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New Regulation on Import Identification Numbers

On September 2015, the Minister of Trade (“**MOT**”) issued MOT Regulation No. 70/M-DAG/PER/9/2015 on Import Identification Numbers (“**API**”) (“**MOT Reg 70/2015**”). MOT Reg 70/2015 came into effect on 1 January 2016 and revoked the previous API regulation: MOT Regulation No. 27/M-DAG/PER/5/2012 as lastly amended by MOT Regulation No. 84/M-DAG/PER/5/2012 (“**Previous Regulation**”).

Under the Previous Regulation, the following restrictions applied to holders of General APIs (“**API-U**”) and Producer APIs (“**API-P**”):

- a. API-Us could only be issued to companies for importing goods from only 1 (one) section of the Goods Classification System (*Sistem Klasifikasi Barang*) attached to the Previous Regulation. To import goods from more than 1 (one) section, a company had to have a special relationship (based on, among other things, share ownership, their Articles of Association, a distributorship agreement etc.) with the overseas supplier, or the company’s capital had to be wholly or majority owned by the State; and
- b. API-P holders could import “certain industrial goods” to develop their business and for investment. These certain industrial goods could be traded or transferred to other parties but were not to be used in the production process, were only for market testing and/or used as complementary goods. Further requirements were imposed under the Previous Regulation to import these certain industrial goods for market testing and/or used as complementary goods, such as that the goods must comply with the criteria specified under the company’s Industrial Business License and the company had to be designated an Importer Producer (*Produsen Importir*) and therefore subject to a post-audit by the MOT.

However, under MOT Reg 70/2015, the above has been amended as follows:

- a. there is no longer a restriction only allowing goods from 1 (one) section to be imported by an API-U holder. Therefore, goods from more than 1 (one) section can be imported without having to prove a special relationship with the overseas supplier or that the company is wholly or majority owned by the state; and
- b. importing “certain industrial goods” and being designated an Importer Producer (*Produsen Importir*) are no longer regulated under MOT Reg 70/2015. Importing certain industrial goods, such as complementary goods, goods for market testing and/or goods for after sales services now fall under MOT Regulation No. 118/M-DAG/PER/12/2015 on Import Provisions on Complementary Goods, Goods for Market Testing and for After Sales Services (“**MOT Reg 118/2015**”).

According to MOT Reg 118/2015, API-P holders can now import finished goods/manufactured goods as long as they are needed for the development of the company's business and investment. The manufactured goods can be traded and/or transferred to other parties and be used as complementary goods, for market testing and/or for after sales services, subject to several requirements under MOT Reg 118/2015. In addition, Import Approval (*Persetujuan Impor*) from the MOT (delegated to the Director General of Foreign Trading), is required to import these goods. MOT Regulation 118/2015 came into force on 1 January 2016. Import Approvals issued under previous regulations remain valid, but must be adjusted to comply with MOT Regulation 118/2015 by 30 June 2016.

In addition to the above, under MOT Reg 70/2015, both API-U and API-P holders may now be post-audited by the MOT, not only API-P holders designated as Importer Producers, if the MOT deems it necessary.

Following the changes to the provisions on APIs, under Article 37 of MOT Reg 70/2015, API-Ps and API-Us issued under the Previous Regulation remain valid, but must be adjusted to MOT Reg 70/2015 by 30 June 2016. Given this, if your company holds an API-P or API-U, the company must apply for a new API-P or API-U adjusted to MOT Reg 70/2015, by no later than 30 June 2016.

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