



JPPI Vol 9 No 2 (2019) 105 - 124

**Jurnal Penelitian Pos dan Informatika**

32a/E/KPT/2017

e-ISSN 2476-9266

p-ISSN: 2088-9402



[Doi:10.17933/jppi.2019.090203](https://doi.org/10.17933/jppi.2019.090203)

## **ELECTRONIC BUSINESS LICENSING IN INDONESIA**

### ***PERIZINAN BERUSAHA SECARA ELEKTRONIK DI INDONESIA***

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Naskah Diterima: 2 February 2018; Direvisi : 26 November 2019; Disetujui : 4 December 2019

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#### ***Abstract***

This study discusses electronic business licensing in Indonesia, by reviewing and analyzing the development of the regulations on electronic business licensing, electronically integrated business licensing regulations, and electronically integrated business licensing implementation. This research was conducted using normative legal research methods, with primary legal materials, secondary legal materials, and tertiary legal materials. The results of the study indicate that the development of regulations on business licensing is inseparable from the development of one-stop integrated licensing. However, the Online Single Submission system has not been implemented in all business licensing, leaving some with the use of offline arrangement. Proper implementation of electronic business licensing at the central government level, the provincial government level, to the regency level has not been achieved.

**Keywords:** Business Licensing, Online Single Submission, Investment

## INTRODUCTION

### Background

On 21 June 2018, President Joko Widodo signed Government Regulation Number 24 of 2018 on Electronically Integrated Service for Business Licensing (State Gazette of the Republic of Indonesia Year 2018 Number 90, Supplement to State Gazette of the Republic of Indonesia Number 6215 State Gazette Year 2018 Number 90, Supplement to State Gazette Number 6215), hereinafter abbreviated PP. 24/2018. Based on the consideration, PP No. 24/2018 was promulgated as the government's effort to accelerate and increase investment and business and to implement the provisions of Article 25 of Law Number 25 of 2007 on Investment, as well as Article 6 and Article 7 of Law Number 23 of 2014 on Regional Government as amended several times, the latest by Law Number 9 of 2015 on the Second Amendment to Law Number 23 of 2014 on Regional Government.

Article 25 of Law No. 25 of 2007 on Investment (UU No. 25/2007) stated, as quoted below:

- (1) Any investors making investment in Indonesia shall comply with the provisions of Article 5 of this law.
- (2) Legalisation of domestic investment company in form of corporation of non-corporation shall be done in accordance with the provisions of the laws and regulations.
- (3) Legalisation of domestic investment company in form of Limited Liability Company shall be done in accordance with the provisions of the laws and regulations.
- (4) Unless otherwise stipulated in the law, any investment companies shall obtain license before doing any business activity in accordance with

the regulations issued by relevant authorised agency.

- (5) The license as referred to in in paragraph (4) shall be obtained from the One-Stop Integrated Service.

In relation to investment, Law No. 25/2007 introduces the one-stop integrated service. The one-stop integrated licensing service is one of the government's efforts to encourage investment growth in Indonesia.

Article 6 of Law No. 23 of 2014 on Regional Government (Law No.23/2014) states: "The Central Government shall set policies as the basis for organizing Government Affairs.". Meanwhile, Article 7 of Law No. 23/2014 states: "(1) The Central Government shall foster and supervise the implementation of the Local Government Affairs. (2) The President shall hold the final responsibility for the administration of Government Affairs carried out by the Central and Regional Governments." In brief, Law No. 24/2018 becomes the foundation for the implementation of government licensing services in the field of investment, both carried out by the central and regional governments.

Previously, in 2017, the President has stipulated Presidential Regulation Number 91 of 2017 on Acceleration of Doing Business (State Gazette Year 2017 Number 210), hereinafter abbreviated as Perpres No. 91/2017. The consideration in the stipulation of Perpres No. 91/2017 includes: *First*, that the development of the number, distribution, scale, as well as the efficiency of business activities are the main determinants of economic growth,

employment creation, poverty reduction and inequality among regions as well as income groups. Second, that business licensing issued by ministries/institutions and local governments to initiate, implement and develop business activities, need to be reorganized in order to become support and not otherwise be obstacles in the developments of business activities;. Third, that the reorganization shall be manifested in the form of services, advocacy, and the active role of barrier-solving of business implementation through the establishment of Task Force at national, Ministry/Institution, provincial and regency/municipality levels. Fourth, that with respect to acceleration of business implementation in special economic zones, free trade zones and free ports, industrial estates and/or tourism zones, it can be implemented in the form of fulfillment of requirements. Fifth, that for further simplification, it is necessary to regulate and redefine service standards at ministries/agencies, provincial and regency/municipal regions, through the reform of regulations required to carry out business activities. Sixth, that in order to accelerate and facilitate services for business, it is necessary to apply the use of information technology through Online Single Submission.

PP No. 24/2018 and Perpres No. 91/2017 show the government's commitment in its efforts to increase investment growth by encouraging investors to carry out investment activities in Indonesia, especially by facilitating investment licensing by developing an *Online Single Submission System*.

Based on the background as described above, this study will examine and analyze 3 (three) points, namely: *First*, how is the development of

electronic business licensing arrangements? *Second* how do business licensing arrangements becomes integrated electronically? *Third*, how does the business licensing implementation becomes integrated electronically?

## Literature Review

This study is related to literatures relating to the object of study. The object of this study is related to electronic business licensing and investment. Therefore, the following literature review is related to electronic business licensing and investment:

### Electronically Integrated Business Licensing.

In the implementation of governance, the important principles of governance shall be taken into account as well as implemented, which includes the principle of legal certainty, the principle of the orderly governance of the nation, the principle of public interest, the principle of transparency, the principle of proportionality, the principle of professionalism, and the principle of accountability (Ridwan HR 2006). These principles shall be implemented in the administration of government, including in terms of licensing issued by government.

