

Original Article

The Presence of Parties in the Drafting of Notarial Deeds in the Digital Era: A Comparative Legal Study in Indonesian

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Abstract

The digitalization of contract law and public services challenges traditional notarial practice, especially the rule that parties must be physically present before a notary when executing authentic deeds. Indonesia's Electronic Information and Transactions Law (E-IT Law) recognizes the legal validity of electronic documents and signatures, yet the Notary Office Law still presumes in-person appearances. This normative-comparative study analyzes Indonesian instruments (Notary Office Law, E-IT Law, and Personal Data Protection Law) and compares e-notarization approaches in the Netherlands, Singapore, and Malaysia. We find that Indonesia's physical-presence model is misaligned with the E-IT Law's recognition of secure electronic documents. Dutch emergency measures during COVID-19 demonstrated that remote notarial acts can be institutionalized with safeguards in place. Singapore and Malaysia provide technologically neutral e-signature frameworks that support remote identification, robust audit trails, and data protection. We recommend amending the Notary Office Law to recognize an online presence as the functional equivalent of physical presence, provided that identity assurance, integrity, auditability, and data protection are satisfied.

Keywords: Down Streaming, ESG Regulation; Green Mining; Reclamation; Sustainability;

Introduction

The digitalization of contract law and public services challenges traditional notarial practice, especially the rule requiring parties to be physically present before a notary when drafting authentic deeds, as mandated by the Notary Law. Face-to-face interaction allows the notary or witnesses to assess signs of pressure, incapacity, or hesitation factors that are difficult to detect without physical presence.¹ The appearance of the parties guarantees that the parties' legal intent is expressed consciously and unambiguously. However, in the era of digitalization, many legal and public documents may be administered electronically.

Digital identity, trust services, and qualified electronic signatures have matured, enabling remote execution of legally effective documents without undermining authenticity or integrity.² European practice under Electronic Identification, Authentication and Trust Services (eIDAS) and emerging eIDAS-2 frameworks show that remote qualified signatures managed by qualified trust service providers can ensure high assurance with verifiable audit trails.³ Indonesia as well, promulgate Electronic Information and Transaction (E-IT) Law, namely Law Number 11 of 2008 as amended by Law Number 19 of 2016 and Law Number 1 of 2024 (furthermore, named Amended E-IT Law),

¹ Megan H. Papesh, 'Photo ID Verification Remains Challenging despite Years of Practice', *Cognitive Research: Principles and Implications*, 3.1 (2018), 1–9 <<https://doi.org/10.1186/S41235-018-0110-Y/FIGURES/5>>.

² Mirosław Kutyłowski and Przemysław Błażkiewicz, 'Advanced Electronic Signatures and EIDAS – Analysis of the Concept', *Computer Standards & Interfaces*, 83 (2023), 103644 <<https://doi.org/10.1016/J.CSI.2022.103644>>.

³ Vasile-Daniel Pavaloaia and others, 'A Comprehensive and Privacy-Aware Approach for Remote Qualified Electronic Signatures', *Electronics* 2024, Vol. 13, Page 757, 13.4 (2024), 757 <<https://doi.org/10.3390/ELECTRONICS13040757>>.



where recognizes electronic documents and signatures if integrity and authentication requirements are met.

In the other hand, based on Article 16 paragraph (1)m of The Notary Law, the Notary Office Law still anchors deeds in physical presence of the parties before a notary. The condition is supported by Article 5 paragraph (4) letter b of E-IT Law that exempts notarial deeds from being made electronically. It shows that the execution of notarial deeds cannot be carried out electronically or online, particularly regarding the following aspects: (i) Physical presence of the parties; (ii) Reading of the deed; and (iii) Signing of the deed. Thus, the E-IT Law expressly reinforces the exclusion and confirms that notarial deeds must still be made in physical form and in the direct presence of a notary, until a specific amendment to the Notary Law.

