**Evaluating the new regulation of**

**Law on Electronic transactions 2023 and their impact on the enterprise**

***Abstract:*** *The new Law on Electronic Transactions was passed by the National Assembly at the 5th session and will take effect from 01 July 2024 (Law on Electronic Transaction 2023), which is expected to create a breakthrough and important changes in forming a digital government and digital society in the context of scientific and technological advances, the development of e-commerce and the Covid-19 pandemic have posed many challenges in terms of policies and management model on electronic transactions.*

***Keyword:*** *Law on Electronic Transactions; amend; data; legal value*

1. **New regulations of the Law on Electronic Transactions 2023**

**First, the scope of regulation and regulated entities**

According to the Law on Electronic Transactions 2023, in Article 1, the scope of regulation has eliminated the cases of *"the grant of certificates of land use rights, ownership of houses and other immovable properties, inheritance documents, marriage certificates, divorce decisions, birth certificates, death certificates, bills of exchange and other valuable papers"* to expand the scope of regulation of electronic transactions to all activities of social life.

This expansion allows all eligible sectors to apply electronic transactions, but does not imply a requirement. The partial, complete or non-application of electronic transactions in the issuance of certificates of land use rights, ownership of houses and other real estate, inheritance documents, and marriage certificates , divorce decisions,... shall comply with the provisions of relevant specialized laws [[1]](#footnote-1).

**Second, the content and formal conditions of the data message**

In the digital age, data expressed in electronic form is increasingly prevalent and applied to many fields. Lawmakers have updated many regulations in Chapter II of the Electronic Transactions Law 2023 in comparison with the former law to concentrate on the policy of ensuring the legal validity of data messages. Specifically:

Data messages may be shown in the form of electronic documents, electronic certificates, electronic records, electronic contracts, e-mails, telegrams, telegraphs, facsimiles and other electronic data interchange (EDI) forms according to regulations of law, which is created and generated during the transactions or converted from printed documents. The data message has the same value as text, as *"original"* and *"not denied legal value".[[2]](#footnote-2)*

Accordingly, the popular data messages are electronic certificates that have clear conditions in terms of form and content to be deemed as a legal basis and have binding value.

Accordingly, the Law on Electronic Transactions 2023 has inherited and updated new conditions applicable to electronic certificates, to ensure legal value when meeting the following requirements: (a) Electronic certificates  is signed by a digital signature of an issuing agency or organization according to regulations; (b) Information contained in the e-certificate is accessible and intelligible so as to be usable in its final form; (c) If any law requires a determination of time related to the e-certificate, the e-certificate shall contain a timestamp.[[3]](#footnote-3)

**Third, the conditions for converting paper documents and data messages**

Along with changes in the content and formality of data messages, the Law on Electronic Transactions 2023 stipulates a new provision on conversion between printed documents and data messages. Accordingly, the conversion shall be required to meet the specific conditions stated in Article 12 for each case, to ensure that the information after conversion must be kept integrity, unchanged, and have a special sign having legal value to confirm the conversion message. This regulation has the possibility to create many major transitions in administrative activities and service of state documents.

**Fourth, trusted services in electronic transactions**

Trusted services in electronic transactions are a new content which have been regulated for the first time in the Law on Electronic Transactions 2023, in spite of the fact that these forms already exist. Regulated trusted services include: a) Timestamp issuance service; b) Data message authentication service; c) Public digital signature authentication service. These services are described specifically in terms of their function and form of expression[[4]](#footnote-4). In addition, it is the general responsibility of businesses providing trusted services such as the responsibility to Publicly disclose procedures for registering use of services; Store applications and documents, connect and provide information; etc.

The Law on Electronic Transactions 2023 is also considered as this as a conditional business because of its sensitivity impacting on transactions that need to ensure high reliability in society. Therefore, according to Article 29 of the Law on Electronic Transactions 2023, the state sets conditions for enterprise including the following requirements:

* Being enterprises which are legally established and operated in the territory of Vietnam;
* Satisfying financial, managerial and technical requirements for each type of trust service in accordance with the law;
* Having information systems serving the trust service provision which satisfy at least information security level 3 requirements according to regulations of law on information security;
* Having technical plans serving the provision for each type of trust service in accordance with the law;
* Having plans for technical connections serving supervision, inspection and data reporting by electronic means, which satisfy requirements for state management of trust services.

The above regulations have completed policies to ensure the safe and reliability of electronic transactions and are consistent with current conditions and actual management needs. Therefore, this is considered an important content, promoting the reliability in signing and performing electronic transactions.

