
The Evidentiary Strength of Electronic Signatures in Fiduciary Security Deeds within Financing Institutions: An Analysis of Legal Certainty and Judicial Practice in Indonesia

Muhammad Yusuf Y. Badar*, Evita Isretno Israhadi

Universitas Borobudur, Indonesia

Email: yusufbadar79@gmail.com*, evita_isretno@borobudur.ac.id

Abstract

Keywords

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Within this digital legal environment, electronic signatures (e-signatures) serve a crucial role as authentication tools that verify the integrity and authorship of electronic documents. Although Indonesian legislation has formally acknowledged electronic signatures as legitimate evidence through the Electronic Information and Transactions Law, their application in documents associated with notarial deeds, such as fiduciary security deeds and Powers of Attorney to Create Fiduciary Security (SKMF), continues to generate legal debate. This study seeks to examine the regulatory framework governing electronic signatures within the Indonesian legal system, evaluate their evidentiary value in judicial practice, and analyze the legal consequences of their use in relation to the validity of fiduciary security deeds. The research employed a normative legal research method, utilizing both statutory and conceptual approaches. The findings indicate that certified electronic signatures possess strong evidentiary authority because they rely on cryptographic infrastructure and electronic certificates issued by authorized Electronic Certification Authorities (PSrE). This technological framework ensures the principle of non-repudiation, thereby strengthening their reliability as legal evidence. In contrast, uncertified electronic signatures demonstrate comparatively weaker evidentiary value, as their authenticity can more easily be challenged by disputing parties. The study concludes that the utilization of certified electronic signatures in the SKMF constitutes an essential requirement for safeguarding the authenticity of fiduciary security deeds while simultaneously ensuring legal certainty for financing institutions operating within Indonesia's emerging digital fiduciary framework.

INTRODUCTION

Rapid advancements in information technology have significantly reshaped numerous dimensions of social life, particularly in the sphere of commercial transactions and legal relationships. The digitalization of economic systems has stimulated structural changes in the delivery of financial services, especially within financing institutions that require transaction processes to be faster, more efficient, and digitally integrated (Susanto & Pratama, 2024). Within this evolving environment, electronic documentation has increasingly replaced traditional paper-based records as the primary medium for formalizing agreements and business activities. This transformation has also altered the traditional paradigm of legal proof, which historically relied heavily on physical documents, toward broader legal recognition of

electronic records as admissible forms of evidence in legal proceedings (Prasetyo & Kurniawan, 2023).

In electronic transactions, one of the most essential instruments is the electronic signature (e-signature), which functions as a mechanism for authentication and identity verification of the parties signing a document. Through the use of electronic signatures, contracting parties can express their consent to the contents of a digital document without the necessity of being physically present in the same location. The implementation of electronic signatures is widely regarded as enhancing the efficiency of business transactions while simultaneously streamlining administrative procedures within the financing sector (Rahman, 2023). Furthermore, the adoption of electronic signatures contributes to the development of a digital trust ecosystem, which represents a fundamental pillar supporting the operation of contemporary digital economies (Ramadhan & Utami, 2024).

Within the Indonesian legal framework, the recognition of electronic documents and electronic signatures is primarily regulated under Law Number 11 of 2008 concerning Electronic Information and Transactions, which was subsequently amended through Law No. 19 of 2016 and further revised by Law No. 1 of 2024. These legislative instruments establish that electronic information and digital documents possess legal validity and may be submitted as admissible evidence in judicial proceedings (Arifin, 2023). Complementing this framework, Government Regulation No. 71 of 2019 regarding the Implementation of Electronic Systems and Transactions introduces a classification of electronic signatures into two principal categories: certified electronic signatures and uncertified electronic signatures. This regulatory structure aims to ensure the reliability, integrity, and security standards of electronic systems used in various legal and commercial activities (Putra & Lestari, 2023).

Despite the existence of formal legal recognition, the practical application of electronic signatures within the Indonesian legal system continues to encounter several challenges, particularly in relation to documents that must legally be executed as notarial deeds. In the domain of fiduciary security, Law Number 42 of 1999 stipulates that the establishment of fiduciary security must be formalized through a notarial deed, which constitutes an authentic legal instrument (Putri & Wibowo, 2024). In practice, however, the rapid digitalization of financing transactions has led to the emergence of electronic-based transaction models that are not yet fully accommodated within the traditional framework of Indonesian notarial law (Mahardika & Sari, 2023).

