

SGS18/08191



**Council of the European Union**  
General Secretariat  
Task Force on the UK

Brussels, 17 October 2018

**Mr. Roberto GUALTIERI**

Chairman, European Parliament Committee on Economic and Monetary Affairs

STRASBOURG.

**Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 as regards the location of the seat of the European Banking Authority - Confirmation of the final compromise text with the view to agreement - 2017/0326 (COD)**

Dear **Mr. GUALTIERI**

Following the informal meeting between the representatives of the three institutions, a draft overall compromise package was agreed today by the Permanent Representatives' Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise package contained in the Annex to this letter, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position, subject, if necessary, to revision by the legal linguists of both institutions.

On behalf of the Council I also wish to thank you for your close cooperation which should enable us to reach agreement on this dossier at first reading.

Yours sincerely,

**Nikolaus Marschik**  
Chairman of the Permanent Representatives  
Committee (Part 2)

copy to:

**Jean-Claude Juncker, President, European Commission**  
**Valdis Dombrovskis, Vice-President, European Commission**  
**Pervenche Berés, EP Rapporteur**  
**Othmar Karas, EP Rapporteur**

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EU) No 1093/2010 as regards the location of the seat of the European  
Banking Authority**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank<sup>1</sup>,

Having regard to the opinion of the European **Economic and Social** and ~~European~~ Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>1</sup> [...]

<sup>2</sup> [...]

Whereas:

- (1) In the context of the United Kingdom's notification on 29 March 2017 of its intention to leave the Union, pursuant to Article 50 of the Treaty on European Union (TEU), the other 27 Member States, meeting in the margins of the General Affairs Council ('Article 50'), selected Paris, France, as the new seat of the ~~European Banking Authority~~. **European Supervisory Authority (European Banking Authority) (EBA)**.
- (1a)* **Taking note of the "Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union" of 8 December 2017 and in particular its chapter on financial settlement, and of the commitment of the United Kingdom to contribute to the general budget of the Union for the financial years 2019 and 2020 as if it remained in the Union and to contribute to its share of the financing of the commitments outstanding at 31 December 2020, the costs of relocation of the seat of the EBA, arising from the decision of the United Kingdom to leave the Union, are to be borne by all Union taxpayers through the general budget of the Union. The United Kingdom has offered to discuss with those Union agencies that are located in London how they could reduce their withdrawal costs.**
- (2) Having regard to Article 50(3) TEU ~~of the Treaty on European Union, the EBA-European Banking Authority should take its new seat as from the date on which the Treaties cease to apply to the United Kingdom or from 30 March, 2019, whichever is the earlier.~~

- (3) To ensure the proper functioning of the ~~EBA European Banking Authority~~ in its new location, a headquarters agreement should be concluded **and a building project in accordance with Article 88 of Commission Delegated Regulation (EU) No 1271/2013<sup>3</sup> should be approved** before the ~~EBA European Banking Authority~~ takes up its new seat. **The new premises should be ready and fit for the purpose of permanent relocation by 30 March 2019. The headquarters agreement should reflect the responsibility of the French authorities to provide the most appropriate conditions in order to ensure the proper functioning of the Authority in the context of its relocation.**
- (3a) **The transfer of the seat of the EBA does not call into question the establishment plan as adopted by the European Parliament and the Council, nor the application of the Staff Regulations to officials or other agents who work at the EBA.**
- (4) To give the ~~EBA European Banking Authority~~ sufficient time to relocate, this Regulation should enter into force as a matter of urgency **following its adoption in accordance with the ordinary legislative procedure.**
- (4b) **The relocation of the EBA should not have any consequences with regard to executing the distinct mandate or maintaining the separate legal status of the European Supervisory Authorities. The relocation might allow, where applicable, for the sharing of administrative support services and facility management services among Union agencies which are not related to core activities.**
- (5) Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>4</sup> should therefore be amended accordingly.

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<sup>3</sup> **Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).**

<sup>4</sup> 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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

- (5a) Relations between the institutions of the Union are to be carried out in mutual sincere cooperation, while each of them is acting within the limits of the powers conferred on it in the Treaties and in conformity with the procedures, conditions and objectives set out in them.**

HAVE ADOPTED THIS REGULATION:

*Article 1*

Article 7 of Regulation (EU) No 1093/2010 is replaced by the following:

*“Article 7*

**Seat**

The Authority shall have its seat in Paris, France.

**The location of the seat of the EBA shall not affect EBA’s execution of its powers and tasks, 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 of administrative support services and facility management services, which are not related to its core activities, with Union agencies. By ... *[date of application of this Regulation]* and every 12 months thereafter, the Commission shall report to the European Parliament and the Council on the compliance of those Authorities with that requirement.”**

## *Article 2*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall apply ~~from the date on which the Treaties cease to apply to the United Kingdom~~ or from 30 March 2019, ~~whichever is the earlier~~.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

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**Draft Council statement EBA/EMA**

"Recalling the commitment of the European Parliament, the Council and the Commission to sincere and transparent cooperation, and in the light of the process followed for the relocation of the EMA and EBA, which was specific to the situation and did not constitute a precedent for location of agencies in the future,

While recalling the Treaties, the Council acknowledges the value of enhanced exchange of information from the initial stages of future processes for the location of agencies.

Such early exchange of information would make it easier for the three Institutions to exercise their rights according to the Treaties through the related procedures.

The Council takes note of the request by the European Parliament to revise, as soon as possible, the 2012 Joint Statement and Common Approach on decentralised Agencies. As a first step, it invites the Commission to provide, by April 2019, an in-depth analysis of the implementation of the Joint Statement and Common Approach as regards the location of decentralised Agencies. This analysis would serve as a basis to assess the way forward in engaging with the process of such a revision."

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