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Validity of the Shopee PayLater Agreement for People with Schizophrenia and the Legal Liability of the Provider

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Abstract

The development of technology-based financial services, particularly "buy now, pay later" facilities, has opened up broader access to financing but has also raised new legal issues when users of such services have mental health conditions that render them legally incompetent. This article examines two issues. First, the validity of the Shopee PayLater agreement entered into by Eny Erwati, a person with schizophrenia, as assessed against the requirements for a valid contract under Article 1320 of the Civil Code. Second, the liability of the SPayLater provider for failing to mitigate risks regarding users who lack legal capacity. This study employs a normative legal method using a statutory and case-law approach. The results of the study indicate that the SPayLater agreement between the debtor and the operator may be rescinded because the capacity requirement is not met under Article 1320 in conjunction with Article 433 of the Civil Code, although recent developments through Constitutional Court Decision No. 93/PUU-XX/2022 affirm that mental disability does not automatically negate a person's legal capacity. On the other hand, PT Shopee, as the service provider, may be deemed negligent for failing to implement adequate risk mitigation measures after receiving reports of a user's mental health condition, as required by Article 35(5) of OJK Regulation No. 10/POJK.05/2022.

Introduction

Digital transformation in the financial sector has given rise to various new financing instruments that operate entirely within a digital ecosystem. One of the fastest-growing forms is the "buy now, pay later" service, which is widely known in Indonesia through the Shopee PayLater (SPayLater) feature. This service allows consumers to obtain goods or services first and pay for them later, thus serving as a credit alternative without a credit card, featuring

a fast process that is entirely electronic-based.[1] This ease of access is both the main attraction and a potential risk from a civil law perspective.

Under Indonesian civil law, the validity of a contract requires the fulfillment of four elements set forth in Article 1320 of the Civil Code (*KUHPerdata*), namely: mutual consent, the legal capacity of the parties, a specific subject matter, and a lawful cause. When one of the parties to the contract is a person suffering from a severe mental disorder such as schizophrenia, the requirement of legal capacity becomes a central issue that must be thoroughly examined. The requirement of legal capacity is a subjective requirement; failure to meet this requirement may result in a request for the contract's annulment.[2]

The case under review here is the SPayLater agreement between Eny Erwati, as the debtor, and PT Commerce Finance, as the creditor, facilitated by PT Shopee as the service provider. Eny had exhibited symptoms of a mental disorder since 2006 and was diagnosed with schizophrenia by a psychiatrist in June 2021. Although her son, Muhammad Rifqi, had reported this condition to Shopee, the SPayLater service continued to operate, and Eny's credit limit increased, resulting in a bill of Rp18,663,460 in August 2021. In November 2021, the North Jakarta District Court, through Ruling No. 559/Pdt.P/2021/PN Jkt.Utr., placed Eny under guardianship and appointed Rifqi as her guardian.[3]

Several previous studies have examined the issue of legal capacity from various perspectives. Siswanta et al. (2024) examined the legal capacity of individuals with bipolar disorder under civil law[4]; Rositasari et al. (2024) analyzed the validity of SPayLater agreements from the perspective of the Civil Code in general[5]; and Swibawa et al. (2026) discussed legal protection for individuals with mental disorders in the context of inheritance law.[6] These three studies have not specifically linked the analysis of the validity of digital agreements in concrete cases with the dimension of the provider's liability for

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[1] M. J. Rizki, "Mengenal Seluk-Beluk Metode Pembayaran Paylater," 2022, https://www.hukumonline.com/berita/a/mengenal-seluk-beluk-metode-pembayaran-paylater-lt62b38de487e65/.

[2] Vina N. Senda, S. Sopiani, and M. F. Muzzami, "Implikasi Hukum Ketidakterpenuhan Syarat Subjektif Dalam Pasal 1320 Kitab Undang-Undang Hukum Perdata Terhadap Keabsahan Perjanjian," *Letterlijk: Jurnal Hukum Perdata* 1, no. 2 (2024): 103.

[3] Penetapan Nomor 559/PDT.P/2021/PN JKT.UTR (2021).

