EUROPEAN
COMMISSION

Brussels, 7.12.2021
COM(2021) 771 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the compliance of the European Banking Authority with the requirements regarding the location of its seat

1 INTRODUCTION

In the context of the United Kingdom's withdrawal from the Union, the other 27 Member States, at the margins of the General Affairs Council on 20 November 2017, selected Paris, France, as the new seat of the European Banking Authority (EBA)[1].

The location of the EBA's seat is laid down in Article 7 of the EBA founding Regulation[2] ("the EBA regulation"), which therefore had to be amended[3] to move the seat from London to Paris. In addition to changing the location of the seat, the amendment to the EBA regulation also introduced certain new requirements regarding the location of the seat as well as an obligation for the Commission to publish a report by 30 March 2019 and every 12 months thereafter on EBA's compliance with these requirements.

According to Art. 7 of the EBA Regulation: "*The location of the seat of the Authority shall not affect the Authority's execution of its tasks and powers, the organisation of its governance structure, the operation of its main organisation, or the main financing of its activities, while allowing, where applicable, for the sharing with Union agencies of administrative support services and facility management services which are not related to the core activities of the Authority*".

EBA has provided the necessary input to fulfill these reporting requirements. The first two reports were published in 2019[4] and 2020[5]. This is the third report under the new reporting obligation.

2 EBA HEADQUARTERS AGREEMENT

A Headquarters Agreement (hereinafter "HQA") with the French Government was signed in Paris on 6 March 2019. In accordance with Article 25 of the HQA, EBA completed the internal procedures for its entry into force on 4 March 2019, and it confirmed their completion to the French Ministry of Foreign Affairs in June 2021. EBA is awaiting confirmation of completion of the procedures required by French law for the HQA to enter into effect – this includes ratification by the French Parliament. The signature of the HQA has not affected EBA's operations and governance.

In addition to reflecting the requirements of Protocol No 7 on the privileges and immunities of the European Union[6], the HQA entitles EBA staff members to a special residence permit FI (Fonctionnaire International), attesting their status as international civil servants in France (applicable also to family members). EBA has been engaging with the Protocol Office of the Ministry of Europe and Foreign Affairs and Customs

[1] General Affairs Council (Art. 50), 20 November 2017: https://www.consilium.europa.eu/en/press/press-releases/2017/11/20/european-banking-authority-to-be-relocated-to-city-country/

[2] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority) (OJ L 331, 15.12.2010, p. 12).

[3] Regulation (EU) 2018/1717 of the European Parliament and of the Council of 14 November 2018, amending Regulation (EU) No 1093/2010 as regards the location of the seat of the European Banking Authority (OJ L291, 16.11.2018, p. 1).

[4] COM(2019) 451 final.

[5] COM(2020) 317 final.

[6] OJ C202, 7.6.2016, p. 266-272

to ensure a smooth process in relation to the arrival of staff and their families in France, the provision of special residence permits, and the application of tax privileges to EBA. As of July 2021, 231 staff and family members have received special residence permits and two additional applications are being processed.

Furthermore, pursuant to the HQA, EBA staff relocating from London to Paris could purchase or import a vehicle tax-free within twelve months of the date of their arrival in France. To date, 38 staff members have benefitted from the possibility of VAT-free purchase and/or importation of a vehicle and its registration under diplomatic privilege.

Article 9 of the HQA exempts EBA from VAT incurred on official expenses where the invoice amount net of VAT is greater than EUR 150. In practice, EBA is paying the VAT on French purchases, and on purchases where the MOSS[7] scheme applies, and is reclaiming this VAT from the French government. As of July 2021, EBA has claimed reimbursement of EUR 1,938,479.84, all of which has been received.

In accordance with Article 19 of the HQA, the French Government opened the European School of Paris-La Défense) in Courbevoie in September 2019. The school offers a comprehensive curriculum from kindergarten to the European Baccalaureate to the children of the staff of EU bodies established in the Paris Region, as well as for pupils with an international background. In addition to the accreditation for the nursery, primary and the secondary cycle up to year 5, this year the Board of Governors of the European Schools have unanimously granted accreditation for the secondary school years (years 6 and 7). This provides access to the European Baccalaureate. As from September 2021, the English-language section comprises the entire cycle from nursery to the last year of secondary education. The French language section provides a complete nursery and primary cycle. For the 2020-2021 school year, 20 children of EBA staff members were enrolled at the school, all of them in the English-language section.

