

Compliance Statement for the EBSI Pre-Production phase

3 December 2021

This Compliance Statement is a statement made in good faith, which is not legally enforceable against the European Commission, and which creates no new binding legal obligations on the European Commission, with the exception of the Data Processing Agreement set out in Annex A. Any references to duties or obligations of the European Commission within the Compliance Statement should therefore be understood as a good faith statement of intent only, without any obligation of result or legal recourse in case of breaches of such duties or obligations.

The [EBSI Early Adopters Space](#)¹ and its content constitute an integral part of this Compliance Statement. The European Commission will update the content made available on the EBSI Early Adopter Space as needed. Every EBSI Early Adopter is responsible for consulting the EBSI Early Adopter Space regularly.

Acceptance of this Compliance Statement is a condition for every EBSI Early Adopter to participate in the EBSI Pre-Production phase. EBSI Early Adopters will provide specific information about their activities in EBSI Pre-Production as requested in the [acceptance form](#)². This information will be recorded and made accessible to all EBSI Early Adopters and EBSI Node Operators. EBSI Early Adopters are bound to update these records in the event of changes of their contact details or data processing activities in EBSI Pre-Production³.

Every EBSI Early Adopter accepts the terms of the Data Processing Agreement (DPA) set out in Annex A in its capacity as Data Controller and is bound by the terms thereof in relation to each existing and future EBSI Node Operator.

Every EBSI Node Operator accepts the terms of the Data Processing Agreement in its capacity as Data Processor and is bound by the terms thereof in relation to each existing and future Early Adopter.

The European Commission will keep records of the EBSI Early Adopters and EBSI Node Operators and any further changes thereof. EBSI Early Adopters and the EBSI Node Operators can access these records at all times.

1. Definitions

The following terms are used in this Compliance Statement:

“EBSI Early Adopter” means institutional and commercial users of the EBSI Network and the EBSI Services that are operating applications or services for testing purposes in EBSI Pre-Production. EBSI Early Adopters may be public bodies of

¹ <https://ec.europa.eu/cefdigital/wiki/display/EBSIEA/EBSI+Early+Adopters>

² https://ec.europa.eu/eusurvey/runner/EBSI_EA_CS

³ [EBSI Service Desk](#) | [EBSI support mailbox](#)

European Blockchain Partnership (EBP) Countries or a group thereof and/or private operators.

"Confidential Information" means any information that is not yet in the public sphere and that, if disclosed, may be harmful to the reputation of the EU Institutions. This may include information such as performance issues or threats to the integrity or availability of the EBSI Network.

"Data Controller" means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data as defined in the General Data Protection Regulation No (EU) 2016/679.

"Data Processor" means a natural or legal person, public authority, agency or other body, which processes Personal Data on behalf of the Data Controller as defined in the General Data Protection Regulation No (EU) 2016/679.

"DPA" means the data processing agreement referred to in Article 8(3) and attached to this Compliance Statement as Annex A.

"EBP" means the European Blockchain Partnership as defined at <https://digital-strategy.ec.europa.eu/en/news/european-countries-join-blockchain-partnership>.

"EBSI" means the European Blockchain Services Infrastructure project, which is a joint initiative between the European Commission and the members of the EBP to facilitate EBP-wide, cross-border public services with the use of blockchain technology.

"EBSI Network" means the public permissioned blockchain comprising a network of distributed nodes across Europe in all members of the EBP as well as the nodes operated by the European Commission.

"EBSI Services" means the services made available by the European Commission as funded under applicable funding Regulation⁴ and Work Programmes⁵ and the EBSI Governance framework⁶. This may include services such as specifications, software, support or testing services to enable access to and use of the EBSI Network.

"EBSI Pre-Production" means the services made available for testing by EBSI Early Adopters in a pre-production phase available at <https://ec.europa.eu/cefdigital/wiki/display/EBSIEA/EBSI+Early+Adopters>.

"Feedback" means all feedback by EBSI Early Adopters to the services of the European Commission in whatever form in relation to the EBSI Pre-Production phase, the EBSI Network and/or the EBSI Services.

"Personal Data" means any information related to an identified or an identifiable natural person as defined in the General Data Protection Regulation No (EU) 2016/679.

