

Commission Implementing Decision (EU) 2018/576 of 15 December 2017  
on technical standards for security features applied to tobacco products  
(notified under document C(2017) 8435) (Text with EEA relevance)

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THE EUROPEAN COMMISSION,

Having regard to Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC<sup>(1)</sup>, and in particular Article 16(2) thereof,

Whereas:

- (1) Directive 2014/40/EU provides that all unit packets of tobacco products placed on the market are to carry a tamper proof security feature, composed of visible and invisible elements, for the purpose of facilitating the verification of whether or not tobacco products are authentic. Technical standards for a system of security features should be laid down.
- (2) The security features along with the system for ensuring the traceability of tobacco products, provided for in Article 15 of Directive 2014/40/EU and established in Commission Implementing Regulation (EU) 2018/574<sup>(2)</sup>, should allow for monitoring and more effective enforcement of the compliance of tobacco products with Directive 2014/40/EU.
- (3) Common rules on security feature standards in the Union are essential as divergent and insufficiently precise national requirements are likely to undermine efforts to improve compliance of tobacco products with Union tobacco products regulation. A more harmonised framework for security features across Member States should also facilitate the functioning of the internal market of legal tobacco products.
- (4) The technical standards for security features should give due regard to the high degree of innovation that exists in this area, while enabling competent authorities of Member States to verify the authenticity of tobacco products in an effective manner. Each Member State should be able to define the combination or combinations of authentication elements that are to be used to develop security features that are applied to tobacco products manufactured on or imported into its territory. The combination or combinations used should include visible and invisible elements. According to international standards, invisible elements, which are not directly perceptible by human

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senses, may further be defined by reference to the sophistication of equipment necessary for the verification of their authenticity. In order to maximise the robustness of the features, it is appropriate to require the use of at least one invisible element the verification of which requires the use of purpose built tools or professional laboratory equipment. The inclusion of a variety of different types of authentication elements into a security feature should ensure the necessary balance between flexibility and a high level of security. This should also enable Member States to take into account new innovative solutions, capable of further bolstering the effectiveness of security features.

- (5) The combination of different authentication elements should be required as an important step in guaranteeing that the integrity of the final security feature applied to a tobacco product is well protected.
- (6) The importance of ensuring the robustness of a system for security features is recognised by internationally recognised standards<sup>(3)</sup>. To this end, additional safeguards should be put in place, which shield security features and their different authentication elements from internal and external threats to the greatest extent possible. It should therefore be required that at least one authentication element in a security feature is provided by an independent third party solution provider, thereby reducing the potential for attacks perpetrated by persons or entities that are directly or indirectly connected with the producer or originator of authentication elements used to develop the security feature. In addition, in order to ensure the continuing respect of the requirement for independence that is critical for ensuring and maintaining the integrity of security features across the Union, the procedures for monitoring compliance with the independence criteria set out in this Decision should undergo periodic review by the Commission. Conclusions of the review should be published by the Commission and form part of the report on the application of Directive 2014/40/EU provided for under Article 28 of that Directive.
- (7) Several Member States require tax stamps or national identification marks for fiscal purposes. Those Member States should be free to allow that their stamps or marks are used as the security feature subject to the requirements of Article 16 of Directive 2014/40/EU and of this Decision. In order to alleviate any unnecessary economic burden, Member States whose tax stamps or national identification marks do not comply with one or more of the requirements of Article 16 of Directive 2014/40/EU and of this Decision should be allowed to use their tax stamps or national identification marks as a part of the security feature. In such cases, Member States should ensure that manufacturers and importers of tobacco products are informed of the additional authentication elements necessary to develop a security feature that is compliant with all legislative requirements.
- (8) In order to ensure the integrity of security features and to protect it from external attack, they should be applied either by affixing, printing or a combination of both, in a manner that protects them from being replaced, reused or modified in any way. In addition, security features should allow for the identification and verification of the authenticity of an individual unit packet of tobacco product for the entire time the tobacco product is placed on the market.

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- (9) In order to allow for the verification of the authenticity of a tobacco product and thereby stepping up the fight against illicit trade of tobacco products in the Union, Member States and the Commission should, upon request, be provided with sample products that may be used as a reference for the purposes of laboratory analysis. Additionally, in order to enable competent authorities of one Member State to verify the authenticity of a tobacco product destined for the national market of another Member State, Member States should assist each other in sharing the reference products obtained, as well as providing knowledge and expertise available insofar as this is possible.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee referred to in Article 25 of Directive 2014/40/EU,

HAS ADOPTED THIS DECISION:

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- (1) [OJ L 127, 29.4.2014, p. 1.](#)
- (2) Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products (see page 7 of this Official Journal).
- (3) ISO 12931:2012 (Performance criteria for authentication solutions used to combat counterfeiting of material goods).

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