In practice, there has not been a single Notary in Indonesia who has been able to draft or formalize a deed using the cyber notary concept that is, where the parties do not appear physically before the Notary and witnesses. The absence of detailed regulations on remote appearance, qualified electronic signatures, and evidentiary standards has made it impossible for notaries to “evolve” into cyber-notaries.⁴

The digitalization era is characterized by a shift from place-based local communities to personalized, networked forms of social connection. The internet and digital technologies provide social affordances structural opportunities that enable always-on connectivity, low-cost communication, searchability, and enhanced coordination which collectively strengthen interpersonal relationships.⁵ Information technology for relational life will expand and maintain weak ties (bridging ties), reduce barriers to interaction, low-cost despite distance or time constraints.⁶ All these advantages stem from the affordances of digital technologies, which transform social networks into more flexible and interconnected systems.

Previous studies on the use of information technology in the creation of notarial deeds have mostly focused on the legal perspective of electronic signatures, such as the study by Taylor & Bazarova⁷, Wellman⁸, and Shin et al⁹. Meanwhile, Cordella focuses on the study of the electronic reporting system for notarial deeds¹⁰. Abedi examines the relevance of reading and signing deeds before a notary in the digital era.¹¹ There has not yet been any critical study of Indonesia’s legal policy on notarial practice in the context of adapting to the digitalization era, which inevitably demands the use of information technology.

This normative-comparative research analyzes Indonesian legal instruments namely the Notary Law, the E-IT Law, and the Personal Data Protection Law and compares e-notarization approaches in the Netherlands, Singapore, and Malaysia. The purpose is to propose reforms to Indonesia’s notarial law that are responsive to digital transformation while upholding the principles of authenticity, data security, and transparency.

⁴ David Tan, ‘CYBER-NOTARIES FROM A CONTEMPORARY LEGAL PERSPECTIVE: A PARADOX IN INDONESIAN LAWS AND THE MARGINAL COMPROMISES TO FIND EQUILIBRIUM’, *Indonesia Law Review*, 10.2 (2020), 1 <<https://doi.org/10.15742/ilrev.v10n2.635>>.

⁵ Stefan Koos, ‘The Digitization of Notarial Tasks - A Comparative Overview and Outlook of “Cyber Notary” In Indonesia and Germany’, *The Indonesian Journal of Socio – Legal Studies*, 2.2 (2023), 1–16 <<https://doi.org/10.54828/ijsls.2023v2n2.1>>.

⁶ Edmon Makarim, ‘Layanan Notaris Secara Elektronik Dalam Kedaruratan Kesehatan Masyarakat Oleh Dr. Edmon Makarim, S.Kom., S.H., LL.M. - Fakultas Hukum Universitas Indonesia’, *Berita-Fakultas Hukum Universitas Indonesia*.

⁷ Samuel Hardman Taylor and Natalya N. Bazarova, ‘Always Available, Always Attached: A Relational Perspective on the Effects of Mobile Phones and Social Media on Subjective Well-Being’, *Journal of Computer-Mediated Communication*, 26.4 (2021), 187–206 <<https://doi.org/10.1093/JCMC/ZMAB004>>.

⁸ Barry Wellman and others, ‘The Social Affordances of the Internet for Networked Individualism’, *Journal of Computer-Mediated Communication*, 8.3 (2003) <<https://doi.org/10.1111/J.1083-6101.2003.TB00216.X>>.

⁹ Bokyong Shin and others, ‘A Systematic Analysis of Digital Tools for Citizen Participation’, *Government Information Quarterly*, 41.3 (2024), 101954 <<https://doi.org/10.1016/J.GIQ.2024.101954>>.

¹⁰ Antonio Cordella and Francesco Gualdi, ‘Policymaking in the Digital Era: Exploring Techno-Legal Assemblages and Their Impact on Policy Formulation’, *Government Information Quarterly*, 42.2 (2025), 102023 <<https://doi.org/10.1016/J.GIQ.2025.102023>>.

