

## Client Alert

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## The Government Finally Issues Implementing Regulation for Law No. 33 of 2014 on Halal Product Assurance

### Background

On 17 October 2014, the Indonesian Parliament issued Law No. 33 of 2014 on Halal Product Assurance ("**Halal Product Assurance Law**"). The intention is to provide protection and assurance for halal products consumed by Indonesian citizens, the majority of whom are Moslem. Please click [here](#) for our client alert on the Halal Product Assurance Law.

The Halal Product Assurance Law needs around 20 implementing regulations, which were to be issued within **two** years after 17 October 2014. The halal certification obligation under the Halal Product Assurance Law will become mandatory **five** years after 17 October 2014.

In early June 2016, the Indonesian Ministry of Religious Affairs ("**MORA**") released an update on the draft government regulation that will become an implementing regulation of the Halal Product Assurance Law, which will apply to all products that are imported to, and distributed and traded in, Indonesia.

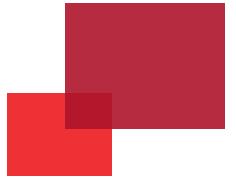
The government has finally issued the above government regulation. On 29 April this year, the Government of the Republic of Indonesia issued Government Regulation 31 of 2019 on the Implementing Regulation of Law No. 33 of 2014 on Halal Product Assurance ("**GR 31**"), which become effective on 3 May 2019.

### Content and implications

Most of the key provisions that we have previously seen in draft government regulations, as we mentioned in our previous client alert, are reflected in GR 31. Please click [here](#) for our client alert on the latest progress on the implementation of the Halal Product Assurance Law.

Among other things, GR 31 deals with the following matters:

- Scope and applicability of the halal certification requirement, among others, what types of products are subject to the requirement to be halal certified, and most importantly, when business actors are expected to comply with the requirement and to certify their products
- Further description of the halal implementing bodies and the scope of their authorities and responsibilities, i.e., Halal Product Assurance



Implementing Board ("BPJPH"), Indonesian Ulema Council (*Majelis Ulama Indonesia* or "MUI") and Halal Audit Institution (*Lembaga Pemeriksa Halal* or "LPH")

- Cooperation between BPJPH and other ministerial and government bodies in implementing GR 31 and halal certification requirements
- Overseas halal certification registration and acknowledgement of foreign halal certificates issued by foreign accredited halal institutions
- Halal requirements on location, place and equipment of products
- Supervision of the implementation of the halal certification

## Key provisions

We set out below some of the key provisions from GR 31 based on our review.

### 1. Halal Certification Requirement (Scope and Applicability)

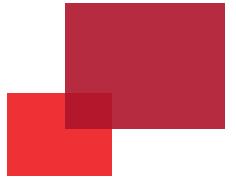
The following types of products can only be imported, distributed and traded in Indonesian territory if they are halal certified:

- (a) food
- (b) beverages
- (c) drugs
- (d) cosmetics
- (e) chemical products\*
- (f) biological products\*
- (g) genetic engineering products\*
- (h) worn, used or utilized goods which are sourced from and/or contain animal elements (i.e., (i) clothing, headgear, accessories (worn); (ii) household supplies, household equipment, worship supplies for Moslems, food and beverages packaging, stationery and office supplies (used); and (iii) medical devices (utilized))

**\*Note:** These products are only related to food, beverages, drugs and cosmetics.

Further, the following types of services must also be halal certified before they can be provided in Indonesian territory:

- (a) animal slaughtering services
- (b) processing services
- (c) storage services
- (d) packaging services
- (e) distribution



- (f) sale
- (g) presentation (*penyajian*)

Halal certificates will only be issued for the abovementioned products and/or services if those products are sourced from halal materials and have complied with the Halal Product Process (i.e., a series of activities to ensure the halal status of a product, which consists of provision of materials, processing, storage, packaging, distribution, sale and presentation of the products).

MORA could add to the range of the products of each of the above mentioned types through coordination with the relevant ministry and institution, and with MUI.

#### Non-halal products

Products made from haram materials must be marked with the annotation that they are **not halal**.

Further, for drugs, biological products and medical devices which are (i) not yet made from halal materials and/or (ii) manufacturing process that are not yet in line with halal standards - these products can be distributed provided that the information regarding the source of materials for these products is included. This exemption will continue to be valid until the manufacturers find the halal substitute for the materials and/or manufacturing process for the products.

#### Good Manufacturing Practice ("GMP") and Halal GMP

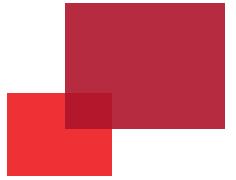
GR 31 indicates that there will be a halal GMP certificate applicable for drugs, biological products and medical devices. This is mentioned under GR 31 as one of the requirements for drug, biological product and medical device types of products.

#### Stages of Implementation

The halal certification requirement is implemented in stages based on the product type, with due observance of several factors, among others:

- (a) whether the relevant product is already halal certified before the enactment of the Halal Product Assurance Law
- (b) whether the product is considered as primary goods and is consumed on a massive scale
- (c) the readiness of the business actors and infrastructure for the implementation of the halal product assurance requirements

Based on GR 31, food and beverage products are among the first products that are expected to be halal certified. The next stage of implementation will cover the other types of products (i.e., other than food and beverages). Products which are not yet halal certified by 17 October



2019 will be further governed, based on MORA's regulations, in coordination with the relevant ministries or institutions.

GR 31 does not provide us with a hard deadline or timeline for the implementation of the halal certification requirement. But in reference to the requirement under Halal Product Assurance Law, a halal certificate must be obtained within five years after the issuance of the Halal Product Assurance Law (i.e., 17 October 2019).