In terms of licensing, any party involved with efforts to obtain licenses expects that be obtained quickly and easily and without the hustle of convoluted procedures. However, the requirements that have been set must be comply with. The fact that different governmental organs are authorized to give certain licenses may obstruct the accomplishment of the objectives of activities

requiring certain licenses, achievements of targets (Ridwan HR, 2006). In this case, simple, quick and easy licensing is a dream for business actors (investors).

The issue of business licensing is actually not a new problem, even in 1984 the president had issued Presidential Instruction No. 5 of 1984 on Guidelines for Operation and Control in the Field of Business (Inpres 5/1984). The Presidential Instruction states 7 (seven) important benchmarks for issued licenses. *First*, it is necessary to reduce the number of licenses that must be secured by business, so that only essentially needed licenses are granted. *Secondly*, it is necessary to simplify administrative requirements by reducing the number and avoid reducing serial requirements. *Third*, it is necessary to provide a fairly long period of validity to provide guarantees for business certainty and continuity. *Fourth*, licensing fees shall be reduced, or eliminated if necessary. *Fifth*, reporting procedures need to be simplified so that one report can be used to meet the needs of various government departments/institutions, both at central and regional levels. *Sixth*, it is necessary to supervise the implementation of licensing in the business sector, and emphasize that the licensee can be required to provide a report at most once every semester (six months). *Seventh*, the issuance of licenses involving personnel must be issued in accordance with the provisions of the employment law, including claims for compensation, discipline of civil servants and criminal charges (Simartupang, 2003).

In a further development, a one-stop service system for investment approval and licensing in the context of simplifying service procedures was put forward in a cabinet meeting on 25 November 2002. But only in 2004, had a one-stop service system for investment approval and licensing was stipulated in Presidential Decree Number 29 of 2004 on Implementation of Investment in the context of Foreign Investment and Domestic Investment through the One-Stop Service System.

Investment licensing is one of the important issues that received attention in Law No. 25/2007. The importance of licensing in Law No. 25/2007 can at least be seen in 2 (two) points, namely: *First*, Article 25 paragraph (5) of Law no. 25/2007 which states that investment licenses shall be obtained through one-stop integrated services. *Second*, the Sixth Paragraph of the elucidation of Law No. 25/2007 as quoted below:

“The principal problem investors confront in starting business in Indonesia are considered in this Law so that there will be the arrangement on legalisation and licensing, in which there is the arrangement for One-Stop Integrated Service. In this system, it is expected that integrated service in central and regional may simplify the licensing and accelerate its completion. In addition to investment service in the regions, the Investment Coordinating Board has the duty to coordinate the implementation of investment policy. The Investment Coordinating Board is led by a Chair that will directly report to the President. Job description and the function of the Investment

Coordinating Board basically strengthens its role in overcoming investment barrier, increases certainty in giving facility to investors, and strengthens the role of investors. Such increased role of investment must remain in the corridor of national development policy made in the stage of microeconomic stability and interregional economic balance, sector, business player, and community groups, to support the role of national business, as well as to fulfill the norms of good corporate governance."

Law No. 25/2007 is a major breakthrough in efforts to simplify investment licensing to increase domestic investment (Tambunan, 2007). This is because the law confirms and requires one-stop integrated services (one roof services) for investment licensing

The issuance of Government Regulation No. 24/2018 is to facilitate and expedite the investment licensing process as regulated in Law No. 25/2007. The second paragraph of the elucidation of the Government Regulation reads as follow:

"The restructuring of the service system is carried out mainly on the One Stop Integrated Service (PTSP). This is considering that based on Article 25 paragraph (4) of Law Number 25 of 2007 on Investment, investment companies carrying out business and/or activities must obtain a license in accordance with the provisions of the laws and regulations from authorized institutions, unless specified otherwise in the law. Furthermore, paragraph (5) regulates that services for licenses to conduct business and/or activities are carried out through PTSP. "

In addition, GR No. 24/2018 also introduces the electronically integrated investment

licensing service (*Online Single Submission*). The third paragraph of the Elucidation of the Government Regulation states as cited as the following: " PTSP services at the Central Government and Regional Government have been improved to be more efficient, serving and modern. One of the most significant is the provision of an electronically integrated investment licensing service (*Online Single Submission-OSS*) system . Through the OSS, Business Actors register and arrange the issuance of Business Licenses and the issuance of Commercial and/or Operational Licenses in an integrated manner. Also, through the OSS, Central Government and Local Governments grant Business Licenses applied by Business Actors. "

The above description describes the the metamorphosis undergone by licensing system from conducted in multiple institutions to a one-stop licensing system. During its development, the nomenclature for the one-roof licensing service system was changed to one-stop integrated licensing system, until the birth of the electronically-integrated licensing system (*Online Single Submission-OSS*).

### **Capital Investment**

Every country always seeks to increase the development, welfare, and prosperity of its people. Efforts to achieve these objectives are carried out in various different ways from one country to another. One of the efforts that are not missed by every country is to strengthen investment activities, both domestic investment and foreign investment (Achmad, 2003). This is inseparable from the view that economic growth

basically depends very much on the level of investment in a country. The higher the investment the faster the rate of economic growth (Uwiyono, 2003). For this reason, the government's attention to investment has a very important role. Investment is a combination of the state investment program and the private sector (Baum & Tolbert, 2006)

Developing countries competing in various ways to bring investors to their countries. Various policies were issued by their governments to make the countries investment destination to provide easy and fast licensing, incentives, long investment periods, and various other policies to increase and encourage investment activities.

