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Delegations will find attached document D040413/02.

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Brussels, **XXX**  
[...](2014) **XXX** draft

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

**of XXX**

**amending Regulation (EU) No 965/2012 as regards requirements for flight recorders,  
underwater locating devices and aircraft tracking systems**

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

of **XXX**

## amending Regulation (EU) No 965/2012 as regards requirements for flight recorders, underwater locating devices and aircraft tracking systems

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<sup>1</sup>, and in particular Article 8(5) thereof,

Whereas:

- (1) The operation of aircraft has to comply with the essential requirements set out in Annex IV to Regulation (EC) No 216/2008. In accordance with Regulation (EC) No 216/2008, the Commission should adopt the necessary implementing rules for establishing the conditions for the safe operation of aircraft.
- (2) The Cockpit Voice Recorder (CVR) aims at supporting the safety investigation performed by the safety investigation authority in the case an accident or an incident occurs. Relevant safeguards to protect CVR from disclosure in a situation where a safety investigation has been opened are set out in Regulation (EU) No 996/2010 of the European Parliament and of the Council<sup>2</sup>. With the introduction of safety management, it is recognised that CVR might be used outside the context of a safety investigation in order to maintain or improve safety. Therefore, Commission Regulation (EU) No 965/2012<sup>3</sup> should be amended in order to reinforce conditions that aim to effectively prevent the inappropriate use and disclosure of CVR recordings.
- (3) With the objective to improve the overall performance of flight recorders and to facilitate the recovery of an aircraft and its flight recorders after an accident over water, several safety improvements to the current requirement have been put forward by the International Civil Aviation Organisation (ICAO). Those safety improvements include the discontinuation of outdated recording technologies such as magnetic tape or magnetic wire, the extension of the minimum recording duration of the CVR as

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<sup>(1)</sup> OJ L 79, 13.3.2008, p. 1.

<sup>(2)</sup> Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (OJ L 295, 12.11.2010, p. 35).

<sup>(3)</sup> 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).

well as the extension of the transmission time of the flight recorder underwater locating device and the carriage of an underwater locating device with a very long detection range for aeroplanes performing long-range overwater flights. Therefore, Regulation (EU) No 965/2012 should be amended in order to reflect those safety improvements.

- (4) It is necessary to take into consideration the disappearance of flight MH370 on 8 March 2014 and the recommendations made by the multidisciplinary meeting of the ICAO on global tracking of 12 and 13 May 2014. The position of public transport aircraft should be known at all times, even in a remote location, in order to facilitate the location of the aircraft in case of an abnormal behaviour, an emergency or an accident. Whenever possible, the aircraft tracking means should be robust to loss of normal electrical power on board and should not offer any control to disable it during the flight. Therefore, Regulation (EU) No 965/2012 should be amended in order to include additional requirements related to means to track aircraft on a global basis, including over oceans and remote areas.
- (5) In accordance with the proposition of the Flight Recorder Panel (FLIRECP) of the ICAO, with respect to the carriage of CVRs with extended recording duration for large aeroplanes, provision should be made for the introduction of CVR with a recording duration of 25 hours on board aircraft, manufactured after 1 January 2021, with a maximum certificated take-off mass of over 27 000 kg.
- (6) The measures provided for in this Regulation address 13 safety recommendations from safety investigation authorities<sup>4</sup>, with a view to increasing safety by facilitating the recovery of information for the purposes of European civil aviation safety investigations and improving flight recorder performance and handling as well as the location of aircraft after an accident over water.
- (7) The measures provided for in this Regulation are based on the Opinion No 01/2014<sup>5</sup> issued by the European Aviation Safety Agency (EASA) in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

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<sup>(4)</sup> EASA references of the 13 safety recommendations: CAND-1999-002 (McDonnell Douglas MD11, HB-IWF, 02/09/1998); GREC-2006-045 (B737 of Helios, 5B-DBY, 14/08/2005); NORW-2006-013 (ATR42, OY-JRJ 31/01/2005); NETH-2011-015 (Boeing 737, PH-BDP, 10/02/2010); UNKG-2012-013 (Boeing 767, G OOBK, 03/10/2010); FRAN-2012-025 (Airbus 340, F-GLZU, 22/07/2011); FINL-2012-003 (Airbus A330, OH-LTO, 11/12/2010); FRAN-2009-016, FRAN-2009-017, FRAN-2009-018, FRAN-2011-017 and FRAN-2011-018 (Airbus A330, F-GZCP, 01/06/2009); UNKG-2008-020 (ATR42, EI-SLD, 18/01/2007).

<sup>(5)</sup> Opinion 01/2014 of 5 May 2014 of EASA as regards amending requirements for flight recorders and underwater locating devices.

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I (Definitions), Annex IV (Part-CAT), Annex VI (Part-NCC) and Annex VIII (Part-SPO) to Regulation (EU) No 965/2012 are 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*