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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 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 three reports were published in 2019[4], 2020[5] and 2021[6]. This is the fourth report under this 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: the *Assemblée nationale* adopted the HQA on 17 February 2022 and awaits approval in the *Sénat* followed by publication in the Offical Journal.

In addition to reflecting the requirements of Protocol No 7 on the privileges and immunities of the European Union[7], the HQA entitles EBA staff members to a special residence permit FI (Fonctionnaire International), attesting their status as international

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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 COM(2021) 771 final

7 OJ C202, 7.6.2016, p. 266-272

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 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 April 2022, 223 staff and family members have received special residence permits, one additional application is being processed and 24 special residence permits have been returned due to end of employment.

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 "VAT Mini One Stop Shop" scheme[8] applies, and is reclaiming this VAT from the French government. As of April 2022, EBA has claimed reimbursement of EUR 2,522,883 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. The Board of Governors of the European Schools has unanimously granted accreditation for all school years. This provides access to the European Baccalaureate; first Baccalaureate graduation is taking place in June 2022. 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, and first year of secondary cycle will open in September 2022. For the 2021-2022 school year, 25 children of EBA staff members were enrolled at the school.

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 its 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 its activities by the EU and the national competent authorities. Separate from this financing, the French government is providing 8.5 million euros to cover costs of the Paris offices. This funding is divided between EUR 1.5 million for set-up costs, which has already been received and spent, and EUR 7.0 million 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 5,650,000 under this agreement.

Sharing of administrative support services with other Union agencies

EBA cooperates actively with ESMA on administrative matters, with regular meetings being held between the equivalent administrative units of the two agencies.

[8] VAT on digital services/MOSS: What services are covered? - Your Europe (europa.eu)

EBA has signed a Service Level Agreement with ESMA for the provision of accounting services and since July 2021, EBA is providing these services to ESMA. EBA's Accounting Officer and Accounting Assistant are shared between the two agencies, which allows for a 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 works closely with other EU agencies based in France with regard to their procurement procedures, especially with ESMA. The table below summarises the activity in this area.

Lead agency	**Participating agencies**	**Procedure**	**Status**
EBA	ESMA plus 9 other agencies	Data protection consultancy	Framework contract signed in 2021
EBA	ESMA, EUISS[9] EUSPA[10]	Medical services	Framework contract signed in 2021
EBA	ESMA, EIOPA	Managed network services	Signature planned for June 2022
EBA	ESMA	Facilities management consultancy and reception services	Signature planned for 2023
EBA	ESMA	Cleaning services	Signature planned for 2023
EBA	ESMA	Catering services	Signature planned for 2023
EBA	ESMA	External audit of annual accounts	Signature planed for September 2022
ESMA	EBA, EIOPA	Application development, maintenance, and support	Signature planned in Q4 2022
ESMA	EBA, EIOPA	ICT Consultancy	Signed April 2022
ESMA	EBA, EIOPA	Professional skills development training	Signature planed in Q3 2022

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

Cooperation on joint ESAs projects

EBA, ESMA and EIOPA work on a joint project (led by EIOPA) with the objective to establish a system for the exchange of information relevant to the assessment of the fitness and propriety of holders of qualifying holdings, directors, and key function holders of financial market participants by competent authorities.

[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 led the initiative for 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 and ESMA have also closely coordinated their gradual return-to-office approaches with a view to ensuring 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.