For this reason, the government as the organizer of the state is required to and must play an active role in developing national investment, because it is closely related to the achievement of the objective of the state, namely the welfare of all its people. Government's involvement in fostering investment in a country is essentially its duties and functions as a state organizer. Therefore, this role cannot be eliminated, restricted or impeded owing to globalization, or free trade, or other reasons. The objective of a state, any state in the world, is to prosper its people or society at large. To carry out these objectives, the country must be sovereign (internally and externally) and be able to protect its national interests (Noor, 2009).

Investment has been regulated since the 1960s with the issuance of 2 (two) investment laws, namely Law Number 1 of 1967 on Foreign Investment (State Gazette of the Republic of Indonesia Year 1967 Number 1, Supplement to the

State Gazette of the Republic of Indonesia Indonesia Number 2818) as amended by Act Number 11 of 1970 on Amendment and Supplement to Law Number 1 of 1967 on Foreign Investment (State Gazette of the Republic of Indonesia Year 1970 Number 46, Supplement to the State Gazette of the Republic of Indonesia Number 2943) and Law Number 6 of 1968 on Domestic Investment (State Gazette of the Republic of Indonesia Year 1968 Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 2853) as amended by Law Number 12 of 1970 on Amendment and Supplement to Law Number 6 of 1968 on Domestic Investment (State Gazette of the Republic of Indonesia of 1970 Number 47, Supplement to State Gazette of the Republic of Indonesia Number 2944).

Along with the development of time, both regulations governing investment was considered no longer relevant with the current development of investment. Bismar Nasution in the study titled "Implications of the Investment Law Against Country of Origin Marking" published in the Jurnal Hukum Bisnis (Journal of Business Law), Vol. 22, No. 5, Year 2003 writes, as quoted below:

" The current investment situation in Indonesia has declined sharply compared to the previous period. The decline in investment is inseparable from the state of the yet conducive laws and regulations relating to investment. Such conditions will make domestic and foreign investors hesitant to immediately invest in Indonesia. For this reason, reform of the Investment Law in Indonesia is

needed and this is a precondition to increase investment."

Yulianto Syahyu in a study "Growth of Foreign Investment in Batam Islands: Between Leadership Dualism and Legal Uncertainty" published in the *Jurnal Hukum Bisnis (Journal of Business Law)*, Vol. 22, No. 5, Year 2003 states, as quoted below:

"Until now, in Indonesia, Law Number 1 of 1967 as amended by Law Number 11 of 1970 on Foreign Investment are still effective despite the many points that require adjustment in order to meet the needs and demands of global economic development and domestic interests."

Academics and practitioners consider that regulations on investment issued in the old order and the new order era require changes and adjustments.

Both Laws were then repealed and replaced with Law Number 25 of 2007 on Capital Investment. Since the enactment of Law 25/2007, the provisions on Domestic Investment (PMDN) and Foreign Investment (PMA) are regulated in one regulation. In the fifth paragraph of the elucidation to Law No. 25/2007, states, as quoted below:

"This Law includes all direct investment activities in all sectors. This Law also provides guarantee for equal treatment in the investment framework. In addition, this Law requires that the Government improve coordination among government agencies, between Government agencies and the central bank (Bank Indonesia), and between central and regional governments. Coordination with regional governments must be in line with the regional autonomy spirit. Regional governments, together with agencies and institutions either private or

governmental, must be empowered even more in developing both regional potential opportunity and in promotional coordination, as well as investment service. Regional governments are to carry out the autonomy to the maximum extent in order to arrange and deal with investment organisation of their own, based on regional autonomy principle and supporting duty or decentralisation."

Equal treatment for investment, both in domestic investment and foreign investment is important and shall be taken into account, for it is one of the principles of the implementation of capital investment.

## METHODOLOGY

This study uses normative legal research or library research. Normative legal research or library legal research is also called *doctrinal research* (Ibrahim, 2013). This study only uses secondary data (Soekanto & Mahmudji, 2001) which include primary legal materials, secondary legal materials and tertiary legal materials. The study was conducted by compiling positive law inventory as an initial and fundamental activity for conducting research and studies (Sunggono, 1997).

Primary legal materials are binding legal materials, consisting of basic norms, basic regulations, statutory regulations, jurisprudence, and treaties (Soekanto & Mahmudji, 2001). Primary legal material has authoritative characteristics, meaning that it has authority. Primary legal material consists of legislation, official records or minutes in

the formulation of laws and regulations and judges' decisions (Marzuki, 2008). Primary legal materials used in this study include Law Number 25 of 2007 on Investment, Law Number 11 of 2008 on Electronic Information and Transactions, Government Regulation Number 24 of 2018 on Electronically Integrated Business Licensing Services, Presidential Regulation Number 97 of 2014 on the Implementation of One-Stop Integrated Services and Presidential Regulation Number 91 of 2017 on the Acceleration of Doing Business.

Secondary legal materials in the form of all legal publications include textbooks, legal dictionaries, legal journals, and comments on court decisions (Marzuki, 2008). The secondary legal material provides an explanation of the primary legal material, such as draft law, research results, the work of legal communities (Soekanto & Mahmudji, 2001). Secondary legal materials used in this study include 1). Articles in Journal of Business Law Vol. 22 No. 5 of 2003, titled: a. Implications of Labor Law No. 13 of 2003 on the Investment Climate; b. Implications of the Investment Law on the arrangement of Country of Original Markings; and c. The Role of the Multilateral Investment Guarantee Agency (MIGA) in Investment Activities; 2). Article in Journal of Business Law Vol. 26 No. 4 of 2007, entitled: "Obstacles to Licensing in Capital Investment Activities in Indonesia and Efforts Needed to be done by the Government." While tertiary legal material means material that provides instructions and explanations for primary and secondary legal materials, such as

dictionaries, encyclopedias, cumulative indexes, mass media and others.

