

Effectiveness of Online Single Submission (OSS) Implementation For Limited Company Legal Entities Registration By Notaries

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Abstract. *This study was made with the aim of knowing the Effectiveness of the Implementation of Online Single Submission (OSS) for Registration of Legal Entities of Limited Liability Companies (PT) by a notary in Wonosobo Regency based on Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services. The approach method in this research is sociological juridical with descriptive research specifications. The data needed in this research includes primary and secondary data taken by observation, interviews with informants who understand, understand, and are in direct contact with the research object. The collected data is then analyzed qualitatively. Based on the research, it can be concluded that the limited liability company deed is made by a notary like other authentic deeds such as the provisions in Act No. 2 of 2914 regarding amendments to Act No. 30 of 2004 concerning the position of a notary and Article 1686 of the Civil Code with the requirements stipulated in Act No. 40 of 2207 concerning limited liability companies. In Wonosobo Regency, the online single submission system is considered ineffective because there are still confusions for legal subjects in running the system in full. Furthermore, the OSS system is considered to still tend to be weak. There are certain times when the OSS system page cannot be accessed, cannot enter the Log-In page, and a system error occurs during the issuance process of the Business Identification Number (NIB), so the user must repeat data input from the beginning again, because there is no automatic backup feature when the connection with the server is lost.*

Keywords: *Effectiveness; Notary; Public; Registration.*

1. Introduction

In the context of accelerating and improving electronically integrated Business Licensing services from this consideration, Government Regulation of the Republic of Indonesia Number 24 of 2018 concerning Licensing Services has been issued.¹To support this achievement, article (1) number (5) states that Electronically Integrated Business Licensing or Online Single Submission, hereinafter abbreviated as OSS, is a Business Licensing issued by the OSS Institution for and on behalf of the minister, head of the institution, governor or regent. / mayor to Business Actors through an integrated electronic system. As a follow-up to PP No. 24 of 2018, the Coordinating Ministry on Monday, July 8 2018 officially launched the Online Single Submission (OSS) application.²

Furthermore, the purpose of the establishment of this OSS is as a trigger for investment which is closely related to the development of the nation in the economic field, which can then be used for the welfare of the people of a country, especially for developing countries. As a developing country, to create what the founding fathers aspired to through paragraph IV of the opening of the 1945 Constitution of the Republic of Indonesia, Indonesia needs investors who are willing to invest in Indonesia, both domestic and foreign investors foreign capital. Based on data from the Investment Coordinating Board (hereinafter abbreviated as BKPM) the realization of investment in 2017 was IDR 692.8 trillion, while in 2018 it increased to IDR 721.3 trillion.³

This online single submission has various advantages compared to other types of licensing services, such as one-stop integrated services One-Stop Integrated Service and Investment Service (DPMPTSP). Because basically online single submission uses an online system, so that it can be done flexibly anytime, anywhere, while at the same time speeding up licensing. This step is part of a system improvement that has been intensified recently to attract investors to invest in Indonesia.

¹ Government Regulation of the Republic of Indonesia Number 24 of 2018 concerning Licensing Services

²Darmawan Subuh, Djoko Harsono, Ismail (2019), Kajian Penerapan Sistem Informasi Online Single Submission Menurut Peraturan Pemerintah Republik Indonesia Nomor 24 Tahun 2018 Tentang Pelayanan Perizinan Berusaha Terintegrasi Secara Elektronik, dalam Seminar Nasional Teknologi Komputer & Sains (SAINTEKS) January 2019. <https://seminaar-id.com/prosiding/index.php/sainteks/article/view/138> accessed on 30 september 2021

³Arista Satriyo Wicaksono Mualim (2020), Problematika Online Single Submission Di Indonesia: Konflik Kewenangan Antara Pusat Dan Daerah, dalam Jurnal panorama hukum Vol. 5 No. 1 June 2020 <https://ejournal.unikama.ac.id/index.php/jph/article/view/4497> accessed on 30 September 2021

This is very reasonable considering in order to realize the practice of good governance so that the public or the community gets a form of service that is transparent, quality, and credible. The government in carrying out its government administration currently supported by electronic-based IT, namely E-Governance. E-Governance itself is the use of technology with assistive devices internet by the government to provide services that reach communities, businesses and other stakeholders.⁴

It is undeniable that the OSS system is still relatively new, so there are still various obstacles in running it both in a web application-based system, as well as related to human resource users who need special training. Among the problems that often arise include; slow access, support services for OSS services are not maximized, OSS server infrastructure is available in a capacity that is not maximized to handle processes on a national scale, and others⁵.

