

PUBLIC AFFAIRS FORUM

Halal Regulations: **What's Next?**

Law No. 33/2014 on Halal Product Certification has become an issue for several industries in Indonesia. The Law clearly states that all products from the F&B, cosmetics and pharmaceutical industries must be halal certified. Advocacy to address the negative impacts of the Law has now shifted to the details of the implementing regulation. The draft of the implementing regulation is now in the hands of the State Secretary for final ratification which is unlikely to experience any further changes. If the draft is ratified this year, it will be in full effect on October 17, 2019.

Given the circumstances, companies must now anticipate the outcome of the regulation and the imposed impacts for the company. Thus, Kiroyan Partners and Klareco Communications in collaboration with the European Chambers of Commerce (EuroCham) Indonesia held the Public Affairs Forum that aimed at comprehending the halal issues and addressing negative impacts that might arise due to uncertain circumstances.

The forum was attended by members of EuroCham Indonesia and featured:

- **Heru Susetyo** (Chairman at the Center for Islam and Islamic Law Studies, Faculty of Law University of Indonesia),
- **Nadrattuzaman Hosen** (Chairman at Halal Supervisory and Research Center of PP Muhammadiyah),
- **Ang Shih-Huei** (Co-Founder and CEO of Klareco Communications), and
- **Dyah Prativi Istiningtyas** (Regional Legal Director for Indonesia & South East Asia and Corporate Affairs Director Indonesia for Oriflame).

This is a summary of the key points raised during the talk.

HOW FEASIBLE ARE HALAL REGULATIONS TO BE IMPLEMENTED IN 2019?

Heru Susetyo, Chairman at the Center for Islam and Islamic Law Studies, Faculty of Law University of Indonesia

The halal regulations implementation is unlikely to be fully implemented in 2019. After 7-9 years of parliamentary and ministerial debates, the Law No. 33/2014 on Halal Assurance has been enacted in October 2014 as an addition to previous laws on food and consumer protection regulations. The Law requires up to 20 implementing regulations (PP) to be enacted within two years since the issuance of the Law to provide implementing guidelines for the Halal Certification Agency (BPJPH). However, none of the implementing regulation has been enacted. Additionally, the BPJPH itself has only been established in October 2017. The absence of the implementing regulation has made the BPJPH unable to conduct its function and authority.

The Law states that there will be a transition provision in five years since the enactment of the Law (2014) which will end in October 2019. However, it is still unclear on when the implementing regulation will be enacted. The government has promised that it will be enacted soon so that the BPJPH can perform its job. However, with the election coming right ahead, the government is unlikely to be able to keep their promise since the elections will likely divert the government's focus from the issue.

There is still more than a year for the full implementation of the Law and stakeholders should continue to monitor the regulation since it will bring about wide-ranging impact on businesses and the public. No

one can predict exactly what will happen after October 2019, especially no implementing regulation is available. There could be a Government Regulation in lieu of Law (Perppu), or maybe people will completely forget about the halal Law and halal related issues because there are many laws that do not have any implementing regulation after all.

Aside from the legal complexity, until the BPJPH can perform its role, the old regulation on halal still applies. Companies still need to obtain halal certification from the Indonesian Ulema Council (MUI). In terms of halal labelling, the Law does not clearly elaborate the technicality, especially for products which are not halal certified.

THE CHALLENGES IN IMPLEMENTING HALAL CERTIFICATION

Nadratuzzaman Hosen, Chairman at Halal Supervisory and Research Center of PP Muhammadiyah

The implementation of upcoming halal certification will face a number of challenges. Initially, the MUI took the role for halal certification as tasked by the government to protect Moslem consumers. Currently, however, the government is trying to take over that role from the MUI by mandating that all products must be halal certified and not just halal products. This became one of the main problems of the Law, since it will impose a huge challenge for non-halal products and SMEs' ability to acquire certification.

Many SMEs will face huge challenges to comply and obtain halal certificate due costs. Considering Indonesia's vast region, it will take roughly tens of thousands of auditors who are required to work every day to cover submissions from all over Indonesia. Moreover, it will take years to train and prepare one auditor to fully perform his/her duty. Aside from that, BPJPH does not have the competency to conduct halal audit. Even if BPJPH has the capability, it will still take 6-12 months for a submission to acquire halal certificate due to the complex bureaucracy.