Legal issues arise when financing transactions are conducted through digital platforms and the debtor grants a Power of Attorney to Establish Fiduciary Security (Surat Kuasa Membebaskan Fidusia/SKMF) that bears an electronic signature and is subsequently delivered to the creditor. When the validity or authenticity of the electronic signature attached to the SKMF becomes contested, a potential legal consequence may emerge in the form of a diminished evidentiary status of the fiduciary deed. In such circumstances, the document risks being reclassified from an authentic deed into a privately executed document (Santoso, 2023). This situation may weaken the legal safeguards afforded to creditors and simultaneously create uncertainty regarding the enforceability of the executorial rights attached to a fiduciary certificate (Hidayat & Nugraha, 2024).

The contributions of this research are both theoretical and practical. Theoretically, this study contributes to legal scholarship on electronic evidence, notarial law, and fiduciary

security by providing an integrated analysis of how electronic signatures affect the validity of fiduciary deeds. Practically, this research provides recommendations for financing institutions, notaries, and policymakers to ensure legal certainty in digital fiduciary transactions. The research also contributes to the broader discourse on digital transformation in the Indonesian legal system and the development of a coherent framework for cyber notary practice.

METHOD

This study adopted a normative legal research method aimed at examining the legal norms governing the utilization of electronic signatures in documents related to fiduciary security. To achieve this objective, the research applies both a statutory and a conceptual approach. These approaches are employed to explore the legal framework regulating electronic signatures while also developing a theoretical understanding of electronic evidence, the authenticity of notarial deeds, and the principle of non-repudiation within a digital legal environment (Budianto, 2024). The legal materials analyzed in this research consist of primary legal sources, as well as secondary legal sources. The study conducts a descriptive qualitative analysis by systematically interpreting and comparatively examining various legal provisions associated with the evidentiary status of electronic documents.

RESULTS AND DISCUSSION

Legal Regulation of Electronic Signatures in the Indonesian Legal System

The legal acknowledgment of electronic signatures represents an important element of the modernization of Indonesia's legal framework in response to rapid developments in digital technology. Article 11 of the Electronic Information and Transactions Law (ITE Law) states that an electronic signature is legally valid and binding as long as certain specified conditions are met. These requirements include the use of authentication methods capable of identifying the signatory and ensuring the integrity of the associated electronic document (Ardiansyah, 2024).

From a conceptual perspective, an electronic signature functions not merely as an indication of consent but also as a technological security mechanism designed to safeguard the authenticity and reliability of electronic documents. For this reason, the Indonesian legal system distinguishes between two principal categories of electronic signatures: certified electronic signatures and uncertified electronic signatures. This distinction is significant because it directly relates to the level of reliability and security provided by the authentication system applied in electronic transactions (Prabowo & Nugroho, 2023).

Certified electronic signatures operate through electronic certificates issued by authorized Electronic Certification Authorities, commonly referred to as Electronic Certification Organizers (PSrE). These certificates function to associate the identity of the signatory with the cryptographic key utilized during the process of signing an electronic document (Nugroho & Hidayat, 2023). In this regard, the role of the PSrE becomes essential in maintaining the reliability and authenticity of digital identities within electronic transaction systems (Setiawan & Laksmi, 2024). In contrast, uncertified electronic signatures generally consist of scanned images of handwritten signatures or simple digital approval mechanisms that lack a robust identity verification process. This fundamental distinction significantly

influences the evidentiary strength of electronic documents when they are assessed in judicial proceedings.

Evidentiary Strength of Electronic Signatures in the Law of Evidence

Within Indonesian civil procedural law, written evidence occupies a central position in the evidentiary framework of judicial proceedings. Following the formal recognition of electronic documents as legally admissible evidence, such documents can now function as an extension of traditional written evidence that historically relied on physical records (Rahardjo, 2024). The development reflects the gradual adaptation of the Indonesian legal system to technological progress, particularly in shaping a modern evidentiary regime capable of accommodating digital forms of documentation (Yuliana & Hartanto, 2023).

