

FROM CRYPTO CURRENCY TO CRYPTO CONTRACTS

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written by Yashoda Rajoo | April 12, 2018

Soon, paying legal fees for a solid, watertight contract will be a thing of the past. Traditional contracts, painstakingly reviewed by tired eyes for the seventh time, are so 2017. Smart contracts are the future, and with the rapid development of this technology, it may happen sooner than we think.

What are smart contracts?

Smart contracts use certain coding and programming to digitally create a trackable, irreversible contract, without the use of third parties such as attorneys. This not only provides an added layer of security, but also reduces the transactional costs associated with the schlep of contracting.

In order to enter into a valid contract, there are certain requirements that need to be met. These include:

- Consensus as to all the material terms of the contract;
- Capacity to contract;
- Possibility of performance of the contractual terms;
- Legality of the material terms; and
- Any formalities (eg. Written terms) are met.

In addition to the above, smart contracts require:

- Subjects – this means that the program used must have access to the goods / services described in the contract, and be able to lock and unlock them;
- Digital “signatures” – the contract will only become valid and enforceable once all parties “sign” the contract with their private keys;
- Terms – the terms of a smart contract need to take the form of an exact sequence of operations; and
- Decentralised platform – a smart contract must be deployed to the Blockchain of a decentralised platform and distributed among the nodes of such platform.

Smart contracts and POPIA

Smart contracts are created using Blockchain. The data held by the Blockchain system is certain to be considered “**personal data**” in terms of the Protection of Personal Information Act. This means that the strict provisions imposed on data handlers will apply to the data subjects that are parties to the smart contract. Big data on a Blockchain can lead to security breaches and Blockchain operators will have to ensure their cyber security is impenetrable.

Unfortunately, smart contracts are not currently regulated by legislation, but the prospect of this wonderful new bit of technology being a major part of our foreseeable future is quite exciting.