[4] A. R. L. Siswanta et al., "Kecakapan Hukum Bagi Penderita Gangguan Bipolar Dalam Perspektif Hukum Perdata," *Prosiding Nasional 2024 Universitas Abdurachman Saleh Situbondo*, 2024, 87.

[5] Nada D. Rositasari, Benny Djaja, and Muhammad Sudirman, "Kelayakan Perjanjian S Paylater Ditinjau Kitab Undang-Undang Hukum Perdata," *Jurnal Sosial Dan Teknologi* 4, no. 12 (2024): 1064–72.

[6] K. A. A. M. Swibawa et al., "Perlindungan Hukum Terhadap Individu Sebagai Penyandang Gangguan Kejiwaan Terkait Hak Waris Berdasarkan Kitab Undang-Undang Hukum Perdata," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 49–60.

negligence in risk mitigation. The novelty of this article lies in its analysis of these two issues, considering the latest legal developments, particularly Constitutional Court Decision No. 93/PUU-XX/2022[7] and PERMA No. 2 of 2025.[8]

Based on this discussion, this article formulates two research questions: (1) How valid is an SPayLater agreement entered into by a person with schizophrenia in light of the requirements for a valid agreement under Article 1320 of the Civil Code; and (2) What is the liability of SPayLater service providers for failing to mitigate risks for users who lack legal capacity?

Methods

This study employs a normative legal method, which focuses on the analysis of applicable legal norms as primary data.[9] The approaches used are *the statutory and case approaches*. Primary legal sources include the Civil Code, Law No. 8 of 2016 on persons with disabilities, Financial Services Authority Regulation No. 10/POJK.05/2022 on Information Technology-Based Crowdfunding Services, PERMA No. 2 of 2025, Constitutional Court Decision No. 93/PUU-XX/2022, and Court Ruling No. 559/Pdt.P/2021/PN Jkt.Utr. Secondary legal sources include academic literature, legal journals, and relevant online articles. The analysis prescriptively involves interpreting and evaluating applicable legal norms in relation to the facts of the case.

Results and Discussion

1. Validity of the SPayLater Agreement Entered into by a Person with Schizophrenia as Viewed from Article 1320 of the Civil Code

The definition of a contract is set forth in Article 1313 of the Civil Code, which reads: *"A contract is an act whereby one or more persons bind themselves to one or more other persons."*[10] Based on this provision, a contract creates a legal relationship between the parties, in which one party is entitled to demand performance and the other party is obligated to fulfill that demand.[11]

In the context of contemporary contract development, SPayLater is a form of electronic contract classified as a *"buy now, pay later"* service.

[7] Putusan Mahkamah Konstitusi Nomor 93/PUU-XX/2022 (2022).

[8] Peraturan Mahkamah Agung Nomor 2 Tahun 2025 Tentang Pedoman Mengadili Perkara Bagi Penyandang Disabilitas Berhadapan Dengan Hukum Di Pengadilan (2025).

[9] Djumikasih, I. K. O. Setiawan, and Komariah, *Buku Ajar Hukum Perdata* (Malang: UB Press, 2022), 42.

[10] Kitab Undang-Undang Hukum Perdata.

[11] I. K. O. Setiawan, *Hukum Perikatan* (Jakarta: Sinar Grafika, 2016), 62.

PayLater is a technology-based financing or lending service that allows users to obtain goods or services first and pay for them later.[12] Legally, the *pay-later* mechanism establishes a contractual relationship between the consumer as the debtor and the fund provider as the creditor, which is formalized through an electronic agreement. SPayLater is specifically regulated under Article 1, point 8 of POJK No. 10/POJK.05/2022, which defines the operator as a legal entity that provides, manages, and operates information technology-based collaborative funding services—that is, services that directly connect fund providers and fund recipients through an electronic system using the internet.

Although conducted digitally, the SPayLater agreement must still meet all the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code. In the case of Eny Erwati, three parties are involved in the SPayLater scheme: (1) Eny Erwati as the debtor/recipient of financing; (2) PT Commerce Finance as the creditor/lender; and (3) PT Shopee as the P2P lending operator that provides the platform, connects users with PT Commerce Finance, and manages the SPayLater credit facility.

