

CLIENT UPDATE:

August 2016

MINISTER OF TRADE REGULATION ON DISTRIBUTION OF GOODS

Background

The Ministry of Trade has issued Regulation No. 22/M-DAG/PER/3/2016 dated 28 March 2016 on General Provisions for the Distribution of Goods ("**Regulation 22/2016**") to further regulate distribution of goods throughout Indonesia as instructed by Article 11 of Law No. 7 of 2014 on Trade.

Although not stipulated in the text, based on verbal confirmation from the Department of Trade ("**DOT**") Regulation 22/2016 has come into force starting 4 April 2016.

Key Points

This note is intended to give an overview on how distribution of goods should be conducted in Indonesia based on Regulation 22/2016 as follows:

1. Goods distribution chain

Regulation 22/2016 stipulates that goods distribution can be conducted in two ways:

1.1. Indirect Distribution – this is carried out through:

(a) General distribution chain that consists of:

- (i) **Distributors' chain of distribution** which involves distributors, sub-distributors, wholesale agents (*perkulakan*), wholesalers (*grosir*), and retailers (*pengecer*); and
- (ii) **Agents' chain of distribution** which involves agents, sub-agents, wholesale agents, wholesalers, and retailers.

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Generally, the difference between “distributor” and “agent” is that, in conducting marketing activities, Distributor acts on behalf of his name or based on the appointment by manufacturer or suppliers or importer through a contract, while Agent acts as an intermediary for and on behalf of the party who has appointed the agent based on a contract.

(b) Franchise distribution chain which involves franchisor, sub-franchisor, franchisee and sub-franchisee.

Please note that the general distribution chain can only be performed based on contracts, appointments, or other written evidences of the transaction. The distributions are restricted as follows:

- (a) Distributors can only distribute the goods to: sub-distributors, wholesalers, wholesale agents, and/or retailers;
- (b) Sub-distributors can only distribute the goods to: wholesalers, wholesale agents, and/or retailers;
- (c) Agents can only distribute the goods to: sub-agents, wholesalers, wholesale agents, and/or retailers; and
- (d) Sub-Agents can only distribute the goods to: wholesalers, wholesale agents, and/or retailers.

There is a set of requirements that must be fulfilled by the above parties before they can distribute the goods, i.e., they must have licenses from the relevant authorities, they must own or possess warehouses (for distributors only).

1.2. Direct Distribution

Direct distribution is carried out by means of either “single-level marketing” or “multilevel marketing.” This type of distribution can only be executed by official sales agents who are in possession of exclusive distribution rights. Parties that intend to operate this direct-distribution chain should be in the form of limited liability companies (PT) and possess the direct-sale licenses from the relevant institution.

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2. Restrictions

Regulation 22/2016 also regulates certain prohibitions for parties in distributing the goods as follows:

- Distributors, sub-distributors, wholesalers, wholesale agents, agents and sub-agents are prohibited from distributing goods directly to consumers.
- Agents and sub-agents are prohibited from transferring the rights over the goods owned/possessed by manufacturers or foreign suppliers, and manufacturers or importers that have appointed them.
- Indirect distributors are prohibited from distributing goods that are sold under a direct-selling mechanism having the exclusive distribution rights.
- Big-scale and mid-scale manufacturers as well as importers are prohibited from distributing goods to retailers.

3. Exemptions

Regulation 22/2016 also provides certain exemptions to the above restrictions as follows:

- Importers who also act as distributors can sell the goods directly to retailers.
- Manufacturers are not required to have licenses to sell their goods to the distributors;
- A manufacturer can directly supply or distribute goods as raw or supporting materials to other manufacturers without going through distributors or agents, and their networks;
- Micro-and-small scale manufacturers can sell goods to customers without going through distributors or agents, and their networks.

4. Sanctions

Regulation 22/2016 governs that administrative sanctions (written warnings, suspension of business license, and revocation of business license) will be imposed on parties engaged in the distribution of goods if they do their activities not in accordance with Regulation 22/2016.

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This note is intended to give only a general overview. Please do not hesitate to contact us if you need a more detailed advice, or have specific questions.

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