"Ledger Data" means any data that is recorded on the EBSI Network either on the public blockchain ledger or in a private database off chain that is part of the EBSI Network.

⁴ Regulation (EU) No 283/2014 on guidelines for trans-European networks in the area of telecommunications infrastructure and repealing Decision No 1336/97/EC ([OJ L 86, 21.3.2014, p. 14–26](#)) and subsequently under Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 ([OJ L 166, 11.5.2021, p. 1–34](#))

⁵ CEF 2019 and subsequent Work Programmes and the future Digital Europe Programme WP currently under adoption

⁶ <https://ec.europa.eu/cefdigital/wiki/x/eIVKFg>

“EBSI Node Operators” refers to stakeholders of the network and their dedicated devices (i.e. servers) authorised by the EBP to participate and run the EBSI Network in the EBSI Pre-Production phase and the European Commission in its capacity as operator of such devices. All these Operators together constitute the EBSI Network. They enable and ensure the execution of transactions, by e.g., keeping a copy of the blockchain ledger, accepting and producing new blocks, guaranteeing the consensus of the network and the integrity of the chain and transactions.

2. Purpose

- 1) The EBSI Pre-Production phase is provided to test, collect feedback on, and ultimately improve the EBSI Network and EBSI Services.
- 2) In order to facilitate the testing and the evaluation of the EBSI Pre-Production phase, the European Commission shall make available relevant services to EBSI Early Adopters. The set of services to be made available are determined in line with the applicable Work Programme(s) and the EBSI governance structure.
- 3) All European Commission services to EBSI Early Adopters pursuant to this Compliance Statement are without prejudice to the applicable Work Programme(s) and agreed governance framework and are provided for testing purposes free of charge.
- 4) During EBSI Pre-Production, EBSI Early Adopters will provide Feedback to the European Commission. EBSI Early Adopters authorise the European Commission to use and to share the Feedback within the European Commission services and its Suppliers and the EBSI Node Operators.

3. Forbidden use

EBSI Early Adopters must not use the EBSI Network and the EBSI Services or allow them to be used in any jurisdiction for any forbidden use. This may include an act or omission that is illegal, obscene, offensive or fraudulent, that introduces misleading or abusive information, or that in any way endangers the operation of the EBSI Network and/or EBSI Services.

4. No warranties

- 1) All EBSI Early Adopters acknowledge and agree that the EBSI Pre-Production phase and the EBSI Network and EBSI Services are prototype versions and have therefore not the service of final quality. Given its experimental nature: (i) EBSI Early Adopters participate in the EBSI Pre-Production phase on an ‘as is’ basis; (ii) EBSI Early Adopters acknowledge and agree that the European Commission will not provide any warranties of any kind, and may amend or suspend the provision or use of the EBSI Pre-Production phase at any time.
- 2) EBSI Early Adopters acknowledge and agree that Ledger Data will be deleted and consequently become unavailable following development or termination of the Pre-Production phase unless the European Commission decides otherwise for all or for a certain type of Ledger Data.

- 3) EBSI Early Adopters acknowledge and agree that it is their sole responsibility to undertake appropriate back-ups of their data to avoid a loss.

6. Liability and disclaimer

- 1) Any use of the EBSI Network and the EBSI Services during the EBSI Pre-Production phase are provided for testing purposes and should not be used for production⁷. All use is, with the exception of obligations arising from the DPA, at the EBSI Early Adopter's own risk and under its sole and exclusive responsibility.
- 2) Without prejudice to data subject rights, EBSI Early Adopters warrant to the European Commission that the data they write on the EBSI Network will not: (i) breach any laws, statutes or regulations; (ii) infringe the Intellectual Property Rights or other legal rights of any person; or (iii) give rise to any cause of action against the European Commission, in each case in any jurisdiction and under any applicable law.
- 3) With the exception of the terms set out in Article 340(2) of the TFEU⁸ and Regulation (EU) 2018/1725 (IDPR), the European Commission shall not be held liable for any action or omission in relation to EBSI Services and/or the EBSI Network.

