COMMISSION IMPLEMENTING DECISION

of 25 January 2012

authorising the Kingdom of Denmark to conclude agreements with Greenland and the Faroe Islands for transfers of funds between Denmark and each of these territories to be treated as transfers of funds within Denmark, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council

(notified under document C(2012) 141)

(Only the Danish text is authentic)

(2012/43/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds [1], and in particular Article 17 thereof,

Having regard to the application from the Kingdom of Denmark,

Whereas:

(1) Launched in December 2006, Denmark in April 2011 completed its application for derogation under Article 17(1) of Regulation (EC) No 1781/2006 for the transfers of funds between Denmark and Greenland and between Denmark and the Faroe Islands.

(2) In accordance with Article 17(2) of Regulation (EC) No 1781/2006, transfers of funds between Denmark and Greenland and between Denmark and the Faroe Islands have been provisionally treated as transfers of funds within Denmark since December 2006.

(3) Member States were informed on 27 April 2011 that the Commission considered that it had received the information necessary for appraising the requests made by Denmark.

(4) Neither Greenland nor the Faroe Islands form part of the territory of the European Union as determined in accordance with Article 52 of the Treaty on European Union (TEU) and Article 355 of the Treaty on the Functioning of the European Union (TFEU) but form part of the currency area of Denmark. Greenland and the Faroe Islands therefore comply with the criterion set out in Article 17(1)(a) of Regulation (EC) No 1781/2006.

(5) Payment services providers in Greenland and the Faroe Islands participate directly in payment and settlement systems in Denmark, namely either Kronos or Sumclearing. They therefore comply with the criterion set out in Article 17(1)(b) of Regulation (EC) No 1781/2006.

(6) Both Greenland and the Faroe Islands have incorporated in their legal orders provisions corresponding to those of Regulation (EC) No 1781/2006, in particular, for Greenland through Act No 399 of 21 April 2010 on the information on the payer accompanying transfers of funds and Act No 6 of 19 May 2010 on the information on the payer accompanying transfers of funds, and for the Faroe Islands through Act No 467 of 17 June 2008 on the information on the payer accompanying transfers of funds, with amendments in Act No 579 of 1 June 2010.

(7) Greenland and the Faroe Islands have issued legislation which contributes to the building of a sound anti-money laundering regime. In Greenland, this legislation consists particularly of the Royal Decree No 1034 of 30 August 2010 on Measures to Prevent Money Laundering and Financing of Terrorism and the Act No 5 of 19 May 2010 on Measures to Prevent Money Laundering and Financing of Terrorism. In the Faroe Islands, the anti-money laundering legislation comprises particularly the Royal Decree No 79 of 29 January 2010 on Measures to Prevent Money Laundering and Financing of Terrorism and the Act on Measures to Prevent Money Laundering and Financing of Terrorism, Act No 56 of 9 June 2008 with amendments of 26 May 2010.

(8) Greenland and the Faroe Islands have in place appropriate legislation to impose financial penalties vis-à-vis entities or persons listed by the United Nations or the European Union.

(9) Therefore, both Greenland and the Faroe Islands have adopted the same rules as those established under Regulation (EC) No 1781/2006 and require their respective payment services providers to apply them, thus fulfilling the criterion set out in Article 17(1)(c) of that Regulation.

(10) It is therefore appropriate to grant to Denmark the requested derogation.

[1] OJ L 345, 8.12.2006, p. 1.

(11) The agreements to be concluded between Denmark and Greenland should make provision to ensure compliance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1] and in particular Articles 25 and 26.

(12) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Prevention of Money Laundering and Terrorist Financing,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Denmark shall be authorised to conclude agreements with Greenland and the Faroe Islands, to the effect that the transfers of funds between Denmark and Greenland and between Denmark and the Faroe Islands are treated as transfers of funds within Denmark for the purposes of Regulation (EC) No 1781/2006.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 25 January 2012.

For the Commission

Michel BARNIER

Member of the Commission

[1] OJ L 281, 23.11.1995, p. 31.