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## **THE IMPACT OF THE COVID-19 PANDEMIC ON THE ENFORCEMENT OF THE INDONESIAN MERGER CONTROL RULES**

In relation to the COVID-19 emergency, the Indonesian Commission for the Supervision of Business Competition (“**KPPU**”) has made several adjustments to the enforcement of merger control rules through announcements in its official website and a press release stating that, as of 16 March 2020, they temporarily suspended all law enforcement activities, including notification filing and notification reviewing, until 6 April 2020.

After this temporary suspension period, KPPU announced that it is back in operation as of 7 April 2020. However, in order to prevent the COVID-19 from spreading further, KPPU is currently applying a work-from-home system and aims to maximize the use of electronic media, such as emails, phone calls, and teleconferences in providing its services and in the enforcement of merger control rules. This policy is formalized with the enactment of KPPU Regulation No. 1 of 2020 on Electronic Cases Management which was issued on 6 April 2020. This KPPU Regulation deals not only with merger filing, but also on handling and examination of anti-competition law cases and late merger filing reports, among others.

Further, in its official website, KPPU announces that any consultation services and reports of violations of anti-competition law can be submitted through [infokom@kppu.go.id](mailto:infokom@kppu.go.id) and [pengaduan@kppu.go.id](mailto:pengaduan@kppu.go.id) respectively.

### **How does it affect the enforcement of merger control rules?**

#### *Ongoing notifications*

Under KPPU Regulation No. 3 of 2019, there are 2 (two) review stages after filing: the first one is for KPPU to examine and confirm the completeness of the submitted notification documents (60 working days, at most); the second one, assuming the transaction is notifiable, is for the KPPU to assess the notification (90 working days, at most).

Due to the temporary suspension, the reviewing of all ongoing notifications which were submitted to KPPU before the temporary suspension was also suspended, which means the temporary suspension should not be counted in the 60 or 90 working days review period.

Since the temporary suspension has ended, KPPU will now continue reviewing all ongoing notifications and the 60 or 90 working day review period now continues to apply. However, the parties to the notification (or its counsel) should be prepared if KPPU sends any request for additional information or documents through emails or phone instead of formal letter.

### *Upcoming notification*

Under Article 7 of KPPU Regulation No. 3 of 2019, a merger or consolidation of business entities or an acquisition of shares or assets of other companies causing the asset value or sales value to exceed a certain amount must be reported in writing to KPPU within 30 (thirty) working days of the date on which the merger, consolidation, or the acquisition becomes legally effective. The sanction for failing to notify KPPU on time is set out in Government Regulation No. 57 of 2010 i.e. an administrative fine of Rp1,000,000,000 (one billion Rupiah) for every day that the notification is submitted late with a maximum fine is Rp25,000,000,000 (twenty five billion Rupiah).

KPPU confirmed that, during the above temporary suspension, notification deadlines which fall during this suspension period will be regarded as due on the first working day after the temporary suspension ends (which is 7 April 2020).

Going forward, to the extent possible, KPPU requests for notifications to be submitted through email. Documents for notification filings can be submitted to KPPU by email to [notifikasi.merger@kppu.go.id](mailto:notifikasi.merger@kppu.go.id) at 10.00am to 03.00pm (West Indonesia Time) on working days. Upon receiving the complete notification documents, KPPU will provide a scanned copy of the formal receipt. However, if there is any difficulty or technical error in doing so, notification can still be submitted in hardcopy directly to KPPU's office. In this case, a meeting appointment with KPPU for the submission of notification should be set up prior to the notification.

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