
KPPU Imposes Record-Breaking Fines on Five-Years Old Transactions

On 1 October 2019, the Indonesian Competition Commission, *Komisi Pengawas Persaingan Usaha* (**KPPU**) imposed a record-breaking fine of IDR20.66 billion (approx. USD1.46 million) on PT Citra Prima Sejati (**CPS**) for its failure to notify the KPPU of two transactions within the required timeframe. These transactions involved CPS's acquisition of two Indonesian mining companies, PT Buana Minera Harvest and PT Mitra Bisnis Harvest, on 24 December 2013 (**Transactions**).

The record-breaking sanction

These fines arise in part as a result of the KPPU's systematic review of previous transactions that had failed to be notified to the KPPU, as we previously reported ([link](#)). The Indonesian Merger Control Rules require companies to notify the KPPU of any mergers, consolidations, or acquisitions (**Mergers**) that meet certain criteria¹ within 30 business days since the Mergers become legally effective. The KPPU decided that both CPS Transactions met these criteria, such that CPS ought to have notified the KPPU no later than 30 business days from 24 December 2013, or 7 February 2014. However, CPS only issued notification on 26 April 2019, 1,220 days (or 5 years, 2 months and 14 days) late. This was, to date, the longest period ever in which a company has failed to notify the KPPU of a Merger. The resulting sanction, IDR10.33 billion (approx. USD0.73 million) for each transaction - IDR 20.66 billion (approx. USD1.46 million) total - marks the highest fine ever issued for a failure to notify the KPPU of a Merger.

Lack of clarity on the Statute of Limitations

The KPPU's website shows that 10 of 15 ongoing cases relate to late notification of past Mergers. The Indonesian Competition Law is silent on the statute of limitations, and these recent cases demonstrate that the KPPU will not hesitate to look back quite far and scrutinize transactions that occurred since the Indonesian Merger Control Rules came into force in 2010. Businesses must be cautious, as their past transactions from 2010 onwards that have not been notified to KPPU may carry the risk of KPPU fines.

1 The criteria are that (i) the parties must not be affiliated with each other, (ii) the transaction results in change of control, (iii) transaction satisfies financial thresholds: combined group assets of IDR2.5 trillion [or IDR20 trillion for Mergers involving banks] or combined group sales of IDR5 trillion, and (iv) for foreign Mergers, the transaction has a direct competitive impact on the Indonesian market. If a Merger meets all these criteria, it must be notified to the KPPU.

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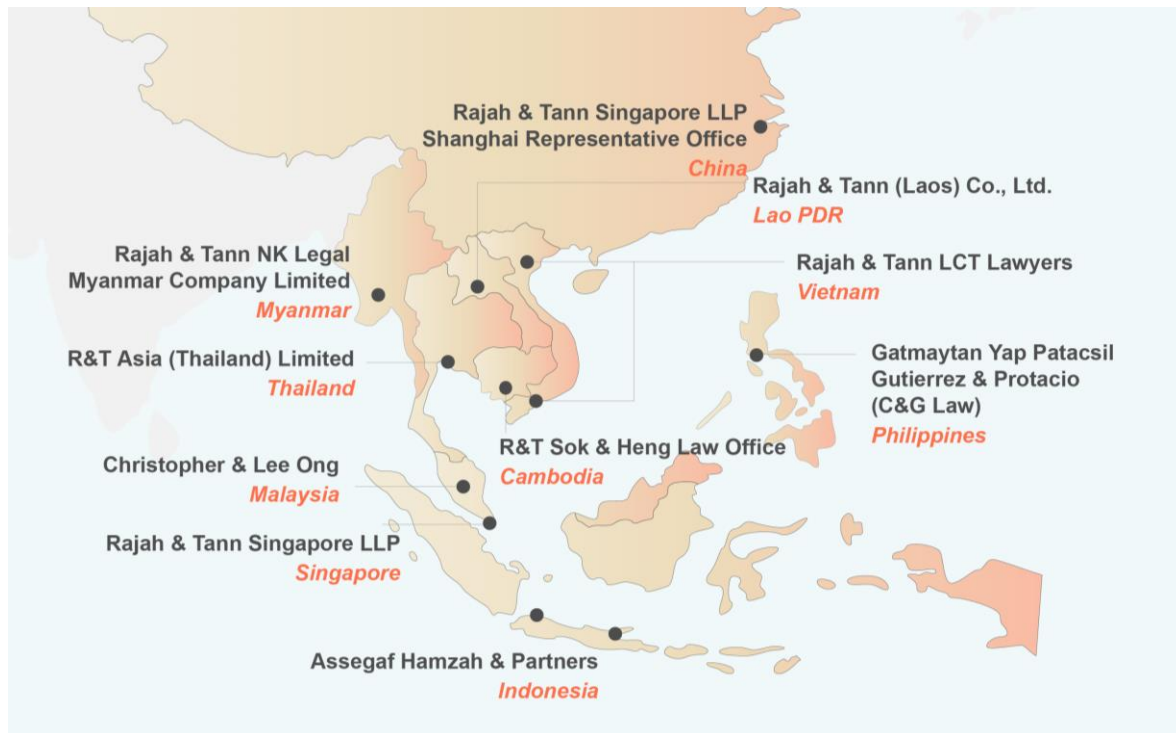
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