

KPPU Resumes Activities Virtually

After shutting shop for almost a month, on 6 April 2020, the Indonesia Competition Commission (KPPU) issued KPPU Regulation No. 1 of 2020 on Electronic Case Handling. This new regulation forms the legal basis for the KPPU in resuming its enforcement activities electronically, and as such, all statutory timelines have resumed. Under this regulation, merger notifications and reviews, case investigation and hearing, and monitoring of partnership agreements (*kemitraan*) can now be done via 'electronic means'.

'Electronic means' here refer to any electronic interaction facilities used by KPPU, including but not limited to, visual teleconference and email. The regulation further specifies that it will apply an e-enforcement to ongoing merger notifications, cases and monitoring.

Merger and Partnership Agreements

The procedures for merger notifications and reviews, and monitoring of partnerships agreement remain the same, but KPPU will now use the various electronic means to interact with the relevant parties.

Case Handling

Submission of an allegation, clarification, investigation, hearing, monitoring on behavioural remedy, and summon can be made through, among others, visual teleconference and electronic documents (basically any document that can be seen, shown or listened via an electronic system) sent to the parties' email addresses. Specifically, witnesses and experts that need to testify under oath are required to take their oath through visual teleconference.

Implementation: Legality and Technicality

We certainly welcomed this regulation, which appears to be the middle ground for KPPU in that it allows it to revive the statutory timelines while observing the government's order of massive social restriction. Nevertheless, the regulation has not addressed certain legal and technical issues, such as how will the KPPU implement a public hearing virtually and whether the parties can still choose not to adopt the electronic case handling procedure. Consequently, we recommend that parties coordinate the technical details of the foregoing enforcement measures with KPPU before engaging in any formal procedure.

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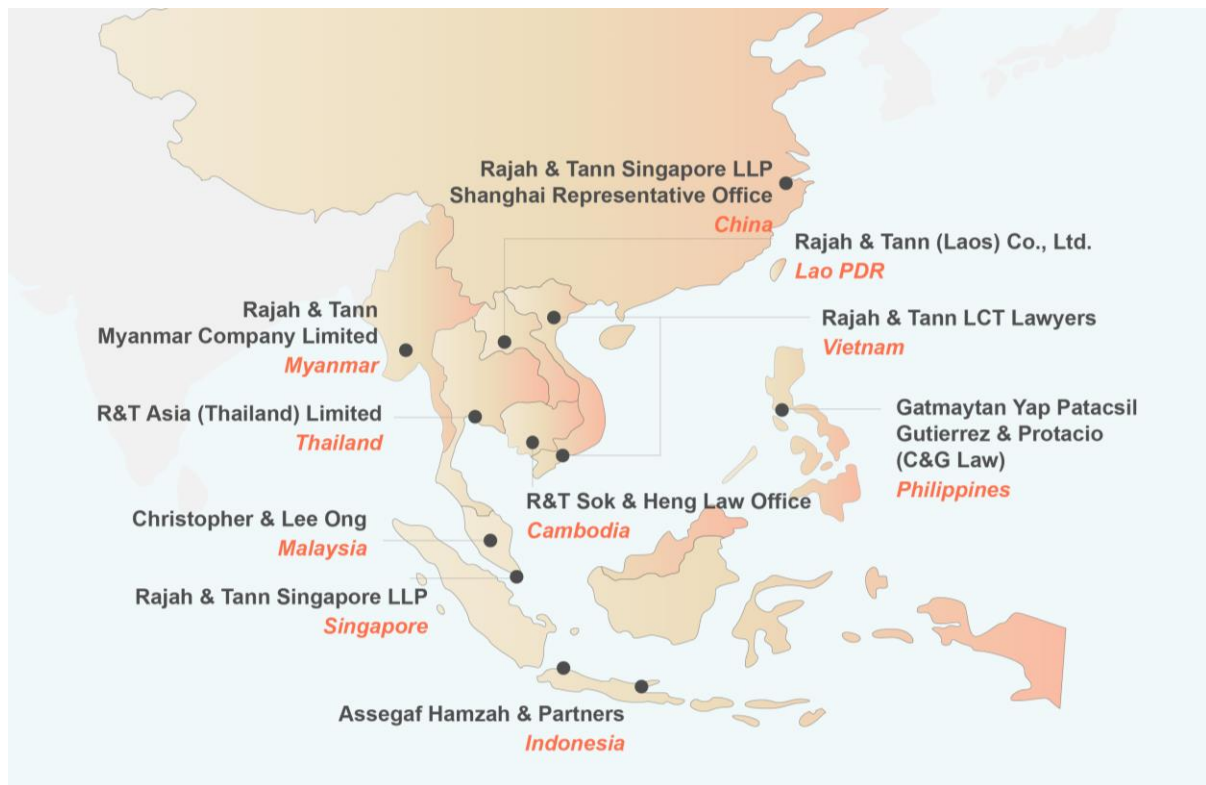
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