

NEWSLETTER

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ALTERNATIVE PROCEDURE FOR REGISTERING LAND SECURITY RIGHTS IN INDONESIA

The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency “**MoA**” has issued the Regulation No. 9 of 2019 concerning Electronically Integrated Security Rights Services (“**MoAR No. 9/2019**”) which has been in force since 21 June 2019.

Furthermore, in the MoAR No. 9/2019, Electronically Integrated Security Rights Services “**HT-el**” is described as the process of integrated security rights services in order to maintain land registration data held through an integrated electronic system.

The provisions regarding security rights has been regulated under the Law Number 4 of 1996 on Security Right (“**UUHT**”), the provisions under UUHT govern conventional services mechanism of security right. The differential exposure of the enactment of MoAR No. 9/2019 results significant points, as follows:

- **HT-el is an innovation of land registration system.** The electronically integrated security rights services mechanism through HT-el is a one step ahead of information technology services provided by MoA in the processing and transacting of security right services with the aim to simplify the process of maintaining land registration’s data and meet with the principles of transparency, timeliness, efficiency, convenience and affordability.
- **HT-el is not a compulsory way but an alternative procedure.** Article 3 (2) of MoAR No. 9/2019 explains that security right services may carried out through HT-el which makes HT-el as an alternative of service process in the context of maintaining land registration’s data in a non-conventional way. Currently MoA encourages all the security rights’ holder to register their security rights by using HT-el, especially for banks which exercise the registration of security rights as their day to day operation.
- **The System of HT-el is not fully electronic procedure, manual submission is still needed.** In the Article 4 of MoAR No. 9/2019, the HT-el is carried out by the land office at the determination of the MoA with the readiness of supporting data. Article 4 of MoAR No. 9/2019 explains that the process of HT-el itself is not fully conducted electronically and still require some manual submissions.
- **The user of HT-el shall be registered as registered user.** Based on Article 7 (3) of MoAR No. 9/2019, certification of registration from the Financial Services Authority/*Otoritas Jasa Keuangan* is one of the requirements to be a registered user of HT-el.

The other requirements for being a registered user are having electronic domicile, statement of the fulfillment of requirement and criteria and also approval as registered user, and other conditions as set by MoA. Having perused the requirements to be a

registered user, we believe that the registered user is not for everybody who wants to register the security rights.

- **The object of HT-el shall be owned by the Debtor.** Article 9 (5) of MoAR No. 9/2019 explains that the registration's requirement in the context of land rights certificate or freehold title of apartment unit shall be under the name of the debtor. This provision is significant compared to the requirement regulated under UUHT in Article 8 (1) which does not limit the subject of security right's grantor.

Pursuant to the Article 6 of MoAR No. 9/2019, the types of services that can be submitted through HT-el system are as follows:

- a. The Registration of Security Rights;
- b. The Transfer of Security Rights;
- c. The Change of Creditor's Name; and
- d. The Deletion of Security Rights (*Roya*).

Article 10 of MoAR No. 9/2019 stipulates that the Deed of Granting of Security Rights/ *Akta Pemberian Hak Tanggungan* ("APHT") is one of the requirements for registering security rights, and that the APHT shall be submitted in the form of electronic document.

Based on Article 13 and Article 14 of MoAR No. 9/2019, the output products of registration of security rights are as follows:

- a. Security Rights Certificate; and
- b. The Note of Security Rights on the Land Book/*buku tanah* and Land Certificate or Free Hold Title of Apartment Unit ("**Security Rights Note**").

The registration of security rights can be done by creditor by printing the Security Rights Note that is issued by HT-el system, such creditor is obliged to attach the Security Rights Note in the land certificate or free hold title of apartment unit. The Security Rights Note and Security Rights Certificate shall be deemed as 1(one) document.

The output product of the other type of services other than the registration of security rights is regulated in the Article 16 of MoAR No. 9/2019. The security right certificate as the result of the transfer of security rights, or the deletion of partial of security rights shall be issued with the same number with the latest security right certificate. The previous security rights certificate will be marked as this certificate is no longer valid.

If you have any queries or would like us to assist you with any aspects of HT-el, please feel free to send your queries through info@yangandco.com.