**Fifth, electronic transactions with state agencies**

The content of electronic transactions with state agencies is regulated more deeply and in detail in Chapter V of the Law on Electronic Transactions 2023. Accordingly, the main amendments and supplements in this Chapter focus on regulations on electronic transactions of state agencies and policies to support electronic transactions and promote digital transformation. Specifically:

The Law on Electronic Transactions regulates forms of electronic transactions with state agencies, including types of transactions such as: (1). Electronic transactions within state agencies; (2). Electronic transactions between state agencies; (3). Electronic transactions between state agencies and organizations and individuals [[5]](#footnote-5).

According to Article 40, data in state agencies shall be uniformly and hierarchically organized according to regulatory agencies’ responsibility for management to improve e-transactions; shared to serve the operation of regulatory agencies, people and enterprises according to regulations of law. This is an affirmation that data and information will be managed by the State aiming to support public services, to facilitatefor people to enjoy and develop society. At the same time, the national database shall be decentralized and managed by localities, ministries and will be guaranteed in terms of funds to build and maintain the database.

The Law on Electronic Transactions 2023 not only regulates data that can be shared and connected to separate individuals and organizations, but also has open data of state agencies where people can freely use, reuse or share. For better understanding, these open data are draft of legal documents, description of the request for law, report on appraisal and report of inspection for a legal project that the presiding drafting agency shares on network. Accordingly, lawmakers stipulate that agencies must ensure the integrity and full reflection of adequate information provided by state agencies, be up-to-date and have the ability to access and use information on the Internet, ensuring the ability of digital devices to send, receive, store and process.

It can be said that this is an important effort of the State in completing the legal framework in supporting electronic transactions of state agencies with people and businesses to promote digital transformation and development of the digital government, digital economy and digital society in Vietnam. This also aims to constitute the integrity and transparency of the government when transactions can be fulfilled through digital platforms and wipe out negative factors.

1. **Impacts on the enterprise**

The Law on Electronic Transactions 2023 has created a significant change, shaping an accomplished and comprehensive legal framework, laying the foundation for digital transformation in businesses. These changes and supplementation not only update the way transactions take place but also bring many positive effects and having an effectively contributing to form a more flexible and efficient business environment.

In this process, expanding the scope of regulation further helps ensure that all types of transactions and participants are equally protected. This is of great essentiality, especially for commercial and civil activities in the economy of the forth industrial revolution. This expansion is expected to create favorable conditions for businesses to promote the development and popularity of the country's digital economy.

This encourages businesses to use electronic transactions, while promoting e-commerce activities, but also making room for innovation and increased flexibility in business management. Transactions can be carried out completely, from start to finish, by electronic means, not only reducing risks and burdens of administrative procedures but also increasing flexibility in the business management process. The addition of regulations on legal validity is important towards building an appropriate and modern legal basis to support the sustainable development of electronic transactions.

In addition, to support businesses to benefit from this expansion of the scope of regulation, the law has applied digital signatures and regulations on the use and recognition of foreign electronic signatures. Business activities thenceforth will help increase trust between participating parties, facilitate cross-border electronic transactions, creating a great opportunity for both organizations and individuals.

An important point is the initiative of the parties participating in the transaction. Because of ensuring the legality and trust in the roles and powers of both parties, the process of negotiating and signing contracts becomes more flexible. This creates a transparent business environment, promotes the economic performance and competitiveness between enterprises.

1. **Conclude**

The adjustment of the Law on Electronic Transaction 2023 has opened up a more flexible and convenient legal framework for businesses. Through new changes, the law has ensured the legal value of electronic transactions through a clear and fulfilling process that is favorable for the transition from reality practice to digital environment. This amendment and supplement not only reshape the way that enterprises conduct transactions but also opens new opportunities, promoting development and improving business performance in a globalized economic context.

**ADK Vietnam Lawyers**

1. Ministry of Information and Communications, *Proposal on the project of Law on Electronic Transactions to amend and replace the Law on Electronic Transactions 2005*, Hanoi, 2022, p. 6 [↑](#footnote-ref-1)
2. Article 7 of the Law on Electronic Transactions 2023 [↑](#footnote-ref-2)
3. Article 19 of the Law on Electronic Transactions 2023. [↑](#footnote-ref-3)
4. Article 28 of the Law on Electronic Transactions 2023 [↑](#footnote-ref-4)
5. Article 39 of the Law on Electronic Transactions 2023 [↑](#footnote-ref-5)