



NYC Law Summit 2018

Blockchain – Risks and Rewards

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Digital Initiatives – what legal / regulatory risks may arise?

➤ **Contractual Risk**

- Corporate transactions (mergers, acquisitions, business alliances, joint venture and consortium agreements)
- Non-disclosure agreements
- Vendor agreements (software developers, cloud and platform services, consultants)
- IP Licensing Rights
- Customer agreements (including enforceability risks, as may be digital)

➤ **Regulatory Risk**

- Data privacy (includes regulatory, contractual, reputational risks)
- Cross border transfer of data
- Competition law issues?

➤ **Non-Contractual Rights Risk**

- Intellectual property rights (protection of HSBC's rights / risk of infringing third party rights)

➤ **Litigation Risk**

Legal - Key types of expertise required

➤ **Banking / trade finance counsel**

- Provides expertise relating to trade finance, reviews proposed new products and services
- Drafts customer agreements, including general terms for all participants (“rulebooks”)
- Works with other stakeholders to review and approve for internal risk management

➤ **Digital & Data Privacy counsel**

- Advises on data privacy laws, cross border data transfers, privacy notices and impact statements, supports cloud, blockchain, AI and big data analytics

➤ **Procurement counsel**

- Advises on service-vendor agreements, RFP’s, NDA (non-disclosure agreements), intellectual property rights (including branding), data centre service management (cloud), consortium licensing and engagement.

➤ **M&A counsel**

- Advises on investment vehicles, consortium agreements, joint venture agreements, etc.

➤ **Competition Law Advice**

- What if an initiative will have a significant impact on the market? What if a bank is involved in multiple projects?

Other Internal / External Stakeholders

- Internal compliance
- Regulators (even those outside the remit of the project)
- Corporates
- Investors
- Employees

Risk Mitigants

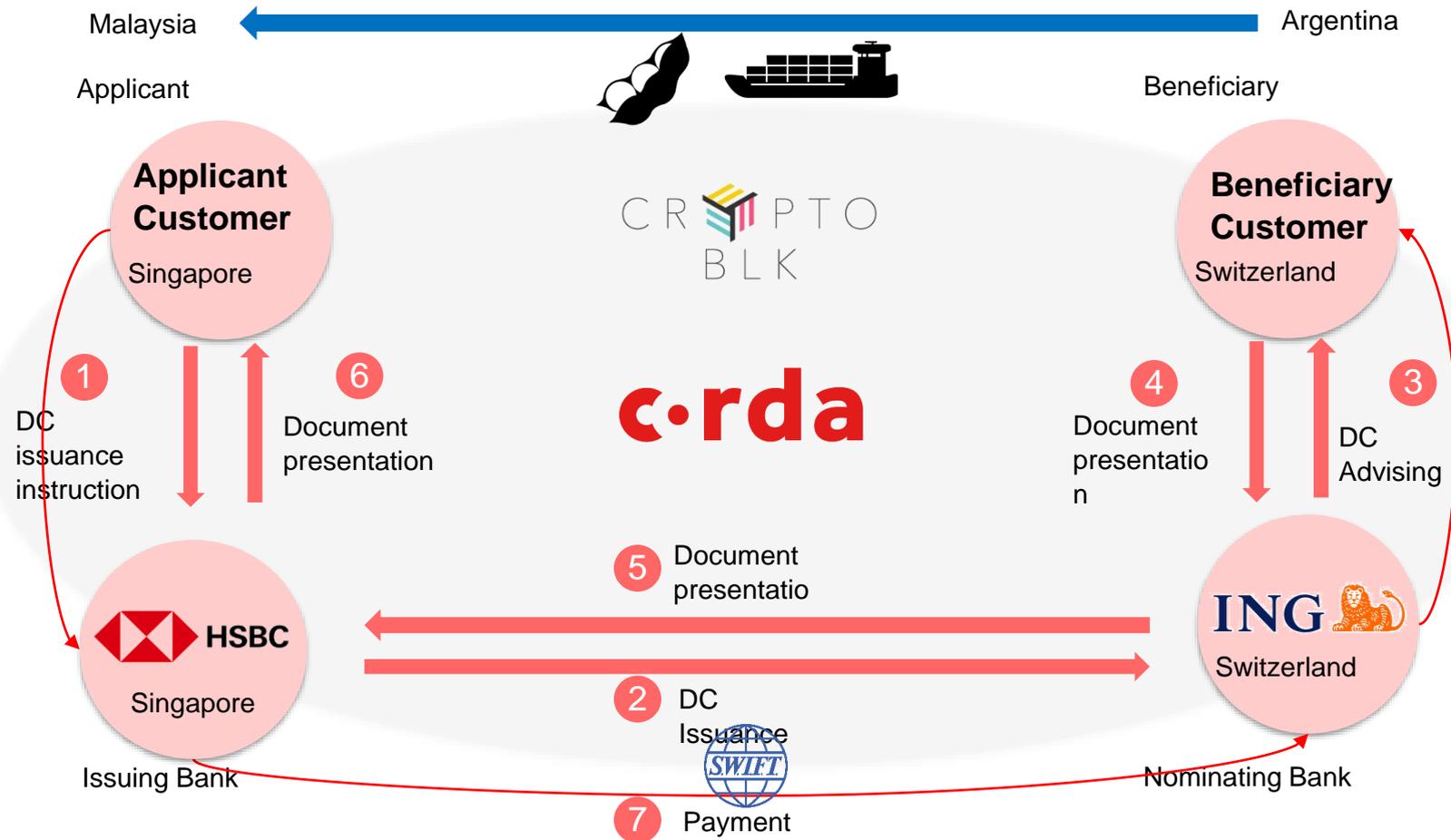
- Sand boxes
- Broad waivers of liability for pilot exercises
- Bank / customer agreements with terms dealing with digital communications and third party platforms

