



Weapons of Mass Destruction: Funding Prevention

by Muhammad Ikram Afif



Image source: <https://www.midwestfarmreport.com/2019/02/20/ideadvance-offering-seed-money-for-good-ideas-in-wisconsin/>

The Financial Services Authority of Indonesia (**Otoritas Jasa Keuangan** or **OJK**) has recently revised its regulations on anti-money laundering and terrorism funding prevention in the financial services sector.* The purpose of the new regulations is to target the funding of weapons of mass destruction including nuclear, biological and chemical weapons.

The regulations provide the mechanisms to create a list of people/corporations involved in the funding of weapons of mass destruction and to ensure that those on the list are blocked from funding sources.

The primary mechanism in the regulations is the creation of a risk management system and new powers for financial services providers in the oversight of transactions. The regulations state that financial services providers must deny services to any person or corporate entity on the list. In addition, the new regulations give the financial services providers the ability to cancel and/or deny any transactions with a listed entity.

The regulations also provide details to financial services providers on:

- the definition of a corporation;
- risk assessment of transactions, which are to be carried out using national/sector risk assessment criteria;
- verification of customers via electronic devices, using either the financial service providers' own devices or third party OJK approved devices;
- the obligation to carry out due diligence on customers;
- criteria to ensure data is kept updated; and
- sanctions for breach of the provisions.

The regulations require financial services providers to provide the OJK with data that may be relevant to the funding of weapons of mass destruction within three working days after receiving the request from the OJK or other related authorities. The regulations set out fines for financial service providers' (including insurance and pawn companies) delay in submitting reports to the OJK.

* POJK NO. 23/POJK.01/2019. This regulation revokes POJK NO. 12/POJK.01/2017



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Indonesia's Competition Commission: New Regulations

by Troivanji Wasistha



Image source: <https://cfe.education/2019/08/22/how-ai-finance-improve-healthy-competition/>

Indonesia's Competition Commission (the **KPPU**) has recently issued new regulations to stimulate healthy business competition and support economic growth (the **Regulations**)*. The Regulations set out new obligations for mergers and acquisitions in Indonesia. The Regulations also create the basis for the KPPU to review asset deals as well as certain additional foreign transactions.

In carrying out assessments, the KPPU can request supporting documents and/or data. If the requested documents/data are not provided, the Regulations provide that the KPPU may carry out its assessment based on assumptions and its own documents and data.

Under the Regulations, certain entities are obliged to file a notification to KPPU including:

- a merged entity;

- a consolidated entity; and
- any entity that has acquired shares or assets.

The Regulation defines thresholds for notifiable transactions, which includes if the:

- combined asset value of the newly merged entity is IDR 2.5 trillion (or, in banking sector, IDR 20 trillion); and
- combined transaction sales value exceeds IDR 5 trillion.

Notification of transactions that exceed the legislative thresholds must be carried out within 30 business days after the transaction has become legally effective. The Regulations state that any breach of the notification requirements will result in a fine. Further, any delay in notification will attract a fine of IDR 1 billion for every day of delay up to a maximum of IDR 25 billion.

**KPPU Regulation No. 3 of 2019 Regarding the Assessment of Mergers and the Consolidation of Undertakings or Acquisition of Shares in a Company That May Result in Monopolistic Practices and/or Unhealthy Competition. This Regulation, which came into force on 3 October 2019, replaces KPPU Regulation No. 13 of 2010.*

Franchises: New Regulations

by A. A. A. Redhita Saras



Image source: <https://www.restaurantindia.in/article/6-factors-to-maintain-a-franchise-franchisor-relationship.9997>

The Minister of Trade has recently issued new Regulation 71* concerning the organisation of franchises. The purpose of Regulation 71 is to simplify the regulatory regime relating to franchises to stimulate further growth in the franchise industry. Consequently, Regulation 71 consolidates and replaces the previous franchise regulatory regime.

