European Blockchain Sandbox - Best practices report (2023)

1st Cohort, Abstract and Executive Summary

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1. Abstract

A consortium under the lead of the law firm Bird & Bird has been commissioned by the European Commission to set up and operate the European Blockchain Sandbox, providing a framework for regulators, supervising authorities and blockchain innovators to engage in a cross-border regulatory dialogue, identify obstacles from a legal & regulatory perspective in a safe and confidential environment, and thus increase legal certainty for innovative decentralized technology solutions, including blockchain. The initiative brings together regulators/authorities and innovators across industry sectors, allowing regulators and authorities to enhance their knowledge of cutting edge blockchain technologies and allowing innovators to enhance their understanding of relevant laws and regulations.

The emphasis of this 2023 report is on the organization of the sandbox and the different tasks required for its set-up with a focus on lessons learned regarding the organization and the application & selection process as well as the matching with relevant regulators and supervising authorities for the first cohort of 20 use cases. The initial experiences with the cross-border regulatory dialogues are more briefly discussed. The lessons learned and best practices that have been identified during the dialogues for the first cohort will be discussed in more detail in the next report which will be published after completion of the dialogues for the first cohort.

2. Executive Summary

2.1 Objectives and policies

The pan-European Blockchain Regulatory Sandbox for innovative use cases involving Distributed Ledger Technologies (DLT) is an initiative of the European Commission. The aim of the project is to provide a framework for regulators, supervising authorities and blockchain innovators to engage in regulatory dialogue, identify obstacles from a legal & regulatory perspective in a safe and confidential environment, and thus increase legal certainty for innovative decentralized technology solutions, including blockchain. The Sandbox allows regulators and supervisors to enhance their knowledge of cutting edge blockchain technologies. Legal advice as well as regulatory expertise is provided in a secure and confidential environment. The dialogues are held across industry sectors and geographic regions, which will help to identify and exchange lessons learned and best practices in the interest of the wider EU/EEA blockchain community.

The initiative annually supports 20 projects and has started in 2023. The sandbox is open to use cases based on any blockchain infrastructure. Blockchain use cases are selected on the basis of published eligibility and award criteria and matched with relevant regulators and supervising authorities.

The pan-European Blockchain Sandbox is set up and operated by a consortium of legal experts from the law firm Bird & Bird and its consulting arm OXYGY supported by blockchain experts of Warren Brandeis and website designers Spindox which has been procured through an [open call for tenders](#) in 2022. The selection and the award process is overseen by a panel of independent academics consisting of Professor Roman Beck (IT-University, Copenhagen), Professor Soulla Louca (University of Nicosia, Cyprus) and Professor Walter Blocher (Universities of Kassel and Vienna).

In this first best practices report (2023), the application and selection process and the matching with relevant regulators and supervising authorities for the first cohort of 20 use cases will be presented. The initial experiences with the regulatory dialogues will be discussed more briefly. The lessons learned and best practices that have been identified during the dialogues for the first cohort will be discussed in more detail in the next report which will be published after completion of the dialogues for the first cohort.

