

# **GUIDELINES ON THE USE OF ELECTRONIC SIGNATURE FOR DOCUMENTS SUBMITTED TO THE SECURITIES COMMISSION MALAYSIA**

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**GUIDELINES ON THE USE OF ELECTRONIC SIGNATURE  
FOR DOCUMENTS SUBMITTED TO THE SECURITIES  
COMMISSION MALAYSIA**

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## **PART A: GENERAL**

### **Chapter 1**

#### **INTRODUCTION**

- 1.01 The *Guidelines on the Use of Electronic Signature for Documents submitted to the Securities Commission Malaysia* (Guidelines) are issued by the Securities Commission Malaysia (SC) pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA).
- 1.02 The SC continuously reviews its regulatory processes to ensure that they remain effective. Set against this backdrop, these Guidelines seek to facilitate the use of electronic signature (e-signature) for regulatory submissions made to the SC by setting out the minimum procedures to be followed.

## Chapter 2

### APPLICABILITY

- 2.01 Unless otherwise provided and subject to paragraph 2.03, these Guidelines apply to all submission of documents addressed<sup>1</sup> to the SC pursuant to the requirements provided for under the CMSA or any guidelines made under the CMSA.
- 2.02 These Guidelines do not make it mandatory for an e-signature to be used in the submission of any documents referred to in paragraph 2.01. However, in the event an e-signature is to be used, the minimum procedures as set out in these Guidelines must be complied with.
- 2.03 E-signature will not be accepted for any submission of documents in respect of an application for a person to be licensed or registered under the CMSA.
- 2.04 For the avoidance of doubt, a reference to submission of documents under these Guidelines include any document required to be lodged or deposited with the SC.
- 2.05 The SC may, upon application, grant an exemption from or a variation to the requirements of these Guidelines if the SC is satisfied that–
- (a) such variation is not contrary to the intended purpose of the relevant requirements in these Guidelines; or
  - (b) there are mitigating factors which justify the said exemption or variation.

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<sup>1</sup> Some examples of documents required to be submitted but not addressed to the SC are copy of material contract, consent letter made to the Submitting Party, copy of trust deed etc.

## **Chapter 3**

### **RELATED PROVISIONS**

- 3.01 These Guidelines are in addition to and not in derogation of any requirements provided for under securities laws or any other guidelines issued by the SC.
- 3.02 For the avoidance of doubt, compliance with these Guidelines do not relieve Submitting Party from other legal obligations which may be imposed on them by the relevant regulators or agencies.

## Chapter 4

### DEFINITIONS

4.01 Unless otherwise defined, all words used in these Guidelines shall have the meaning assigned to them in the CMSA. In these Guidelines, unless the context otherwise requires:

computer	includes a tablet or a smartphone;
electronic signature (e-signature)	has the same meaning assigned to it in the <i>Electronic Commerce Act 2006</i> and includes a digital signature as defined under the <i>Digital Signature Act 1997</i> ;
Submitting Party	refers to any licensed, registered, approved or recognized person who is required to—  (a) make an application; or  (b) submit, lodge or deposit documents to or with the SC,  under paragraph 2.01.

## **PART B: REQUIREMENTS FOR USE OF E-SIGNATURE**

### **Chapter 5**

#### **GENERAL REQUIREMENTS**

- 5.01 A Submitting Party may opt to use e-signature in the submission of documents to the SC as set out under paragraph 2.01, provided it complies with the minimum procedures as set out in these Guidelines and the use of e-signature in such documents submitted to the SC is not prohibited by any other relevant laws or requirements that may be imposed by the SC or other relevant regulators.
- 5.02 Where a document is signed electronically, the following minimum procedure must be followed:
- (a) The signatory must electronically sign the document using any commercially available electronic signing software;
  - (b) The signatory must electronically sign the document using the signatory's own user account for the computer or electronic signing software, whichever applicable, with his own username and password. No document can be electronically signed on the signatory's behalf, regardless of whether the signatory has given his authorisation to do so;
  - (c) The signatory must submit to the Submitting Party, from the signatory's own email account with his email sign off, the electronically signed document with a written confirmation that:
    - (i) where applicable, the signatory is authorised by the Submitting Party to provide the document;
    - (ii) the e-signature in the document is executed by the signatory; and
    - (iii) that the signatory approves of the contents of the document; and
  - (d) Where a document is to be submitted to the SC by a person acting on behalf of the Submitting Party, the signatory must submit the electronically signed document and written confirmation to the person acting on behalf of the Submitting Party, in accordance with the minimum procedure set out above.



5.03 In addition to ensuring that the minimum procedure as set out in paragraph 5.02 are complied with, a Submitting Party or a person acting on behalf of the Submitting Party, as the case may be, must also ensure that–

- (a) the means of creating the e-signature is linked to and under the control of that signatory only;
- (b) any alteration made to the e-signature after the time of signing is detectable; and
- (c) any alteration made to that document after the time of signing is detectable.

5.04 The Submitting Party or the person acting on behalf of the Submitting Party, as the case may be, must maintain, or cause to be maintained, such records relating to the compliance with the minimum procedures as set out in these Guidelines in such manner, as will enable the records to be properly inspected.