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INDONESIAN NEW REGULATION ON PRIVATE ELECTRONIC SYSTEM ORGANIZATION

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Previously, the Indonesian Government has issued a regulation regarding the Organization of Electronic Systems and Transactions under Government Regulation Number 71 of 2019. However, such Government Regulation has yet to provide a comprehensive and detailed provision on the organization of electronic systems by private entities. Whereas in reality, the majority of electronic systems are conducted by private entities as online-based businesses continue to grow in its popularity in Indonesia.

Therefore, the Minister of Communication and Information Technology ("**Minister**") recently issued Regulation No. 5 of 2020 on **Private Electronic System Organizers** ("**Minister Regulation 5/2020**"), which revokes and replaces (i) Minister Regulation No. 19 of 2014 on the Handling of Internet Websites Containing Negative Content; and (ii) Minister Regulation No. 36 of 2014 on Registration Procedures for Organizers of Electronic Systems.

Minister Regulation 5/2020 governs that private electronic systems Organizers (*Penyelenggara Sistem Elektronik* – "**Private PSE**") which meet the following criterias shall be registered to the Minister via Online Single Submission (OSS) system:

1. Private PSEs regulated or supervised by the Ministry or institution based on the provisions of laws and regulations; and/or

2. Private PSEs that have portals, sites, or network applications through the internet to be used to:
    a. provide, manage, and/or make offers and/or trade goods and/or services;
    b. provide, manage, and/or operate financial transaction services;
    c. send materials or paid digital content through data networks either by downloading through portals or sites, dispatch through electronic mail, or through other applications to the equipment of the Electronic Systems User;
    d. provide, manage, and/or operate communications systems comprising but not limited to short messages, voice calls, video calls, elektronic mails, and network conversations in the form of digital platform, network services and social media;
    e. search engine services, electronic information services provider in the form of writings, sounds, pictures, animation, music, video, film, and games or combinations thereof in part and/or entirety; and/or
    f. personal data processing for public service operational activities related to electronic transaction activities.

This registration obligation applies not only to domestic Private PSEs, but also applies to all Private PSEs that are domiciled overseas and established according to other foreign laws and regulations, which fulfill the following categories:

1. providing services within the territory of Indonesia;
2. doing business in Indonesia; and/or
3. the electronic system is used and/or offered in the territory of Indonesia.

After the registration requirements as referred to in Articles 2 to 5 are declared complete in accordance with Minister Regulation 5/2020, the Minister will issue a Registration Certificate of Private PSE.

It is noteworthy that Minister Regulation 5/2020 requires all Private PSEs to register their electronic system prior to any utilization of their electronic services by users. However, in the event of such private PSEs have already been established, the said registrations must be completed within 6 (six) months after the enactment of Minister Regulation 5/2020 or by 24 May 2021 at the latest.

Private PSEs are required to provide user information in Indonesian language as regulated. Private PSEs shall ensure that their electronic system does not:

1. contain the electronic information and/or electronic documents that are prohibited by law; and
2. facilitate the distribution of the prohibited electronic information and/or electronic documents.

The failure of private PSEs to comply with the abovementioned requirements shall be followed up with access blocking to their electronic system, as regulated under Minister Regulation 5/2020.