Nevertheless, the probative value of electronic signatures largely depends on the authentication mechanism underlying their use. Certified electronic signatures demonstrate a strong evidentiary capacity because they incorporate several essential elements of digital security, including identity authentication, document integrity, and the principle of non-repudiation. By using asymmetric cryptographic technology, certified electronic signatures allow for the automatic detection of any changes made to an electronic document after it has been signed (Halim & Prasetyo, 2024). Furthermore, this technological framework provides assurance that the signatory cannot later deny their participation in the relevant electronic transaction (Saputra & Hidayah, 2024).

In contrast, uncertified electronic signatures lack a robust identity verification mechanism, which often leads courts to treat them only as preliminary evidence that requires further substantiation during judicial proceedings (Sari & Wulandari, 2023). Consequently, their probative value tends to be considered weaker when compared with certified electronic signatures.

In judicial practice, judges generally evaluate several key elements when determining the evidentiary weight of electronic documents. These considerations commonly include:

1. the reliability and security of the electronic system used;
2. the method applied to authenticate the identity of the parties involved; and
3. The existence of a verifiable digital record of the transaction.

When the electronic system employed is capable of ensuring both the security and integrity of the digital document, courts may regard the electronic document as possessing evidentiary value equivalent to that of conventional written documentation.

Implications of Electronic Signature Utilization for Fiduciary Security Deeds

Within financing practices, the establishment of fiduciary security frequently involves an authorization document through which the debtor grants authority to the creditor to execute the fiduciary deed before a notary. This authorization is commonly provided in the form of a Power of Attorney to Create Fiduciary Security (Surat Kuasa Membebankan Fidusia/SKMF).

When the SKMF is executed using an uncertified electronic signature, a potential legal concern arises because the identity of the individual signing the document may not be verified with sufficient certainty. Such a condition may lead to disputes at a later stage, particularly if the debtor challenges or denies the authenticity of the electronic signature used in the authorization document. This circumstance illustrates the possibility of regulatory tension between the legal regime governing electronic transactions and the traditional framework of notarial law (Wijayanti & Prakoso, 2023).

When the legal validity of the SKMF is challenged, the fiduciary deed executed on the basis of that authorization may be regarded as procedurally defective. Such a condition carries substantial legal implications, particularly because it may eliminate the executorial enforceability of the fiduciary certificate and simultaneously weaken the creditor's preferential rights during the debt recovery process (Firmansyah & Aditya, 2024).

In this regard, the adoption of certified electronic signatures (TTE) becomes crucial within the framework of a digital fiduciary system. Through electronic certificates issued by a Certification Authority (PSrE), the identity of the signatory can be authenticated with a higher level of reliability, thereby reducing the likelihood of legal disputes (Wijaya & Putra, 2025). Furthermore, the implementation of certified electronic signatures also reinforces the principle of digital trust in electronic transactions, which constitutes one of the fundamental pillars supporting the contemporary digital economy.

CONCLUSION

The incorporation of electronic signatures into the Indonesian legal framework represents a significant milestone in facilitating digital transformation within the financing sector. Existing regulatory provisions have formally acknowledged electronic documents as admissible and legitimate evidence in judicial proceedings. Nevertheless, the evidentiary value of electronic signatures is not uniform. A clear distinction exists between certified and uncertified electronic signatures in terms of their probative strength. Certified electronic signatures demonstrate a higher level of reliability because they operate through cryptographic mechanisms and are supported by electronic certificates that ensure both the authentication of the signatory's identity and the preservation of document integrity. Within the framework of fiduciary security, the utilization of uncertified electronic signatures in a Power of Attorney to Impose Fiduciary Security may generate juridical risks, particularly in the form of a reduced evidentiary value of the fiduciary deed. Such a situation may ultimately undermine the executorial enforceability of the fiduciary certificate and weaken the creditor's legal standing in enforcing debt obligations. For this reason, financing institutions should ensure that all documents associated with the establishment of fiduciary security employ certified electronic signatures. In addition, regulatory alignment between the Electronic Information and Transactions Law (UU ITE) and the Notary Position Law is necessary so that the concept of cyber notary can be accommodated more comprehensively within the Indonesian legal system.

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