



Regulatory advocacy around trade digitisation in full swing

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December 2020

There is no doubt that 2020 has been a pivotal year for trade digitisation. Technologies have evolved so much over the recent 2-3 years, and the most innovative ones such as electronic signatures and Distributed Ledger Technologies (DLT), are being more and more accepted in financial services.

How can trade finance benefit from those? How can friction coming from manual processes and use of paper be removed from financing processes? How can available technologies be used more widely to help finance SMEs?

COVID-19 has underlined the many obstacles for banks and corporates to process paper-based trade finance transactions. This has encouraged banks to heighten efforts around trade digitisation. Whereas "digital trade" innovations were traditionally handled by banks quite reactively and opportunistically to address large corporate needs (e.g., supply chain finance, multi-bank standards such as MT 798), we have witnessed in 2020 a shift of mindset given the need to ensure business continuity. Banks have started to consider digital trade options in at strategic. As an example, the delays introduced in transactions by slow courier services which are critical to deliver paper originals such as bills of exchange, guarantees, bills of lading, ... to the right counter-parties have been significant despite many established paperless options. Why are those options not widely used if they bring so many benefits?

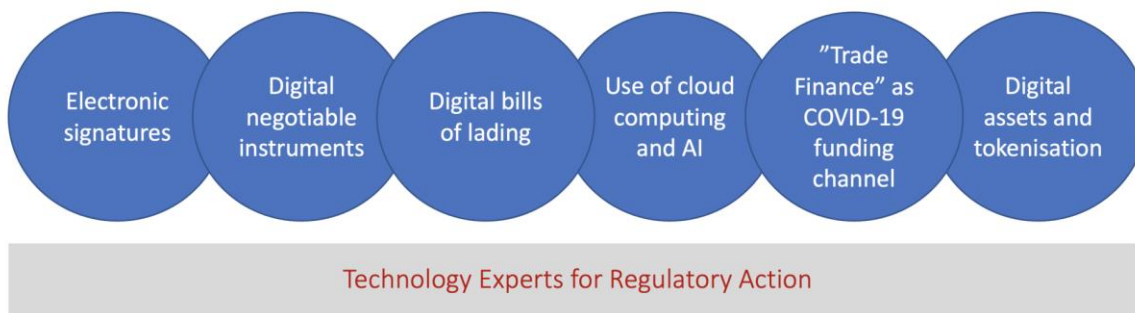
Policy makers hold the key to remove the final stumbling blocks and make "paperless trade" real. Considering the various regulatory hurdles to take advantage of those "digital trade" solutions, a number of banks and banking associations have started to engage with their policy makers to advocate around the need for regulatory support.

Trade is global and in order to facilitate global coordination of those advocacy efforts, ITFA set up an expert and coordination team in place in Q2 2020 that we called **Technology Experts for Regulatory Action or TERA**. Founding members include Sam Sehgal (Traydstream), Achille d'Antoni (Traydstream), Lars Hansén (Enigio) and ITFA Board Members - André Casterman (Casterman Advisory, Tradeteq) and Sean Edwards (SMBC). The TERA team has attracted additional contributors and now acts a center of expertise with regards to regulatory advocacy. The group has since expanded with representatives from JPMorgan, Citi, Bolero, UNCITRAL, HBL, HSBC, EBRD, Standard Chartered Bank, SMBC, SocGen, Nabu, ...

The TERA task force identified the following 6 critical areas for banks and technology providers to engage their policy makers on:



Policy decisions need to evolve to facilitate the short-term roll-out of technology solutions
in the following trade-related areas