There are several requirements for a contract under the Civil Code. These requirements are classified into subjective and objective requirements. Subjective requirements consist of the existence of an agreement and the legal capacity of the parties.[13] First, regarding the existence of an agreement, this refers to the alignment of the parties' intentions to bind themselves to a contract, which must be free from coercion, fraud, or mistake, as stipulated in Article 1321 of the Civil Code.[14] In this case, Eny Erwati activated SPayLater through data verification and electronically accepted the terms of service. Therefore, the formal requirement of consent has been met.

The second requirement in this case is the legal capacity of the parties, namely a person's ability to perform legal acts. In principle, every person is deemed legally competent, unless the law states otherwise. The Civil Code identifies several categories of persons who lack legal capacity[15], including (1) minors[16] and (2) persons under guardianship.[17] As for married women, since the issuance of SEMA No. 3 of 1963 and the entry into force of Article 31 of

[12] Rizki, "Mengenal Seluk-Beluk Metode Pembayaran Paylater."

[13] Vika Nur Senda, Susi Sopiani, and Mochamad Fajar Muzzami, "Implikasi Hukum Ketidakterpenuhan Syarat Subjektif Dalam Pasal 1320 Kitab Undang-Undang Hukum Perdata Terhadap Keabsahan Perjanjian," *Letterlijk: Jurnal Hukum Perdata* 1, no. 2 (2024): 103–15.

[14] Aulia A. Rahma, "Indikasi Cacat Kehendak Sebagai Alasan Pembatalan Perjanjian Pranikah Dalam Perkawinan Campuran," *Media Hukum Indonesia (MHI)* 4, no. 2 (2026): 239.

[15] Imma Indra Dewi W., "Pelaksanaan Hak Dan Kewajiban Perdata Orang Yang Tidak Cakap Hukum Di Kabupaten Sleman," *Mimbar Hukum* 20, no. 3 (2008): 411–588.

[16] Pasal 330 KUHPerdata menetapkan bahwa orang yang belum dewasa adalah orang yang belum berusia 21 tahun dan belum menikah.

[17] Lihat Pasal 433 KUHPerdata

the Marriage Law, the legal status of married women has been made equal to that of men, thereby granting them the authority to perform legal acts independently.[18]

Article 433 of the Civil Code states: "*Any adult who is permanently mentally deficient, insane, or blind must be placed under guardianship, even if they are occasionally capable of using their reason. An adult may also be placed under guardianship due to profligacy*." This provision lists four categories that constitute grounds for guardianship: mental disability, insanity, blindness, and profligacy.[19]

Mental disability is a condition of impaired thinking or intellectual capacity, rendering a person unable to understand legal consequences or manage their own legal interests. Insanity is a mental disorder that impairs a person's ability to assess reality reasonably, rendering them unable to manage their affairs, make decisions, or protect their own legal interests.

"Loss of self-control," on the other hand, refers to a state of extreme loss of self-control that reflects a person's inability to think clearly and rationally when making decisions. "Prodigality" is a person's inability to manage their assets reasonably, resulting in economic loss or a significant risk of loss.

Schizophrenia is a severe mental disorder that can affect a person's ability to think, understand situations, make decisions, and control their behavior.[20] The word "schizophrenia" itself comes from the Greek: *schizo* (split/divided) and *phrenia* (related to the mind/soul). Under certain conditions, individuals with schizophrenia have difficulty understanding the legal consequences of their actions because they experience impaired judgment regarding reality and struggle to distinguish between what is real and what is not..[21] Schizophrenia substantially falls under the category of "insanity" as defined in Article 433 of the Civil Code, meaning that those affected should be under guardianship and lack the legal capacity to perform legal acts.[22]

In the case of Eny Erwati, symptoms of mental illness had been evident since 2006, including frequent daydreaming, withdrawal from social interactions, talking to herself, frequent outbursts of anger without a clear

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[18] Aisyah Sofia, "Akta Sewa Menyewa Dengan Objek Harta Bersama Yang Dibuat Tanpa Persetujuan Pasangan (Studi Kasus: Putusan Mahkamah Agung Republik Indonesia Nomor: 1111/K/Pdt/2018)," *Indonesian Notary* 2, no. 5 (2020): 582–604.

