



Digital Trust Newsflash

Risk Assurance / November 2019 / No. 01

The Issuance of Government Regulation No. 71 Year 2019 Regarding Implementation of Electronic System and Transaction

In light of the rapid development of information technology to support digital economy growth and enforcement of state sovereignty over electronic information within Indonesian territory, the Government of Indonesia has issued Government Regulation (GR) No. 71 Year 2019 regarding Implementation of Electronic System and Transaction, which replaces GR No. 82 Year 2012. GR No. 71/2019 regulates the implementation of electronic system, electronic agent, electronic transaction, electronic certification, reliability certification institutions as well as domain name management.

Some of the updates within the new GR No. 71/2019 are as follows:

1. Electronic System Operator has been classified into two categories:
 - a. Private domain
 - b. Public domain
2. Requirement on certification guarantee on spare parts, novelty conditions and defect free product have been removed.
3. New stipulations on personal data protection regarding data processing as written in Article 14 -18.
4. Private domain of electronic system operator may off-shore the management, processing and/or storage of electronic system and data from Indonesia.
5. Electronic agent needs to disclose information related to contract prerequisites, agreement procedure and privacy and/or personal data protection guarantee to protect user's rights.

Implementation of Electronic System

GR No.71/2019 classifies electronic system operators into two categories: public domain and private domain.

- **Public domain** consists of **government institution** and **other institutions appointed by the government** to administer electronic systems for them and on their behalf, excluding financial sector authorities (e.g. BI and OJK).
- **Private domain** consists of an **individual (WNI or WNA), entity or institution that operates the electronic system** that is being used and offered within Indonesian territory.

All electronic system operators are required to register with the Ministry of Communication and Informatics through integrated electronic licensing services before the electronic system is used, within a year after the issuance of this regulation (4 October 2020).

Leaner Requirements on Hardware and Software

Requirements on hardware have become leaner as obligations in the certification from the Ministry of Communication and Informatics, guarantee on spare part, novelty condition and defect free product have been removed. Hardware requirements in GR No.71/2019 are more practical for the operators and could be completed through certification or other similar types of proof, specifically for these aspects:

- a. **Security, interconnectivity and compatibility with the system in use.**
- b. **Technical support, maintenance and/or post-sales services from the seller or provider.**
- c. **Sustainable service guarantee.**

Obligation to administer the software under the Ministry of Communication and Informatics has been removed. Software is required to be guaranteed on its operation's security and capability as well as its sustainability of services.

Expertise Requirement

GR No. 71/2019 explains that **experts** should **have competency in electronic system and information technology** and comply with applicable laws and regulations. In addition to this, within the Regulation of Minister of Communication and Informatics No. 4 Year 2016 regarding Information Security Management System specifies that an Electronic System Operator is required to hire Indonesian experts unless there are no Indonesian experts. Operators may hire foreigners by submitting an application to the Directorate General (*Direktur Jenderal*) no later than 14 working days before the work contract is signed.

Personal Data Protection

Amidst the rapid development of electronic system and its information, the Indonesian Government adds principle on protecting personal data in processing personal data. **Processing personal data** includes processes of:

- **acquisition and collection,**
- **analysis and processing,**
- **storage,**
- **repair and updates,**
- **display, announcement, transfer, distribution or disclosure and**
- **deletion or removal.**

This, in accordance with Law No. 19 Year 2016 regarding Electronic Information and Transaction, GR No. 71/2019, obliges the electronic system operators who have and/or process personal data to delete irrelevant electronic information and/or document based on the personal data owners demand. At the moment, the Indonesian Government has issued draft of Law regarding Personal Data Protection that will further regulate the personal data processing.

From this point of view, **public domain** of electronic system operator must then conduct its management, processing and/or storage of their electronic system and data **within Indonesian territory**, unless the technology for storage is unavailable in Indonesia, as determined by the Ministry. The public domain of electronic system operator must comply with this stipulation within two years after the issuance of this regulation (4 October 2021).

On the other hand, **private domain** of electronic system operator may **off-shore** the management, processing and/or storage of electronic systems and data from Indonesia. However, this stipulation excludes financial services, which then need to refer to the applicable regulations as stipulated by OJK.

Implementation of Electronic Agent

According to the GR No.71/2019, **electronic agents are not required to register to the Ministry**. However, electronic agents must disclose information related to **contract prerequisites, agreement procedure and privacy and/or personal data protection guarantee to protect user's rights**. Moreover, electronic agent must add a feature for users to read agreements before performing a transaction.

Implementation of Electronic Transactions

Similar to the categorisation of electronic system operator, GR No.71/2019 classifies electronic transactions operators into two categories: public domain and private domain. However, there are some differences between the two categories.

- **Public domain** consists of government institution and other institutions appointed by government to administer electronic systems for them and on their behalf, between institutions, between appointed institutions, between institution and appointed institutions, and between institutions with business entities.
- **Private domain** consists of electronic systems between business entities, between business entities and consumers, and between individuals.

An electronic transaction operator is required to take into account the aspects of security, reliability and efficiency.

Glossary:

| | |
|------------------------|---|
| Electronic System | A series of electronic devices and procedure that function to prepare, collect, process, analyse, store, display, announce, send and/or disseminate electronic information. |
| Transaction Electronic | Legal actions that carried out using computers, computers networks and/or electronic media. |
| Electronic Agent | Electronic system device that is made to perform an automatic action on certain Electronic Information held by a person. |
| Personal Data | Any data about a person either identified and/or can be identified separately or combined with other information either directly or indirectly through the electronic and/or non-electronic system. |

Your PwC Indonesia contacts:

Subianto

Digital Services Co-Leader,
Risk Assurance Leader
subianto.subianto@id.pwc.com

Melli Darsa

Legal Services Senior Partner
melli.darsa@id.pwc.com

Adi Pratikto

Inward Investment
and Corporate Services Partner
adi.pratikto@id.pwc.com

Leny Suwardi

Risk Assurance Director
leny.suwardi@id.pwc.com

Andrew Tirtadjaja

Risk Assurance Senior Manager
andrew.tirtadjaja@id.pwc.com

Yoso Nicodemus

Legal Services Senior Manager
yoso.nicodemus@id.pwc.com

Yuliana Sudjonno

Risk Assurance Partner
yuliana.sudjonno@id.pwc.com

Indra Allen

Legal Services Partner
indra.allen@id.pwc.com

Widita Sardjono

Digital Services Co-Leader
widita.sardjono@id.pwc.com

Ravi Ivaturi

Risk Assurance Technical
Advisor
ravi.ivaturi@id.pwc.com

Dewi Andriati

Risk Assurance Senior Manager
dewi.andriati@id.pwc.com

Hengky Antony

Risk Assurance Manager
hengky.antony@id.pwc.com

www.pwc.com/id



PwC Indonesia



@PwC_Indonesia

If you would like to be removed from this mailing list, please reply and write UNSUBSCRIBE in the subject line, or send an email to contact.us@id.pwc.com.

DISCLAIMER: This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

© 2019 KAP Tanudiredja, Wibisana, Rintis & Rekan. All rights reserved. PwC refers to the Indonesian member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.