regulation], that flight crew compartment door operating systems, where installed, be provided with alternate opening means in order to facilitate access by cabin crew members into the flight crew compartment in the case of a single flight crew member incapacitation.

ANNEX II

Amendment to Annex III (Part-ORO) to Commission Regulation (EU) No 965/2012

In ‘Part-ORO, Subpart AOC — AIR OPERATOR CERTIFICATION’, point (c) of point ORO.AOC.100 is replaced by the following:

- ‘(c) Applicants shall demonstrate to the competent authority that:
- (1) they comply with all the applicable requirements of:
 - (i) Annex IV to Regulation (EC) No 216/2008;
 - (ii) this Annex (Part-ORO);
 - (iii) Annex IV (Part-CAT) and Annex V (Part-SPA) to this Regulation; and
 - (iv) Regulation (EU) No .../.... (Part-26), as applicable;
 - (2) all aircraft operated have a certificate of airworthiness (CofA) in accordance with Commission Regulation (EU) No 748/2012; and
 - (3) its organisation and management are suitable and properly matched to the scale and scope of the operation.’