

RESPONSE TO CONSULTATION PAPER

Consultation topic:	Consultation Paper – Review Of The Electronic Transactions Act
Attention:	Aileen Chia (Ms) Deputy Chief Executive (Policy, Regulation & Competition Development), Director-General (Telecoms & Post) Infocomm Media Development Authority 10 Pasir Panjang Road #03-01 Mapletree Business City Singapore 117438
Name:	We (Allen & Gledhill LLP) make this submission on behalf of The Hongkong and Shanghai Banking Corporation Limited, Singapore Branch (the “ Participant ”). This submission sets out the Participant’s comments to the Consultation Paper on the Review of the ETA (defined below) issued by the Infocomm Media Development Authority (“ IMDA ”) on 27 June 2019 (“ Consultation Paper ”) Please note that this submission only touches on certain matters discussed in the Consultation Paper.
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1. SUMMARY OF MAJOR POINTS

The Participant generally welcomes the proposal to remove powers of attorney (“**POAs**”) for the purposes of enforcement of security interests and indentures from the First Schedule (“**First Schedule**”) to the Electronic Transactions Act (Cap 88, Rev Ed 2011) (“**ETA**”), and wishes to clarify certain points raised in the Consultation Paper.

2. STATEMENT OF INTEREST

The Participant is a bank and is involved in significant volumes of commercial dealings and transactions.

3. COMMENTS

3.1 **Question 8: *IMDA welcomes views and comments on the proposal to remove POAs for the purposes of enforcement of security interests from the exclusion list under the First Schedule to the ETA.***

3.1.1 The Participant welcomes the removal of POAs for the purposes of enforcement of security interests from the First Schedule to the ETA.

3.1.2 The Participant agrees that POAs for the purposes of enforcement of security interests are often executed in the context of commercial transactions between sophisticated parties¹, and is of the view that its removal from the First Schedule would be advantageous in facilitating commerce.

3.1.3 However, the Participant respectfully requests that IMDA clarify the scope of such POAs envisaged to be removed from the First Schedule – in particular:

(i) whether such POAs would include those given by individuals like directors or shareholders of corporates, or key promoters / beneficial owners of businesses; and

(ii) whether the above-stated individuals would be treated as “*sophisticated parties*”².

3.2 **Question 10: *IMDA welcomes views and comments on IMDA’s proposal to remove indentures from the exclusion list under the First Schedule to the ETA.***

3.2.1 The Participant welcomes the proposal to remove indentures from the First Schedule to the ETA, and is of the view that its removal from the First Schedule would be advantageous in facilitating commerce.

¹ Consultation Paper at paragraph 2.6.3

² Consultation Paper at paragraph 2.6.3

3.2.2 However, the Participant respectfully requests that IMDA clarify the scope of indentures envisaged to be removed from the First Schedule – in particular:

- (i) whether such indentures would include those given by individuals like directors or shareholders of corporates, or key promoters / beneficial owners of businesses; and
- (ii) whether the above-stated individuals would be treated as “*sophisticated parties*”³.

4. CONCLUSION

We thank IMDA for the opportunity to participate in this public consultation, and look forward to IMDA’s clarifications on the above points.

³ Consultation Paper at paragraph 2.6.11