

Land Registration and the Trusted Intermediary: Considerations on the Practicality of Moving to Self-Service Transactions

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SUMMARY

In many jurisdictions the conveyancing process is supported by highly trained and regulated legal professionals (lawyers, notaries, conveyancers etc.). They provide services to support party verification, transfers, sub-divisions, rights management and secured lending. Essentially these accredited and licensed legal professionals provide a trust-based interface between the Registrar, citizens (granters and grantees) and lenders involved in a transaction on the register.

Torrens 'Title by Registration' and the Digitalisation of Land Registers both aim to simplify registration practice. Torrens (1859, p. 43) imagined a registration process so simple that 'men of ordinary education may transact their own business'. From a digital perspective, the long-term goal is to produce an automated registration system which allows any party to submit digital applications. These are referred to as smart contracts and remove the need for a trusted legal intermediary. Clearly, the removal of a trusted intermediary means that their role must be facilitated by the platform and the supporting digital ecosystem. This paper describes conceptual approaches within what UN-GGIM refer to as an 'ecosystem' of 'interconnected land administration domains'.

This paper will consider the trust implications of the following issues:

- * Party validation requiring:
- * Party verification: confirming the identity of a party.
- * Power authorisation: confirming that a party is legally authorised to act e.g. a bona fide seller
- * Transactional sequences with power dependencies: a sequence of transactions where, at

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submission, a granters power to grant a transaction is dependent upon the successful registration of an earlier transaction.

Parties are crucial to the functioning of the Land Administration ecosystem. Different parties play different roles within the ecosystem. These different roles require actors with appropriate powers. Without a trusted intermediary the platform and ecosystem must verify individual parties and ensure they have the appropriate authorisation to undertake their assigned role in a transaction.

Some transactional events require that multiple atomic transactions travel together with different granters. An example is where an existing mortgage blocks a subsequent sale transaction. The problem is that the current owner can only generate the funds to discharge the mortgage through the property sale. In such a scenario trust needs to be established between the mortgage holder, seller and buyer. Each must demonstrate that all appropriate funds will be available and believe that all the pending dependent transactions will be registered.

We will describe several different scenarios without a trusted intermediary including simple transactions, power of attorney and dependent transactional sequences.