## **RESULTS AND DISCUSSIONS**

### **Development of Regulations on Electronil Business Licensing**

Electronic business licensing is regulated in a number of laws and regulations. The development of the regulation in Indonesian hierarchy of laws and regulations can be described as follows:

First, the law regulating electronic business licensing are Law No. 25 of 2007 on Investment and Law No. 11 of 2008 concerning Electronic Information and Transactions. Law No.25/2007 was enacted and promulgated on 26 April 2007 and entered into force on the same date as the date of promulgation. Law No.11/2008 was enacted and promulgated on 21 April 2008 and entered into force on the same date of the promulgation. Law No.25/2007 introduces one-stop integrated services. Article 1 number 10 of Law No. 25/2007 defines a One-Stop Integrated Service as any licensing or non-licensing activity delegated or authorised by any institutions or agencies possessing licensing or non-licensing authority, whose issuance process shall begin with application stage up to the document issuance stage conducted in a single place. Law No.11/2008 introduces the use and utilization of information technology, including the use of an electronic system. Article 1 number 5 of Law No.11/2008 defines an electronic system as a set of electronic devices and procedures that functions to prepare, collect, process, analyze, store,



display, announce, send, and/or disseminate Electronic Information.

Second, Government Regulations regulating electronic business licensing is Government Regulation Number 24 Year 2018 on Electronically Integrated Business Licensing Services. GR No.24 / 2018 was established on 21 June 2018 and enacted on the same date as the date of establishment. This Government Regulation came into force on the same date as the promulgation. As explained earlier, GR No.24/2018 was issued to implement the provisions of Article 25 of Law no. 25/2007 and Article 6 and Article 7 of Law No. 23/2014 as amended several times, the latest by Law Number 9 of 2015 on Second Amendment to Law Number 23 of 2014 on Regional Government.

Third, Presidential Regulation. Presidential Regulation Number 97 of 2014 on Implementation of One-Stop Integrated Services (Perpres No. 97/2014) and Presidential Regulation Number 91 of 2017 on Acceleration of Doing Business (Perpres No.91 / 2017). Presidential Regulation No.97/2014 was issued on 15 September 2014 and enacted on 18 September 2014 and effective on the same date as the date of promulgation. Article 1 number 1 of Presidential Regulation No.97/2014 defines One Stop Integrated Service, hereinafter abbreviated as PTSP, as an integrated service in a single process starting from the application stage to the product completion stage in one place. Presidential regulation No.91/2017 was passed on 22 September 2017 and promulgated on 26 September 2017 and took effect on the same date as the date of promulgation. Presidential Regulation No.91/2017 was issued in order to accelerate and facilitate services for doing business by the implementation

of information technology through the Online Single Submission System.

Fourth, Regulation of the Chairman of the Investment Coordinating Board Number 6 of 2018 concerning Guidelines and Procedures for Investment Licensing and Facilities. BKPM Regulation No.6 of 2018 was established on 19 July 2018 and enacted on 20 July 2018. It came into effect on the same date as the date of promulgation. BKPM Regulation No.6 of 2018 revokes the Regulation of the Chairman of the Investment Coordinating Board Number 13 of 2017 on Guidelines and Procedures for Investment Licensing and Facilities. BKPM Regulation No.6 of 2018 aims to standardize procedures of submission, application requirements and investment Licensing and Facility process at the Central One Stop Integrated Service (PTSP) at BKPM, the Provincial Investment and One Stop Integrated Service (DPMPTSP) Offices, Regency/City DPMPTSP offices, Special Economic Zone (KEK) PTSP, and Free Trade Zone and Free Port (KPBPB) PTSP and provide information about the requirements and time of completion of the application for Licensing and Investment Facilities.

Electronic Business Licensing is regulated in laws, government regulations, presidential regulations to and BKPM Chairman regulations. Investment licensing experiences a metamorphosis from licensing services provided at separate institutions to one-stop licensing services and one-stop integrated licensing services. In the most recent development, business licensing can be done with the use of information technology systems through the Electronic Single Integrated Business Licensing System (Online Single Submission).

## **Electronically Integrated Business Licensing Regulations**

Electronically integrated business licensing is regulated in the Presidential Regulation No. 24 of 2018 and BKPM Chairman regulation No. 6 of 2018. The provisions of Presidential Regulation No. 24 of 2018 comprises the followings:

First, types, applicants, and issuers of business licensing. Business licenses types are business licenses and commercial or operational licenses. Business license applicants consist of individual business actors and non-individual business actors. Business licensing issuers are ministers, institutional leaders, governors, or regents/mayors in accordance with their authority.

Second, the implementation of business licensing which includes registration, issuance of business licenses and issuance of commercial or operational licenses based on commitments, fulfillment of business license commitments and fulfillment of commitments of commercial or operational licenses, payment of fees, facilitation, validity period, and supervision.

