

## Fact Sheet On Public Consultation on the Review of the Electronic Transactions Act

### Background

The Electronic Transactions Act<sup>1</sup> (**ETA**) provides legal certainty to electronic transactions in Singapore, which facilitates the digitalisation of transactions. The ETA also empowers Government departments to carry out their functions electronically, such as accepting electronic filings and issuing electronic licences, offering greater convenience to businesses and citizens.

On 27 June 2019, the Infocomm Media Development Authority (**IMDA**) launched a public consultation to seek views on the review of the ETA.

### Reviewing the ETA to facilitate innovation in the Digital Economy

The global economic and technological landscape is changing rapidly. E-commerce activities and the use of electronic transactions are becoming increasingly prevalent in Singapore and within the region<sup>2</sup>. International developments such as the adoption of the Model Law on Electronic Transferable Records (**MLETR**) by the United Nations Commission on International Trade Law (**UNCITRAL**), along with the emergence of new technologies such as Distributed Ledger Technology (**DLT**), Smart Contracts and Biometrics, are also changing the nature of electronic transactions. As such, it is timely to review the ETA to keep pace with these developments, to ensure that the ETA continues to be progressive, facilitate innovation in the Digital Economy, strengthen Singapore's position as a hub for electronic transactions, and support Digital Government efforts.

IMDA has been collaborating closely with 14 Government Ministries and agencies<sup>3</sup> and consulting industry stakeholders in reviewing the ETA.

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<sup>1</sup> The ETA was first enacted in 1998 to adopt the Model Law on Electronic Commerce from UNCITRAL. In 2010, the ETA was repealed and re-enacted, and implemented the 2005 UN Convention on the Use of Electronic Communications in International Contracts.

<sup>2</sup> According to a 2018 study by Temasek Holdings and Google LLC, Singapore's Internet Economy is expected to grow from US\$7b in 2015 to US\$22b in 2025. The Internet Economy for Southeast Asia could reach US\$240b by 2025, with a Compounded Annual Growth Rate of 22% between 2015 and 2025.

<sup>3</sup> The Ministries and Government agencies involved are MOF, MinLaw, MND, MSF, CEA, GovTech, HDB, JTC, MAS, MPA, Singapore Customs, SLA, SNDGO and URA.

## Key areas of consultation

IMDA is inviting views on key areas, including:

- Including more electronic transactions under the ambit of the ETA;
- Providing certainty over new technologies such as DLT, Smart Contracts and Biometrics; and
- Updating its Certification Authority<sup>4</sup> (CA) framework to ensure currency with latest international standards

### Including more transactions under the ETA

The Exclusion List in the ETA currently comprises wills, indentures, trusts and powers of attorney, negotiable instruments and other transferable documents or instruments, contracts for immovable property and conveyance for immovable property. IMDA proposes to minimise the Exclusion List in the ETA to facilitate digitalisation by removing documents such as contracts for immovable property, Lasting Powers of Attorney (LPA), and negotiable instruments such as Bills of Lading from the Exclusion List.

There are clear benefits to citizens, businesses and Government in minimising the Exclusion List. For example, removing contracts for immovable property from the Exclusion List will aid in the digitalisation of property transactions. Businesses and citizens will then enjoy shorter transaction periods and spend less time on paperwork and queuing up. Digitalising the LPA process will reduce the time taken for an LPA to be registered and retrieved from the database, and reduce the possibility of third party tampering after registration. More details of how citizens and businesses will benefit from removing transactions from the Exclusion List can be found in **Annex A**.

### Provide certainty over new technologies

Given rapid technological advancement, we are witnessing the emergence of new technologies such as DLT (e.g., Blockchain), Smart Contracts and Biometrics, which open up new ways of transacting electronically today. Nonetheless, there could be uncertainty

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<sup>4</sup> CAs are 3rd parties to issue digital certificates used in creation of digital signatures.

over whether these technologies are aligned with or fall under the ambit of the ETA. As part of the review, IMDA affirms that the ETA is technology neutral and can apply to electronic transactions regardless of technology, including DLT, Smart Contracts and Biometrics.

