



## UNDERSTANDING THE RISK BASED LICENSING IN ACCORDANCE WITH GOVERNMENT REGULATION NO. 5 OF 2021

### Risk Level and Its Implication to Business Licensing

#### I. Background

The Covid-19 pandemic that has hit the whole world, including Indonesia, has become the government's main motivation to continue various structural reform agendas. These reforms means cutting regulations that hinder the ease of doing business and also simplifying business license procedures and investments. The goal of such reform itself is to make the business climate in Indonesia more conducive, facilitate micro, small and medium-sized businesses to start businesses and increase investor confidence to create as many job opportunities as possible, so that it becomes a solution to the problem of increasing unemployment due to the impact of this pandemic.

Therefore, as an implementation of Law No. 11 of 2020 concerning Job Creation or commonly known as the **Omnibus Law**, the Government issued Government Regulation No. 5 of 2021 concerning Implementation of Risked Based Licensing (**GR 5/2021**).

The launch of the Electronically Integrated Business Licensing System, also known as the Online Single Submission Risk Based Approach (**OSS RBA**) is expected to be a breakthrough in the licensing issuing procedure. OSS RBA is an online licensing service that is integrated, where the type of licenses will be adjusted according to the level of risk.

#### II. Key Points

To start and carry out business activities, business owners are required to fulfill basic requirements for Business Licensing; and/or Risk-Based Business Licensing.

The government will undertake the risk-analysis for business activities in the Maritime affairs and fisheries, Agriculture, the environment and forestry, Energy and mineral resources, Nuclear energy, Industry, Trading, Public works and housing, Transportation, Health, medicine, and food, Education and culture, Tourism,





Religious affairs, Post, telecommunications, broadcasting, and electronic system, and transactions, Defense, and Employment.

The basic requirements for a Business Licensing include the application of spatial usage permit, environmental approval, building approval, and a function-worthy certificate.

Meanwhile, Risk-Based Business Licensing is carried out based on the determination of the risk level referring to the results of the risk analysis and the rating of the scale of business activities including MSEs and/or large businesses.

The implementation of the risk analysis is carried out by the Central Government through identification of business activities, hazard assessment, assessment of potential hazards, determination of Risk level and business scale rating, and determination of the type of Business Licensing.

Based on the assessment of the hazard level, the assessment of the potential for the occurrence of hazards, the level of risk, and the rating of the business scale of business activities, business activities are classified into:

- a. low risk level business activities;
- b. medium-low risk level business activities;
- c. medium-high risk level business activities; and
- d. high level risk business activities

#### Low Risk Level Business Activities

Business practitioners of low risk level business activities are only required Business Registration Number or *Nomor Induk Berusaha (NIB)* as the identity of business owners as well as legality to commence their operational and commercial activities, including the production, distribution, and/or marketing goods or services.

The NIB for business activities with a low Risk level carried out by MSEs, shall also serve as Indonesian

National Standard (SNI) as referred to in the legislation in the field of standardization and conformity assessment as well as statement of halal assurance.

#### Medium-Low Risk Level Business Activities

Business practitioners of medium low risk level business activities must obtain NIB and Standard Certificate. This certificate is the legality to carry out business activities in the form of a business statement by business practitioner to meet business standards in the context of conducting business activities which must be filled in through OSS system.

This business license becomes the basis for business practitioner to conduct preparations, operations, and/or commercial business activities.

#### Medium-High Risk Level Business Activities

For the licensing of medium to high risk level business activities, business practitioners must obtain NIB and a Standard Certificate. This certificate shall be verified by the Central Government or Regional Government (in accordance with their respective authorities).

NIB and the verified NIB and Standard Certificate are licenses for business practitioners to carry out operational and/or commercial business activities. Therefore, please be informed that the company with an unverified NIB are only permitted to conduct activities deemed in the preparation stages.

Furthermore, the GR 5/2021 states in the case of business practitioners:

- a. does not obtain a Standard Certificate according to the time period specified in the norms, standards, procedures, and criteria; and
  - b. based on the results of supervision, does not conduct any preparation for business activities within a period of 1 (one) year since the issuance of the NIB,
- OSS agency will annul the issued unverified Standard Certificate.

#### High Risk Level Business Activities

For the licensing of medium to high risk level business activities, business practitioners must obtain NIB and





license to operate. This license will be issued once the central or regional Government has approved the certain conditions fulfilled by business practitioners (including but not limited to Environmental Impact Analysis). The NIB, however, allows the business to conduct activities in the preparation stage of operations.

In the event that the high level of risk business activities require the fulfillment of business standards and/or product standards, the central or regional Governments shall issue a Business Standard Certificate and a Product Standard Certificate based on the results of verification of standard compliance.

For certain business activities may be required additional license to commence its preparation and operational activities.

### III. Transition Provisions

Upon the enactment of GR 5/2021, business practitioners whose business licenses have been approved and are effective before GR 5/2021 takes effect will not be affected. Meanwhile, for the non-

effective business license may have to adjust their application since it will be processed in accordance with GR 5/2021. This regulation also instructs business practitioners to update their access rights data on the OSS System.

In addition to that, as of its enactment date, the Government Regulation No. 24 Year 2018 concerning Electronically Integrated Business Licensing Services is revoked and declared void, while the other laws and regulations regarding business licensing services shall continue to be valid as long as they are not in contradiction with GR 5/2021.

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