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Electronic Signatures

By Silvia de Sousa



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Part 2 of The Electronic Commerce and Information Act (Manitoba) (the “ECIA”) finally came into force on November 28, 2011, more than eleven years after the rest of the ECIA. Part 2 contains a section relating to “electronic signatures”, which the ECIA defines as “electronic information that a person has created or adopted in order to sign an electronic document and that is in, attached to or associated with the document.” The ECIA now permits the use of “electronic signatures” to fulfil signature requirements found in a “designated law” if certain criteria are met, namely that the electronic signature is reliable for (i) identifying the person who signed and (ii) “associating the signature with the document for the purpose for which the signature is applied.”

“Designated laws” to which Part 2 applies are listed in the Electronic Documents Under Designated Laws Regulation. Interestingly, the only “designated laws” that are currently listed in that Regulation are certain sections of The Business Names Registration Act (Manitoba), The Corporations Act, and regulations associated with these Acts.

The ECIA has yet to facilitate the use of electronic signatures to fulfill signature requirements found in Manitoba laws generally. Therefore, if you wish to use an electronic signature to meet a signature requirement, you will have to check the Regulation to determine if the section of the Act under which the particular requirement arises is listed there. Assuming the electronic signature fulfills the reliability requirement, only then may you rely on the ECIA to support your use of an electronic signature. Ultimately, Part 2 of the ECIA provides very limited support at this time for the use of electronic signatures to fulfill signature requirements found in Manitoba laws.

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Silvia's practice is concentrated in the area of business law with an emphasis on intellectual property law, life sciences law and technology law. Her practice also includes intellectual property transactions, commercial law, financings and licensing matters.