¹¹ Fahimeh Abedi, Abbas Rajabifard and Davood Shojaei, ‘Enhancing Access to Justice for Land and Property Disputes through Online Dispute Resolution and Artificial Intelligence’, *Computer Law & Security Review*, 59 (2025), 106194 <<https://doi.org/10.1016/J.CLSR.2025.106194>>.



Method

This research uses a normative-comparative design¹², analyzing the Notary Office Law, the Electronic Information and Transactions Law, and the Personal Data Protection Law. The comparative analysis examines frameworks in the Netherlands, Singapore, and Malaysia to identify how they regulate presence, authentication, and trust services in digital notarization.¹³ From Indonesia, the data are drawn from primary legal sources: Law Number 2 of 2014 concerning the Amendment of Law Number 30 of 2004 on the Position of Notary (hereinafter Notary Law), Law Number 11 of 2008 (as amended by Law 19 of 2016) and Law Number 1 of 2024 (hereinafter E-IT Law), as well as the Regulation of the Minister of Communication and Information Technology Number 11 of 2022 concerning the Governance of Electronic Certification Administration. From the Netherlands, the data are taken from *Wet op het notaris ambt* (Wna), Title VA: *De elektronische notariële akte* (Articles 53a–53k), *Verordening elektronische notariële akte*, Regulation (EU) Number 910 of 2014, and KNB (*Koninklijke Notariële Beroepsorganisatie*). In Singapore, sources include the Electronic Transactions Act (Cap. 88) (ETA), Oaths, Declarations and Notarisations (Remote Methods) Act 2023, Notaries Public Rules and authentication by SAL, Digital Signature Act 1997 (DSA 1997, Act 562), Electronic Commerce Act 2006 (ECA 2006), Digital Signature Regulations 1998 (DSR 1998), Notaries Public Act 1959 (Act 115), Evidence Act 1950 (provision of e-evidence), Statutory Declarations Act 1960 (Revised 2016), and Commissioners for Oaths Rules 2018. Secondary data consist of research results published in journals and official commentaries.¹⁴ The analysis focuses on key criteria: authenticity, integrity, auditability, and data protection across jurisdictions

Results and Discussions

The Indonesia Notary Law in the Era of Digitalization

Many Indonesian Government public services have shifted to electronic systems. For example, activities such as ratifying, registering, and amending data for Limited Liability Companies, Foundations, and Associations are now conducted electronically, as set out in the Minister of Law and Human Rights Regulation Number 2 of 2016. Land title transfers, mortgage rights registration, and land certificate issuance are managed electronically under Ministerial Regulation of Agrarian Affairs and Spatial Planning Number 1 of 2021. Digital issuance also extends to Family Cards, Birth Certificates, Marriage Certificates, and Death Certificates, as stated in Minister of Home Affairs Regulation Number 7 of 2019.

However, digitalization has not reached notary practices. Notarial deeds are specifically excluded from the category of electronic documents by Article 5(4) of the E-IT Law. The Notary Law still requires physical presence, direct reading, and handwritten signatures. No law currently authorizes remote appearance, electronic reading, or e-signature for authentic deeds. Article 1, point 7 of the Notary Law states: “A Notarial Deed, hereinafter referred to as a Deed, is an authentic deed made by or before a Notary in accordance with the form and procedure stipulated in this Law.” If a notarial deed does not follow these rules, it is downgraded to a private deed. Article 16, paragraph (1), letter (m), and paragraph (9) of the Notary Law specify that failing to meet these requirements means the deed will only serve as evidence as a private deed.

The sole exception to the Notary's obligation to read the deed is defined under Article 16, paragraph (7) of the Notary Law, which stipulates that the reading required by paragraph (1) item (m) is not compulsory if the parties request to waive the reading, affirming that they have personally read, understood, and comprehended the document's contents. This waiver must be explicitly stated in the closing section of the Deed, and furthermore, every page of the Deed's *minuta* must be initialed by the parties, the witnesses, and the Notary.

¹² Sholahuddin Al-Fatih, *Perkembangan Metode Penelitian Hukum Di Indonesia* (Malang: Universitas Muhammadiyah Malang, 2023).

