

Let's get started



Your panel



**JEFF COOPERSTEIN IS YOUR
HOST**



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Is your blockchain transaction legal?

Turns out, it might not be covered

Blockchain in trade finance moved fast

- Innovation came before regulation
- Projects going into production
- Beginning to explore secondary infrastructure needs



US law is a problem

Product	Legal framework
Negotiable promissory notes	UCC Article 3
Bills of exchange	
Trade acceptances	
Bankers acceptances	
Avalized bills of exchange	
Clean LCs	UCC Article 5 and UCP 600 or ISP98
Commercial doc LCs	UCC Article 5 and UCP 600
Bank payment obligations	UCC Articles 4&4a; Swift, Fedwire and CHIPS; ICC URBPO; UCC Article 5

Instrument defined as

- “**written**” undertaking
- that is “**signed**”

Low adoption of Art. 3 updates

- 1990: widespread
- 2002: only 5 states
- NY uses 1962 version

Here's what we could do about it

Option 1: Revise UCC Article 3

- Amend “order” and “promise” to cover electronic records
- Define “delivery” to include blockchain
- Define “possession” to include blockchain
- Amend “indorsement” to include blockchain
- Amend meaning of “signature”
- Add a choice of law provision
- Eliminate concept of bearer instruments

Option 2: Apply UETA

Benefits:

- “holder” of a transferrable record is the person who “has control” of it

Problems:

- Electronic promissory notes only
- Enforceability against intermediate transferors

Option 3: Create a rulebook

- Agreed Rules (UN Conventions, UCC Art 3)
- Residual Rules (incorporate a governing law)
- Choice of Forum (for arbitration)

The reality behind these options

SHORT TERM SOLUTION

- Rulebook
- Can allow blockchain solutions to proceed
- Potential for competing rulebooks

LONG TERM SOLUTION

- Amend UCC Article 3
- US drafting committee is considering these recommendations
- Will take years

R3 Reports with Shearman & Sterling LLP and BAFT

Code Is Not Law: The Legal Background for Trade Finance Using Blockchain

Shearman & Sterling LLP, R3, BAFT

Notable takeaways

- Blockchain makes the use of digital documentation in trade finance imperative
- The law in most other areas does support the use of digital documentation
- Rulebooks are a feasible interim solution

www.r3.com/research



Lightning Round #1

What was the most surprising part of the paper?

Topics

- **Theme 1:** Blockchain and digital documentation
- **Theme 2:** The rulebook option
- **Theme 3:** Flexibility of law with new technologies
- **Theme 4:** On-chain vs. off-chain transactions and rules

Lightning Round #2

With whom or what did you most disagree?

Audience Q & A

Continue the conversation



<https://goo.gl/EmpnB3>

RELEVANT LINKS

- Many more papers on trade finance and blockchain here: R3.com/research
- Learn what the trade finance industry is up to here: Baft.org
- More on legal practice and fintech: www.shearman.com/industries/fintech

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