3 EBA GOVERNANCE, OPERATIONS AND EXECUTION OF TASKS

EBA's tasks and powers, the organisation of its governance structure, the operation of its main organisation, and its main financing were not affected by the relocation of the EBA's seat. EBA has been fully operational in its new offices in Paris from the beginning of June 2019.

The relocation of the EBA's seat to Paris has had no impact on the main financing of EBA activities by the EU and the national competent authorities. Separate to this financing, the French government is providing 8.5 million euros to cover costs of the Paris offices. This funding is divided between 1.5 million euros for set-up costs, which has already been received and spent, and 7.0 million euros for ongoing lease costs, which is to be received over the course of the nine years of the lease so as to smoothen out the budgetary impact. To date, EBA has invoiced and received EUR 5,075,000 under this agreement.

The UK authorities are still liable for unsettled VAT claims valued at EUR 581,000 in EBA's accounts.

[7] https://europa.eu/youreurope/business/taxation/vat/vat-digital-services-moss-scheme/index_en.htm

Sharing of administrative support services with other Union agencies

EBA has signed a Service Level Agreement with ESMA for the provision of accounting services and since April 2021, EBA is providing these services to ESMA. EBA's Accounting Officer and Accounting Assistant are shared between two agencies which allows for more efficient use of resources. ESMA's Management Board appointed EBA's Accounting Officer as ESMA's Accounting Officer with effect from 1 July 2021.

EBA and EIOPA are jointly implementing a project for developing tools to support a supervisory reporting framework development process, which includes data point model releases, full validation rules lifecycle and the XBRL taxonomy packages. A project manager from EIOPA is seconded to EBA for the duration of the project.

EBA and EIOPA share a Private Cloud and associated infrastructure services, offered by a third party provider, that they jointly designed and continuously monitor and enhance. The most recent such enhancement being a Security Operations Centre that the agencies designed together and started using recently. EBA and EIOPA also already work together in defining their future Cloud services and the migration path towards them, starting in 2022.

EBA and ESMA also coordinate closely with regard to their procurement procedures. The table below summarises activity in this area.

Lead agency	**Participating agencies**	**Procedure**	**Status**
EBA	ESMA	Waste management services	FWC[8]signed 2021
EBA	ESMA	Office plant service	FWC signed 2021
EBA	ESMA + 9 other agencies	Data protection consultancy	Ongoing
EBA	ESMA, EUISS[9] EUSPA[10]	Medical services	Ongoing
ESMA	EBA	Interim staff services	FWC signed 2021
ESMA	EBA	Courier services	Ongoing

EBA is acting as the liaison between the Euro system Procurement Coordination Office (EPCO) and the three ESAs, coordinating the discussions to identify and join procurement procedures run by EPCO. Lately, the ESAs were able to join two framework contracts under the umbrella of EPCO: Language eLearning services; and IT, banking and finance advisory services.

EBA and ESMA also participate in a network of procurement officers of international organisations based in Paris.

[8] Framework contract
[9] European Union Institute for Securities Studies
[10] The European Union Agency for the Space Programme.

Coordination on COVID-19

Since the outbreak of the pandemic, EBA has maintained its operations, carrying out its full range of tasks. EBA has been in regular and close contact with ESMA and international organisations based in France (OECD and Interpol) to share good practices regarding measures during the lockdown as well as plans related to the return to office.

EBA has lead the initiative of the home office contribution to its staff and coordinated the development of guidelines with EIOPA and ESMA to ensure as much alignment as possible across the ESAs.

EBA also initiated and coordinated a joint letter to the French authorities to include EU Agencies' staff and their families based in France in the national vaccination programme. In total, the executive directors of seven agencies signed a letter sent in January 2021. EBA staff and their eligible family members have subsequently successfully received vaccinations as part of that programme. This has also supported EBA's planned move from a virtual to a hybrid working environment.

EBA and ESMA have also closely coordinated their gradual return to office approaches with a view to ensure as much alignment as possible.

4 CONCLUSIONS

Based on the available information, the EBA's execution of its tasks and powers, its governance structure, its main organisation, and the financing of its activities have not been affected by the relocation of its seat to Paris, nor by the administrative cooperation arrangements with ESMA and EIOPA described above, which are not related to the core activities of EBA.