



## SECOND AMENDMENT TO ELECTRONIC INFORMATION AND TRANSACTIONS LAW: KEY PROVISIONS OF LAW NO. 1 OF 2024

In December 2023, the Indonesian House of Representatives passed the Second Amendment of Law No. 11 of 2008 regarding Electronic Information and Transactions which was subsequently promulgated by the President of Indonesia under Law No. 1 of 2024 (“**ITE Law**”) in early January. The regulation came into effect on 2 January 2024.

We highlight below the key provisions of the amendment to the ITE Law:

1. **Exceptions to admissibility of electronic information and/or documents as formal evidence:** the scope of exceptions pertaining to the utilization of electronic information and/or documents as formal evidence before the courts has become broader.
2. **Electronic Certification Operator:** an electronic certification operator for the creation of electronic signatures must now be incorporated as an Indonesian legal entity and domiciled in Indonesia. An exception would only apply in instance where the corresponding electronic certification services are not yet domestically available. The ITE Law also provides more clarity for the mutual recognition of the electronic certificates from other countries by virtue of bilateral or multilateral agreement(s).
3. **High-risk electronic transactions:** where an electronic transaction entails a high level of risk (e.g., virtual financial transactions which do not involve offline face-to-face contact), the involved parties are required to utilize electronic signatures that are secured by electronic certificates (certified electronic signature).
4. **International Electronic Contract:** a standard clause international electronic contract shall be governed by Indonesian Law if certain requirements are fulfilled including that the service users originate from Indonesia and grant its consent from or within the Indonesian jurisdiction. The ITE Law also requires that the electronic contract should be prepared in a simple, clear and conducive language to ease understanding.
5. **Criminal Acts:** the ITE Law addresses several criminal acts provisions, encompassing *inter alia* defamation, hate speech, false news and dissemination of electronic information and/or documents containing threat, violence, intimidation and illicit contents. Certain exemptions may be applicable if the acts are performed in the framework of self-defence, for public interest (such as expression of democratic rights) and the electronic information pertains to artistic, cultural, sports, health and/or scientific works.



6. **Government Monitoring:** the Government of Indonesia now has been empowered to order the electronic system operators to terminate access and/or independent content moderation if the electronic information and/or documents contains unlawful (e.g., pornography and gambling) or threatening and dangerous content. The Government is also vested with the authority to issue an order directing the electronic system operator to carry out adjustments of its electronic system in the event of non-compliance. Non-compliance towards the foregoing directives may pose the electronic system operator towards administrative sanctions ranging from written reprimand, administrative fines, temporary suspension; and/or termination of access.

As the Law only sets out fundamental rules, therefore implementing regulations on certain provisions under the ITE Law are still anticipated to be issued in the course of time.

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