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Update Summary

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THE LAW RELATING TO BANKER AND CUSTOMER IN AUSTRALIA

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This significant update inserts a new chapter into the work addressing “Electronic signing of agreements and deeds”. It is written by our new author Clare Samson, Special Counsel with Norton Rose Fulbright in Melbourne.

Clare is a very welcome addition to the author team. She has over 10 year's post-admission knowledge in banking and finance transaction and advisory work including corporate and commercial lending (bilateral and syndicated) in particular property, acquisition and corporate finance, debt restructuring, advice in relation to the *Personal Property Securities Act 2009* (Cth) and securitisation.

Clare is also a member of the Asia Pacific Loan Market Association (APLMA) Documentation & Legal Issues Committee which is responsible for drafting and maintaining the APLMA standard Australian Law primary and secondary documentation.

The new material addresses Australia's electronic transactions legislation, common law recognition of electronic signatures and obstacles that exist with regards to applying either regime to agreements and deeds. The new chapter appears in the following order:

- Introduction – [4A.20];
- Australia's electronic transactions legislation – [4A.40] – [4A.120];
- Exclusions to the Electronic Transactions Act regime and impediments to electronic signing – [4A.140] – [4A.220];
- Common law considerations – [4A.240] – [4A.300];
- Electronic deeds legislation – [4A.320] – [4A.340];
- Electronic signing by companies incorporated under the *Corporations Act 2001*(Cth) – [4A.360] – [4A.420];
- Electronic signing reform for Corporations Act companies – [4A.440] – [4A.540]; and
- Timeline of legislative changes facilitating electronic execution of agreements and/or deeds and audio visual (AV) link witnessing – [4A.560].

In conclusion the author notes that in 2021 the Deregulation Taskforce, established by the federal government, published the Modernising Document Execution consultation paper, which focused on execution requirements for deeds and statutory declarations and reveals work being considered towards establishing a nationally consistent regime for deeds. She also refers to developments in the West where, in February 2023 the WA Registrar of Titles, Landgate announced a consultation on proposed legislative reforms to enable the creation and execution of documents (including deeds) in electronic form, particularly those that relate to interests in land. She hopes that Western Australia will introduce electronic deeds legislation as outlined in the recommendations of the paper in the near future, and eventually a nationally consistent regime for electronic deeds will follow.