International Trade and Forfaiting Association

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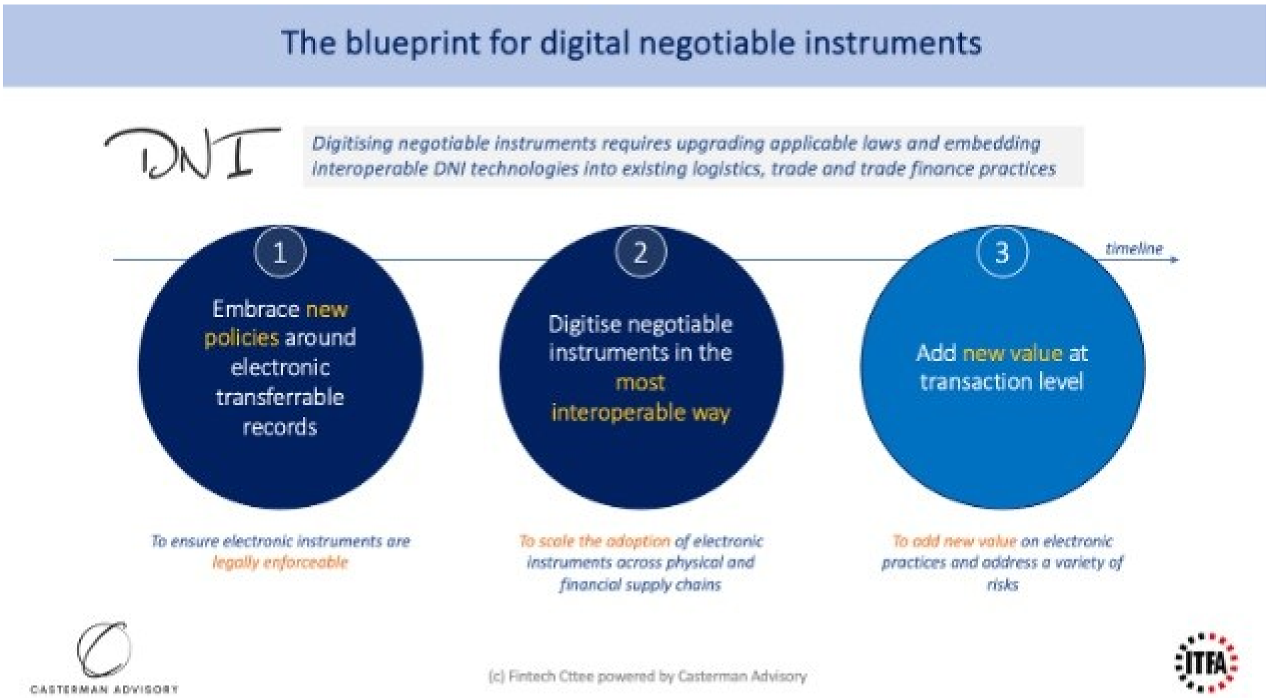
MLETR 2025 PLANNING SEMINAR FOR THE US MARKET, NEW YORK CITY – January 2025

*Contributed by **Andre Casterman**, ITFA Board Member and ITFA Head of Fintech Activities, December 2024*

Uniform Commercial Code (UCC) amendments to unlock use of digital asset technology in US trade and supply chain finance
As reported by Rebecca Fruchtman, Mayer Brown LLC during the recent ITFA MLETR-focused planning session, held on Tuesday 17th December, 2024, the Uniform Commercial Code (UCC) amendments have been enacted in 25 states and are already effective in at least two states. The amendments will be introduced to the New York senate in January 2025 which will be a distinctive milestone for the cross-border trade industry given the importance of New York law.

During our recent MLETR 2025 Planning Seminar for the US market that was hosted by Lloyds Corporate & Institutional, ITFA members outlined the following key messages around the alignment of US law with MLETR:

#1 Interoperable negotiable instruments enable stakeholders and platforms involved in trade transactions to engage at any stage of the transaction lifecycle; once digital, more value can be derived from and added to instruments and documents such as real-time visibility and programmable functions



Contact: Andre Casterman

#2 UCC amendments enacted in 25 states, and will be introduced to the New York senate in January 2025

UCC article 12 on “controllable electronic records” (CERs”) aims to achieve the functional equivalent of a “holder in Due Course” and to move away from public UCC filing system. Two questions are pending:

- How will secure eco-systems meeting Article 12 standards be hosted?
- How do you get around the Supplier double-financing risk?

Contact: Rebecca Fruchtman

#3 Supply Chain Finance under Bill of Exchange will benefit greatly from UCC amendments

A short-term use case for the trade industry lies in embedding electronic negotiable instruments (eNIs) in SCF programmes. Those eNIs ought to be transferable in the same way paper is today. Such use case is valid for both banks and non-bank lenders.