Third, sector business licensing reform through the OSS system is carried out to accelerating business services. Licensing regulation reform seeks to reorganize licensing types, registration, recommendations, approvals, stipulations, standards, certifications, or licenses, stages of obtaining licenses, and enforcement of commitments to fulfill requirements

Fourth, the OSS system. The Central Government builds, develops and operates the OSS

system. The OSS system is integrated and serves as a gateway for existing government service systems in ministries/institutions, and local governments. The OSS system becomes the main reference (single reference) in the implementation of business licensing. In the event that ministries, institutions, provincial governments, regency/municipality governments have more than 1 (one) electronic licensing systems, the OSS system shall integrate the systems into 1 (one) door electronic licensing system determined by the said ministries, institutions, provincial governments, regency/municipality governments. ministries, institutions, provincial governments, regency/municipal governments use the OSS system in the context of granting business licenses within their respective authorities. The use of the OSS system shall comply with the OSS system integration standard. OSS system integration standards shall at least contain authentication standards and set access rights to and from OSS systems, standards for licensing data elements between business licensing systems and OSS systems, standard integration models between business licensing systems with OSS systems, shared security standards and digital signatures between business licensing systems and OSS systems, and standard service level agreements between business licensing systems and OSS systems. The determination of the feasibility of standardization of OSS system integration is carried out through an integration feasibility assessment, which includes technical and operational review processes on aspects that include the feasibility of

specifications of application and data standards, the feasibility of operating procedures and business process standards, the feasibility of licensing system infrastructure, and the feasibility of support standards service. The feasibility of standardizing OSS system integration is outlined in the form of integration feasibility testing. The integration feasibility assessment certificate is determined by the ministry that carries out government affairs in the field of communication and informatics. OSS system devices include hardware, software, networks, and supporting devices. The OSS system equipment is fully operational for 24 (twenty four) hours. OSS system equipment must have a backup device that operates continuously to maintain the operational continuity of the OSS system. OSS system tools are provided by OSS Institutions, ministries, institutions, provincial governments, or regency/municipal governments independently. The ministry that carries out government affairs in the field of communication and informatics sets the standard of OSS system tools.

Fifth, OSS Institution. The OSS system is managed by the OSS Institution. OSS institutions, based on GR No. 24/2018 has the authority to issue business permits through the OSS system, establish policies for implementing business permits through the OSS system, set guidelines for the issuance of business licenses for OSS systems, manage and develop OSS systems, and cooperate with other parties in implementing, managing and developing the system OSS. The exercise of authority is carried out in coordination with ministers, institutional leaders, governors, and/or regents/mayors. This coordination is facilitated by the coordinating

minister who organizes government affairs in the economic field.

Sixth, OSS funding. Funding for the building and development of the OSS system is charged to the State Budget and funding for the implementation of business licenses through the OSS system at ministries/institutions is charged to the State Budget. Meanwhile funding for the implementation of business licensing through the OSS system at the provincial government is charged to the provincial regional budget. Funding for business licensing through the OSS system includes the provision of equipment for the implementation of the OSS system, the OSS system network, and human resources for the implementation of the OSS system.

Seventh, incentives or disincentives for business licensing through OSS. The Central Government can set incentives or impose disincentives on ministries/institutions, provincial governments, or regency/municipal governments that carry out business licenses through the OSS system. Incentives for ministries/institutions can be in the form of additional budgets and/or other forms in accordance with the provisions of the laws and regulations. Incentives for provincial or regency/municipal governments can be in the form of Regional Incentive Funds based on an evaluation of the performance of business services. The provision of incentives is carried out in accordance with the ability of the state finances. Meanwhile disincentives for ministries/institutions can be in the form of budget reductions and/or other forms in accordance with the provisions of the laws and regulations. Disincentives for provincial or regency/municipal governments can be in the form

of postponement of the General Allocation Fund and/or Revenue Sharing Fund which constitutes the rights of the relevant region and other forms in accordance with the provisions of the laws and regulations. Postponement of the General Allocation Fund and/or Revenue Sharing Fund is carried out after considering the amount of distribution of the General Allocation Fund and/or Revenue Sharing Fund, other deduction sanctions and/or other delays, as well as the fiscal capacity of the said region. Provisions for the implementation of incentives and disincentives are regulated in a Regulation of the Minister of Finance.

Eighth, resolutions of licensing problems and constraints through OSS. Ministers, institutional leaders, governors, and regents/mayors are required to resolve obstacles and problems in their field of business licensing through the OSS system in accordance with the provisions of the laws and regulations. In the event that the legislation fail to regulate or does not clearly regulate the authority for the resolution of obstacles and problems in the implementation of the OSS system, ministers, institutional leaders, governors, and regents/mayors are authorized to determine decisions and/or take actions needed in order to resolve obstacles and the problems referred to in accordance with the general principles of good governance.

Ninth, sanctions. Governors and regents/mayors who fail to provide services to fulfill commitments for business licenses and/or commercial or operational licenses in accordance with OSS to business actors who have fulfilled the

requirements based on the provisions of GR No.24 / 2018 and related laws and regulations are subject to sanctions. Written reprimands for governors shall be carried out by home minister and written reprimands for regents/mayors shall be imposed by governors as representative of the Central Government. Written reprimands shall be imposed 2 (two) times with a maximum term of 2 (two) days for each reprimands.. In the event that governors and regents/mayors fail to provide services in fulfilling the Commitment of Business Licenses and/or Commercial or Operational Licenses and written reprimands have been imposed 2 (two) consecutive times, the minister responsible for home affairs takes over the completion of the fulfillment of the commitments of Business licenses and/or Commercial or Operational licenses under the authority of the said governor and delegate them to the OSS Institution or governors as representative of the Central Government take over the fulfillment of Commitment of business licenses and/or Commercial or Operational licences under the authority of the said regents/mayors and delegate them to OSS Institution. Ministers, institutional leaders, governors, and/or regents/mayors shall impose sanctions on officials who fail to provide OSS services according to OSS standards. Sanctions are carried out in accordance with the provisions of the laws and regulations in the field of the state civil apparatus.

