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New Rules on Personal Data Protection in Indonesia - What You Need to Know

On 1 December 2016 the Indonesian Ministry of Informatics and Communication promulgated Regulation No. 20 of 2016 on Personal Data Protection in Electronic Systems ("**Data Protection Regulation**"). Please find below the key provisions that you need to know:

1. **Personal Data being Protected** – the scope of 'personal data' provided under the Data Protection Regulation is quite broad. The regulation define 'personal data' as all correct and real information that are attached to and can be verified against, directly or indirectly, individuals of which its secrecy and correctness are kept, maintained and protected.

2. **Scope of Personal Data Protection** –Personal Data protection governed by the Data Protection Regulation covers the following activities: procurement, collection, processing, analysis, storage, performance, announcement, delivery, distribution, and disposal of personal data (the "**Activities**").

3. **Obligations of Electronic System Providers** – In relation to personal data protection, each electronic system provider that will use personal data in the Activities must, among others:

    a. use a certified electronic system;
    b. has an internal procedures for the protection of personal data;
    c. provide a consent form in Indonesian language for the request of consent from the personal data owner in relation to the use of the personal data in the Activities;
    d. limit collection of personal data in accordance with its purpose;
    e. provide options in the electronic system on whether, unless otherwise provided by the prevailing laws and regulations, the personal data is confidential and whether the personal data owner wish to amend, supplement or renew its personal data;
    f. only collect personal data upon consent from the data owners or as required by the prevailing laws and regulations;
    g. verify correctness of the personal data either directly from the data owners (if the personal data is collected directly from the owners) or from other sources (if the personal data is collected from third parties);
    h. use interoperable and compatible electronic systems and legal software to collect personal data;
    i. encrypt personal data that will be stored;
    j. place its data center and disaster recovery center in Indonesia;
    k. unless othwise provided by the prevailing laws and regulations, to obtain consent and verify the accuracy before its disclose, transmit, broadcast and/or open access of personal data;
    l. applicable only for electronic system provider that is domiciled in Indonesia that wish to transmit personal data outside Indonesia, coordinate with the Ministry of Informatics and Communications or other relevant institutions;
    m. disclose relevant personal data upon valid request from law enforcers;

n. unless otherwised provided in other regulations, dispose personal data after the lapse of five (5) years;
o. maintain accuracy, validity, secrecy, and relevance of personal data;
p. notify the personal data owners of any failure by the electronic system providers to protect secrecy of the personal data;
q. provide audit records of the electronic systems maintained by them; and
r. provide contact persons that can be easily contacted by the personal data owners regarding management of their personal data.

3. **Rights of Personal Data Owners** – Personal data owners are entitled to:

a. the confidentiality of their personal data;
b. submit complaint to the Ministry of Informatics and Communication in respect offailure by electronic data providers to protect secrecy of the personal data;
c. have access or opportunities to amend or renew their personal data;
d. have access to their historical personal data in accordance with the prevailing laws and regulations; and
e. unless otherwise provided by the prevailing laws and regulations, request the disposal of their certain personal data in the electronic system.

4. **Obligations of Personal Data Users** – Pesonal data users must:

a. keep the confidentiality of personal data;
b. make the best use of personal data only for users' main purposes;
c. protect personal data as well as other related documents from any possible misused; and
d. responsible for any misused of personal data in users' possession.

5. **Dispute Resolutions –** Any disputes regarding failure to protect the secrecy of personal data may be submitted to the Ministry of Informatics and Communications for an amicable settlement. The relevant officials must respond to the complaint at the latest of 14 (forteen) business days as of submission of the complaint. If the parties fail to reach an amicable settlement, the relevant parties may submit civil lawsuits to the other parties in accordance with the prevailing laws and regulations.

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