[19] Swibawa et al., "Perlindungan Hukum Terhadap Individu Sebagai Penyandang Gangguan Kejiwaan Terkait Hak Waris Berdasarkan Kitab Undang-Undang Hukum Perdata," 54.

[20] Puspita Sari, "Dinamika Psikologi Penderita Skizofrenia Paranoid Yang Sering Mengalami Relapse," *Psikoislamedia Jurnal Psikologi* 4, no. 2 (2019): 124–36.

[21] Sari, 127.

[22] Swibawa et al., "Perlindungan Hukum Terhadap Individu Sebagai Penyandang Gangguan Kejiwaan Terkait Hak Waris Berdasarkan Kitab Undang-Undang Hukum Perdata," 55.

cause, and exhibiting a pattern of thinking that was difficult to understand. In June 2021, Eny was diagnosed with schizophrenia by a psychiatrist, and in November 2021, she was placed under guardianship under Order No. 559/Pdt.P/2021/PN Jkt.Utr. Based on these facts, Eny's capacity to understand the legal consequences of using SPayLater warrants serious scrutiny.

The final requirement is a specific subject matter and a lawful cause. The subject matter of the SPayLater agreement is a financing facility or credit limit that gives rise to an obligation to pay bills; thus, it has a clear subject matter whose nature can be determined. Therefore, it can be concluded that the requirement for a specific subject matter has been met. As for the purpose of the agreement, the provision of a payment facility for shopping transactions, it does not conflict with laws and regulations, public order, or public morality; thus, the requirement of a lawful cause is also met.[23]

Thus, of the four requirements for a valid agreement under Article 1320 of the Civil Code, the requirement not met in the SPayLater agreement between Eny Erwati and PT Commerce Finance is legal capacity. Since legal capacity is a subjective requirement, the failure to meet this requirement renders the agreement voidable (*vernietigbaar*), rather than automatically null and void.[24]

Recent legal developments have introduced an important nuance through Constitutional Court Decision No. 93/PUU-XX/2022. Before this decision, Article 433 of the Civil Code was interpreted rigidly, such that individuals with mental retardation, brain disorders, or blindness were deemed to automatically lose their legal capacity. Following the Constitutional Court's decision, the interpretation has changed: individuals with mental and/or intellectual disabilities do not automatically lose their legal capacity, and guardianship may only be imposed if the person's specific condition genuinely requires legal protection, as determined by an objective judicial assessment.

The significance of this change can be explained as follows:

a) The phrase "in a state of mental retardation, brain disease, or blindness" must not be interpreted discriminatorily;
b) People with mental or intellectual disabilities do not automatically lose their legal capacity;

[23] Bernadetha A. Oktavira, "4 Syarat Sah Perjanjian Dan Akibatnya Jika Tak Terpenuhi," 2025, https://www.hukumonline.com/klinik/a/4-syarat-sah-perjanjian-dan-akibatnya-jika-tak-dipenuhi-cl4141/.

[24] Vina N. Senda, Sopiani, and Muzzami, "Implikasi Hukum Ketidakterpenuhan Syarat Subjektif Dalam Pasal 1320 Kitab Undang-Undang Hukum Perdata Terhadap Keabsahan Perjanjian," 108.

c) Guardianship must be based on a direct assessment of the person in question as well as objective evidence, such as medical evidence

Law No. 8 of 2016 on Persons with Disabilities reinforces this perspective. The Explanatory Notes to Article 4(c) of the Act clarify that a person with a mental disability experiences impairments in cognitive, emotional, and behavioral functions, including psychosocial disorders such as schizophrenia, bipolar disorder, depression, anxiety, and personality disorders. A mental disability may serve as a basis for guardianship only if it is proven to impair a person's ability to understand, make decisions, and act legally, not merely because of the diagnostic label itself..[25]

PERMA No. 2 of 2025 on Guidelines for Adjudicating Cases Involving Persons with Disabilities in Legal Proceedings in Court reinforces this post-Constitutional Court ruling approach with the provision that, a petition for guardianship regarding a person with a mental or intellectual disability must be accompanied by the results of a mental health examination, the judge must physically examine requests for a direct statement from the person with a disability, if a statement cannot be provided due to the disability, the judge may conduct an examination at the person's residence or postpone the examination, a petition for guardianship may be denied if the examination results indicate that the person with a disability is still legally competent; and the prospective guardian must also be assessed as capable of acting as a guardian.