The draft of the implementing regulation is said to be awaiting signatures of approval from three ministries. Considering the uncertainty of implementation, especially in the technical aspects, the Ministry of Religious Affairs will likely suspend the implementing regulation until after the 2019 elections. The government will also likely delay the implementation for pharmaceutical sector, that is well-known by its complexity in its materials sourcing, to give more time for the industry to comply with the regulation and, if necessary, adjust their business model. During the transition period, halal certification pleas can still be submitted to the MUI since the BPJPH currently still does not have the ability to do so.

THE NEED FOR PUBLIC COMMUNICATION AND EDUCATION ON HALAL ISSUE

Ang Shih-Huei, Co-Founder and CEO of Klareco Communications

There are interests in the region on what Indonesia is doing in terms of Halal Law, yet the impacted industries have been more silent in the matter rather than being more outspoken. However, with a market as big as Indonesian market, companies should think about what position to be taken and how to communicate their position towards the public. Companies should see halal compliance from the growth potential perspective which sees broader opportunities in especially Moslem market once the regulation is enacted.

Given these uncertain times in which the implementing regulation is being formalized, a lot of questions have started to arise among the consumers as well as the shareholders. Therefore, it is crucial to decide on how we will communicate the situation by emphasizing the commitment to the Indonesian consumers while still honoring the religious aspects. The consumers can benefit from more information provided by companies to raise awareness on this issue and not just a debate solely between the government,

religious leaders, and associations. The consumers need to hear from the industries as they are direct users of the products.

For multi-national companies, communicating the situation effectively to the global management is also crucial. The global managers especially in Europe and the US need to make strategic decisions to respond to the matter, therefore need insights that can best assist them to understand regulations in Indonesia. Local representatives need to monitor the regulatory updates and provide inputs to the global management as the decision maker. Global management need to be convinced to comply with Indonesian law and at the same time create broader opportunities.

ADJUSTMENTS ARE NEEDED TO COMPLY WITH THE HALAL ASSURANCE LAW

Dyah Prativi Istiningtyas, Regional Legal Director for Indonesia & South East Asia and Corporate Affairs Director Indonesia for Oriflame

The fact that the industries like pharmaceuticals and cosmetics are operating in an emerging market with many challenges, including issues related to halal assurance, demand businesses to do some adjustments to comply. For the management to make the right executive decision, a detailed and measured impact analysis of the Halal Assurance Law must be made. The impact analysis will give a clear picture on the risks as well as the potentials of the situation.

With regards to acquiring the halal certification, businesses with complex supply chains will face greater challenges. This is due to the certification process which must be conducted from the upstream towards the whole production process. Assessment on businesses involving various raw materials from various sources including overseas will require a very long process. To comply with the halal certification standards, the management must be willing to change all necessary elements which can take up to years to conduct.

Ultimately, a thorough impact analysis which includes accurate cost calculation is essential for global management to make an effective decision on dealing with the dynamics of halal issues. Companies should adopt a “worst-case scenarios” perspective in conducting the analysis as it will be useful to anticipate any dynamics which can occur in an uncertain circumstance.

CONCLUSION

Business community may stick with the existing regulations to do business as usual. The future for Halal Assurance Law implementation remains unclear and its implementation is expected to face many challenges. Given the current situation, however, it is essential for impacted industries to take part in educating the public on the halal concept itself, how companies are committed to ensure the safety and protection of Moslem consumers.

Despite the general concerns from the industry, each company might have different individual strategy that is relevant toward the business opportunity as well as the market risk it carried. Therefore, it is pivotal for local representatives of impacted multinational companies to provide a clear picture for the global management in taking strategic decisions for the issue. Additionally, in order to anticipate or respond to issues affecting their activities, including the halal regulations, business community may conduct public affairs functions, namely issues management as well as regulatory monitoring and analysis, and also stakeholders management to further channel the advocacy efforts effectively in the process.

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