To implement GR No. 24/2018, Chairman of BKPM established BKPM Regulation No. 6/2018 which regulates the following matters: First, licensing guidelines. Guidelines for licensing

regulate investment licensing provisions and business licensing procedures. Investment licensing provisions consist of business conditions, investment value and capital provisions, business sector provisions. Business licensing procedure regulates that application for licensing be done online through the Electronic Investment and Licensing Information Service System (SPIPISE). In the event that license application cannot be submitted online, the application shall be submitted offline by attaching the requirements as regulated in the laws and regulations. Offline applications shall be submitted to the Central PTSP at BKPM using the form determined by BKPM or the application form as regulated in a regulation issued by relevant technical ministries/non-ministerial government institutions. The application shall be completed with general requirements, namely: a). legality aspects of a legal person, in the form of company's memorandum of associations and/or amendments that have been approved/agreed/notified by the Minister of Law and Human Rights. Taxpayer Identification Number (NPWP) of the company that has been confirmed by the Taxpayer Status in accordance with the provisions of the laws and regulations and business identification number (NIB); b). aspects of the legality of the domicile, namely the legality of the address of the company's head office and/or the legality of the company's project location in the form of a Land Purchase Certificate (AJB), Building rights title/commercial rights title (HGB/HGU), a notary lease or a lease-to-use agreement for a group of companies/affiliates; c). aspects of environmental legality in the form of Environmental Management documents; d). proof of recent receipt of online

investment progress reports (LKPM) through SPIPISE for companies that already have an obligation to submit LKPM; and e). power of attorney if the application is not made directly by the leader of the company.

A business license shall be issued no later than 3 (three) days from the receipt of a complete and correct application. Amendment to a Business License shall be issued no later than 3 (three) days after receipt of a complete and correct application. Business License for an application is issued in the form of a certificate with an electronic signature in the form of a portable document format (pdf) and completed with a validation sheet. In the event that the application for a business license is denied, the Chairman of BKPM or appointed official shall give denial letter in no later than 2 (two) days. The validity period of business license is determined as long as the company production/ business operation is active, unless otherwise stipulated by the provisions of the laws and regulations.

Second, the provisions and procedures for license to establish general foreign representative office and branch offices. These provisions include provisions for license of general foreign representative offices (KPPA), provisions and procedures for applications for opening branch offices. In order to be able to carry out activities in Indonesia, KPPA shall secure a KPPA License. KPPA's activities are limited as supervisors, liaison, coordinator, and take care of the interests of the company or its affiliated companies, preparing for the establishment and development of PMA companies in Indonesia or in other countries and Indonesia, located in office buildings in provincial capitals, not seeking any income from sources in

Indonesia are not permitted to carry out activities or commit any sale/purchase transaction or commercial goods or services with domestic companies or individuals, and do not participate in any form in the management of any company, subsidiary or branch company in Indonesia. KPPA's Chief Representative Officer must reside in Indonesia, take full responsibility for the smooth running of the office, is not permitted to carry out activities outside the KPPA's activities and is not allowed to hold concurrent positions as Company Leaders and/or more than 1 (one) KPPA. In the event that the KPPA's Chief Representation Officer designated is a foreigner and/or employs foreign workers, KPPA must employ Indonesian workers in accordance with the provisions of the laws and regulations. KPPA license is valid as long as the representative office is active. KPPA can make changes to the conditions stated in the KPPA License. The KPPA License Application is made online through SPIPSE. Application is issued no later than 3 (three) days from receipt of the complete and correct application. KPPA license are issued in the form of certificates with an Electronic Signature in the form of a portable document format (pdf) and completed with a validation sheet. In the event that an application for a KPPA license is denied, Chairman of BKPM or an appointed official shall make a Denial Letter in no later than 2 (two) days.

Third, provisions and procedures for customs and taxation facilities. In this section the provisions and procedures for applying for exemption from import duty, provisions and

procedures for applying for corporate income tax facilities for investment in certain business fields and/or in certain regions, the provisions and procedures for the application for exemption or reduction facilities of corporate income tax (tax holiday). Provisions and procedure for requesting an import duty exemption facility include provisions and procedures for granting exemption from import duty on machinery and goods and materials for construction or industrial development in the context of investment, provisions and procedures for granting exemption from import duty on capital goods for construction or development of the electricity generation industry for public use, provisions and procedures for the exemption or relief of import duties and/or exemption of value added tax on imported goods for work contracts and coal mining concession work agreements, procedures for filing requests for recommendations for transfer/re-export/annihilation, issuance of decisions on facilities for exemption of import duties, issuance of recommendations for transfer/re-export/annihilation.

Fourth, the provisions and procedures for granting stay permit facilities for investors. Immigration facilities in the field of investment consist of recommendations for granting a limited stay visa, recommendations for transferring the status of a visiting stay permit to a limited stay permit, and a recommendation for granting a limited stay permit status to a permanent residence permit. The recommendation for granting a limited stay visa is a recommendation for a limited stay

visa not to work for foreigners making a Foreign Investment (PMA) and is a requirement for obtaining a limited stay visa approval. Requests for granting limited stay visas are submitted offline to BKPM. Recommendations for granting a limited stay visa are issued no later than 3 (three) days from the receipt of a complete and correct application. In the event that the application for a recommendation for granting a limited stay visa is denied, the chairman of BKPM or an appointed official shall make a denial letter in no later than 2 (two) days. The recommendation to change the status of a Visiting Stay Permit to become a Limited Stay Permit is a requirement to obtain approval to transfer the status of a Visiting Stay Permit to a Limited Stay Permit. A request for a recommendation to change the status of a residence permit to a limited stay permit is submitted offline to BKPM. A recommendation to change the status of a residence permit to a limited stay permit is issued no later than 3 (three) days from the receipt of a complete and correct application. In the case of a request for a recommendation to change the status of a residence permit for a visit to a limited stay permit is denied, chairman of BKPM or an appointed official shall make a denial letter in no later than 2 (two) days. The recommendation to change the status of a Limited Stay Permit to a Permanent Stay Permit is a requirement to obtain approval to transfer the status of a limited stay permit to a permanent residence permit. The recommendation to change the status of a limited stay permit to a permanent residence permit can be given to foreigners who meet the following criteria, namely Investors and hold the position of management of a company with the provision of at

least Rp1,000,000,000.00 (one billion rupiah) or Investors and not as a management of the company with the terms of ownership of at least Rp10,000,000,000.00 (ten billion rupiah). A request for a recommendation to change the status of a limited residence permit to a permanent residence permit is submitted offline to BKPM. The recommendation to transfer the status of a limited residence permit to a permanent residence permit is issued no later than 3 (three) days from the receipt of a complete and correct application. In the case of a request for a recommendation to change the status of a limited residence permit to a permanent residence permit is denied, chairman of BKPM or an appointed official shall make a denial letter in no later than 2 (two) days.

