






Validity of Electronic Signatures

Overview of e-signatures regime in South East Asia



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<p>BANGLADESH</p> 	<p>YES</p>	<ul style="list-style-type: none"> ▪ The Contract Act 1872 does not make any direct reference to whether a contract is required to be signed by hand or electronically. However, Bangladesh laws do not have any explicit restrictions against concluding contracts electronically either. If parties intend to execute general contracts, for example- employment related contracts; end user agreements; commercial contracts between corporate entities; commercial contracts; service contracts; etc., they may be concluded electronically. ▪ Further, the ICT laws have amended Bangladesh evidence laws to introduce ‘electronically generated documents’ within the definition of ‘documents’ (as the definition is found under the laws of evidence). Recently we have seen that the courts are more readily accepting contracts concluded electronically and have in one instance made admissible a series of email correspondence as proof of a validly concluded contract. ▪ Further, board meetings can be concluded by circular resolution as long as it is allowed and spelt out in the constitutional documents of a company. The board members can attend the meeting via teleconference or video-conference and can complete the board resolution by sharing and collating the scanned signatures on the board resolution. However, there is a legal requirement that all shareholder meetings and shareholders’ resolution must be physically convened and signed. 	<ul style="list-style-type: none"> ▪ Contracts which are required to be registered with certain government authorities cannot be electronically signed and concluded. ▪ Practically, contracts relating to immoveable property (such as powers of attorney, wills and trusts, deeds to transfer immoveable properties) are required to be signed in the presence of the respective land sub-registry office and registered with the land-sub-registry office. ▪ Similarly, instruments creating charge over the fixed and floating assets of a company (i.e. hypothecation) are required to be physically signed and then registered with the company repository in Bangladesh.


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CAMBODIA 	YES	<ul style="list-style-type: none"> ▪ Under the scope of the Law on E-Commerce of Cambodia, it shall apply to all activities, documents and civil and commercial transactions that are made via electronic system. ▪ Further, the Ministry of Posts and Telecommunications shall be the competent institution to govern security procedures for the electronic record and the electronic signature. ▪ Noted that the E-Commerce Law was enacted on 02 November 2019, and the law shall be applied after 6 (six) months publication or dissemination. 	<ul style="list-style-type: none"> ▪ Formation or enforcement of Power of Attorney; ▪ Formation or execution of a testament, codicil or other matters relating to succession; ▪ Any contract for sale, transfer or disposition of rights to immovable property or any interests in such property; ▪ Transfer of immovable property or any interests relating to the immovable property; and ▪ Any other exceptions as provided for by Sub-Decree (the Sub-Decree has not been drafted/promulgated yet).
INDONESIA 	YES	<ul style="list-style-type: none"> ▪ Commercial agreements between corporate entities; ▪ Service agreements; and ▪ Lease agreements, and other related documentation for residential and commercial real estate. 	<ul style="list-style-type: none"> ▪ Human Resource and Employment related documents, policies and agreements; ▪ Share Transfer Documents; ▪ Shareholder and Board Resolution; ▪ Articles of Association; ▪ Intellectual Property transfer documents; ▪ Real estate transfer related contracts (except lease agreements and related contracts); ▪ Certain corporate documents, such as share/asset transactions documents; ▪ Power of Attorney; and ▪ Any documents or agreements that have a statutory requirement of any notarization, legalization or stamping.



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LAO PDR 	YES	<ul style="list-style-type: none"> ▪ Individuals and enterprises wishing to use electronic signatures in their business operation are required to obtain an e-signature certificate from the relevant department within the Ministry of Posts and Telecommunications. Once issued with an e-signature certificate such electronic signatures will be considered legally effective in the same manner as signatures and seals placed on paper documents. However, the Ministry of Posts and Telecommunications has not rolled out the issuance of the electronic signature certificates and as such, given that this requirement of the E-Signature Law cannot be satisfied, presently Digital Electronic Signatures and Digital Seals cannot be said to be validly created pursuant to the E-Signature Law. As such, companies continue to rely on the Electronic Transactions Law and Contract and Tort Law to determine the validity of and the requirements for electronic signatures. 	<ul style="list-style-type: none"> ▪ The creation of a will; ▪ Certificates relating to births, marriages, divorce and death; ▪ Documents of title; ▪ The creation, enforcement or certification of the possession of other's property or power of attorney; ▪ Contracts of sale, transfer or other disposition of ownership or any interest in land or immovable property; ▪ Petitions under the Law on Petitions; and ▪ Bills of exchange, bills of lading, warehouse receipts or any document that entitles the bearer or beneficiary to claim the delivery of goods, unless laws and regulations define otherwise.
MALAYSIA 	NO	<p>Note: <i>The digital signature law in Malaysia is not yet complete.</i></p> <ul style="list-style-type: none"> ▪ Human Resource and Employment related documents, policies and agreements; ▪ End user agreements including sales & service terms, new retail account opening documents, invoices, shipment details, user manual and similar documents and agreements; ▪ Commercial agreements between corporate entities; ▪ Service agreements; 	<ul style="list-style-type: none"> ▪ Power of Attorney; ▪ Wills and codicils and trusts; ▪ Negotiable instruments, promissory notes etc.; ▪ Real estate transfer related contracts (except lease agreements and related contracts); and ▪ Any documents or agreements that have a statutory requirement of any notarization, legalization or stamping.