Furthermore, that which is authorized in making authentic deeds can only be carried out by a notary including the deed of establishment of a limited liability company (PT), this is in accordance with the mandate of Act No. 2 of 2014 concerning Amendments to Act No. 30 of 2004 concerning Notary Positions Then in Article 1868 of the Civil Code it is explained that an Authentic Deed is a Deed which in the form determined by law is made by or in the presence of public officials in power for that at the place where the Deed was made. The Notary Deed plays an important role in creating Legal Certainty because of its authentic nature and can be used as a means of proof that has the power of outward and full proof if there are problems related to the Deed in the future.⁶

One of the main requirements for an Authentic Deed in the business sector is the Deed of Establishment of a Limited Liability Company (PT). Article 1 paragraph (1) of Act No. 40 of 2007 provides the definition of a Limited Liability Company, hereinafter referred to as a Company, is a Legal Entity which is a capital association, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares in accordance with the Decree. Relevant laws. Based on Article 7 of Act No. 40 of

⁴Teguh Setiadi, Edi Rohaedi, Muchamad Wajihuddin (2020), Penerbitan Permohonan Perizinan Berusaha Melalui Sistem *Online Single Submission* dalam *PALAR (Pakuan Law Review)* Volume 07, Nomor 01, January-June 2020. <https://journal.unpak.ac.id/index.php/palar> accessed on 30 September 2021

⁵ Deen, Thaufiq., Ong Argo Victoria & Sumain. (2018). *Public Notary Services In Malaysia*. *JURNAL AKTA*: Vol. 5, No. 4, 1017-1026. Retrieved from <http://jurnal.unissula.ac.id/index.php/akta/article/view/4135>, see to Ong Argo Victoria, Ade Riusma Ariyana, Devina Arifani. (2020). *Code of Ethics and Position of Notary in Indonesia*. *Sultan Agung Notary Law Review* 2 (4), 397-407, <http://lppm-unissula.com/jurnal.unissula.ac.id/index.php/SANLaR/article/view/13536>

⁶ General Explanation of the Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Act No. 30 of 2004 concerning the Position of Notary

2007 concerning Limited Liability Companies, it is stipulated that the Company is established by 2 (two) or more persons with a Notary Deed drawn up in the Indonesian language.

Based on the description above, the purpose of this study is to find out about the Effectiveness of the Implementation of Online Single Submission (OSS) for the Registration of a Limited Liability Company (PT) by a notary in Wonosobo Regency.

2. Research Methods

From the above background, and the problems that arise and are mentioned above, the researchers chose a sociological juridical approach as the research method. The sociological juridical approach was chosen because obtaining empirical legal knowledge about what is happening in the field must be done through direct observation, to find out the general picture in the field about the effectiveness of the Online Single Submission (OSS) for registration of legal entities by a notary in the Wonosobo district. The specifications in this study are descriptive by describing in full, factual, systematic, and accurate about the effectiveness of the implementation of the Online Single Submission (OSS) for the registration of legal entities by a notary in the Wonosobo Regency area. Primary data in this study were obtained through interviews with informants who understand, understand, and have direct contact with the object of research. Secondary data obtained from the literature related to the object of research in the form of legislation, and the results of previous research. Legal data obtained will be analyzed in a qualitative normative manner, namely analysis carried out by understanding and compiling legal data that has been collected and compiled systematically and described in a quality manner in regular, coherent, and logical sentences, then conclusions are drawn. That conclusion is the result of data analysis by the author⁷.

3. Results and Discussion

3.1. How to make a limited liability company deed

The establishment of a Limited Liability Company begins with the agreement of the parties to establish a Limited Liability Company which is then legislated with a deed made before a Notary and Article 1686 of the Civil Code.

⁷ Chuasanga A., Ong Argo Victoria. (2019). *Legal Principles Under Criminal Law in Indonesia and Thailand*, Jurnal Daulat Hukum, Vol 2, No 1 (2019) <http://jurnal.unissula.ac.id/index.php/RH/article/view/4218> , see to Yaya Kareng, Ong Argo Victoria, R. Juli Moertiyono. (2019). How Notary's Service in Thailand. Sultan Agung Notary Law Review, 1 (1), 46-56, <http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/4435>

This deed of establishment can be made by the founder himself or it can also be done by another person based on a power of attorney, who represents him to make a deed of establishment before a notary. According to the author, the Articles of Association of each Limited Liability Company must not be the same as the Articles of Association of other Limited Liability Companies. This departs from the understanding that although it is true that there are principles that are generally accepted and apply the same, there are certain matters that are specifically regulated by each of these Limited Liability Companies. The general principles that apply are the same, including the determination of the place and procedures for holding the GMS; procedures for the appointment, replacement, dismissal of members of the Board of Directors and the Board of Commissioners; procedures for using profits and distribution of dividends.⁸

Furthermore, that the Notary has full authority in making the Deed, both the Deed of Establishment of a PT and other Notary Deed, has been regulated in detail in Act No. 2 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN), especially in Article 15 which contains its authority in making the Deed and Article 16 which contains its obligations. However, in terms of making the Deed of Establishment PT. In addition to referring to the Position Law which regulates the procedures for carrying out his profession, he must also refer to the Company Law, especially in Article 7 and 8 of the Company Law for its establishment up to Article 9 and Article 10 regarding the submission of legal entities to the relevant Minister.⁹

Regarding the establishment of a company, it is regulated in Chapter II, Part One of the Company Law, which consists of Articles 7-14, there are several conditions that must be met so that the establishment of a company is legal as a legal entity which consists of:

- a. Must be established by 2 (two) or more persons;
- b. Establishment in the form of a Notary Deed;
- c. Made in Indonesian;
- d. Each founder is obliged to take shares;
- e. Received approval from MENHUK & HAM (Minister).