Recent Successes – Digitalised Letter of Credit – HSBC / ING

- On 14th May, HSBC completed the first live end-to-end trade finance transaction for the issuance of a fully digitised letter of credit, using Distributed Ledger Technology (Blockchain). The application was built using R3's Corda blockchain.
- R3's Corda uses blockchain to track and trace information as it moves between parties. The Corda technology keeps all players in sync, reducing the need for reconciliation and speeding up your transactions, whilst providing you with end-to-end visibility.
- This technology helped reduce the time taken for exchanging and checking documents, from the typical 5-10 days to less than 24 hours.
- A global agricultural conglomerate customer was on both sides of the transaction as applicant and beneficiary of the letter of credit sending a cargo of soy beans from Argentina to Malaysia with HSBC Singapore acting as the issuing bank and ING Geneva acting as the nominated bank under the digitised letter of credit.
- While the flow mirrors the existing letter of credit process (agreeing letter of credit terms, application, issuance, advising, amendment request and its approval, of document presentation, discrepancy resolution, and bill settlement instructions), a single blockchain network was used for all participants, instead of relying on multiple systems.

Digitised Letter of Credit

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Recent Successes – we.trade

- we.trade was established by nine banks (Deutsche Bank, HSBC, KBC, Natixis, Nordea, Rabobank, Santander, Societe Generale and UniCredit) to address the expectations of their customers to make cross-border trade more straightforward.
- The consortium has succeeded in meeting each bank's internal governance and procedures requirements to make this innovation a reality.
- In July 2018, we.trade confirmed that the first live trades have taken place on the platform. These trades signify the first commercially viable open account trades harnessing blockchain technology.
- we.trade was awarded the most innovative use of Blockchain in the Financial Sector 2018' at Blockchain Expo Europe.

Recent Successes – Hong Kong Monetary Authority

- In July 2018, Hong Kong’s “central bank” announced an upcoming live transaction using a blockchain-backed trade finance platform set to link up with 21 banks, including HSBC and Standard Chartered.
- The Blockchain system was designed by China’s Ping An Group and is one of the first and largest examples of a government-led project aimed at upgrading global trade finance industry.
- Blockchain is expected to slash the time and paperwork for routine trade finance and supply-chain finance transactions by making it easier to verify each step of the complicated process and confirm the credentials of the parties involved.
- The platform will be owned by the banks that have partnered with the Hong Kong regulator. The final number of financial institutions has not been confirmed but 21 banks are expected to join.
- OneConnect, Ping An Group’s financial technology company, designed the Hong Kong trade finance platform using technologies it has already deployed in China.