GR 31 also indicates that food and beverage products should begin to comply and be halal certified as of 17 October 2019.

Before the enactment of GR 31, industry's business associations and stakeholders had been requested to submit their inputs on the stages of implementation and deadlines for implementing halal certification depending on products. It can be the case that more definitive schedules will be regulated soon in further implementing regulations from MORA.

#### *Transitional Provisions*

Any halal certificate issued before GR 31 is valid and will continue to be effective until it expires.

## **2. Halal Implementing Bodies**

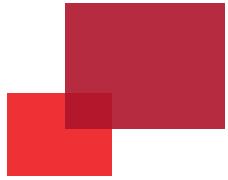
### *BPJPH*

All products distributed and traded in Indonesia must have a halal certificate issued by the BPJPH, a body under the MORA which has been officially established.

Nevertheless, given that BPJPH is not yet fully active, it seems that in practice the halal certification process is still being handled by or through MUI.

BPJPH has a wide scope of authority. Some of the key features granted to BPJPH based on GR 31 include:

- (a) drafting and issuance of policies on halal product assurance
- (b) issuance and revocation of halal certificate and halal label on products
- (c) registration of foreign halal certificates
- (d) accreditation of LPH
- (e) registration of halal auditor
- (f) supervision of halal product assurance
- (g) cooperation with domestic or foreign bodies in the implementation of halal product assurance



In carrying out its duties under GR 31, BPJPH may cooperate with:

- (a) relevant ministries and/or institutions
- (b) LPH
- (c) MUI

LPH

LPH conducts the inspection and/or testing of whether or not a product is halal.

LPH can be established by the (i) government and/or non-governmental Moslem religious legal entity in the form of an association and foundation. The BPJPH conducts LPH accreditation.

GR 31 further expounds on the requirements and procedures for establishing an LPH. It also explains that more detailed licensing provisions for the establishment of an LPH will be governed by a regulation issued by the MORA.

Halal Auditors

Halal auditors are individuals capable of conducting an inspection of whether a product is halal. An LPH must have at least three halal auditors.

GR 31 explains who can appoint/remove a halal auditor, the criteria for who can be a halal auditor, the certification requirements for a halal auditor and the registration requirements for a halal auditor.

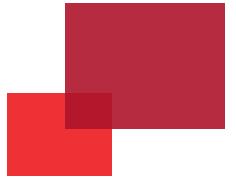
MUI

MUI cooperates with BPJPH on the certification of halal auditors and accreditation of LPHs. MUI also cooperates with BPJPH on determining whether a product can be considered halal or not, which is significant in the process of obtaining a halal certificate.

### **3. Cooperation between BPJPH and Other Bodies**

The draft government regulation allows the BPJPH (in conducting its authority, e.g., supervising the implementation of the halal certification, registering halal auditors and certifying LPHs) to cooperate with ministries/government bodies other than the MORA (e.g., the Ministry of Agriculture, Ministry of Industrial Affairs, Ministry of Health and the BPOM) in implementing halal product assurance under the Halal Product Assurance Law and GR 31.

GR 31 hinted that the 'cooperation' would allow BPJPH to enforce halal product assurance and halal certification requirements more effectively. The forms of cooperation mentioned in GR 31, however, are mostly to supervise whether the products are already halal certified or have halal



labeling, or whether the manufacturing or distribution process of a certain product type is in line with halal requirements. The cooperation also comes in the form of a recommendation from BPJPH to the relevant ministries to revoke a halal certificate of a particular business actor.

It remains to be seen whether BPJPH could push BPOM or MOH to (for instance) put halal certification and full compliance to Halal Product Process as one of the requirements for business actors to obtain technical licenses. We would need to wait for further implementing regulations from MORA and relevant ministries to get more information on this.

#### **4. Overseas Halal Certification Registration**

Based on GR 31, products certified halal by foreign institutions that cooperate with the BPJPH do not need BPJPH halal certification but must still be registered with the BPJPH before they can be distributed in Indonesia.

GR 31 also elaborates that the aforementioned foreign institutions must be formed by the government or Moslem religious body in their respective countries. Further, the foreign institutions must be accredited by a recognized regional or international accreditation body in each respective country.

BPJPH would accept a halal certificate issued by a foreign institution provided that there is a mutual acknowledgement agreement between them. This means that the halal certificate issued by BPJPH should also be recognized and acknowledged in the country of origin of the relevant foreign institution.

#### **5. Halal requirements on Location, Place and Equipment of Products**

Based on GR 31, the location, place and equipment of any Halal Product Process must be kept separate from the location, place and equipment of non-halal products.

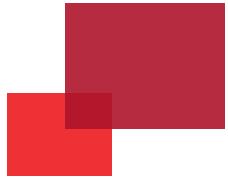
The location, place and equipment that must be kept separate, as referred to above, cover slaughtering livestock, processing, storing, packaging, distribution, sale and presentation.

#### **6. Supervision of the Implementation of the Halal Certification**

Unlike its draft, GR 31 does not provide any definitive sanction for noncompliance with the halal certification requirement. The regulation only mentions that supervision will be done by the BPJPH and in cooperation with ministries and governmental bodies.

### **What next**

Considering more detailed provisions are needed and MORA has been working on various draft of further implementing regulations, we may expect that MORA will issue series of further implementing regulation. It remains to



be seen when these series of further implementing regulations will be issued and whether these regulations would have detailed and definitive provisions that can address business and market concerns and doubts on the halal certification implementation.

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