



THE MANITOBA  
SECURITIES  
COMMISSION

May 6, 2021

To all Registered Mortgage Brokers,  
Restricted Mortgage Brokers, Authorized Officials  
and Salespersons

Province of Manitoba

### Re: Digital Signatures

In light of social distancing protocols issued by public health officials during the COVID-19 pandemic, the Manitoba Securities Commission has received inquiries from registrants as to whether the use of digital signatures are permissible under *The Mortgage Brokers Act* (MB Act).

Several sections in the MB Act require written agreements, i.e. agreements that must be in paper form and signed with a physical signature, but these sections pertain to mortgage administration activities undertaken by brokerages registered as mortgage brokers. The relevant sections are:

- Section 21(3) regarding written trust agreements
- Section 25 regarding required terms of agreements for administration of a mortgage; and
- Section 26(1) regarding written directions to act as a trustee of a mortgage.

Outside of these agreements, it is the Commission's view that the MB Act does not preclude the use of electronic agreements and digital signatures for most documents, for example mortgage commitment letters and disclosure forms, used by registrants with their clients.

In Manitoba, *The Electronic Commerce and Information Act* (Electronic Commerce Act) is a law of general application and Part 3 of the legislation permits the use of digital signatures provided that the conditions outlined in Part 3 are met, unless the parties to the transaction agree otherwise. Except in those cases where the MB Act requires that an agreement be in paper form as set out above, the Commission's view is that an agreement can be in electronic form and may be executed digitally provided that:

- the client agrees to this; and
- the requirements of Part 3 of the Electronic Commerce Act are met.

It is important to note that currently the MB Act does not permit records that registrants are required to maintain under the legislation be kept in electronic form. This means that if an agreement is executed in electronic form with a digital signature, a paper copy would have to be printed for the registrant's records.

Keith Schinkel  
Registrar  
The Mortgage Brokers Act

**Real Estate Division**

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