2.2 Application and selection process first cohort

The European Blockchain Sandbox was officially launched on 14 February 2023. The Sandbox has proven to be highly topical in the first year of its launch. At the end of the two months application term 87 applications had been submitted by public and private entities from across all EU/EEA regions. The launch of the regulatory sandbox attracted considerable media attention, having been covered by 120+ publications from around the world (in Europe, the Americas, India, China, and the Middle East).
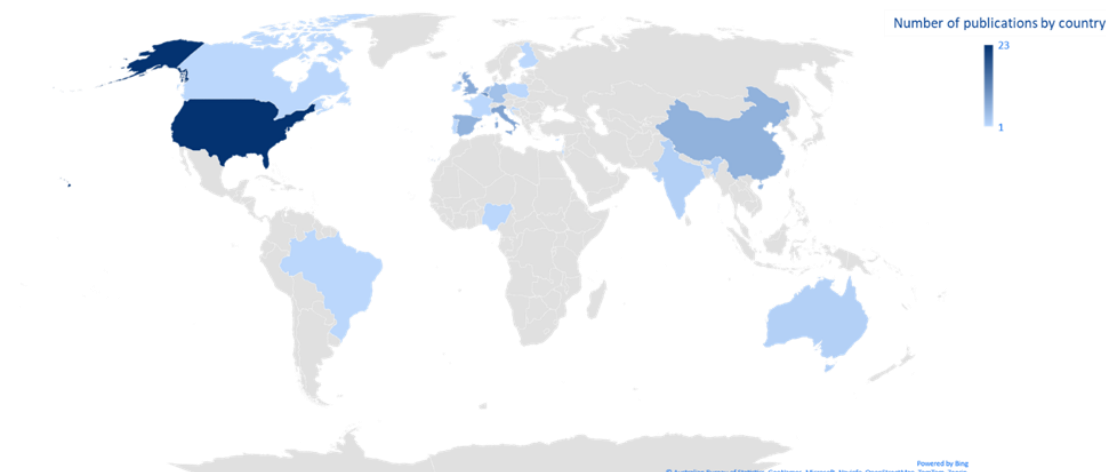
After the applications, the first cohort of use cases was selected by the independent blockchain specialists in the consortium on the basis of the selection criteria published on the website. These criteria include the maturity of the business case, legal/regulatory relevance and the contribution to the EU's wider policy priorities.

The selection process was overseen by the panel of three independent blockchain academics from different European universities. The EBSI Verifiable Credentials use case prequalified and therefore 19 use cases were selected. The participating use cases in the first cohort originate from all EU/EEA regions and many of the use cases have a European wide focus.
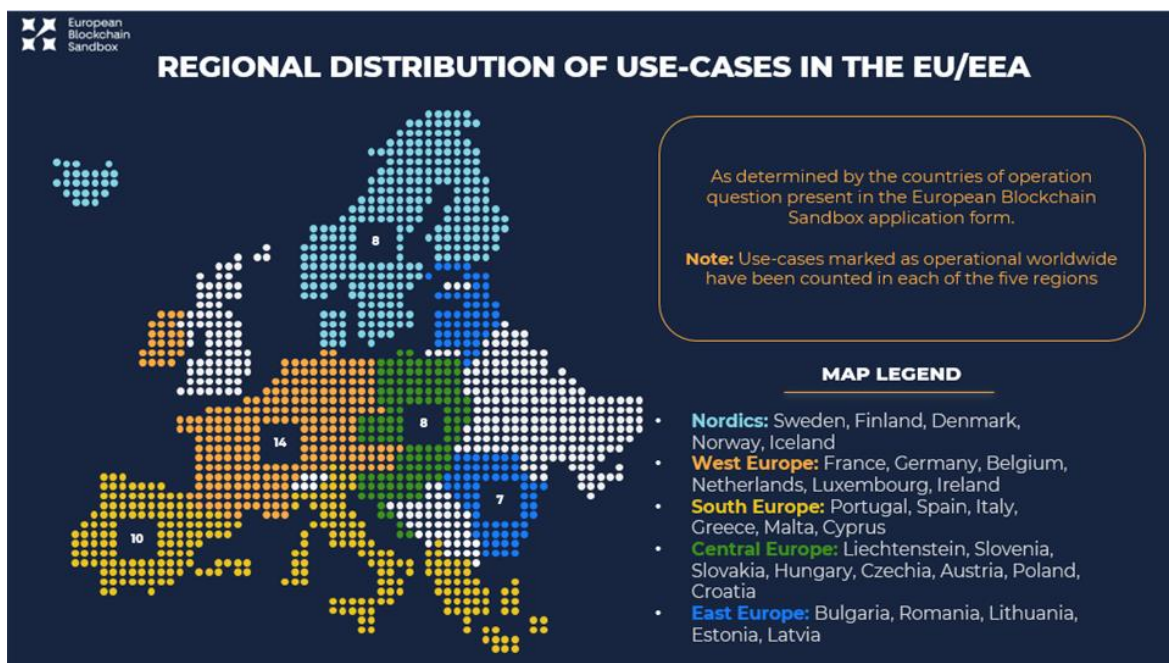
In addition, the participating use cases in the first cohort cover a range of different applications relevant for many industry sectors including the financial sector, digital product passports and battery regulation, verifiable credentials/authentication, CO2 emissions, customs, cyber security and the application of Decentralised Autonomous Organisations.