Regulation 71 states that an entity is not permitted to use the term “franchise” in relation to its business unless it has fulfilled the criteria of a franchise including that a franchisor must:

- “have business characteristics”;
- use a logo;
- be profitable;
- prioritise the use of domestic raw materials;

- have been in business for at least 5 years;
- have written standards for the services and goods and/or services offered;
- have characteristics which can be easily communicated and applied by potential franchisees;
- provide ongoing support to its franchisees;
- protect its intellectual property including through registration, where applicable.

Regulation 71 defines the categories of ‘franchisor’ and ‘advanced franchisor’. Both categories of franchisor must provide a registered prospectus to potential franchisees at least two weeks prior to the execution of a franchise agreement. All prospectuses must be written in, or translated into, Bahasa Indonesian.

Regulation 71 lists characteristics of a franchise agreement including that it must be in Bahasa Indonesian and be governed by Indonesian law. Franchise agreements must be registered.

The registration of prospectuses and franchise agreements is carried out through the franchise registration certificate, which must be applied for online through the online single submission system.

A Franchise Registration Certificate is considered invalid if the:

- franchisor terminates its business activities;
- application for the registration for intellectual property rights is rejected or the validity expires; and
- franchise agreement expires or is terminated.

Regulation 71 states that a franchisee must submit a report to the Director of Business Development and Distributors, Ministry of Trade and the franchisor must submit a report to the office responsible for the trading sector in its local regency or city. The reports must be submitted annually no later than 31 June of the following year. Regulation 71 sets out administrative sanctions for breach.

* Minister of Trade Regulation No. 71 of 2019 concerning Franchise Organisation

Freight Transport: New Regulations

by Shaskia Putri Ramadhani

The Minister for Transport has issued new regulations governing freight transport (**Regulation No. 60**).^{*} Regulation No. 60 sets out detailed regulations on freight transport including permits and obligations. Regulation No. 60 requires that, generally, all freight transport companies must use dedicated freight vehicles for the transport of freight (i.e. cars, buses or motorbikes).

Regulation No. 60 identifies the following two types of freight transport, the transport of;

- public freight, that is, freight that does not require specialised transport facilities; and
- special freight, which includes freight that may be dangerous (flammable, explosive, radioactive, etc) and/or freight that requires specialised equipment including large containers, containers for heavy equipment, vehicles equipped to transport biological specimens, etc.

In order to transport special freight, Regulation No. 60 requires that the transporter must obtain a permit from the Minister for Transportation. The permit consists of the following three documents:

- a decree permitting the transporter to operate special freight transportation, valid for five years;
- a statement letter confirming the ability of the transporter to fulfil all obligations related to the type of transport undertaken, valid for five years; and
- surveillance cards, which must be attached to each freight vehicle, valid for one year.

Regulation No. 60 sets out all permit holder obligations, which includes that the transporter shall:

- comply with the minimum freight service standards;
- implement a safety management system;
- ensure that the freight cars' activity details are recorded in a performance logbook;
- ensure that all drivers have a driving licence; and
- ensure that it has the correct certification for handling dangerous freight.



<http://wiredsoft.org/freight-management.aspx>

In addition to permit, other required documents are documents related with freights cargo and an agreement for the carriage of freights.

For freight that will be transported across national borders, Regulation No. 60 requires the transporter to comply with any international agreements between Indonesia and the relevant country. The Indonesian government may provide subsidies for the transportation of freight:

- to isolated, undeveloped or border areas;
- that stimulates regional economic growth;
- to aid recovery from natural disasters;
- at competitive pricing; and
- that has the effect of reducing social inequality.

Regulation No. 60 provides administrative sanctions for breach including written reprimands, fines, and the revocation of permits.

** Regulation of the Minister for Transportation No. PM 60 Year 2019 concerning the Operation of Freight Transportation by Motor Vehicles on the Road. Regulation No. 60 revokes the Minister for Transportation Decision No. KM 69 Year 1993 and its amendment No. KM 30 Year 2002 concerning Operation of Freight Transportation on the Road.*