¹³ P Ishwara Bhat, ‘Doctrinal Legal Research as a Means of Synthesizing Facts, Thoughts, and Legal Principles’, ed. by P Ishwara Bhat, *Idea and Methods of Legal Research* (Oxford University Press, 2020), p. 0 <<https://doi.org/10.1093/oso/9780199493098.003.0005>>.

¹⁴ Hari Sutra Disemadi, ‘Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies’, *Journal of Judicial Review*, 24.2 (2022), 289–304 <<https://doi.org/10.37253/JJR.V24I2.7280>>.



The E-IT Law likewise excluded notarial deeds from the category of electronic documents. The recent amendment of the E-IT Law 2024 substantially still remains unchanged, by stating that electronic information and/or electronic documents do not apply insofar as otherwise regulated by statutory law. The statutory law referred to includes the Notary law, which continues to require the physical presence of the parties and witnesses in the execution of a notarial deed. Consequently, the practice of notarial deed execution remains conventional, requiring the parties to be physically present and to sign the deed before the notary in person. This stands in contrast to legal policies that permit the electronic issuance of other public documents, such as birth certificate, land ownership certificates, national identity cards, electronic signatures, as well as electronic transaction.

Government Regulation Number 18 of 2021 on land Administration explicitly provides in Article 86 that Notary as Land Deeds Official (PPAT) can make deeds electronically. This indicates the existence of regulatory basis that opens the possibility for the use of electronic systems in the preparation of PPAT deeds. Article 86 stipulates that the execution of PPAT (Land Deed Official) deeds may be carried out electronically. The deeds referred to are those concerning the transfer and encumbrance of land rights, as well as ownership rights over condominium units.

However, to date, no implementing technical provisions of Government Regulation Number 18 of 2021 have yet been issued. While, the E-IT Law recognizes electronic documents as valid if integrity and authenticity are fulfilled. This divergence creates doctrinal uncertainty. A similar view is expressed by Saputra, who stated that juridically, electronic notarial deeds have not yet been recognized as valid under the Notary Office Law and the Electronic Information and Transactions Law (E-IT Law).¹⁵ This condition gives a rise to legal uncertainty regarding their evidentiary value and authenticity. In responding to such regulatory uncertainty, Guntur recommends revising the Notary Office Law, the Civil Code, and certain provisions of the E-IT Law to ensure legal certainty.¹⁶ Indonesian scholarship discusses 'cyber notary' ideas but lacks clear regulations governing secure online appearances.

Furthermore, Law Number 11 of 2020 on Job Creation Law constitutes a policy instrument that may be utilized as an opportunity to enable the execution of notarial deeds electronically. Although the term "electronic notarial deed" is not expressly mentioned, Articles 176–185 for instance -which amends Law Number 25 of 2009 on Public Services- mandates the implementation of electronic public services (e-government). Article 185 amends Law No. 11 of 2008 on Electronic Information and Transactions (E-IT Law) to enable legal administrative services to be carried out electronically. Thus, the Job Creation Law strengthens the legal foundation for electronic legal administration, even though it does not specifically regulate notarial deeds. Nevertheless, once again, since the amended Notary Law 2014 still requires the physical presence of the parties and witnesses in the execution of notarial deeds, in practice both notarial deeds and PPAT deeds-which also by Notary-continue to be prepared in a conventional manner, with the physical presence of the parties and witnesses.¹⁷ It contradicts with the broader national agenda of administrative and business digitalization.

Koos,¹⁸ a comparative analysis, which specifically examines Germany's system for the electronic execution of notarial deeds, indicates that the implementation of cyber-notary systems in Indonesia remains at a nascent stage and has not yet achieved comprehensive regulatory framework. Including during the Covid-19 pandemic, notarial practice still could not be conducted online.¹⁹ The advantages of using information technology or artificial intelligence in notarial practice in Indonesia therefore have not yet been realized, even though other institutions have already been able to benefit from digitalization.