European Blockchain Sandbox – Participating use-cases 1st cohort
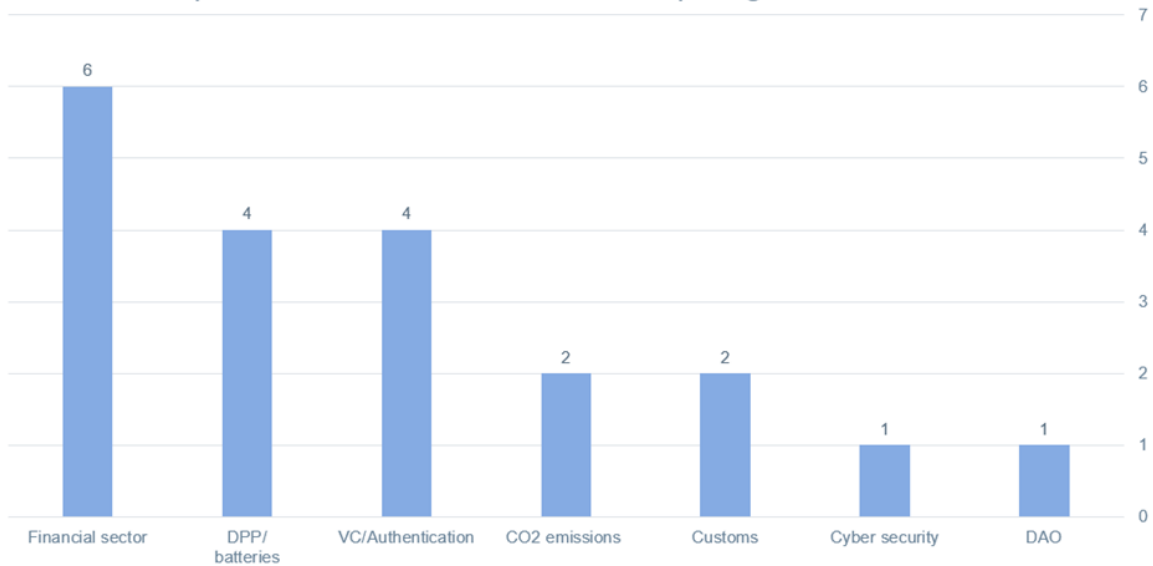
Based on the this first cohort, the regulatory dialogues focus on the following regulatory areas (in alphabetical order):

- AML/KYC
- Batteries & waste batteries regulation
- CO2 emissions (EU ETS)
- The commercial registers
- Customs regulation
- Cyber security
- Data protection
- Data Governance Act
- DLT specific regulations (MiCA, DLT pilot regime)
- eIDAS/Digital identity regulation
- Financial sector regulation

In conclusion, the first application and selection process of the European Blockchain Sandbox showed significant interest from public and private sector blockchain/DLT innovators across all EU/EEA regions and covering a range of industry sectors and applications. The structure of eligibility/award criteria and the selection by independent blockchain specialists and supervision by the panel of independent academic experts worked well. Some adjustments of the application and selection process for the 2nd cohort are considered as set out in more detail in the full best practices report (2023).

2.3   Regulator/authority matching first cohort

The matching process for the first cohort of the European Blockchain Sandbox was almost completed by the end of 2023. Before reaching out to the regulators/authorities the relevant laws and regulations and the regulatory focus areas for the dialogues were determined for each use case. Subsequently relevant regulators/authorities were approached as explained in more detail in paragraph 7 of the full best practices report (2023).