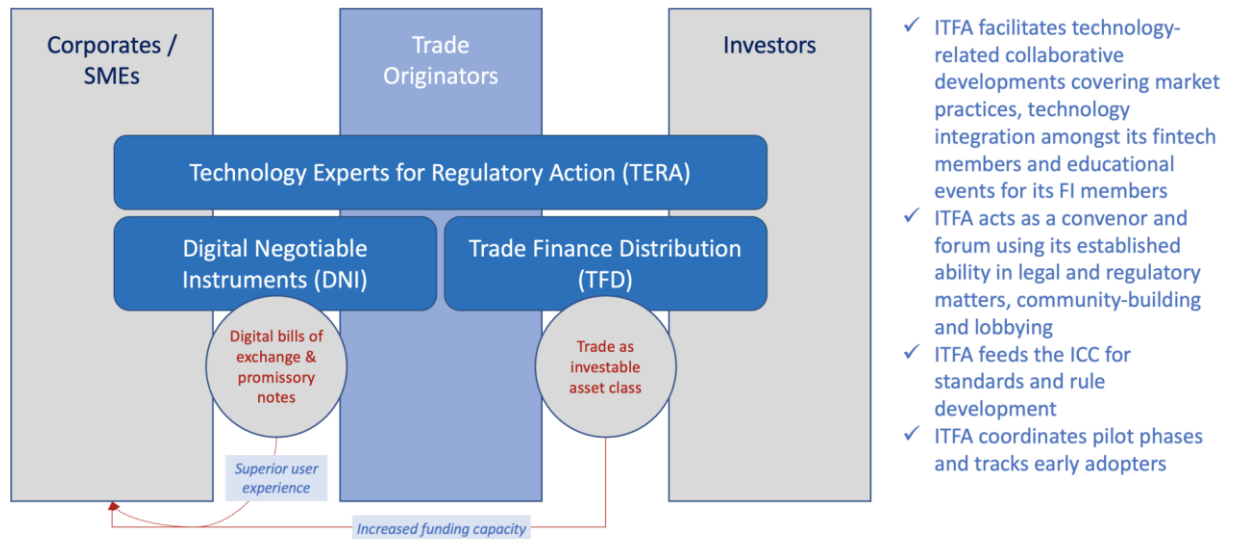


The task force fits with both ITFA DNI Initiative and TFD Initiative in terms of enabling higher use of technology-based instruments and market practices that highly specialised fintechs have introduced recently:

- The **DNI Initiative** aims to digitise guarantees and negotiable instruments to ease corporate-to-bank interactions (and inter-bank when needed). Hybrid Blockchain technology now enables digital assets such as negotiable instruments to be fully digitised, owned and transferred electronically. However the legal frameworks such as bill of exchange acts need to enable the use of new digital options. TERA is promoting this around the world.
- The **TFD Initiative** provides a unique opportunity for governments and central banks to extend COVID-19 public relief efforts to the trade finance flows such as payables, receivables, bills of exchange, promissory notes, guarantees and letters of credit. The increased level of automation introduced through **TFD Initiative** enables to apply public financial support on high volumes of granular trade flows, thereby offering increased transparency in terms of allocation, repayment, replenishment, ... and analytics. You don't get any of this visibility when extending loans. TERA is promoting this as well around the world.



TERA is advocating for increased digitisation of trade flows as per ITFA DNI and TFD Initiatives



Here are the key take-aways from our engagement with various banks around the world:

- Corporates are increasingly willing to digitise critical documents such as negotiable instruments and bills of lading; some of the established platforms have witnessed a surge in demand and positive reactions from banks
- Banks and banking associations are engaging with their national regulators on various themes such as negotiable instruments, bills of lading, use of cloud, ... and some are indeed moving ahead - see below examples
- Banks are increasingly making use of regulatory frameworks such as eIDAS and start to work with the relevant e-signature technology providers
- The industry has worked on the issue of "electronic transferable records" since many years and produced the Model Law for Electronic Transferable Records (MLETR) as developed by the [United Nations Commission on International Trade Law](#) (UNCITRAL) which is the core legal body of the United Nations system in the field of international trade law. Its mandate is to remove legal obstacles to international trade by progressively modernising and harmonising trade law. The Model Law achieves functional equivalence as follows: (1) article 10 states the requirements for the use of an electronic transferable record, (2) article 11 states how control is to be achieved and (3) article 12 specifies how trust in the system should be delivered.

The overall progress achieved by new technologies is massive, and forward-looking players embrace those enthusiastically:

- DLT has progressed so much that it has reached a top position on the agenda of law makers and central banks. Despite [Jamie Dimon's 2017 negative stance on Bitcoin](#), JPMorgan's 2020 position has slightly changed as [institutional investors move from gold ETFs to Bitcoin](#).
- Digital assets are considered as a strategic market transformation by top commercial banks - this is valid in payments and securities services - look at efforts by [SocGen Forge, Banque de](#)



[France](#), [JPMorgan](#) and [HSBC Securities Services](#) - tokenisation brings new options in instant payments and securitisation which provide new opportunities for trade financiers.

