

Enhancements of the Indonesian Franchise Regulation

February 2025

On 2 September 2024, Government Regulation No. 35 of 2024 on Franchising (“**GR 35/2024**”) was issued and came into force. GR 35/2024 revokes and replaces Government Regulation No. 42 of 2007 on Franchising (“**GR 42/2007**”). GR 35/2024 reinstates almost all provisions set out under the previous implementing regulation, i.e., Minister of Trade Regulation No. 71 of 2019 on the Organization of Franchise (“**MOTR 71/2019**”) and introduces several updated provisions that were in MOTR 71/2019.

Key Highlights

Criteria for Franchise

GR 35/2024 provides adjustments to the criteria for franchise that must be met by participants, with the most notable change being that the Franchisor must have a documented business system in writing, and the Franchisor’s business must have been profitable for a reduced minimum period of three consecutive years, down from the previous requirement of five years under MOTR 71/2019. The business system should:

- (a) be made in writing and offered by a Franchisor or Advanced Franchisor¹ to a Franchisee or Advanced Franchisee²;
- (b) be simple to teach and apply; and
- (c) have a clear and fair framework between the Franchisor or Advanced Franchisor and the Franchisee or Advanced Franchisee.

Franchise Agreement and Offering Prospectus

In addition to the requirements under the previous GR 42/2007, the business system must now also be included in the Franchise Agreement and Offering Prospectus. A Franchise Agreement must also include clauses regarding the guarantee from the Franchisor or Advanced Franchisor to the Franchisee or Advanced Franchisee for receiving compensation and/or the entitlement rights to a franchise in the event of the Franchisor or Advanced Franchisor stopping their business activities. For the Offering Prospectus, all intellectual property certificates or intellectual property registration letters must be featured.

Franchise Registration Certificate Application

The obligation for both the Franchisor and Franchisee to obtain a Franchise Registration Certificate (*Surat Tanda Pendaftaran Waralaba* or “**STPW**”) before entering into a Franchise Agreement remains.

If a foreign Franchisor intends to apply for an STPW, GR 35/2024 requires additional documents to be included in the Offering Prospectus:

¹ An Advanced Franchisor is a party who received rights from the initial franchisor to appoint advanced franchisees, akin to an agent of the initial franchisor.

² An Advanced Franchisee is party who received their appointment from the Advanced Franchisor.

- (a) Business license documents issued by authorized institutions in the country of origin that must be legalized by a relevant authority³ or the Republic of Indonesia Representative Official in the country of origin⁴; and
- (b) A certificate of the continuity of franchise business activities from the Trade Attaché of the Republic of Indonesia or the Republic of Indonesia Representative Official in the country where the Franchisor is based.

Cooperation with Micro, Small and Medium Enterprises (“MSMEs”)

GR 35/2024 introduces the following new obligations:⁵

- 1) Domestic Franchisor and (both Domestic and Foreign) Advanced Franchisor are now required to cooperate with the MSMEs in their respective areas as suppliers of goods and/or services (e.g. by engaging MSME as supplier);
- 2) Franchisee and Advanced Franchisee (both Domestic and Foreign) are now also required to cooperate with MSMEs in their respective areas as suppliers of goods and/or services to the extent that they meet the requirements as determined by the Franchisor and Advanced Franchisor; and
- 3) Domestic Franchisor and Advanced Franchisor must also offer MSMEs in their respective areas the opportunity to become Franchisees to the extent that they meet the requirements as determined by Franchisor and Advanced Franchisor.

Annual Reporting

GR 35/2024 retains the reporting obligations on an annual basis as previously stipulated under MOTR 71/2019. The report must be submitted either to the Minister of Trade or relevant local government officials (as applicable) on an annual basis by 30 June of the following year. The minimum mandatory contents of this annual reporting form include:

- (a) The number of outlets/business premises;
- (b) A financial report that includes at least a profit and loss balance sheet;
- (c) The availability of raw materials management in Indonesia;
- (d) The status of intellectual property protection; and
- (e) Forms of continuous support provided by the Franchisor or Advanced Franchisor (e.g., training, operations management guidance; promotional activities, and research on products being marketed).

For further assistance, please contact Partner Dian Lindajanti (lindajanti@mkklaw.net) or Rini Budiman (rinipb@mkklaw.net).

³ Applicable to the country participants of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

⁴ Applicable to the non-country participants of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

⁵ GR 35/2024 is silent on determining sanctions for any violations of these obligations.