¹⁵ Made Bagus Dewaana Manu Saputra and others, 'Legality of Electronic Notary Deeds', *Path of Science*, 10.1 (2024), 8008–16 <<https://doi.org/10.22178/POS.100-30>>.

¹⁶ Guntur Sujanoko, 'Problems with the Implementation of Cyber Notary in Carrying Out the Duties of Notary Positions in Indonesia', *TABELLIUS: Journal of Law*, 2.1 (2024), 48–60.

¹⁷ Alda Anabela Adelina and Tjhong Sendrawan, 'ANALISIS YURIDIS PEMBUATAN AKTA ELEKTRONIK OLEH PPAT DALAM PERSPEKTIF PP 18/2021: PELUANG, TANTANGAN, DAN IMPLIKASI TERHADAP KEPASTIAN HUKUM', *JURNAL ILMIAH ADVOKASI*, 13.3 (2025), 904–16 <<https://doi.org/10.36987/JIAD.V13I3.6607>>.

¹⁸ Koos.

¹⁹ Makarim.



Digital technology has transformed the policy cycle from upstream to downstream: formulation (data analytics, digital participation/e-consultation), adoption (electronic workflows), implementation (online services), and evaluation (real-time feedback loops).²⁰ It implies for legal and policy practice, such as regulatory drafting (e-rulemaking), policy dissemination and public information, administrative governance,²¹ electronic contracts, and public and private on line dispute resolution (ODR) as well.²²

In the making of notarial deeds, digital technology can play a role in the following stages: (i) pre-execution stage – utilization of digital population identity; verification of corporate, association, or foundation status and data; use of e-mortgage systems, electronic mortgage rights, and electronic land certificates; as well as draft exchange, commentary, document sharing, and video-call consultations; (ii) execution stage – involving the appearance of the parties, the reading and signing of the deed, and the application of electronic signatures; (iii) post-execution stage – including submission for registration or approval to relevant authorities, legalization or registration and amendment of articles of association via online system, registration of electronic mortgage rights, creditor substitution, deregistration, and issuance of electronic land certificates through the land affairs office system, and the maintenance of digital archives and electronic copies (non-protocol documents).

However, Wang highlights the security, authenticity, and transparency challenges that arise when digital technologies are introduced into legal practice, as well as the evidentiary standards and expert involvement needed to ensure such technologies are legally trustworthy.²³ Furthermore, Wang concludes that ensuring authenticity, security, and transparency in legal technology use is not merely about “using blockchain” or digital systems. It requires technical and procedural standardization, data provenance testing, and auditable mechanisms with judicial education to guarantee that digital evidence remains valid, secure, and accountable before the law.

Comparative experiences, especially the Netherlands’ COVID-19 emergency measures enabling video-based notarization and Singapore’s ETA-driven digital-transactions ecosystem, suggest that online presence can be institutionalized under rigorous identity and audit requirements.²⁴ The world, in general, has already adapted to the era of digitalization. In Indonesia, the practice of using information technology, such as electronic signatures and video-based notarial procedures, remains unfeasible, even during the COVID-19 pandemic when physical attendance was not possible.²⁵

Comparisson from the Netherlands and Singapore

Comparatively, the Netherlands introduced remote notarial acts under *Wet op het notarisambt* (Wna) and *Verordening elektronische notariële akte*, serta dengan merujuk eIDAS. Article 53a of the Wna defines key terms related to electronic notarial deeds, including references to the eIDAS Regulation (EU No. 910 of 2014) and the requirement for electronic identification means with a “high” (hoog) level of assurance.²⁶ Meanwhile, Article 53b specifies the provisions of the Wna that remain applicable or are exempted in relation to electronic notarial deeds.²⁷ Article 53c provides the legal basis for the Royal Notarial Organization (KNB) to designate the required models or formats, implementing Article 13-nonies of EU Directive 2017/1132 on online company formation.²⁸ Article 53d establishes the system for processing electronic deed data, which must be managed in accordance with the prescribed provisions and serves as a reference for implementing regulations concerning the

²⁰ Shin and others.