- Highly specialised technology players are taking advantage of DLT to address pressing requirements such as digitising original documents in trade but also in other industries.
- Automated processes such as AI-based trade document checking is becoming a reality whether relying on paper feeds (to be OCRed) or electronic feeds (via APIs).
- Cloud computing is becoming an obvious option for regulated institutions.

Policy makers do not stand still and start facilitating widespread use of those technologies as well:



**Law Commissioner, Professor Sarah Green
said:**

"Smart contracts, digitised assets and electronic documents promise to revolutionise the way we do business, digitising existing processes and in some cases introducing entirely new concepts. There are, however, lingering uncertainties about whether and how English law can accommodate these.

"We believe there is a compelling case for reviewing the law in these areas to ensure that the jurisdiction of England and Wales remains a competitive choice for those who want to use and to develop emerging technology."

**Justice Secretary, Robert Buckland QC MP,
said:**

"Cryptoassets and smart contracts are transforming the way we do business and we want to ensure UK firms are able to fully benefit.

"These reviews will help ensure the UK's legal sector remains world-leading by offering certainty in these emerging technologies."

- Bahrain is the [first country](#) to adopt the MLETR - this happened in November 2018
- Abu Dhabi Global Markets (ADGM) ran a consultation on proposed its Electronic Transactions Regulations
- In the UK, the Law Commission has kicked off a project on Digital Assets and Negotiable Instruments aiming to support new instruments such as smart contracts and crypto assets



- In Egypt, the Ministry of Communication and Information Technology has amended the e-signature law, adding regulations on online signatures and time stamp fingerprints
- Pakistan is working on introducing digital negotiable instruments into law
- In September 2020, ITFA responded to the European Commission inception impact assessment on eIDAS and provided general feedback on the direction of travel. In October 2020, ITFA responded to the European Commission the consultation on eIDAS review and provided detailed feedback and answers to the questionnaire
- The European Commission published its new Digital Finance Strategy on 24 September 2020. One of its centrepieces is the draft Regulation on Markets in Crypto-Assets (MiCA), designed to provide a comprehensive regulatory framework for digital assets in the EU. MiCA is the EU's response to the policy debate prompted by the Libra proposal in June 2019. With it the EU Commission has proposed bespoke regulation for utility tokens and stablecoins including payments tokens, asset-backed tokens and 'significant' stablecoins (including 'global stablecoins'). [More info.](#)
- In India, authorities are keen to accelerate the process of trade digitisation too. Work is on to digitise Bill of Lading along with making suitable changes in Port Community System and introduction of a platform for the community for Secure Document Exchange amongst different stakeholders.
- In Singapore, the TradeTrust initiative is progressing well and focusing on bills of lading.

On the ITFA Fintech Committee side, we witness very promising developments:

- [Enigio](#) - the ITFA member powering the DNI Initiative - has demonstrated how trace:original digitises original documents such as guarantees, bill of exchange and promissory notes in the most pragmatic and interoperable way.
- [Traydstream](#) and [Nabu](#) - both ITFA members - bring cloud computing to help banks and corporates digitise trade document digitisation, processing and validation.
- [Tradeteq](#) - the ITFA member powering the [TFD Initiative](#) - is demonstrating the viability of the automated originate-and-distribute model in trade finance; when applied to COVID-19, [such model can integrate public relief efforts](#) and help governments allocate guarantees and funding to trade assets which proves a more effective and transparent solution than extending loans. Thanks to technology, trade has become an investible asset class for institution investors and also for governments and supra-national entities. Early adopters of Tradeteq include [ING](#), [Federated Hermes](#), Commerzbank and other FI's which spoke about their plans at various ITFA events.
- [CargoX](#) has launched a blockchain-based bill of lading platform leveraging hybrid blockchain technology. CargoX offers the ability to support a full set of e-presentation, besides e-Bill of Lading (L/C) also e-PO or e-Invoice for payment commitment process.
- [XinFin](#) - an ITFA member with regulated entities in SG and UAE - provides an advanced tokenisation and liquidity sourcing platform in support of trade finance and stable coins, to bring retail and institutional liquidity to alternative lenders and traditional banks. XinFin is also based on hybrid blockchain technology.
- SWIFT - major banks engaged in a proof of concept to validate the use of [FileAct for trade documents](#).