The implication for Eny Erwati's case is that even though Eny suffers from schizophrenia and has been placed under guardianship, the assessment of her legal capacity at the time the SPayLater agreement was entered into must still be based on medical evidence and the judge's assessment. If, in the judge's assessment, Eny is deemed legally competent, guardianship need not be granted, and the agreement she entered into is valid. However, given the fact that symptoms of a mental disorder had appeared long before the activation of SPayLater, that Eny had no job or income, that a diagnosis of schizophrenia had been established by a psychiatrist, and that the guardianship was subsequently confirmed by the court, the presumption of Eny's legal incapacity at the time the agreement was entered into is very strong. The SPayLater agreement between Eny and PT Commerce Finance can therefore be sought to be rescinded through legal channels.

[25] Anggitariani Rayi Larasati Siswanta et al., "Kecakapan Hukum Bagi Penderita Gangguan Bipolar Dalam Perspektif Hukum Perdata," *Prosiding Nasional 2024 Universitas Abdurachman Saleh Situbondo*, 2024, 87.

2. SPayLater Provider's Liability for Failure to Mitigate Risks for Legally Incapacitated Users

As an P2P lending provider, PT Shopee by the legal obligations set forth in POJK No. 10/POJK.05/2022. Under Article 1, point 8 of the said regulation, a provider is a party that provides, manages, and operates P2P lending services. The provider's obligations include. verifying users, implementation of risk mitigation measures, provide protection to users, provide services in accordance with applicable laws.

Furthermore, Article 35(5) of POJK No. 10/POJK.05/2022 explicitly states that "The provider must ensure alignment between the needs and financial capacity of the fund recipient." This provision places an active responsibility on the provider to ensure that the services provided align with the user's actual circumstances and financial capacity, rather than relying solely on formal data self-reported by prospective users.

The SPayLater activation process does indeed require several verification steps. These steps range from account activation, one-time password verification, photo ID and facial verification, filling out employment and address information, providing emergency contact details, and agreeing to the activation contract. However, this verification process only verifies the user's identity and does not verify legal capacity, mental condition, or actual ability to pay bills.[26] Such formal verification procedures are insufficient to fulfill the obligation to *"ensure alignment between the recipient's needs and financial capacity*," as mandated by Article 35(5) of POJK No. 10/POJK.05/2022.

In this case, there are two stages that should have been critical moments for the service provider to mitigate risks but were not implemented.

The first stage was during service activation. At this stage, the provider should have assessed the user's eligibility more comprehensively; relying solely on an ID card, OTP, and self-reported formal data was insufficient. The fact that Eny had no job and no steady income should have served as an early warning sign of credit risk.

The second stage was after the family reported the debtor's mental health condition. In June 2021, Rifqi directly informed Shopee's Customer Service that Eny suffered from schizophrenia and requested that the SPayLater service be suspended. This notification was a risk signal and should have prompted the provider to take mitigation steps, including:

(a) temporarily suspending the service;

(b) postponing a limit increase;

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[26] Siti Laela, "Perlindungan Hukum Bagi Pelaku Usaha Penyelenggara Fintech Peer to Peer Lending," *Iblam Law Review* 2, no. 2 (2022): 228.

(c) requesting additional clarification;
(d) forwarding the report to the financing party; and (e) reassessing the user's eligibility.

However, the opposite occurred: the family's report was not adequately followed up, the SPayLater service continued, Eny's credit limit was even suspected of having increased, and a new bill totaling Rp18,663,460 appeared in August 2021. These circumstances indicate negligence on the part of the service provider regarding the risk of default and the protection of vulnerable consumers.[27]

This failure to mitigate risks can also be examined from the perspective of the principle of good faith (*goede trouw*), as stipulated in Article 1338 of the Civil Code.[28] An agreement is not sufficiently fulfilled merely by formally adhering to the terms and conditions of service; rather, it must consider: (1) fairness; (2) prudence; (3) protection of vulnerable users; and (4) the user's ability to meet payment obligations.[29]

If the service provider and/or creditor is aware of the risk of a user's inability to pay but still allows the service to continue, such actions may be deemed a failure to perform the agreement in good faith.[30] Similarly, charges incurred after notification of a user's unsuitable condition cannot be immediately and fully imposed on the user or their family without evaluating the service provider's responsibility in creating that situation.

