EUROPEAN
COMMISSION

Brussels, XXX
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Annex I to EASA Opinion No 05/2024

COMMISSION IMPLEMENTING REGULATION (EU) …/…

of XXX

amending Regulation (EU) 2015/640 as regards the introduction of new additional airworthiness requirements and correcting that Regulation

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ([1]), and in particular Article 17(1), point (h) thereof,

Whereas:

(1) Pursuant to Article 76(3) of Regulation (EU) 2018/1139, the European Union Aviation Safety Agency (the 'Agency') issues certification specifications (CSs) and regularly updates them in order to ensure that CSs remain fit for purpose. However, an aircraft the design of which has already been certified is not required to comply with the updated version of the applicable CSs when it is produced or while in service. Therefore, in order to support continuing airworthiness and safety improvements, compliance of such aircraft with additional airworthiness requirements that were not included in the initial CSs at the time of certification of the designs should be introduced. Commission Regulation (EU) 2015/640 ([2]) sets out such additional airworthiness requirements.

(2) The Certification Specifications for Small Rotorcraft (CS-27) and Large Rotorcraft (CS-29) contain specifications related to crash-resistant fuel systems (CRFS) for helicopters. However, a significant part of the in-service helicopters is not equipped with a CRFS while several fatal accidents could have been survivable if the helicopter would have been equipped with such a system. This has been also highlighted in safety recommendations issued by various accident investigation bodies. Having due regard to this risk and the need to maintain a high uniform level of civil aviation safety in the Union, it is proportionate and cost-efficient to render some of those specifications applicable to some in-service helicopters operated in the Union and to those that will be produced after the entry into force of this Regulation.

(3) The Council of the International Civil Aviation Organization (ICAO) adopted new Standards and Recommended Practices (SARPs) with Amendment 109 to Annex 8 to the Chicago Convention to ensure that the design approval holder makes available information on design characteristics associated with the cargo compartment fire

([1]) OJ L 212, 22.8.2018, p. 1.

([2]) Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012 (OJ L 106, 24.4.2015, p. 18).

protection capabilities of aeroplanes and helicopters to all known operators of such aircraft. These SARPs should be transposed to maintain the safety of operations of aircraft that transport dangerous goods in the cargo compartment. This information will assist operators in determining the limitations of specific cargo compartment fire protection capabilities established during certification when conducting the risk assessment for the transport of dangerous goods as required by Commission Regulation (EU) No 965/2012 ([3]).

(4) These SARPs should be transposed for small and large aeroplanes and for small and large helicopters and should be applicable to those aircraft for which the individual certificate of airworthiness is first issued on or after 1 January 2025. The new requirements for small aeroplanes and small helicopters should be proportionate to the safety risk and should apply only in the cases of cargo compartments separated from the flight deck. Some adaptations should be made for consistency with the new requirements.

(5) Commission Implementing Regulation (EU) 2020/1159 ([4]) inserted in Annex I (Part-26) to Regulation (EU) 2015/640 a new point 26.205 requiring operators of large aeroplanes used in commercial air transport to ensure that every aeroplane for which the first individual certificate of airworthiness is issued on or after 1 January 2025 is equipped with a runway overrun awareness and alerting system (ROAAS). Several large aeroplane type-certificate holders are facing industrial issues resulting in significant delays preventing them from being able to deliver newly produced aeroplanes equipped with a certified ROAAS before 1 January 2025. Operators taking delivery of such aeroplanes will not be able to comply with point 26.205. Hence, the applicability date of point 26.205 should be postponed such as to reflect the current industrial capabilities and to permit business continuity for large aeroplane operators. This date postponement should not have a significant impact on safety.

(6) The scope of applicability of Regulation (EU) 2015/640, as amended by Regulation (EU) 2020/1159, should be amended to make it consistent with Article 2 of Regulation (EU) 2018/1139 as regards aircraft operators.

(7) Implementing Regulation (EU) 2020/1159 inserted in Annex I (Part-26) to Regulation (EU) 2015/640 a new point 26.370, addressing the continuing airworthiness of ageing large aeroplane structures, that requires the operators or owners to prepare the aircraft maintenance programme provided for in Annex I (Part-M) to Regulation (EU) No 1321/2014 ([5]) such that it includes the elements listed in that point. Aircraft owners are not within the scope of Regulation (EU) 2015/640, and the operators should not be directly required to prepare the maintenance programme of the aeroplanes since this programme is developed by the organisation responsible for the management of continuing airworthiness. Point 26.370 should therefore be made applicable to operators only such that they ensure that the maintenance programme includes the elements listed in that point. In addition, point 26.370 should not specifically refer to Part-M since the scope of Part-M does not cover all aeroplanes operated by the operators that are within

([3]) 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 (OJ L 296, 25.10.2012, p. 1).

([4]) Commission Implementing Regulation (EU) 2020/1159 of 5 August 2020 amending Regulations (EU) No 1321/2014 and (EU) No 2015/640 as regards the introduction of new additional airworthiness requirements (OJ L 257, 6.8.2020, p. 14).

([5]) Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).

the scope of Regulation (EU) 2015/640. Other requirements of Regulation (EU) 2015/640 that are related to this issue should be corrected to ensure that the instructions for continued airworthiness are made available by the design approval holder to all known operators of the affected aeroplanes and, on request, to any other person required to comply with such instructions, including the organisations responsible for the management of continuing airworthiness.

(8) Article 3 of Regulation (EU) 2015/640 refers to Article 1 as created with the initial issue of that Regulation. It specifies the scope for operators for which a Member State ensures oversight when operating the aircraft referred to in Article 1 of that Regulation. Article 1 has been amended by Implementing Regulation (EU) 2020/1159 to include this scope such that Article 3 became redundant with Article 1(2)(a). Hence Article 3 should be deleted.