²¹ Cordella and Gualdi.

²² Abedi, Rajabifard and Shojaei.

²³ Xukang Wang, Ying Cheng Wu and Zhe Ma, ‘Blockchain in the Courtroom: Exploring Its Evidentiary Significance and Procedural Implications in U.S. Judicial Processes’, *Frontiers in Blockchain*, 7 (2024), 1306058 <<https://doi.org/10.3389/FBLOC.2024.1306058/BIBTEX>>.

²⁴ Calvin M.L. Chan, Yi Meng Lau and Shan L. Pan, ‘E-Government Implementation: A Macro Analysis of Singapore’s e-Government Initiatives’, *Government Information Quarterly*, 25.2 (2008), 239–55 <<https://doi.org/10.1016/J.GIQ.2006.04.011>>.

²⁵ Suyanto¹ Suyanto¹ and others, ‘The Urgency of Legal Preparation for Notaries Under the New Normal in Indonesia’s Deed Registration’, 2021 <<https://doi.org/10.4108/EAI.14-4-2021.2312886>>.

²⁶ KNB, *Wet Op Het Notarisambt* (Netherlands, 2024).

²⁷ Overheid.nl Wetten bank, *Wet Op Het Notarisambt* (Netherlands, 2024).

²⁸ Overheid.nl Publicaties, *Staatscourant van Het Koninkrijk Der Nederlanden* (Netherlands, 2022).



technical requirements of the system.²⁹ Article 53f regulates the electronic volmacht (power of attorney) attached to the electronic deed, including the procedure for signing and delivering it to the notary. Article 53h stipulates that the place of execution of an electronic deed is deemed to be the location of the notary within the territory of the Netherlands at the time the deed is read or passed. Articles 53i–53k provide the legal basis for electronic copies or extracts (afschrift/uitreksel), evidentiary matters, storage and archiving, as well as the delegation of further technical regulations. (See the official Wna compilation containing Title VA [Articles 53a–53k]).

Substantively, the Netherlands has one of the most comprehensive frameworks in Europe for electronic notarial deeds covering validity, identity, locus, evidence, and archiving. The remaining challenges concern technical standardization and implementation guidance to ensure that day-to-day practice operates uniformly, securely, and with full end-to-end auditability.³⁰

The utilization of information technology in the notarization process in the Netherlands offers several established best practices that are pertinent for consideration as precedential references. The implementation of online company formation still requires notarial intervention for identity verification, legality checks, and fraud prevention.³¹ Thus, digitalization complements rather than replaces the notary's function. This represents a best practice of the notary's public role. The Netherlands adopts a "high" assurance level standard for identity verification and a qualified electronic signature for document authenticity and integrity.³² This combination minimizes cyber risks in electronic notarial deeds. After all, for online BV (private limited company) formation, model deed templates are provided (even in English).³³ It ensures that the digital process remains standardized and facilitates both technical and legal compliance. During the pandemic, appearance through audio-video technology was temporarily permitted. Scholarly analyses recommend institutionalizing this option in legislation to achieve modernization while preserving legal certainty.³⁴ The COVID-19 experience, in which temporary legalization of audio-video "remote notarization" was adopted, serves as a valuable lesson for designing a permanent regulatory framework.

In adopting online channels, security aspects, such as founder authentication, document integrity, and infrastructure availability are treated as core requirements rather than mere supplementary elements.³⁵ Dutch practice demonstrates substantive compliance with the EU framework while maintaining conservative local standards to safeguard the authenticity of notarial deeds. The emphasis on the integrity and traceability (auditability) of electronic documents in online company formation is also used as a benchmark for other types of electronic notarial deeds.³⁶ The adoption of a "high" identity assurance standard combined with qualified electronic signatures (QES), comprehensive auditability, standardized templates, and agile technical delegation represents the key elements of Dutch and EU best practices most relevant for Indonesia.