This resulted in 40[1] participating national regulators/authorities across the EEA by the end of December 2023. Depending on the status of the regulatory dialogue for the individual use cases, other regulators and authorities may still join.

In conclusion, the regulator matching for the first cohort of the European Blockchain Sandbox resulted in considerable interest from regulators & authorities, covering all EU/EEA regions. The interest from participating national regulators/authorities is not limited to their home country, in particular in areas of EU-harmonised legislation. The level of interest from use cases and regulators/authorities to engage in the regulatory dialogues of the European Blockchain Sandbox is balanced for most regulatory areas apart from DPP/Battery use cases where the blockchain innovators appear to be ahead of the regulation.

The following characteristics of the European blockchain regulatory sandbox were generally considered to be important by the participating regulators/authorities:

- The relatively limited time commitment in view of capacity and workload.

- The fact that participation in the dialogue does not include regulatory approval and does not provide derogation form existing laws and regulations.

- The independent selection of the participating use cases on the basis of non-discriminatory and transparent criteria and overseen by the panel of academic experts.

Many regulators and authorities that could not participate in the dialogues for the first cohort have expressed an interest in participating in the second or the third cohort (depending on which use cases will be selected).

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[1]   A full list of all regulators that agreed to have their participation published can be accessed via the following hyperlink: https://ec.europa.eu/digital-building-blocks/sites/display/EBSISANDCOLLAB/Announcement+of+the+regulators+and+authorities+participating+in+the+first+cohort.

2.4 Regulatory dialogue meetings

At the time of publication of this Best Practices Report, the first regulatory dialogue meetings have been concluded and others have been scheduled. The dialogues are governed by the project's Protocol for Sandbox Participation.[2] The basic format for dialogues consists of one (optional) session with the independent blockchain specialists of the consortium for the regulators/authorities participating in a specific dialogue and two online regulatory dialogue meetings of each 1.5 hour, which are prepared and moderated by Bird & Bird.

To ensure an efficient use of time during the dialogue meetings, the agenda and relevant information and materials are made available in advance of the dialogue meetings on the secure platform for the project (including more detailed information about the use case). The agenda is prepared by regulatory experts from Bird & Bird in consultation with use case owner and participating regulators/authorities. Best practices & lessons learned are determined at the end of the dialogue meetings in consultation with the participants. Depending on the use case and the regulatory areas/competences, the participation by the regulators/authorities can be more or less (pro-)active.

On average, more than 3 national/EU regulators/authorities participate in the dialogues per use case (exceeding the objective of on average 1.5 regulators per use case) covering all regulatory focus areas for the 1st cohort referred to above. Regulatory topics for the six financial sector use cases are broad covering e.g. MiFID, Payments, AML, MiCA and the DLT pilot regime. In some cases a combination of regulatory areas is relevant and regulators/authorities for different regulatory areas are involved.

Based on the first experiences, the format for the dialogue phase appears to work well given that the European Blockchain Sandbox dialogues do not involve actual testing and regulatory approval. A more detailed assessment of the effectiveness and efficiency of the format for the regulatory dialogues will be performed after completion of the dialogues for the first cohort.

2.5 Next steps

In the first half of 2024, the regulatory dialogues for the 1st cohort will be continued and completed and covered in more detail in a separate best practices report.

In parallel, the applications process for the 2nd cohort will start in Q1 2024. The regulatory dialogues for the 2nd cohort are expected to start in the second half of 2024. The recently adopted amendments and ongoing reviews of existing EU legislation and proposed new EU legislation (as set out in the full report) stress the relevance of the cross border regulatory dialogues. The dialogues for the 2nd cohort may very well include additional and new regulatory areas such as the AI Act, the Data Act, eIDAS2 and the implementation of ESG regulation.

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[2] This Protocol can be accessed through the following hyperlink: https://ec.europa.eu/digital-building-blocks/sites/download/attachments/634979024/Sandbox%20Protocol%20for%20Participation%20-%20FINAL%202023-02-13.pdf?version=1&modificationDate=1676320692356&api=v2.

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