Asia Pacific Guide to Lending and Taking Security - Malaysia

Working digitally

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# 1. Is it possible for documents to be executed electronically (whether by the manual insertion of a digital signature or the use of an e-signing platform) under the laws of this jurisdiction? If so, is this limited to only particular types of finance documents?

The execution of documents by way of an electronic signature (or e-signature) is recognized under the Electronic Commerce Act 2006 (ECA). An "electronic signature" means any letter, character, number, sound or any other symbol or any combination thereof created in an electronic form adopted by a person as a signature. Subject to the fulfillment of the conditions specified in the ECA, the electronic signature will be legally enforceable.

However, the ECA does not apply to certain documents, including:

Power of attorney (which would be contained in most of the security documents).

Documents for creation of trusts.

While electronically signed documents are legally enforceable under the ECA, other practical issues need to be considered, such as issues in respect of the stamping of such documents (which would affect the admissibility of the documents as evidence in court) and the authenticity of the electronic signature.

# 2. Where the witnessing of a signing is contemplated, is it possible for the witness to verify the signature over a live video call?

There is no legal provision that expressly recognizes the use of a live video call to witness the execution of documents. In July 2022, the Malaysian Bar Council has approved and adopted a new ruling setting out the conditions for virtual or remote witnessing of execution of a document by solicitors, provided that physical presence is not required or prescribed under any written law.

# 3. Is it possible to register/perfect security electronically without wet ink signatures?

No. Most of the relevant authorities/state agencies still require wet ink signatures.

# 4. Are there any other legal restrictions that may prevent the parties from executing a finance transaction electronically?

No. However, parties who would like to execute a finance transaction electronically are encouraged to seek legal advice to ensure that the then requirements are fulfilled.

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