



GUIDELINES ON ELECTRONIC CONTRACT NOTES

Issued By:
Securities Commission

Effective Date: 18 November 2008

1.0 PURPOSE

The *Guidelines on Electronic Contract Notes* set out the requirements for Capital Markets Services Licence (CMSL) holders who undertake the following regulated activities::

- (a) Dealing in securities; or
- (b) Trading in futures contracts

and who intend to issue and deliver electronic contract notes.

2.0 SCOPE

2.01 Any CMSL holder who seeks to issue and deliver electronic contract notes is required to comply with these guidelines.

2.02 The issuance and delivery of electronic contract notes under these guidelines will be complementary to the existing manual, paper-based issuance and delivery of contract notes, and not in derogation of any provision of any law, including the *Capital Markets and Services Act 2007* and *Capital Markets and Services Regulations 2007*.

2.03 The Securities Commission (SC) may, where it deems appropriate, allow any exemption and/or variation from any of the requirements in these guidelines.

3.0 DEFINITIONS

3.01 In these guidelines, the following definitions have the following meanings unless the context otherwise requires:

CMSL holder	means a holder of a Capital Markets Services Licence who undertakes either the regulated activity of dealing in securities or trading in futures contracts under the <i>Capital Markets and Services Act 2007</i> ;
contract note	has the same meaning as defined in the <i>Capital Markets and Services Act 2007</i> ; and
electronic contract notes	means the issuance and delivery of contract notes in any of the following manners: <ul style="list-style-type: none"> (a) sending contract notes by electronic mail (e-mail) to clients; (b) allowing clients to access contract notes from the CMSL holder's Internet site; and/or (c) any other means of issuing and delivering contract notes as may be determined by the SC.

4.0 ISSUANCE AND DELIVERY OF ELECTRONIC CONTRACT NOTES

Consent

4.01 The CMSL holder must obtain the consent of the client via either written or electronic means before issuing and delivering any electronic contract note. The consent, which may be revoked by the client in writing or electronic means at any time, should include–

- (a) consent for the issuance and delivery of the contract note in electronic form;

- (b) consent as to the manner of issuance and delivery of the electronic contract note, either through–
 - (i) e-mail, of which the client must provide the specific e-mail address to be delivered to; and/or
 - (ii) accessing the CMSL holder's Internet site, where the Internet site address must be specifically identified by the CMSL holder in the consent;
- (c) consent to receive the contract note through such mode, either via post or fax, as specified by the client in the event of systems failure; and
- (d) the provision that the client accepts and assumes the inherent risks in receiving the electronic contract note.

Giving of Contract Notes

4.02 The CMSL holder will be deemed to have given or delivered the electronic contract note to a client if, not later than the end of the next market day after the transaction was entered into, the CMSL holder does any of the following:

- (a) Sends the contract note by e-mail to the client;
- (b) Makes the contract note available on the CMSL holder's Internet site and sends a notification informing the client that he/she may access the contract note on the CMSL holder's Internet site, which will be available for a minimum period of two weeks; or
- (c) Any other act which the SC may prescribe from time to time to ensure that a contract note is given to the client.

No Tampering or Alteration

- 4.03 The CMSL holder must take adequate and appropriate measures to ensure that the issuance, delivery or availability of electronic contract notes are prevented from unauthorised tampering or alteration.

Record of Contract Notes

- 4.04 An electronic contract note must be presented in a manner that will allow the client to–

- (a) print out a hardcopy version of it; or
- (b) download it to an electronic storage medium.

- 4.05 The CMSL holder must retain a copy of the format and information displayed to the client when accessing the electronic contract note in a durable and legible medium for seven years.

Access to Contract Notes

- 4.06 The CMSL holder must provide clear and simple instructions as to how a client can access, view, receive or download the electronic contract note.

- 4.07 In the event that the electronic contract note requires a particular software to access, view, receive or download, the CMSL holder must provide the client with such software or the address of the Internet site where such software may be obtained free of charge.

Systems Security and Integrity

4.08 The CMSL holder must put in place adequate and appropriate systems and security measures to ensure the reliability, availability, integrity and confidentiality of the electronic contract notes, including without limitation, measures to ensure the following:

- (a) Proper audit trails to track access, transaction and changes made to client data which includes but is not limited to information relating to client's name, address, account number, contact details and traffic data such as the date, time, size, duration, webpage visited and content of communication;
- (b) System capacity, performance and resilience;
- (c) Back-up systems and procedures to cater for possible outages, transmission delay, disruption and/or system capacity problems;
- (d) Confidentiality, protection and privacy of any personal information transmitted by the client;
- (e) Detection and prevention of unauthorised access to the system;
- (f) Proper documentation and formalised policies and procedures pertaining to the system; and
- (g) Proper controls including access control, input-output control and physical control.