(9) Other requirements should be improved for clarification and consistency throughout Regulation (EU) 2015/640.

(10) With effect from 26 August 2023, Commission Implementing Regulation (EU) 2020/1159 ([6]) inserted in Annex I (Part-26) to Regulation (EU) 2015/640 a new point 26.157. In accordance with that provision, all in-service large aeroplanes certified by the Agency and used in commercial air transport on or after 26 August 2023 are to comply with additional airworthiness requirements for the conversion of Class D cargo or baggage compartments. However, further analysis has shown that for certain types of operations, including primarily business operations, certain large, low-occupancy aeroplanes present lower risk of an in-flight fire starting in their Class D cargo or baggage compartment and developing into an uncontrollable fire. In order to avoid imposing non-proportionate and non-cost-efficient burdens on their operators, the operators of those aeroplanes therefore needed to be exempted from the obligation to comply with point 26.157.

Commission Implementing Regulation (EU) 2022/1254 replaced Appendix 1 ‘List of aeroplane models not subject to certain provisions of Annex I (Part-26)’, with a new list, including aeroplane types and models for which point 26.157 shall not apply. Further investigations concluded there were other low-occupancy large aeroplane types not included in this list, but which could also be involved in operations (primarily business operations), presenting a lower risk of an in-flight fire starting in their Class D cargo or baggage compartment and developing into an uncontrollable fire. In order to avoid imposing non-proportionate and non-cost-efficient burdens on their operators, those aeroplane models therefore need to be equally exempted from the obligation to comply with point 26.157.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 127 of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2015/640 is amended as follows:

(1) Paragraph 2 of Article 1 is replaced by the following:

([6]) Commission Implementing Regulation (EU) 2020/1159 of 5 August 2020 amending Regulations (EU) No 1321/2014 and (EU) No 2015/640 as regards the introduction of new additional airworthiness requirements (OJ L 257, 6.8.2020, p. 14).

‘2. This Regulation applies to:

(a) operators of:

(i) aircraft registered in a Member State, unless and to the extent that the Member State has transferred its responsibilities pursuant to the Chicago Convention to a third country and the aircraft is operated by a third-country aircraft operator;

(ii) aircraft registered in a third country and operated by an aircraft operator established, residing or with a principal place of business in the territory to which the Treaties apply;

(b) holders of a type certificate, restricted type certificate, supplemental type certificate, design change approval, or repair design approval issued by the Agency in accordance with Commission Regulation (EU) No 748/2012 ([7]) or deemed to have been issued in accordance with Article 3 of that Regulation;

(c) the applicants for a type certificate or a restricted type certificate for a large aeroplane, for which the application was submitted before 1 January 2019 and who are issued with the certificate after 26 August 2020 when specified in Annex I (Part-26).’;

(2) Article 2 is amended as follows:

(a) points (b) to (ca) are replaced by the following:

‘(b) ‘large aeroplane’ means an aeroplane that has the Certification Specifications for Large Aeroplanes ‘CS-25’ or equivalent in its certification basis;

(ba) ‘small aeroplane’ means an aeroplane that has the Certification Specifications for Normal-Category Aeroplanes ‘CS-23’ or equivalent in its certification basis;

(c) ‘large helicopter’ means a helicopter that has the Certification Specifications for Large Rotorcraft ‘CS-29’ or equivalent in its certification basis;

(ca) ‘small helicopter’ means a helicopter that has the Certification Specifications for Small Rotorcraft ‘CS-27’ or equivalent in its certification basis;’;

(b) point (g) is replaced by the following:

‘(g) “corrosion prevention and control programme” (CPCP) means a document reflecting a systematic approach to prevent and to control corrosion in an aeroplane’s primary structure, consisting of basic corrosion tasks, including inspections, areas subject to those tasks, defined corrosion levels and compliance times (implementation thresholds and repeat intervals). A baseline CPCP is established by the type-certificate or restricted type-certificate holder, which can be adapted to create a CPCP in the maintenance programme of each affected aeroplane;’;

(c) points (i) and (j) are replaced by the following:

([7]) Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

‘(i) “baseline structure” refers to the structure that is designed under the type certificate or restricted type certificate for that aeroplane model (that is, the ‘as delivered aeroplane model configuration’);

(j) “fatigue-critical baseline structure” (FCBS) means the baseline structure of an aeroplane that is classified by the type-certificate or restricted type-certificate holder as a fatigue-critical structure;’;

(d) points (m) and (n) are replaced by the following:

‘(m) “damage tolerance inspection” (DTI) means a documented inspection requirement or any other maintenance action developed by holders of a type certificate, restricted type certificate, supplemental type certificate or existing major change approval as specified in Annex I (Part-26) as a result of a damage tolerance evaluation. A DTI includes the areas to be inspected, the inspection method, the inspection procedures (including the sequential inspection steps and acceptance and rejection criteria), the inspection threshold and any repetitive intervals associated with those inspections. DTIs may also specify maintenance actions such as replacement, repair or change;

(n) “repair evaluation guideline” (REG) means a process and implementation schedule for conducting surveys established by the type-certificate or restricted type-certificate holder for repairs that affect fatigue-critical structures to ensure the continued structural integrity of all relevant repairs, as specified in point 26.309 of Annex I (Part-26);’;

(3) Article 3 is deleted;

(4) Annex I (Part-26) is amended in accordance with the Annex to this Regulation.

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
[…]