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Blockchain, and Smart Contracts

What Are They and Why Should I Care?

An Introduction for Mortgage Lenders and Their attorneys

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If I say “blockchain,” many will immediately think “cryptocurrency.” But cryptocurrency is only one of many applications of blockchain. Blockchain is a technology platform that can be used for a wide range of business transactions. Blockchain technology can be used to trace and memorialize transactions in the supply chain from point of origin to a retailer’s shelf. Blockchain technology can be used as an alternative means of recording ownership of corporate securities in lieu of the “old way” of issuing paper stock certificates. As a matter of fact, the Texas Business and Commerce Code now expressly provides that the books records, ownership or membership records of a Texas business entity may be stored on a blockchain (See Texas Business Organizations Code 3.151 and 1.002 (20-a)).

Blockchain is also being studied as a technology for a true paperless mortgage. Cook County Illinois attempted a pilot project to convert real property records to a blockchain.

Imagine a mortgage loan where all of the documents relating to the mortgage loan were on a secure electronic data system such as blockchain. Imagine that the blockchain includes a link to a customer’s bank account and a smart contract. The interconnected computers on the block chain automatically provide the payments are made and all the computers confirm the event and the date and time of the event. Since everything is on the blockchain, transfers of mortgage servicing rights have fewer (if any) payments made but not being received by the new servicer. Further imagine that the blockchain for an individual loan ties into a blockchain of securitized mortgages. The investor securitized blockchain incorporates a smart contract reflecting the various payment tranches. Payments made from the mortgage loan block flow through to the securitization block and investor payments on each tranche. Today, trade associations, tech companies, and lenders are working on the technology to make this happen. State legislatures are studying legislation to enable the use of blockchain for these purposes.

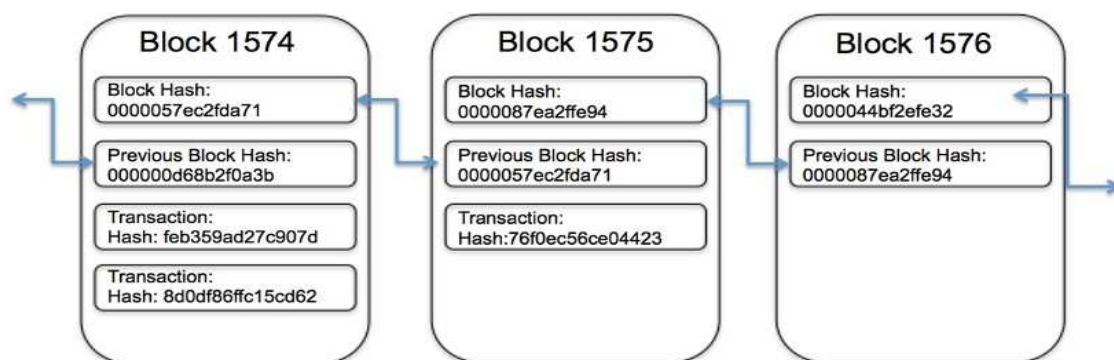
Blockchain Basics

Perhaps the best introduction to blockchain is a free publication from IBM that can be downloaded from the internet: IBM Blockchain for Dummies and can be found at http://gunkelweb.com/coms465/texts/ibm_blockchain.pdf.

Blockchain is a distributed ledger technology best defined as “a shared, immutable ledger that facilitates the process of recording transactions and tracking assets in a business network. An asset can be tangible (a house, a car, cash, land) or intangible (intellectual property, patents, copyrights, branding). Virtually anything of value can be tracked and traded on a blockchain network.”¹

Investopedia defines a distributed ledger as “a database that is consensually shared and synchronized across multiple sites, institutions, or geographies, accessible by multiple people. It allows transactions to have public "witnesses." The participant at each node of the network can access the recordings shared across that network and can own an identical copy of it. Any changes or additions made to the ledger are reflected and copied to all participants in a matter of seconds or minutes.”²

IBM Dummies provides a good basic illustration and description of a distributed ledger blockchain³:



¹ IBM Blockchain for Dummies 3rd Limited Edition (John Wiley and Sons, Inc. 2020) p 3. This electronic book is available on line for free. It is referred to hereafter as “Dummies.”

² Investopedia <https://www.investopedia.com/terms/d/distributed-ledgers.asp> (last visited September 8, 2022)

³ IBM Dummies p. 13-14

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