

**CONSULTATION PAPER ISSUED BY THE INFOCOMM MEDIA DEVELOPMENT
AUTHORITY ON REVIEW OF THE ELECTRONIC TRANSACTIONS ACT (ETA) (CAP. 88)
Dated 27 June 2019**

Organisation:	United Overseas Bank Limited
Contact number for any clarifications:	Charmaine Chow, +65 6530 2005
Email address for any clarifications:	Charmaine.chowl@uobgroup.com

RESPONSES

Question 1: IMDA welcomes general views and comments on IMDA’s overall approach to minimise subject matter under the current exclusion list.

We are supportive of IMDA’s proposal to remove the list of transactions/documents currently excluded from the application of ETA. This will ensure that the ETA continues to stay relevant and supportive of the Government Ministries and agencies’ drive for a digital economy.

However, there is presently no framework to enable the use of electronic equivalents of transferable documents or instruments (referred to as “electronic transferable records” or “ETRs”) such as bills of lading, warehouse receipts, dock warrants, and negotiable instruments such as bills of exchange, promissory notes or cheques.

We have provided further details in Question 5 and Question 6 below.

Question 2: IMDA welcomes views on the necessity and adequacy of the sunrise period until 2021 to address any policy/implementation challenges with the use of electronic versions of the transactions/documents currently excluded from the application of the ETA.

NIL

Question 3: IMDA welcomes views and comments on IMDA’s proposal to remove wills from the exclusion list under the First Schedule to the ETA, on the basis that the safeguards in the Wills Act will be maintained.

NIL

Question 4: IMDA welcomes views and comments on the potential challenges/concerns with the use of electronic wills (such as technological obsolescence) and how they may be addressed with existing technology.

NIL

Question 5: IMDA welcomes views and comments on IMDA’s proposal to remove documents such as bills of lading, warehouse receipts, dock warrants or negotiable instruments such as bills of exchange, promissory notes or cheques from the exclusion list under the First Schedule to the ETA.

We welcome IMDA’s proposal to remove such ETRs from the exclusion list under the First Schedule to the ETA; however,

1. We propose that IMDA’s consideration should include the positions taken by other jurisdictions, in particular, our top trading partners and whether they would take a similar position on removal

of such ETRs. We have noted that the position taken by certain leading jurisdiction including UK and Canada is to not exclude such ETRs.

The removal of such ETRs need to be preceded by the inclusion of laws governing ETRs within Singapore law and the adoption of MLETR, such that there is sufficient legislation backing the usage of ETRs under the ETA instead of reliance on the courts as in the case of *SM Integrated v Schenker Singapore* [2005].

2. We propose that IMDA should provide guidance or drive industry forums to agree on what constitutes as acceptable electronic equivalents of these documents.
 - For example, a bill of lading is issued by a shipping company and used extensively by many different parties including banks, insurance companies, customs authorities etc. All these parties within this industry will need to agree and accept a standardized electronic format.

In addition, the removal of such ETRs should be accompanied by the proliferation of electronic alternatives including digital certificates and distributed ledger technology that allows for secured electronic transactions

3. We propose that IMDA should establish a voluntary accreditation framework for Certification Authorities. Parties who are permitted to issue ETRs should be certified by these certification authorities such that digital certificates can be exchanged to provide trusted and secure transactions.
4. We propose that IMDA explore the adoption of an industry-wide distributed ledger technology that allows for secured electronic transactions.

Question 6: IMDA welcomes views and comments on IMDA’s proposal to adopt the MLETR into Singapore law.

We welcome IMDA’s proposal to adopt the MLETR; however, this adoption should be preceded by the resolution of the issue related to guaranteeing the singularity or uniqueness of the electronic record such that there is only one set of obligations under the ETR.

As mentioned in Q5 above:

1. We propose that IMDA should establish a voluntary accreditation framework for Certification Authorities. Parties who are permitted to issue ETRs should be certified by these certification authorities such that digital certificates can be exchanged to provide trusted and secure transactions.
2. We propose that IMDA explore the adoption of an industry-wide distributed ledger technology that allows for secured electronic transactions.

Question 7: IMDA welcomes views and comments on how the potential concerns and challenges (such as verification/authentication and technological obsolescence) with the use of electronic POAs can be addressed with existing technologies.

NIL

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.

NIL

Question 9: IMDA welcomes views and comments on IMDA's proposal to remove Lasting Powers of Attorney from the exclusion list under the First Schedule to the ETA, on the basis that safeguards in the Mental Capacity Act will be maintained.

NIL

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.

NIL

Question 11: IMDA welcomes views and comments on IMDA's proposal to remove testamentary trusts from the exclusion list under the First Schedule to the ETA on the basis that safeguards in the Wills Act will be maintained.

NIL

Question 12: IMDA welcomes views and comments on IMDA's proposal to not remove declarations of trust relating to immovable property, and dispositions of equitable interest.

NIL

Question 13: IMDA welcomes views and comments on how the potential challenges (such as verification/authentication and technological obsolescence) with the use of electronic contracts for the sale or disposition of immovable property can be addressed with existing technologies.

NIL

Question 14: IMDA welcomes views and comments on IMDA's proposal to remove contracts for the sale or disposition of immovable property from the exclusion list under the First Schedule to the ETA.

NIL

Question 15: IMDA welcomes views and comments on the proposed requirement that only secure electronic signatures or digital signatures will be accepted for property transactions conducted electronically to ensure greater certainty, mitigate concerns of fraud and safeguard the vulnerable.

NIL

Question 16: IMDA welcomes views and comments on whether Singapore should amend its legislation to facilitate the use of electronic contracts for the sale or disposition of immovable property.

NIL

Question 17: IMDA welcomes views and comments on IMDA's proposal to remove the conveyance of immovable property or the transfer of any interest in immovable property from the exclusion list under the First Schedule to the ETA.

NIL

Question 19: IMDA welcomes views and comments on IMDA's views that the ETA does not prohibit the use of DLT, smart contracts and biometrics and that no further amendments to the ETA are necessary to facilitate the usage of biometric technology in electronic transactions.

NIL

Question 20: IMDA welcomes views on other possible technologies that enterprises or sectors may wish to deploy, but are unclear whether the ETA facilitates or prohibits these.

NIL

Question 21: IMDA welcomes views and comments on whether the existing voluntary nature of the CA accreditation framework for Digital Signatures should be maintained.

NIL

Question 22: IMDA welcomes views and comments on the adoption of the latest version of either (or both) International CA audit frameworks (WebTrust and ETSI) directly for applicants applying/renewing for CA accreditation to comply with.

NIL

Question 23: IMDA welcomes views and comments on whether the above areas adequately cover what the ETA Review should include.

NIL