COMMISSION IMPLEMENTING DECISION (EU) 2018/1803

of 20 November 2018

on authorising France to conclude an agreement with Saint-Barthélemy, Saint-Pierre-et-Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna respectively for transfers of funds between France and each of these territories to be treated as transfers of funds within France, pursuant to Regulation (EU) 2015/847 of the European Parliament and the Council

(notified under document C(2018) 7434)

(Only the French text is authentic.)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 ([1]), in particular Article 24 thereof,

Having regard to France's request pursuant to Article 24 of Regulation (EU) 2015/847,

Whereas:

(1) Under Commission Decision 2009/853/EC ([2]), France was granted a derogation in respect of transfers of funds between Saint Pierre and Miquelon, Mayotte, New Caledonia, French Polynesia, and Wallis and Futuna respectively and France.

(2) On 24 March 2017, France requested renewal of the derogation in application of Article 24 of Regulation (EU) 2015/847 for transfers of funds between Saint Barthélemy, Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna respectively and France.

(3) The French overseas territories covered by Decision 2009/853/EC differ from those for which renewal of the derogation is requested. Consequently, France's request falls within the scope of Article 24(1) of Regulation (EU) 2015/847.

(4) In accordance with Article 24(3) of Regulation (EU) 2015/847, transfers of funds between Saint Barthélemy, Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna respectively and France have been provisionally treated as transfers of funds within France since 24 March 2017.

(5) Member States were informed by written procedure of the Committee on the Prevention of Money Laundering and Terrorist Financing on 25 May 2018 that the Commission considered that it had received the information necessary for appraising France's request.

(6) The status of Saint Barthélemy vis-à-vis the Union has changed — it became an overseas country and territory in association with the Union by Council Decision No 528/2012/EU ([3]). By virtue of the Monetary Agreement of 12 July 2011 between the European Union and the French Republic ([4]), Saint Barthélemy forms part of the currency area of France and the euro has legal tender status in that territory.

(7) The status of Mayotte vis-à-vis the Union has also changed — it became a French overseas department and one of the Union's outermost regions by Council Decision 2014/162/EU ([5]). Mayotte should therefore not be covered by this Decision.

([1]) OJ L 141, 5.6.2015, p. 1.

([2]) Commission Decision 2009/853/EC of 26 November 2009 authorising France to conclude an agreement with Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna respectively for transfers of funds between France and each of these territories to be treated as transfers of funds within France, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council (OJ L 312, 27.11.2009, p. 71).

([3]) Council Decision No 528/2012/EU of 24 September 2012 amending Decision 2001/822/EC on the association of the overseas countries and territories with the European Community ('the Overseas Association Decision') (OJ L 264, 29.9.2012, p. 1).

([4]) Monetary Agreement between the European Union and the French Republic on keeping the euro in Saint-Barthélemy following the amendment of its status with regard to the European Union (OJ L 189, 20.7.2011, p. 3).

([5]) Council Decision 2014/162/EU of 11 March 2014 amending Decision 2004/162/EC with regard to its implementation in Mayotte from 1 January 2014 (OJ L 89, 25.3.2014, p. 3).

(8) Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna do not form part of the territory of the Union as determined in accordance with Article 349 of the Treaty. However, Saint Pierre and Miquelon, in accordance with Council Decision 1999/95/EC [1] and New Caledonia, French Polynesia, and Wallis and Futuna, in accordance with by virtue of Protocol 18 on France annexed to the Treaty on the Functioning of the European Union, all form part of the currency area of France and the euro has legal tender status in all those territories.

(9) Saint Barthélemy, Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna therefore comply with the criterion set out in point (a) of the second subparagraph of Article 24(1) of Regulation (EU) 2015/847.

(10) Payment service providers in Saint Barthélemy, Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna participate directly in payment and settlement systems in France, namely CORE or Target2-Banque de France. They therefore comply with the criterion set out in point (b) of the second subparagraph of Article 24(1) of Regulation (EU) 2015/847.

(11) For Union regulations to be applicable to Saint Barthélemy, Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna, France must adopt specific legislation to that effect. France's adoption of Order No 2016-1635 of 1 December 2016, in particular Articles 18 and 19 thereof, ensures that those territories have incorporated into their legal order provisions corresponding to those of Regulation (EU) 2015/847.

(12) Therefore, Saint Barthélemy, Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna have adopted the same rules as those established under Regulation (EU) 2015/847 and require their respective payment service providers to apply them, thus fulfilling the criterion set out in point (c) of the second subparagraph of Article 24(1) of that Regulation.

(13) It is therefore appropriate to grant to France the requested derogation.

(14) 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

France shall be authorised to conclude an agreement with Saint Barthélemy, Saint Pierre and Miquelon, New Caledonia, French Polynesia, and Wallis and Futuna respectively, to the effect that transfers of funds between any of those territories and France are treated as transfers of funds within France for the purposes of Regulation (EU) 2015/847.

Article 2

Decision 2009/853/EC is repealed.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 20 November 2018.

For the Commission
Věra JOUROVÁ
Member of the Commission

[1] Council Decision 1999/95/EC of 31 December 1998 concerning the monetary arrangements in the French territorial communities of Saint-Pierre-et-Miquelon and Mayotte (OJ L 30, 4.2.1999, p. 29).