Singapore similarly exhibits preparedness and advanced capability in the utilization of information technology for the execution of notarial deeds. Singapore's Electronic Transactions Act adopts a technologically neutral approach, allowing remote execution where identity and audit are satisfied. Through the Electronic Transactions Act (ETA) Cap. 88, Part 2, Article 8, electronic records, signatures, and contracts are regulated. The requirement of being "signed" may be fulfilled electronically, provided that the method used is reliable for identifying the signatory and indicating their intention concerning the information contained in the electronic record (and that it performs

²⁹ Overheid.nl Wetten bank, *Verordening Elektronische Notariële Akte* (Netherlands, 2024).

³⁰ European Commission, 'Standards and Specifications', 2015.

³¹ Tom Salemink, Pieter Wolters and Hans Wulf, 'Cybersecurity and Online Formation of Companies in the Netherlands, Belgium, and Germany', *European Company and Financial Law Review*, 21 (2024), 67–103 <<https://doi.org/10.1515/ecfr-2024-0003>>.

³² Salemink, Wolters and Wulf.

³³ Salemink, Wolters and Wulf.

³⁴ J W A Biemans, 'Will Requirements for Last Wills Remain as They Are? The "Physical Presence Requirement" of Witnesses and Notaries in the Light of the COVID-19 Interim Measures and the EU Freedom of (Notarial) Services' (2021) 17(3) *Utrecht Law Review*, 2021, 51–64 <<https://doi.org/10.36633/ulr.650>>.

³⁵ Salemink, Wolters and Wulf.

³⁶ Salemink, Wolters and Wulf.



the signature's intended function).³⁷ This serves as the general legal basis for the validity of electronic signatures in Singapore.

The ETA also recognizes “secure electronic signatures.” This regime was further expanded through the 2021 amendment. However, Article 8 remains the core provision governing the fulfillment of signature requirements.³⁸ “The Remote Methods Act 2023”, that amending “the Notaries Public Act 1959” and related statutes, allows clients to “appear” before a notary via video conferencing or electronic meetings and to fulfil signature requirements electronically, subject to detailed conditions to be specified in subsidiary legislation. In essence, remote appearance is permitted if the electronic means used enable two-way communication, identity verification, and examination of the documents to be signed. Under certain circumstances, specific modes of electronic signature will be required to enhance reliability (e.g., integration with the national identity system). This framework does not abolish in-person appearances but adds a legally valid remote alternative.³⁹

Under the Notaries Public Rules (subsidiary legislation under the Notaries Public Act), since 2019 the procedures and formats of notarial certificates have been referenced to the official portal of the “Singapore Academy of Law” (SAL). The SAL also operates the legalisation/e-apostille and electronic notarial certificate verification systems, which form part of Singapore’s digital notarisation ecosystem. This demonstrates procedural support for electronic notarial documents and certificates.⁴⁰

Best practices in digital identity, electronic signatures, and remote notarisation are also demonstrated in the practice of notarial deed execution in Singapore. The adoption of video-conference technology in Asian judicial ecosystems, including Singapore, notes that notary publics began conducting notarisation via video conference and that the Singapore Academy of Law (SAL) implemented authentication measures.⁴¹ It enabling remote appearance with identity verification and a secure audit trail. Practices show that the standard under ETA Section 8, the requirement of a “signature”, can be fulfilled electronically after identifying the signatory and indicates intent.⁴² A regional survey in Asia, including Singapore, highlights the strengthening of the legal effect of digital communications through amendments to the Electronic Transactions Act (ETA).⁴³ It shows the strengthening of the validity of electronic communications and records, automation, and electronic evidence pillars that support IT-based notarisation. The key lessons Indonesia can learn from Singapore’s legal frameworks and best practices in using information technology for notarial deed creation include: A Clear and Layered Legal Framework, Integrated Digital Identity, Centralized Governance and Support Services, Auditable Technical Standards, Safeguarded Remote Notarisation, Uniform Processes through Templates and SOPs, Cross-Agency System Integration, Phased Implementation and Professional Training.