4.09 The CMSL holder must take remedial action as soon as is reasonably practicable to rectify any breach of security or systems failure, which includes but is not

limited to the inability to access the electronic contract notes, and report to the SC within the next business day of such remedial action being taken.

4.10 The SC may–

- (a) conduct examination on and/or audit of the facility providing for electronic contract notes and related systems ;
- (b) have access to and/or request for copies of the audit logs on all activities relating to the electronic contract notes;
- (c) have access to and/or request for copies of the records required under paragraphs 4.04 and 4.05 above; and
- (d) have access to and/or request for any other information.

5.0 SUBMISSIONS TO THE SC

5.01 Prior to the commencement of issuance and delivery of electronic contract notes, the following must be provided by a CMSL holder to the SC:

- (a) A written declaration signed by the internal auditors of the CMSL holder, in accordance with Appendix 1, as to the reliability, availability, integrity and confidentiality of the systems and controls providing for the facilities for the issuance and delivery of electronic contract notes;
- (b) A written declaration signed by the director or authorised person of the CMSL holder in accordance with Appendix 2 stating that the CMSL holder has complied and will continue to comply with the guidelines;
- (c) The address of the Internet site on which the electronic contract notes will be made available for access by the client, if applicable;

- (d) The date on which the CMSL holder intends to commence issuance and delivery of electronic contract notes; and
- (e) Such other information as may be required by the SC.

5.02 The CMSL holder must maintain monthly statistical information on electronic contract notes and, upon request by the SC, submit to the SC within the next day, the information required which may include the following information:

- (a) Number of electronic contract notes issued and delivered;
- (b) Number of electronic contract notes issued and delivered by way of e-mail;
- (c) Number of electronic contract notes issued and delivered by way of accessing the CMSL holder's Internet site; and
- (d) Other information as may be required by the SC.

5.03 All documents to be provided to the SC in respect of these guidelines should be addressed to—

Head
Intermediary Supervision Department
Market Supervision Division
Securities Commission
3 Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur

**Declaration by Internal Auditors on Compliance with
the Guidelines on Electronic Contract Notes**

(To be adopted under the letterhead of the CMSL holder)

Date: *(Date of lodgement)*

The Chairman
Securities Commission
No. 3, Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur

Dear Sir,

**DECLARATION LETTER BY INTERNAL AUDITORS ON SYSTEMS AND
CONTROLS FOR ISSUANCE AND DELIVERY OF ELECTRONIC CONTRACT NOTES**

We, the internal auditors of *(Name of the CMSL holder)*, hereby declare that we have exercised due diligence and made reasonable enquiries to ensure that the systems and controls providing for the issuance and delivery of electronic contract notes complies with paragraph 4.08 of the *Guidelines on Electronic Contract Notes* (the Guidelines) issued by the Securities Commission (SC).

We also undertake to immediately provide the SC with all such information or confirmation as the SC may from time to time require in relation to the systems and controls for the issuance and delivery of electronic contract notes.

We declare that we will ensure continuous compliance with the stated requirements and conditions imposed by the SC under the Guidelines as well as any other requirements as may from time to time be specified by the SC with respect to the systems and controls for the issuance and delivery of electronic contract notes.

The above Declaration has been signed by me as the internal auditor of *(Name of CMSL holder)*.

Yours faithfully,

.....
Name of signatory
Designation: *(Head, Internal Audit or its equivalent)*
Date
Name *(Name of the CMSL holder)*
Address *(Address of the CMSL holder)*

**Declaration by Director or Authorised Person on Compliance with the
Guidelines on Electronic Contract Notes**

(To be adopted under the letterhead of the CMSL holder)

Date: *(Date of lodgement)*

The Chairman
Securities Commission
No. 3, Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur

Dear Sir,

**DECLARATION LETTER FOR THE ISSUANCE AND DELIVERY OF ELECTRONIC
CONTRACT NOTES**

We hereby declare that we will exercise due diligence and make reasonable enquiries to ensure that *(Name of the CMSL holder)* fully complies with the requirements in the Guidelines on Electronic Contract Notes (the Guidelines) issued by the Securities Commission (SC).

We also undertake to immediately provide the SC with all such information or confirmation as the SC may from time to time require.

We declare that we will ensure continuous compliance with the stated requirements and conditions imposed by the SC under the Guidelines as well as any other requirements as may from time to time be specified by the SC.

The above Declaration has been signed by me as (**Director or authorised person) of *(Name of the CMSL holder)* pursuant to authority granted to me by a resolution of the Board of Directors on *(insert date of resolution)*.

Yours faithfully,

.....

Name of signatory

Designation

Date

Name *(Name of the CMSL holder)*

Address *(Address of the CMSL holder)*

*** delete where appropriate*