Banks should support the creation and storage of electronic negotiable instruments on behalf of the Corporates in order to offer more convenience. However large corporates might have the appetite to acquire a solution that creates and stores eNI's in same way as they handle L/Cs and Guarantees today on multi-bank trade applications.

The securitisation or tokenisation can be a way to transfer an eNI to multiple participants whereas today, the transfer of the eNI must be for the face value.

Contact: Merlin Dowse

#4 ICC DSI's Reliable System Self-Assessment Tool already makes a difference

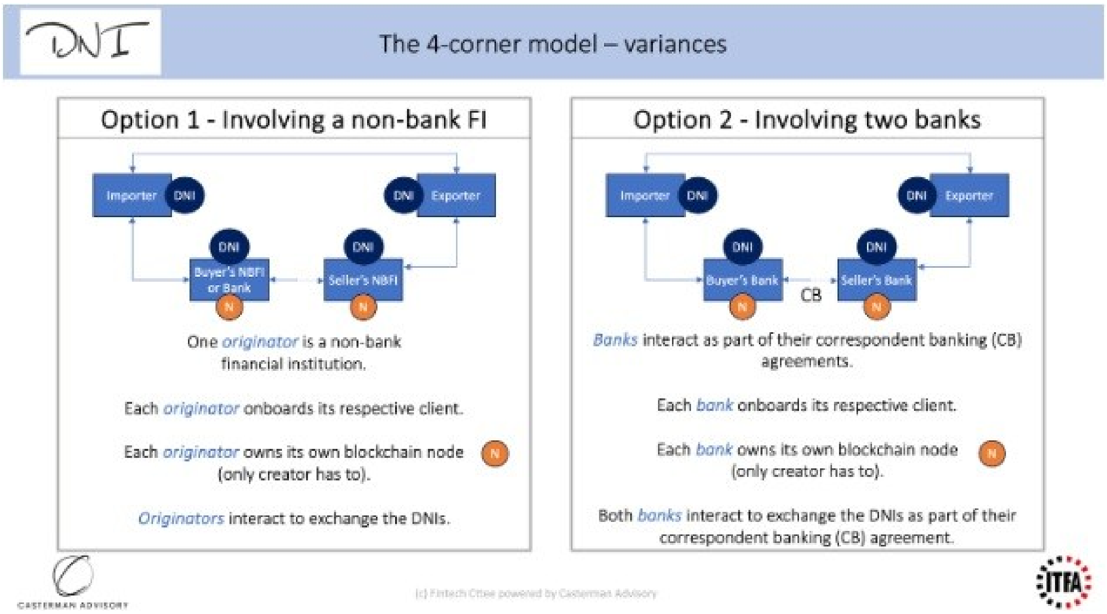
The Digital Standards Initiative (DSI) of the International Chamber of Commerce (ICC) and the Digital Governance Council (DGC) of Canada have collaborated to develop a Technical Assessment Framework for evaluating the reliability of digital services or networks that enable the transfer of Electronic Transferable Documents (ETDs) within supply chains.

Enigio is the first vendor to benefit from verification statement issued by the Digital Governance Council in consultation with ICC DSI.

Contact: Patrik Zekkar

#5 Cross-border trade to be upgraded using 4-corner bills of exchange involving banks and/or non-bank lenders

Digital asset technologies - when done right - enable electronic negotiable instruments to be as interoperable as possible, i.e., enabling any party to engage in transactions without the need for them to sign up to a specific platform. Using public and private keys (a key pair) is sufficient to achieve this level of interoperability. It is not required for all parties involved in eNIs to acquire a node (via a licence with Enigio). Only the document creators have to get one, not the subsequent parties engaged in the transaction cycle.

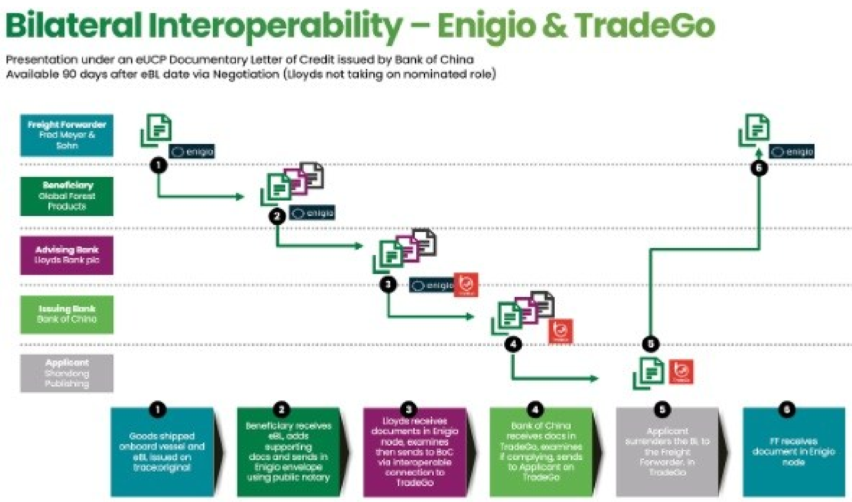


Contacts: [Jon Boran]() and [André Casterman]()