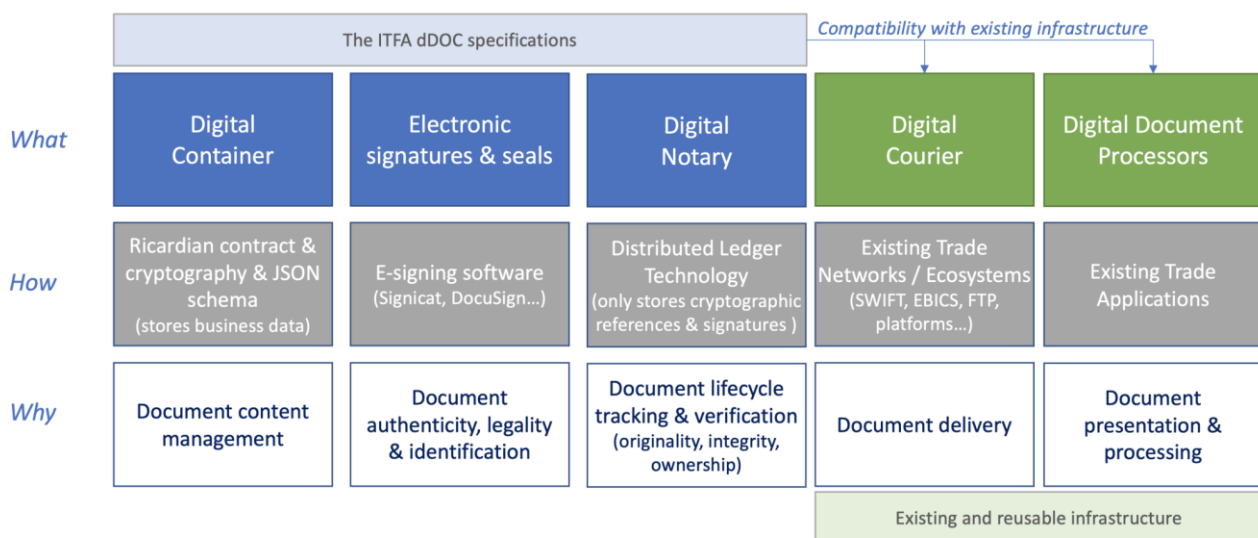
Both CargoX and XinFin leverage the power of hybrid blockchain technology for trade finance. The hybrid blockchain is distinguishable from the fact that it is not open to everyone, but still offers blockchain features such as integrity, transparency, and security. It combines the best of public and private data sharing and is particularly suited for highly regulated industries such as financial services. There are numerous benefits to using a hybrid blockchain like the speed of private blockchains combined with the security of public blockchains. The private blockchain is used to generate a hash of transactions which is later verified using the public blockchain.

Also banking associations such as ITFA and BAFT have leading industry-wide initiatives in this area:



- In September 2020, [ITFA released the dDOC specifications](#) which define the technology framework for financial institutions, corporates and 3rd party platforms to leverage hybrid blockchain technology for original trade documents. The dDOC specifications are designed to support the model law for electronic transactions (MLETR) and form a key deliverable of the [DNI Initiative](#).

DNI Initiative – the dDOC specifications



- In April 2020, ITFA released the **electronic Payment Undertaking (ePU)** which provides a contract law-based solution for electronic negotiable instruments. The ePU digitises bills of exchange and promissory notes on the basis of digital original document technology compatible with ITFA's dDOC framework. Both Enigio and China Systems have been demonstrating various use cases around guarantees and negotiable instruments in 2020.



Three layers of value



New payment undertaking instruments
"Making the instrument enforceable and negotiable"



Digital Original documents
"Digitising the original document"



Transport mechanism
"Transferring the document digitally"



FileAct



- In August 2020, BAFT released the business best practices for the DLPC which stands for **Distributed Ledger Payment Commitment**. As stated, "The DLPC has been designed to benefit from the provisions of established legal frameworks for negotiable instruments, namely Article 3 of the Uniform Commercial Code (UCC) and Section 116 of the Uniform Electronic Transactions Act (UETA), both as adopted by the State of Delaware ... the Delaware UETA provides a legal environment that expressly facilitates electronic transactions and enables legally binding and enforceable negotiable promises to pay in digital form, which is precisely what the DLPC."

All above mentioned legal and technology developments demonstrate the firm willingness of all stakeholders to further digitise complex practices that are supporting global trade and receivables financing. Policy makers now hold the key to make it happen in the most impactful way, which is why short-term deliverables are highly anticipated. The ITFA TERA task force will continue to operate as an expert team supporting local advocacy efforts. We will also continue to update the trade community going forward through our frequent webinars.