

**CONSULTATION PAPER ISSUED BY IMDA on
REVIEW OF THE ELECTRONIC TRANSACTIONS ACT 2019**

	IMDA Proposed Position / Questions	REDAS Feedback / Input
2.7	<p>CONTRACTS FOR THE SALE OR OTHER DISPOSITION OF IMMOVABLE PROPERTY</p> <p>IMDA proposes that a solution to mitigate the risk of fraud and to protect the vulnerable is to <u>require the use of secure electronic signatures.</u></p> <p>IMDA also proposes a requirement that <u>only secure electronic signatures or digital signatures be accepted for property transactions conducted electronically</u> to ensure greater certainty, mitigate concerns of fraud and safeguard the vulnerable.</p> <p><u>Question 13:</u> 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 ?</p> <p><u>Question 14:</u> 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.</p>	<p>We understand that there are multiple secured electronic / digital signature platforms available in the market currently. However, these are currently used for acknowledgements/non-monetary/transactions /contracts & seldom for high value contracts such as sale or disposition of immovable property.</p> <p>Adopting block chain technology or having a central custodian/depository to verify/house such contracts can possibly help in ensuring their authenticity</p>

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	<p><u>Question 15:</u> 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.</p> <p><u>Question 16:</u> Should Singapore amend its legislation to facilitate the use of electronic contracts for the sale or disposition of immovable property.</p>	<p>We foresee there may be some initial resistance from buyers/sellers to adopt electronic signatures for immovable property transactions. A total switch over to only electronic contracts may be challenging to implement as time & capital investment need to be deployed by stakeholders to adopt digital solutions to replace all the existing work processes.</p> <p>We are concerned that “only” secure electronic signatures or digital signatures will be accepted as it would mean that every purchaser would have to procure for themselves a secure electronic signature and depending on what that will entail, we are unsure if the public would readily accept that. At the moment, it’s more than troublesome to get a secure electronic signature.</p> <p>For solicitors’ electronic countersigning for forms would require a USB device that they have stick into laptop to authorise the payment. For foreigners, it will be even less likely for them to have an electronic signature device. So manual signatures may be in place for some time.</p> <p>Authenticity of digital signatures is a major concern. Lawyers advised that in case of dispute, the authenticity of digital signatures and their enforceability can become a point of contention. ETA should provide certainty on this.</p> <p>The industry should be prepared to deal with the security risk associated with digital signatures.</p>

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2.8	<p>CONVEYANCE OF IMMOVABLE PROPERTY AND/OR TRANSFERS OF INTEREST IN AN IMMOVABLE PROPERTY</p> <p>IMDA proposes that <u>the class of documents and transactions relating to the conveyance of immovable property or the transfer of any interest in immovable property be removed from the exclusion list</u> under the First Schedule to the ETA such that electronic conveyancing of immovable property would not be denied legal effect, validity or enforceability solely on the ground that it is in the form of an electronic record.</p> <p><u>Question 17:</u> Your views on the 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.</p>	<p>There are 3 main processes in a property transaction:</p> <ul style="list-style-type: none"> a) Issuance of option to purchase upon receiving booking fee b) Signing of Sale & Purchase Agreement c) Registration of Title <p>Every of the above step involves different stakeholders thus removing the conveyancing of immovable property from the exclusion list would impact all the stakeholders in different ways and of varying complexities especially for (b) and (c). Solutions for digitalisation of process (a) is already available in the market but developers would need to deploy funds to enhance or replace their existing system to cater for electronic conveyancing.</p> <p>Clear advice and guidance from the relevant authorities would be necessary to ensure the authenticity of such electronic transaction are safe & legally recognised.</p>

[Submitted on 27 November 2019]