#6 Electronic bills of lading are already interoperable across platforms and chains

As shown on below chart, interoperable bills of lading have been executed across certified platforms such as TradeGo and Enigio. This means a digital original bill of lading can be extending its lifecycle across multiple blockchains and across media (switch to paper).

As the industry extends this open approach (preferably through bodies such as DCSA and BIMCO), we will be growing the use of electronic bills of lading across platforms certified by the IG of P&I clubs.



Contacts: [Patrik Zekkar](), [Jon Boran]() on [Enigio]() - TradeGo interoperability
Contact: [Michele Sancricca]() on [Secro]()'s interoperability

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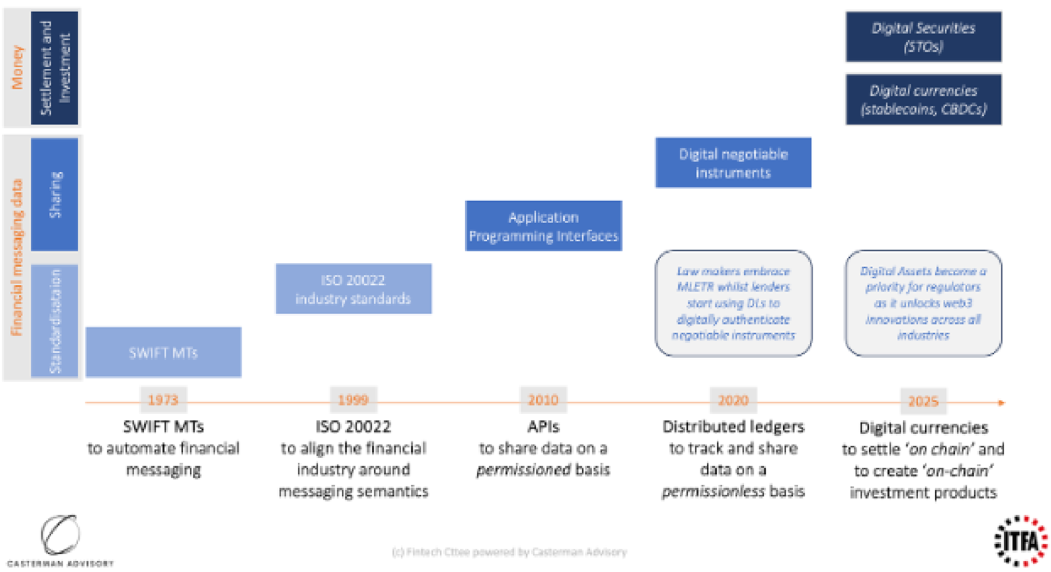
#7 Following the ETD Act, the UK is also aiming to enact the "UK Property Bill"

In September, the UK government has introduced the Property (also called Digital Assets or Crypto) Bill into Parliament. The Bill enacts the recommendations of the Law Commission of England and Wales. Its effect is to confirm the existence of a third category of personal property, into which crypto-tokens and other assets could fall. The Law Commission's digital assets report in June 2023 concluded that certain digital assets, including crypto-tokens and non-fungible tokens (NFTs), are capable of attracting personal property rights. However, because they are fundamentally different both from physical assets, and from rights-based assets like debts and financial securities, they do not fit easily within traditional categories of personal property. The Commission recommended that legislation should confirm the existence of a "third" category of personal property.

Contact: [Akber Datoo]

#8 Next to negotiable instruments, the trade industry has an opportunity to digitise cross-border payments using digital asset technology

Next to negotiable instruments benefiting of digital asset technology, the trade industry will also be offered to apply the same rails for cross-border payments. This is another area where businesses will enjoy increased working capital through faster payments related to trade financing transactions. Cross-border payments can be digitised and moved 'on-chain' whether related to negotiable instruments (e.g., with a tokenised bill of lading used as collateral) or not. Policy makers are upgrading their laws to support stablecoins and CBDCs.



Contacts: [André Casterman] and [Billy Sebell]