

The Roles and Responsibilities of Notaries in Online Single Submission (OSS) Based Online Permits for Limited Liability Companies

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Abstract. *A limited liability company business entity in carrying out its business activities requires a business license. In Indonesia, since 2018 business licensing has implemented online business licensing, namely the Online Single Submission System (OSS), which is a web-based application and is a business licensing issuing agency. contained in the AHU Online System is an important requirement. Where, the filling/registration in the AHU Online System is carried out by a Notary. This connection is the background of this research. The purpose of this research is to find out the roles and responsibilities of a notary in OSS business licensing for limited liability companies (PT) and to find out the obstacles and solutions in OSS business licensing for PT. The type of research used in this research is a juridical-empirical research type with a descriptive analytical nature. The data source used comes from primary data in the form of interview results and secondary data which includes primary legal materials and secondary legal materials. Data collection techniques were carried out using library research and interviews. Data analysis was carried out qualitatively by drawing deductive conclusions. The results of this study indicate that in business licensing OSS the notary acts as a general official making authentic deeds and an official who plays a role in registering limited company AHU Online data filling. Where, in carrying out its role, there is a risk of making mistakes which result in non-compliance with the rules so that the notarial deed becomes a private deed and the risk of errors in filling in the AHU data which results in failure in withdrawing the AHU data when submitting an application in the OSS system. The notary's responsibility for mistakes in making a deed that does not pay attention to the rules in making it and mistakes in filling in AHU data is a moral responsibility where the notary needs to be morally responsible for his actions by making improvements according to procedures and material responsibility where the notary bears the burden of costs incurred due to errors that occur. The limited liability company's obstacle in making applications to the OSS system is when there is a data discrepancy between the data in the OSS system and the data in AHU resulting in a failure in data retrieval. Apart from that, obstacles can also occur due to errors or incompatibility of dukcapil data or data on DGT Online.*

Abstract: Company; Online; Notary.

1. Introduction

Ease of business permits is one of the focuses that the government of the Joko Widodo era has continued to work on since being elected in the first and second terms. One of its implementations, Jokowi issued Government Regulation (PP) Number 24 of 2018 concerning Electronically Integrated Business Licensing or Online Single Submission (OSS) in July 2018. This OSS system is also a mandate from Presidential Regulation Number 91 of 2017 concerning Acceleration of Business Implementation.

The presence of OSS was welcomed by pros and cons from various groups, such as business actors, supporting professions such as legal consultants, notaries and internal government including local governments. This is because the OSS system makes business licensing no longer go through many doors that are at risk of extortion.

Business actors can apply for permits online by entering the required documents in the OSS. Later, business actors will get a Business Identification Number (NIB) as the identity of the business entity. This NIB also applies as a Company Registration Certificate (TDP), Import Identification Number (API) if a business actor is going to carry out import activities, Customs Access if a business actor is going to carry out export and/or import activities.

The difference between OSS and the previous licensing process is significant. In the previous regime, various requirements had to be met before a permit was issued. Meanwhile, for OSS, permits are issued first marked with the issuance of the NIB. After the permit is issued, there are requirements or commitments that must be met by business actors within a certain deadline.

If the commitment is not fulfilled, the permission will be automatically canceled by the system. These commitments include location permits, water permits, environmental permits or building permits for businesses that require infrastructure.

The Coordinating Ministry for Economic Affairs is the initial person in charge of the OSS system. The Coordinating Minister for the Economy, Darmin Nasution stated that OSS is present in the context of business licensing services that apply to all Ministries, Institutions and Regional Governments throughout Indonesia, which has so far been carried out through the One Stop Integrated Licensing (PTSP).

Apart from going through PTSP, the public can access the OSS system online anywhere and anytime. He claims that through the OSS system, the business licensing process only takes about an hour.

"OSS, the implementation of which is regulated in PP Number 24 of 2018, is the government's effort to simplify business licensing and create an integrated licensing service model that is fast and cheap, as well as providing certainty. Business actors will get business permits in less than one hour," explained Darmin.

2. Research Methods

The type of research used in this research is a juridical-empirical research type with a descriptive analytical nature. The data source used comes from primary data in the form of interview results and secondary data which includes primary legal materials and secondary legal materials. Data collection techniques were carried out using library research and interviews. Data analysis was carried out qualitatively by drawing deductive conclusions.