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<p>MYANMAR</p> 	<p>YES</p>	<ul style="list-style-type: none"> ▪ Lease agreements, and other related documentation for residential and commercial real estate; and ▪ Given that the Digital Signature Law is silent on the validity of e-signatures for board and shareholder resolutions, in practice, most company secretaries will not accept e-signed board and shareholder resolutions; however, some may allow them. In any event, board and shareholder resolutions must be signed in accordance with the company’s constitution. 	
		<ul style="list-style-type: none"> ▪ The Electronic Transaction Law of 2004 (“ETL”) and the 2015 amendment of Evidence Act of 1872 (“EA”) specifically focuses on electronic contracting and signatures. The EA recognizes electronic record to be constituted as a document under the Evidence Act and admissible in a court of law as evidence on its merits. Pursuant to Section 19 of the ETL, matters prescribed to be reduced to writing or to be signed under any existing law may be made by electronic record, electronic data message or electronic signature. The electronic record, electronic data message or electronic signature shall be lawful as if they were made under the relevant law. ▪ Section 67A of the Evidence Act as inserted by the 2015 amendment specifies that an electronic record will be constituted as a valid signature for the purposes of evidence, if the identity of the person and the person’s intention in respect of the information in the document can be established. 	<ul style="list-style-type: none"> ▪ The laws of Myanmar do not specifically restrict the usage of electronic signature on any document.

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SINGAPORE 	YES	<ul style="list-style-type: none"> ▪ Human Resource and Employment related documents, policies and agreements; ▪ End user agreements including sales & service terms, new retail account opening documents, invoices, shipment details, user manual and similar documents and agreements; ▪ Commercial agreements between corporate entities; ▪ Service agreements; ▪ Intellectual Property related agreements; and ▪ Board and Shareholder Resolution. 	<ul style="list-style-type: none"> ▪ Creation or execution of a will; ▪ Power of Attorney, declaration of trust, with the exception of implied, constructive and resulting trust; ▪ Negotiable instruments, promissory notes etc.; ▪ Documents of title; ▪ Bills of exchange, consignment notes and 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; ▪ The creation, performance or enforcement of an indenture; and ▪ Real estate transfer related contracts.
THAILAND 	YES	<ul style="list-style-type: none"> ▪ Human Resource and Employment related documents, policies and agreements; ▪ End user agreements including sales & service terms, new retail account opening documents, invoices, shipment details, user manual and similar documents and agreements; ▪ Commercial agreements between corporate entities; ▪ Service agreements; and ▪ Real estate documents including lease agreements (for a period of no more than 3 years), and other related documentation for residential and commercial real estate. 	<ul style="list-style-type: none"> ▪ Any documents or agreements that have a statutory requirement of any notarization, legalization or stamping.

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<p style="text-align: center;">VIETNAM</p> 	<p>YES</p>	<ul style="list-style-type: none"> ▪ Under the Law on E-transactions No. 51/2005/QH11 of the Vietnamese National Assembly dated 29 November 2005 (Law on E-transactions), unless otherwise stipulated by the law, the parties to a transaction have the right to agree to use or not to use an e-signature to sign data messages during a transaction and to use or not to use a certified e-signature. Thus, a data message shall be deemed to be satisfied if an e-signature used to sign such data message satisfies certain conditions. ▪ Assuming that the mandatory requirements for an e-signature to be valid are met, Vietnamese law does not currently contain any prohibitions or restrictions on the use of e-signature in the following documents: <ul style="list-style-type: none"> ○ Human Resource and Employment related documents, policies and agreements; ○ End user agreements including sales & service terms, new retail account opening documents, invoices, shipment details, user manual and similar documents and agreements; ○ Commercial agreements between corporate entities; ○ Service agreements; and ○ Board and Shareholder Resolutions. 	<ul style="list-style-type: none"> ▪ We note from a practical perspective, contracts that need to be registered with Vietnamese authorities may not be signed via e-signature system because the Vietnamese authorities normally requires such contracts to be signed and sealed by parties (in another words, a wet signature) – such as trademark license contracts and technology transfer contracts, real estate related contracts, power of attorney – or any documents/agreements that have a statutory requirement of any notarization, legalization or stamping. ▪ In case of disputes, Vietnamese courts may accept contracts signed with digital signatures or e-signatures if the contracts can be printed out to be submitted to the courts and be certified by the party managing the corresponding data message.