Fifth, supervision on fulfillment of business licensing commitments. BKPM monitors and supervises the fulfillment of commitments to business licenses issued by OSS Institutions in accordance with the provisions of the laws and regulations. In the event that the results of monitoring and supervision are found to be nonconformities or irregularities, BKPM shall take action in accordance with the provisions of the laws and regulations. Actions can be in the form of warnings, temporary suspension of business activities, imposition of administrative fines and/or revocation of business licenses, in accordance with the provisions of the laws and regulations. The action shall be carried out by BKPM through the OSS system.

Sixth, priority services. Priority services are accelerated business licenses provided to PMA and PMDN companies whose licenses meet the following requirements, namely an investment

value of at least Rp100,000,000,000.00 (one hundred billion rupiah) or absorption of Indonesian workers of at least 1,000 (one thousand) people. This requirement is exempted for certain industrial activities, certain regions or places that obtain inland free trade arrangements, in accordance with regulations established by the minister responsible for industry, companies in certain industrial business sectors that are part from the supply chain, with the requirement to submit a statement or memorandum of understanding as a supplier of the product that will be produced for user companies, the company that follows the tax amnesty program, with the requirement to attach a record of the tax amnesty statement issued by the minister finance or officials appointed on behalf of the minister of finance, and infrastructure projects and/or national strategic projects that have been stipulated in legislation. The tax amnesty program for new projects can also be given to individuals, with the requirement to attach a record of tax amnesty issued by the finance minister or an official appointed on behalf of the finance minister. The tax amnesty program for expansion projects can also be given to individuals who have PMDN individual businesses with the requirement to attach a record of tax amnesty issued by the finance minister or an official appointed on behalf of the finance minister. Requests for priority service delivery shall be submitted directly by company leaders to the Central PTSP at BKPM complete with requirements in accordance with the provisions of the laws and regulations. Regulations of electronic business licensing as described above shows that not all

business licensing are carried out online. In fact, a number of licensing processes must be done offline.

Licensing process that are carried out offline include transfer of locations for imported imported facilities machinery, requesting recommendations for transfer/re-export/annihilation, requests for corporate income tax facilities for investment in certain business fields and/or certain areas (tax allowance), request for recommendation of granting a limited stay visa, request for a recommendation to change the status of a residence permit to become a limited stay permit, a request for a recommendation to transfer the status of a limited stay permit to a permanent residence permit.

### **Implementasi Perizinan Berusaha Terintegrasi Secara Elektronik**

The electronically integrated business licensing implemented by the Central Government and the Provincial Governments and Regency Governments has not been going well. This can be seen that the Online Single Submission System (OSS) has not been implemented well at the district / city government level. Implementation of business licensing at each level of government can be described as follows:

#### **Electronically Integrated Business licensing**

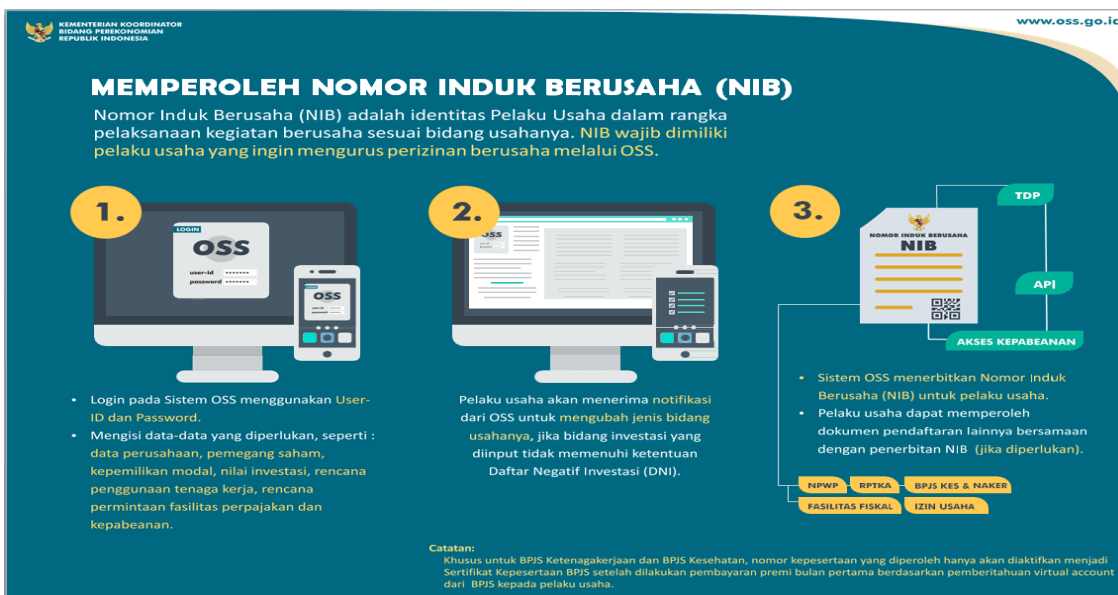
The electronically integrated business licensing has not been smoothly implemented by the Central Government, Provincial Governments and Regency/Municipal Governments. This can be seen from the fact that successful implementation of the Online Single Submission System (OSS) has not been appropriately implemented at the



rency/municipal government. Implementation of business licensing at each level of government can be described as follows:

First, in the Central Government. The central government has built, developed, and operationalized an Online Single Submission System (OSS). The central government has

implemented the OSS system. This OSS system has been integrated and serves a gateway for the existing government service system in the ministries/institutions and regional governments. On the OSS portal of the Republic of Indonesia, the Electronically Integrated Business Licensing Service is described as follows:



**Gambar 1.** procedures for obtaining business identificaion number in business implementation

(Source: <https://oss.go.id/oss/>, accessed on 1 April 2019)

Second, the Provincial Government. The Provincial Government has Provincial One-Stop Integrated Investment and Service Office (Provincial DPMPSTP). Provincial DPMPSTP is supporting office to assist the head of the region in the implementation of the provincial government administration that carries out the main function of coordination in the field of investment in the provincial government. Initially, each provincial government had its own licensing system. As an example, the online service on the portal of the Aceh One Gate Integrated Investment and Services Office (DPMPSP Aceh). The online service

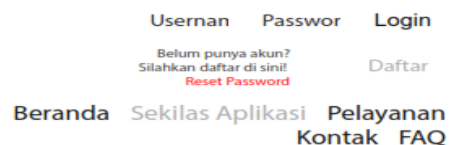
provided E-Licensing service. The service consisted of SAPA (Aceh Licensing Application System), OSS (One Single Submission), and siCANTIK CLOUD. The SAPA and OSS applications had been operated, while the CANTIK CLOUD had not. SAPA was developed by the Government of Aceh and was launched on 24 October 2017. SAPA consisted of types of licenses and requirements that must be met to obtain a license. SAPA had many benefits including providing ease for the public to obtain licensing and non-licensing services, online services from permit registration to input of required documents through the media interface

were available on the application. For applicants who submit licence extension application, they are not required to re-submit required application document, only completing the latest new requirements (Serambi, 2017). OSS (One Single Submission) is created, developed and managed by the central government based on GR No. 24/2018, yet it has not seen an appropriate implementation in Aceh Province.

Third, in the Regency/Municipal Government. The regency/municipal government level has Regency / City Investment and One Stop Integrated Service (regency/city DPMPTSP). Regency/City DPMPTSP is supporting office to assist in the administration of district/city government which carries out the main function of coordination in the field of investment in the district/city government.

As a comparison, it is necessary to show licensing in one of the districts and cities in Aceh Province. Pidie Regency government has a Pidie Electronic Licensing System (SIPIEDI) portal, but it is not integrated with the OSS (One Single Submission) developed by the central government. The Pidie Electronic Licensing System only contains data on the types of permits and requirements that must be met to obtain a permit or extend a permit.

Banda Aceh City Government has an electronic licensing application, but it is not integrated with the OSS (One Single Submission) developed by the central government. The Banda Aceh city online licensing portal is displayed as follows:



### Aplikasi Perizinan Online

Aplikasi Perizinan Online yang dibangun oleh Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu (DPMPTSP) Kota Banda Aceh adalah salah satu wujud komitmen pemerintah kota untuk selalu berusaha meningkatkan pelayanan kepada warganya dan juga untuk mendukung penerapan e-government di lingkungan Pemerintah Kota Banda Aceh.

Melalui aplikasi yang berbasis web ini, DPMPTSP Kota Banda Aceh berusaha memberikan pelayanan perizinan yang lebih cepat, mudah dan transparan.

Aplikasi yang juga terintegrasi dengan website DPMPTSP ini dapat digunakan oleh masyarakat untuk mengirimkan dokumen persyaratan sesuai dengan jenis perizinan yang diajukan serta dapat mengetahui status dari perizinan tersebut secara realtime. Dengan aplikasi ini, masyarakat tidak lagi direpotkan untuk datang ke di DPMPTSP hanya untuk mengetahui persyaratan perizinan, status permohonan perizinan yang mereka ajukan dan pengambilan izin yang telah diterbitkan. Semuanya akan bisa dilakukan secara online.

Masyarakat cukup membuat akun, mengirimkan persyaratan yang dibutuhkan sesuai dengan layanan yang dibutuhkan dan memantau status permohonannya. Ketika status permohonan telah selesai maka akhirnya cukup datang satu kali saja untuk mengambil izin yang telah diterbitkan dengan menunjukkan dokumen asli yang dipersyaratkan.

**Gambar 2.** Banda Aceh government Online Licensing

(Sourcer: <http://perizinan.bandaacehkota.go.id/public-aplikasi.html>, accessed on 1 April 2019)

Electronic business licensing developed by the Central Government with GR No. 24/2018 was absence on the portals of Pidie Regency Investment

and Integrated Services Office and the Banda Aceh City Investment and Integrated Services. This indicates that the OSS (One Single Submission)

developed and managed by the central government has not been implemented at all levels of

## CONCLUSIONS

Based on the explanation in the results and discussion, a number of points can be concluded in relation with electronic business licensing in Indonesia: First, electronic business license which is regulated in laws, government regulations, presidential regulations, and BKPM regulations underwent transformation from licensing process in multi-agencies towards one-stop integrated services to electronic licensing services. Second, the regulation of electronic business licensing is not yet comprehensive, owing to the fact that there are licenses that must be done offline. Third, the implementation of electronic business licensing at the level of the central government, provincial and district governments has not been implemented properly.

Therefore, it is suggested that it is necessary for the government to develop a comprehensive electronically integrated business licensing system, so that all licensing process are conducted online. In this case, the Online Single Submission System can contribute to easier and simpler investment licensing.

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