

NEW REGULATION ON GENERAL PROVISIONS FOR DISTRIBUTION OF GOODS

In March 2016, the Minister of Trade issued Minister of Trade Regulation Number 22/M-DAG/PER/3/2016 of 2016 on General Provisions for the Distribution of Goods (“**MOTR 22/2016**”). MOTR 22/2016 was issued in order to address various matters which are not sufficiently regulated under Law Number 7 of 2014 on Trade.

Under MOTR 22/2016, distribution of goods consists of indirect distribution and direct distribution. For indirect distribution, the distribution will be conducted through (i) the distributor and its networking which involves of distributor, sub distributor, wholesale agent, wholesalers, and retailers; and (ii) the agent and its networking which involves of agents, sub agents, wholesale agents, wholesalers, and retailers. Alternatively, the indirect distribution can also be conducted through franchise.

As for the direct distribution, the goods can be sold directly to the consumer either by single level marketing or multilevel marketing. However, for direct distribution, the goods can only be distributed through official sales agents who hold exclusive distribution rights. MOTR 22/2016 states that further provisions on direct distribution will be regulated through separate ministerial regulations.

We would like also to note Article 20 of MOTR 22/2016 which states that importers who also act as a Distributor can sell their goods directly to retailers. This provision sets aside the provision that states an Importer cannot sell its goods directly to retailers, i.e Article 9 (2) of the Minister of Trade Regulation Number 82/M-DAG/PER/12/2012 of 2012 on General Provision for the Import of Cellular Phone, Handheld and Tablet Computer as lastly amended by the Minister of Trade Regulation Number 48/M-DAG/PER/8/2014 of 2014. Basically, for handheld devices and tablet computers, the import must be carried out by the registered importer (“**Importir Terdaftar**”), however this registered importer cannot sell or transfer the handheld to consumers of retailer. The registered importers must sell the handheld device to a Distributor. Arguably, with this new provision, it is possible for registered importers who also act as Distributor to sell imported goods directly to retailers.