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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, meeting in the margins of the Council, selected Paris, France, as the new seat of the European Banking Authoriry (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 consequences of 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*".

The EBA provided the necessary input to fulfill these reporting requirements. The first report was published in 2019[4]. This is the second 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. The 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 the EBA's operations and governance.

In addition to reflecting the requirements of Protocol No 7 on the privileges and immunities of the European Union[5], the HQA establishes the privilege for staff relocating from London to Paris of purchasing a car tax–free within twelve months of relocation, a privilege that has been extended to staff with French nationality. Until 13 March 2020, of the 175 staff members entitled to avail of this privilege, ten had registered their vehicles under this privilege and another four currently await finalisation of the procedure.

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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 OJ C202, 7.6.2016, p. 266-272

The HQA also commits the French government to engage in a process to establish a European School in the Paris Region. A type II European School opened in Courbevoie in September 2019 and is currently undergoing its accreditation process. A full nursery and primary education cycle has been established for the English section of the school; however, a full secondary cycle in the English section is not available yet as classes are established gradually. The school aims to have a complete secondary cycle by September 2021. The French section has been opened for nursery classes and partially for the primary cycle. The secondary cycle will open in September 2021.

The EBA has also engaged with the Protocol office of the French Ministry of Europe and Foreign Affairs and with the French customs authorities 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 the EBA. On 15 May 2020, 139 staff members and 67 family members have received special residence permits.

Protocol No 7 on the privileges and immunities of the European Union grants the EBA exemption from VAT on purchases of goods and services required for the operation of the authority. The EBA has submitted reimbursement claims to the French government for VAT paid on goods and services provided by French entities and on internet purchases, and reimbursement of the earlier claims has been received.

3 EBA GOVERNANCE, OPERATIONS AND EXECUTION OF TASKS

The 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. The EBA has been fully operational in its new offices in Paris from the beginning of June 2019.

The EBA and the European Securities and Markets Authority (ESMA) coordinate closely on procurement procedures. The EBA is participating in two framework contracts resulting from procedures led by ESMA: for information and communications technology (ICT) consultancy services and for facility management consultancy services. ESMA has also invited the EBA to participate in its upcoming procurement procedure for interim staff services, which the EBA will join. ESMA joined the EBA's procurement procedure for language training, for which framework contracts were signed in January 2020. The EBA has invited ESMA (and the European Insurance and Occupational Pensions Authority) to join its upcoming procedure to procure document proof-reading and editing services, for which a framework contract is expected to be signed in 2020. The two agencies are currently discussing joint procurement for an impending medical services procedure, and a number of other procedures in the administrative area that arise further in the future.

On 8 July 2019, the European Commission approved the European Supervisory Authrorities' (ESAs) request for their financial rules to depart from certain provisions of Delegated Regulation (EU) 2019/715[6] in order to be able to join procurement

[6] Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1)

procedures run by the European Central Bank and the Eurosystem Procurement Coordination Office (EPCO). EBA is acting as the liaison between EPCO and the other two ESAs and coordinates the discussions to identify and join procurement procedures run by EPCO. EIOPA is acting as liaison with the ECB.

The EBA and ESMA also participate in a network of procurement officers of international organisations based in Paris. On ESMA's initiative, the international organisations are also considering establishing a regular meeting among heads of administration.

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 the EBA's seat to Paris and by the administrative cooperation arrangements with ESMA and EIOPA described above, which are not related to the core activities of the EBA.