Organizers who fail to adequately mitigate risks may be held administratively and civilly liable.[31] First, regarding administrative liability. Article 41(1) of POJK No. 10/POJK.05/2022 stipulates that operator who violate their obligations may be subject to administrative sanctions in the form of: written warnings, restrictions on business activities, or even revocation of their license. Organizers who fail to ensure alignment between the needs and capabilities of fund recipients may be deemed to have violated these administrative obligations.

Next, regarding civil liability. The operator's negligence impacts civil relationships. If the contract is sought to be rescinded because the capacity requirement is not met, the following must be assessed: who bears the risk of

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[27] Wirda H. Sianipar, "Penerapan Asas Itikad Baik Dalam Perjanjian Sewa-Menyewa Ditinjau Berdasarkan Pasal 1338 Kitab Undang-Undang Hukum Perdata," *Jurnal Rectum* 3, no. 2 (2021): 408.

[28] Sianipar, "Penerapan Asas Itikad Baik Dalam Perjanjian Sewa-Menyewa Ditinjau Berdasarkan Pasal 1338 Kitab Undang-Undang Hukum Perdata."

[29] Sianipar, 411.

[30] Hukumonline, "Pelaksanaan Suatu Perjanjian: Pelaksanaan Perjanjian Dengan Itikad Baik," 2018, https://www.hukumonline.com/berita/a/pelaksanaan-suatu-perjanjianpelaksanaan-perjanjian-dengan-iktikad-baiklt5a619e7c6d757/.

[31] Rositasari, Djaja, and Sudirman, "Kelayakan Perjanjian S Paylater Ditinjau Kitab Undang-Undang Hukum Perdata."

the debt, whether the user actually received any benefit, whether the operator contributed to the loss, and whether the service continued after the risk information was provided. The service provider may be held civilly liable for failing to adequately mitigate risks for users who are reasonably suspected of being incompetent and unable to fulfill their payment obligations.

It should be noted that service providers face certain limitations: the platform lacks the medical capacity to diagnose mental disorders; accounts cannot be immediately closed based solely on third-party reports; and privacy, authorization, and potential misuse of reports must be considered. However, these limitations do not exempt the platform operator from the obligation to at least implement minimal mitigation measures, such as internal risk reporting, temporarily suspending services, reassessing credit limits, requesting additional clarification from users/borrowers, and escalating cases to the financing party.[32] The absence of these measures in the case of Eny Erwati strengthens the indication of negligence on the part of the platform operator.

Conclusions

First, an SPayLater agreement entered into by a person with schizophrenia may be rescinded because the capacity requirement under Article 1320 of the Civil Code has not been met. The condition of schizophrenia, profligate behavior, and the establishment of guardianship through Decision No. 559/Pdt.P/2021/PN Jkt.Utr., taken cumulatively, indicates that the debtor is presumed incapable of understanding the legal consequences of using SPayLater. Constitutional Court Decision No. 93/PUU-XX/2022 stipulates that mental disability does not automatically negate a person's legal capacity; guardianship may only be imposed if a judge objectively determines, supported by medical evidence, that the individual genuinely requires protection through the guardianship mechanism. In this case, the available evidence is sufficiently strong to support the annulment of the agreement. Second, the SPayLater provider appears to have been negligent by failing to implement adequate risk mitigation measures after receiving reports regarding the user's mental health condition. This negligence violates Article 35(5) of POJK No. 10/POJK.05/2022 and contravenes the principle of good faith in the performance of the agreement. The forms of liability that may be sought from the operator include a reassessment of the user's eligibility, suspension of services, adjustment of bills, and potential administrative sanctions in the form of written warnings, restrictions on business activities,

[32] Laela, "Perlindungan Hukum Bagi Pelaku Usaha Penyelenggara Fintech Peer to Peer Lending," 231.

or revocation of the license, as stipulated in Article 41(1) of POJK No. 10/POJK.05/2022.

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