Comparatively, the application of information technology (IT) in the execution of notarial instruments within Indonesia, compared with the Netherlands and Singapore, along with the policy implications for Indonesia, can be described as below.

³⁷ Jones Day, ‘Singapore’s Electronic Transactions Act Expanded | Jones Day’.

³⁸ Jones Day.

³⁹ Ministry of Law, ‘Legislative Amendments To Facilitate Electronic Statutory Declarations, Oaths And Affirmations, And Notarisations’.

⁴⁰ Singapore Academy of Law, ‘SAL Commissioners for Oaths & Notaries Public’.

⁴¹ Alvin Yeo and Hock Keng Chan, ‘Asian Courts in Times of COVID: Virtualization and the New Normal’, *Asian Journal of Law and Society*, 10.2 (2023), 183–203 <<https://doi.org/10.1017/ALS.2021.33>>.

⁴² Kian Peng SOH, ‘Emojis and Contract Formation: South West Terminal Ltd v Achter Emojis and Contract Formation: South West Terminal Ltd v Achter Land & Cattle Ltd [2023] SKKB 116’, *SALJ*, 36 (2024), 195–205.

⁴³ Gabriela Kennedy and Mayer Brown, ‘Asia Pacific’, *Computer Law & Security Review*, 36 (2020), 1–13 <<https://doi.org/https://doi.org/10.1016/j.clsr.2020.105405>>.



Tabel 1. Comparative Overview of Electronic Notarial Practices in Indonesia, Netherlands, and Singapore

| Aspects | Indonesia | Netherlands | Singapore |
|--|---|--|---|
| Recognition of electronic notarial deeds | Not yet recognized under the Notary Office Law; PP 18/2021 only applies to PPAT (land deeds). | Fully regulated under Wna Title VA (Arts. 53a–53k). | No special “e-deed” term, but the ETA and Remote Methods Act 2023 collectively enable electronic/remote notarisation. |
| Electronic signature basis | Recognized under E-IT Law (amended 2024) but not yet linked specifically to notarial deeds. | Based on eIDAS, requiring Qualified Electronic Signatures (QES) and “high” assurance identity. | ETA s.8: the method must be reliable for identification and intent; secure e-signature regime expanded in 2021. |
| Remote appearance | Not regulated for notaries (only for PPAT via PP 18/2021). | Locus defined at the notary’s location during <i>passé</i> , <i>video presence</i> recognized within e-deed framework. | Remote Methods Act 2023: appearance via video allowed under prescribed conditions. |
| Templates/ standardized formats | No national e-deed standard yet. | The Royal Notarial Organization (KNB) authorized to determine models/formats. | Notaries Public Rules refer to official templates maintained by SAL. |
| Verification/ registry/ legalisation | No e-register for notarial deeds; SABH exists for legal entities only. | Provides legal basis for electronic <i>afschrift/uitreksel</i> and archiving | SAL manages e-register, verification, and (e-)apostille. |
| Technical: auditability & archiving | Not specifically regulated (only general under E-IT Law). | Audit trail and digital archiving mandated under delegated regulations. | Video-session recording and SAL’s verification system ensure practical auditability. |

Hence, normatively, electronic deeds carry the same evidentiary weight as physical deeds, since authenticity elements (identity, authority, intent, and integrity) are digitally verified. Furthermore, confidentiality, integrity, and availability of e-notarial systems are guaranteed through law, technical standards, and institutional supervision.

Conclusion

Indonesia’s requirement of physical presence in notarial deed execution is increasingly incompatible with its electronic transaction regime. Comparative experience from the Netherlands and Singapore also shows that remote or online presence can meet authenticity and integrity requirements under strict safeguards. The Indonesian Notary Law should explicitly recognize online presence as equivalent to physical presence when identity, audit, and data protection standards are met. Recommendations for notary legal reform may include: (1) amending the Notary Law to permit secure video-based notarization; (2) defining technical standards for identity verification and digital signatures; (3) requiring compliance with the Personal Data Protection Law; and (4) establishing oversight and accreditation for e-notary systems.

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