



Focus

# Exemptions issued for new Regulation 70 regime in Indonesia's retail sector

November 2014

**In brief:** To introduce more competition into the Indonesian retail sector, the Indonesian Ministry of Trade Regulation No 70 of 2013 (**Regulation 70**) became effective in June this year. The Ministry of Trade has now issued a new Regulation amending certain provisions in Regulation 70 and introducing some exemptions to the Regulation 70 regime. Widyawan Partner Yolanda Hutapea and Senior Associate Indra Allen explain the impact of the amendments on retailers operating in Indonesia, some of which will come as a relief.

## Background

Regulation 70 became effective on 12 June 2014. It revoked the previous regulation on Guidelines for structuring and development of traditional markets, shopping centres, and modern stores. Regulation 70 was issued to encourage competitiveness in the retail sector while at the same time protecting small businesses (especially the traditional markets). The key provision of Regulation 70 limits a business from owning more than 150 modern store outlets, with any additional outlets needing to be co-owned.

On 17 September 2014, the Ministry of Trade (the **MOT**) issued Regulation No. 56 of 2014 (**Regulation 56**) amending certain provisions of Regulation 70. Regulation 56 became effective immediately.

For more details on Regulation 70, see our Focus: '[Balancing traditional markets version modern shopping in Indonesia's retail sector](#)'.

## Regulation 70 refresher

Here is a reminder of how the main provisions of Regulation 70 affected retailers prior to the Regulation 56 amendments:

- A business owning or managing more than 150 'Modern Stores' (Toko Modern), a term which includes supermarkets, minimarkets, department stores, hypermarkets and grocery stores, would need to restructure their operations to comply with the new 150-outlet cap.
- Fast-growing Modern Store businesses, which were below the 150-outlet threshold, needed to look at the implications of the new regulation when planning any expansion.
- Retailers would be presented with co-investment opportunities as businesses complied with and restructured their operations in compliance with Regulation 70.

## How do the Regulation 56 amendments affect you?

The key amendments to Regulation 70 introduced by Regulation 56 are as follows:

1. **Grandfathering protection re cap on the number of Modern Store outlets:** Regulation 56 provides that the Modern Store company which has owned and operated more than 150 outlets before the effective date of Regulation 70 (ie 12 June 2004) is now exempt from the requirement to reduce the number of outlets to 150.
2. **Exemption re cap on sale of self-branded goods:** Regulation 56 provides that the 15 per cent cap on selling self-branded goods is not applicable in the context of a marketing partnership that markets goods produced by a local Indonesian small and/or medium enterprise (**UMKM**) that have been: (a) packaged under the brand of the relevant UMKM; (b) repackaged under the brand of the Modern Store company (in which case the identity of the relevant UMKM is required to be stated on the product label of such goods); or (c) repackaged under such other brand as may be agreed between the Modern Store company and the relevant UMKM in order to promote the sale of such goods.

3. **Limitation of cap on sale of foreign goods:** Regulation 56 provides that the Regulation 70 requirement that 80 per cent of goods sold must be locally produced only applies to those Modern Stores and Shopping Centres that are managed by a single company and is not applicable to the Modern Stores under a partnership scheme.

The Regulation 70 two-year transition period for compliance (expiring 12 June 2016) remains. Relief from this requirement may also now be sought on a case-by-case basis from the MOT by stand-alone brand Modern Stores and/or outlets/specialty stores if: (a) the goods require production uniformity and are sourced from a global supply chain; (b) the goods are premium international brand products and have not yet been able to be produced in Indonesia, or (c) the goods are sourced from a specific country for the consumption of its citizens residing in Indonesia.

4. **Relief rules re cap on sale of main activity supporting goods:** Regulation 70 provided that relief from its requirement that a Modern Store to sell a maximum of 10 per cent of main activity supporting goods (*barang pendukung usaha utama*) could only be sought on a case-by-case basis from the MOT and that the MOT would consider recommendations from Communication Forum of Structuring and Development of Traditional Markets, Shopping Centres, and Modern Stores (*Forum Komunikasi Penataan dan Pembinaan Pasar Tradisional, Pusat Perbelanjaan dan Toko Modern*) (the **Forum**).

Regulation 56 has now removed the requirement for the MOT to consider the Forum's recommendations.

This note is intended to give an overview of the amendments to Regulation 70 introduced by Regulation 56 and does not cover all the provisions of either regulation. Please do not hesitate to contact us if you need more detailed advice or have a specific questions.

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