



NOVEMBER TIP OF THE MONTH: Digital signatures and gift-giving – Two things to note when facilitating property transactions

Use of electronic signatures

Last week, GovTech [released](#) a new SingPass feature called "Sign with SingPass" to enable SingPass users to electronically sign contracts, agreements and other legal documents. Once it is certified by the National Certification Authority, signatures made using "Sign with SingPass" will be considered as secure electronic signatures under the Electronic Transactions Act (ETA) for transactions covered by the ETA.

This means that documents for those transactions covered under the ETA can use the "Sign with SingPass" feature, e.g. contract for goods or services. For the real estate agency industry, the "Sign with SingPass" can be used to sign the prescribed Estate Agency Agreements which is a service agreement between estate agents and clients.

Currently, property transactions (i.e. involving an interest in land) are still **excluded** under the ETA, and documents such as Option to Purchase, Sales and Purchase Agreement and Tenancy Agreement are not accorded the presumptions and protections provided

under the ETA for now.

Although property transactions are excluded under the ETA, parties to a property transaction can choose to use secure electronic signatures, like "Sign with SingPass", to sign property transaction documents if they are comfortable to do so. The exclusion of property transactions under the ETA does not prevent property transaction documents from being executed in a fully electronic environment and it is possible for electronic records or signatures to give rise to legally-binding relations.

Do note that HDB currently does not allow the exercise of option to be done remotely or electronically. Forms prescribed by HDB, such as its Option to Purchase form, require "wet ink" signatures.

Your client may wish to obtain independent legal advice before executing any property transaction document using secure electronic signatures or if there are legal or commercial requirements for a property transaction document to be executed as a deed.

If your estate agent is keen to use "Sign with SingPass" for your digital services, you can register your interest at go.gov.sg/sign.

Giving gifts to your client

The year-end festive season is just around the corner, and you may have already started shopping for your family and friends. But before you add your clients to that list, remember these guidelines from the [Professional Service Manual](#) about offering gifts or cash vouchers to your clients:

1.10.1 Estate agents and salespersons are not to advertise or offer any benefit, in cash or kind, to any party in a transaction, so as to induce them to engage the services of the estate agent or salespersons. Estate agents and salespersons also shall not agree if any person initiates the request for them to offer such benefits. This practice of offering benefits as inducement is an unprofessional and unethical practice and brings disrepute and discredit to the industry.

This means that you cannot give gifts or money to potential clients to persuade them to engage your services. Even if you were thinking of just giving "a little something since it's the holiday season", it could be misconstrued as potentially an incentive for them to engage you, so steer clear.

In addition, if any potential clients ask you for an incentive for them to engage your services, you should not take them up on that request

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Information is accurate as at 9 November 2020.

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