7. Confidentiality

- 1) EBSI Early Adopters shall not make Confidential Information public.
- 2) EBSI Early Adopters shall notify the European Commission if they become aware of any unauthorised disclosure of any Confidential Information and shall afford reasonable assistance to the European Commission in connection with any enforcement proceedings.
- 3) EBSI Early Adopters shall destroy any Confidential Information at the termination of the EBSI Pre-Production phase unless otherwise agreed with the services of the European Commission.
- 4) The European Commission reserves the right to pursue in justice, under mandatory law, EBSI Early Adopters who disseminate information that could negatively affect the reputation of the EU Institutions.

8. Data Protection

- 1) In line with the EDPS recommendations⁹, EBSI Early Adopters shall ensure that the data they write on the EBSI Network (their Ledger Data) do not qualify as Personal Data. This includes links with identifiers, pseudo identifiers and other information, especially in the same record and across records, tables or parallel chains. EBSI Early Adopters will therefore use artificially created test data, or test data, which is derived from real data so that its structure is preserved but no actual Personal Data is contained in it.

⁷ A new network will be deployed as EBSI moves to Production.

⁸ Consolidated version of the Treaty on the Functioning of the European Union ([OJ C 202, 7.6.2016, p. 193](#))

⁹ [IT governance and IT management | European Data Protection Supervisor \(europa.eu\)](#), p.20.

- 2) Only in duly justified cases and where strictly necessary, the EBSI Early Adopters may opt to use Personal Data. This includes cases where the EBSI Early Adopter needs to use personal data for its own purposes to ensure success of their participation in the EBSI Pre-Production phase. In such cases, the EBSI Early Adopter is bound by Regulation (EU) 2016/679 (GDPR) and agrees to:
 - (i) document the reason why the use of Personal Data is needed in the EBSI Pre-Production phase;
 - (ii) only use lawfully obtained personal data with a valid basis for the processing under Article 6 (1) Regulation 2016/679 (GDPR) or Article 5 (1) of Regulation (EU) 2018/1725 (IDPR);
 - (iii) act as Data Controller for any such processing of Personal Data in the EBSI Pre-Production phase;
 - (iv) obtain any required consents from relevant data subjects where appropriate and provide any necessary notices to these data subjects;
 - (v) implement appropriate technical and organisational measures, such as pseudonymisation and data minimisation, to ensure data protection by design and by default as set out in applicable data protection laws;
 - (vi) take full responsibility to set in place a data processing agreement as detailed in Annex A; and
 - (vii) ensure compliance with other relevant obligations under applicable data protection laws.
- 3) In the cases meant in the above clause 8(2), the EBSI Node operators, including the European Commission, shall act as Data Processor on behalf of the EBSI Early Adopter. In this capacity, EBSI Node Operators process the data stored on the EBSI Network (Ledger Data) in line with the data processing agreement in Annex A, under GDPR and, in the case of the European Commission, Regulation (EU) 2018/1725 (IDPR) and as governed by Regulation (EU) 2021/694.

9. Duration

- 1) This Compliance Statement shall take effect once the EBSI Early Adopter accepts this Compliance Statement.
- 2) The European Commission may terminate access to the EBSI Pre-Production phase in relation to a specific EBSI Early Adopter for convenience at any time by giving the EBSI Early Adopter written notice.
- 3) An EBSI Early Adopter may terminate their participation in the EBSI Pre-Production phase for convenience at any time by giving written notice to the European Commission.

10. Modifications

- 4) The European Commission can modify this Compliance Statement at any time following due notice to the EBSI Early Adopters.
- 5) The European Commission shall notify EBSI Early Adopters prior to the modification's effective date.

11. Dispute resolution and governing laws

- 1) When it comes to the European Commission, the Treaty on the Functioning of the European Union governs this Compliance Statement. The Court of Justice of the European Union shall have sole jurisdiction in disputes relating to compensation for damages provided for in accordance with section 6(3) of this Compliance Statement and as set out in Article 340(2) of the TFEU.
- 2) When it comes to the EBSI Early Adopters, the laws of Belgium govern this Compliance Statement. The Belgian courts shall have jurisdiction in disputes relating to compensation for damages.

12. Assignment and subcontracting

EBSI Early Adopters warrant to the European Commission that any subcontractors will be made aware of and agree in writing to this Compliance Statement.