



## **Industry Consultation on the Proposed Legislative Amendments to Facilitate Digitalisation of Business-to-Business Trade Documents**

### **Law Society Submissions**

The Commerce and Economic Development Bureau issued the “Proposed Legislative Amendments to Facilitate Digitalisation of Business-to-Business Trade Documents” on 29 December 2025 (“Consultation Paper”).

In response, the Law Society provides the following submissions to the questions posed.

The Law Society welcomes the Consultation Paper and the Government’s intention to amend the legislation to facilitate digitalisation of B2B trade documents. As there are similar legislations already implemented in other jurisdictions such as the United Kingdom and Singapore, it would be timely for Hong Kong to move forward with the proposed legislative amendments in an expeditious manner, so as to maintain its competitiveness as an international premier maritime centre.

Since the Consultation Paper does not contain a draft bill, the submissions made below are inevitably of a preliminary nature, based upon the matters contained in the Consultation Paper. The Law Society reserves its right to make further submissions following receipt and careful consideration of the relevant draft bill.

Unless otherwise defined, the same abbreviations and definitions appearing in the Consultation Paper are used in this paper.

#### ***Question 1***

*Do you agree to the non-exhaustive approach set out in paragraph 11 above? Are there any other types of B2B transferable trade documents that should be expressly defined in the new Part? Alternatively, are there any of such documents that are preferably conducted through physical means and should not be digitalised at this juncture, hence should be excluded from the application of the legislative proposal?*

**Law Society's response:**

While we agree with the non-exhaustive approach with express inclusion of some core trade documents including bills of exchange, promissory notes and bills of lading, we suggest that the exclusion for “negotiable instruments” under Schedule 1 of the ETO should be removed to allow flexibility for future negotiable instruments and avoid the need for frequent legislative amendments as new trade instruments and market practices emerge.

***Question 2***

*As far as the general reliability standard is concerned, would you consider the abovementioned approach sufficient as a legal basis to facilitate the use of digitalised B2B transferable trade documents?*

**Law Society's response:**

We agree to adopt MLETR’s “factors-based” and “proven-in-fact” approach without introducing a supervisory or accreditation regime. However, we suggest that there should be an authorized body (similar to the approach adopted in the Arbitration Ordinance (Cap. 609) regarding ORFS agreements for arbitration) setting out the Code of Practice for the reliability standards to assist market participants in applying the reliability test.

***Question 3***

*Would you consider the abovementioned approach modelling on the UK approach practicable? Would there be any B2B transferable trade documents that would be unable to perform such a function?*

**Law Society's response:**

It is unclear how a person can demonstrate “exclusive control” over ETRs when such records are, by their nature, exposed to risks of hacking or theft. In order to ensure that this requirement can be complied with in practice, we suggest that the concept of “exclusive control” be clearly and exhaustively defined. In our view, no B2B transferable trade document should be regarded as inherently incapable of evidencing control or possession, provided that appropriate and sufficiently robust technological solutions are implemented.

***Question 4***

*Would there be any difficulties in enforcing the reproduction requirement for B2B transferable trade documents, such as bills of lading, bills of exchange and promissory notes?*

**Law Society's response:**

We agree that the proposed reproduction requirement will enhance legal certainty and minimize disputes concerning the electronic form of trade instruments.

We consider that the new Part of the ETO should expressly clarify the manner in which ETRs may be accurately reproduced, and whether any exceptions to this requirement are contemplated (for example, where a person maintains reliable records evidencing the creation and integrity of the ETR). Whether there will be any difficulty in enforcing the reproduction requirement will depend on the terms of the legislative requirements.

**The Law Society of Hong Kong  
24 March 2026**