### **Updating its CA framework to ensure currency with latest international standards**

Assurance of trust and security in electronic transactions is important, hence the ETA establishes a voluntary framework to accredit CA services in Singapore. In the ETA review, IMDA proposes to update the Compliance Audit Checklist<sup>5</sup> that accredited CAs must comply with, to adopt and align with established international standards such as WebTrust and those set by the European Telecommunications Standards Institute.

The public consultation will begin on 27 June 2019, and will close on 27 August 2019.

### **Related Resources**

**Annex A:** Example of benefits citizens and businesses can enjoy

**Annex B:** Exclusion List in First Schedule of ETA

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<sup>5</sup> The Compliance Audit Checklist covers areas such as the CA's operational policies, procedures and security.

## BENEFITS OF REMOVING TRANSACTIONS FROM EXCLUSION LIST

**Contracts for immovable property:** According to a consultancy study by the Digitalised Property Transactions Workgroup<sup>6</sup> (**DPTWG**), around 70% of residential property transaction documents in Singapore are signed in hard copy. The removal of contracts for immovable property from the Exclusion List will facilitate the digitalisation of property transactions. Businesses and citizens will enjoy shorter transaction processes and spend less time on paperwork.

To protect the vulnerable, IMDA proposes that such electronic transactions require secure electronic signatures<sup>7</sup> as defined by the ETA.

**LPAs<sup>8</sup>:** The application for LPAs is currently a hard-copy process. The proposed amendment to the ETA will facilitate digitalisation of LPAs, thereby offering greater convenience to citizens.

**Bills of Lading (BL):** BLs are documents which acknowledge receipt of cargo for shipment and also serve as proof of ownership of the cargo. An importer will incur additional storage and handling costs if a paper BL arrives at the destination port later than the cargo, or suffer losses if the BL has been tampered with.

Digitalising the process would significantly cut transactions costs, reduce fraud, and reduce the complications and risks of transactions. It will also strengthen Singapore's position as a hub for electronic transactions, and give key economic sectors such as shipping and banking a competitive edge.

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<sup>6</sup> A workgroup formed to move Singapore towards seamless, efficient and secure residential property transactions. It is chaired by the Council for Estate Agencies (**CEA**), and includes Government agencies (HDB, URA, SLA, CPF, IRAS, MAS, MinLaw and GovTech), and industry representatives across the real estate value chain (Association of Banks in Singapore, Consumers Association of Singapore, Institute of Estate Agents, PropTech Association Singapore, Real Estate Developers' Association of Singapore, Singapore Estate Agents Association, Singapore FinTech Association, SGTech, Singapore Institute of Surveyors and Valuers, and the Law Society of Singapore).

<sup>7</sup> A secure electronic signature is an electronic signature that is (a) unique to the person; (b) capable of identifying the person; (c) created using a means under the sole control of the person; and (d) linked to an electronic record such that if the record was changed, the electronic signature would be invalidated.

<sup>8</sup> LPAs are legal instruments that set out decision-making powers given by a person (the donor) to another person(s) he appoints to act on his behalf when he lacks mental capacity.

## EXCLUSION LIST IN FIRST SCHEDULE OF ETA

### MATTERS EXCLUDED BY SECTION 4

	<i>First column</i>	<i>Second column</i>
	<i>Provision</i>	<i>Matter</i>
1.	Part II	The creation or execution of a will
2.	Part II	Negotiable instruments, documents of title, bills of exchange, promissory notes, consignment notes, bills of lading, warehouse receipts or any transferable document or instrument that entitles the bearer or beneficiary to claim the delivery of goods or the payment of a sum of money
3.	Part II	The creation, performance or enforcement of an indenture, declaration of trust or power of attorney, with the exception of implied, constructive and resulting trusts
4.	Part II	Any contract for the sale or other disposition of immovable property, or any interest in such property
5.	Part II	The conveyance of immovable property or the transfer of any interest in immovable property.

[ETA, s. 4; UN, Art. 2(2)]