3. Result and Discussion

Deputy V of the Coordinating Ministry for Economic Affairs, Bambang Adi Winarso, explained that the presence of this OSS accelerated the time for business licensing. He explained that before the OSS system existed, business licensing authority was in various institutions such as ministries and regional governments. However, this OSS makes permits summarized through only one system.

According to him, the previous licensing process bureaucracy was too complicated so that it hampered investment. "I heard that a building permit must first be issued for three years. Then, if a business actor buys a building, he must also have a permit and then want to change the building, he must also have another permit. This is because the regulations are like that. In fact, environmental permits are even more complicated," explained Bambang.

He also gave an example of inappropriate licensing flows, such as permits for business locations, which require business actors to have a location before applying for a permit. In fact, there is a big risk for business actors because permits may not be issued even though the business location costs have been issued.

"Why can't the permit be given in advance if they can afford it. If they don't fulfill their commitment they will just freeze it," he explained.

Then, the OSS system has been taken over by the Investment Coordinating Board (BKPM) since January 2019. In the future, there will be an update to the OSS system from 1.0 to 1.1. With the new system there are several advantages such as an explanation or definition of the type of business actor, separate stages according to output, legality entry format according to the type of legal

entity and business entity, and the main and supporting activities can be differentiated.

In addition, OSS V.1.1 accommodates land, water and forest location permits. The status of the business license is not written down, but includes a list of requirements that have not been met, and a list of commitments complete with a Cover Letter OSS + PDF IOK.

The Executive Director of the Regional Autonomy Monitoring and Implementation Committee (KPPOD), Robert Na Endi Jaweng, welcomed the OSS system positively. It's just that, there are still various provisions that don't work so that the OSS system doesn't match the government's original plan.

The reason is that there is still overlapping business licenses at the central level, such as the Ministry of Industry and the Ministry of Tourism. In addition, the integration of regional business licensing systems has also not been optimal, so business actors must visit the regional government to obtain several permits.

"We welcome it because of the enthusiasm for wanting fast, cheap and simple permits. Unfortunately, there are still obstacles in 3 aspects, namely regulation, system and management. Our findings are that there are still areas that have not been touched or the permits are still pre-OSS. Then, licensing in the central level is also still not fully integrated. Horizontal integration between Ministries and Institutions has not been completed," explained Robert.

BKPM Head Thomas Lembong admits that there are still deficiencies in the OSS journey. For this reason, his party continues to improve and develop the OSS system. One of the complaints that is trying to be fixed is the accumulation of queues for OSS services at BKPM's Central PTSP which should, with an online system, not need to come directly to BKPM.

"Based on the increasing number of OSS users, there are still many things that need to be improved, especially in terms of system development to serve businesses," said Thomas.

The enthusiasm of business actors to utilize OSS continues to increase. BKPM's Deputy for Investment Services, Husen Maulana, said that he had issued 623,481 Business Identification Numbers (NIB) after a year ago they were launched on July 9 2018. "The number of business identification numbers (NIB) issued during that period reached 623,481 or 1,495 per day," he said.

Based on BKPM data, from July 9 2018 to August 29 2019, the number of OSS account registrations reached 704,084 or an average of 1,688 per day. Account activation reached 654,889 or an average of 1,570 per day. 559,993 issued business licenses or an average of 1,342 per day. Meanwhile, commercial or operational permits reached 449,603 or an average of 1,078 per day.

From these data, domestic investment (PMDN) dominates up to 95.3 percent or IDR 465.29 trillion. Meanwhile, foreign investment (PMA) was 4.7 percent or IDR 22.94 trillion.

Husen added, requests for business licenses also experienced an increase in August 2019. He recorded an average of 2,551 account registrations per day. Account activations averaged 2,365 per day while NIBs issued averaged 2,737 per day. The number of business permits issued was an average of 2,048 per day and an average of 1,639 commercial/operational permits per day.

4. Conclusion

As many as 72.37 percent of applications for permits at OSS were MSME actors. Meanwhile, the remaining 27.63 percent are non-SMEs. BKPM also noted that 61.11 percent of licensing applications were made by non-individual business actors while the remaining 38.89 percent were individual business actors.

5. References

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