These conditions are "cumulative". Not "facultative" or "alternative". Even one of these conditions is defective or not fulfilled, resulting in an invalid establishment as a legal entity.¹⁰ The establishment of the Company based on

⁸Bahari, Adib, (2010), *Prosedur Cepat Mendirikan Persroan Terbatas*, Yogyakarta: Pustaka Yustisia, p. 33.

⁹ Interview with Notary Elisa Suryatriardhini On September 6, 2021, 14.00 WIB, (hereinafter referred to as Resource Person I)

¹⁰ Harahap, M. Yahya, (2009), *Hukum Perseroan Terbatas*, Jakarta: Sinar Grafika, p.162

the agreement according to the Elucidation of Article 7 paragraph (1) second paragraph, is an affirmation of the principles that apply to the 2007 Company Law. Basically, the Company as a legal entity, was established based on an agreement. Because it has more than 1 (one) shareholder.

Furthermore, based on Article 8 of the Company Law, the deed of establishment is a deed made before a notary or means in the form of a notary deed, which contains two major things, namely the Articles of Association and other information related to the establishment of the company. This deed must be made in Indonesian. The Articles of Association of the Limited Liability Company at least contain the following:

- a. The name and domicile of the company;
- b. The aims and objectives, as well as the company's business activities in accordance with the applicable laws and regulations;
- c. The period of establishment of the company;
- d. The amount of authorized capital, issued capital, and paid up capital;
- e. The number of shares, the number of share classifications if any, along with the number of shares for each classification, the rights attached to each share, and the nominal value of each share;
- f. The composition, number, and names of the members of the Board of Directors and Commissioners;
- g. Determination of the place and procedures for holding the GMS;
- h. Procedures for the selection, appointment, replacement, and dismissal of members of the Board of Directors and Commissioners;
- i. Procedures for the use of profits and distribution of dividends;
- j. Other provisions according to the Company Act No. 40 of 2007.

As for what is meant by other information in the deed of establishment according to Article 8 of Act No. 40 of 2007 it includes the following matters:

- a. The full name, place and date of birth, occupation, place of residence, and nationality of the individual founder, or the name, domicile and complete address as well as the number and date of the Ministerial Decree concerning the legalization of a legal entity from the founder of the company;
- b. Full name, place and date of birth, occupation, place of residence, nationality of the first appointed member of the Board of Directors and Board of Commissioners;
- c. The name of the shareholder who has subscribed to the shares, details of the number of shares, and the nominal value of the shares that have been issued and paid up.

Then if the founder who wants to establish a company is legally bound as husband and wife, then there are 2 (two) possibilities, namely:

- a. It is not allowed, because the form of a limited liability company is a business entity in which it is accompanied by a capital partnership so that the husband and wife relationship according to law is a complete legal subject.
- b. It is permissible if in the marital relationship there is an agreement regarding the separation of assets. So that husband and wife are not assessed as one subject of ownership of the property, which can then be assessed as 2 (two) different legal subjects. However, a notary can certainly give suggestions to include a third party to take part in the shares in the established PT.

Both possibilities can be accounted for in real terms based on Article 119 of the law which states that:¹¹

"From the moment the marriage takes place, by law, there is a unanimous union between the assets of the husband and wife, only with regard to the marriage agreement, no other provisions are made. This union as long as the marriage cannot be held or changed with an agreement between husband and wife".

So that with the holding of a marriage the legal consequences that arise on the wife's position in the management of marital property and in carrying out legal actions both related to personal assets and assets in marriage. According to western civil law or known as the Civil Code, if a woman is married to a man, then the wife will no longer have the skills to act (*handelings onbekwaam*).¹² According to J. Satrio quoted from Rosnidar Sembiring's book, marital property law is a regulation that regulates the consequences of marriage on the assets of a husband and wife who have married.¹³

After the deed of establishment of a limited liability company is completed, an application for obtaining legal entity status is submitted from the Minister within a period of 60 (sixty) days. Companies that have received approval from the Minister of Justice and Human Rights of the Republic of Indonesia must be registered in a company carried out by the Minister of Law and Human Rights

¹¹ Code of Civil law.

¹² Hartanto, J. Andy, (2012), *Hukum Harta Kekayaan Perkawinan Menurut "Burgelijk Wetboek" dan undang-Undang Perkawinan* Print.2, Yogyakarta: Laksbang Grafika, p.7

¹³Sembiring, Rosnidar, (2016), *Hukum Keluarga Harta-harta benda dalam Perkawinan*, Jakarta: PT. Raja grafindo Persada, p. 85

(Article 29 paragraph (1) and (6) of the Company Law). That the purpose of Limited Liability Company Registration is as evidence that the company in question has been officially registered and can carry out activities in accordance with the aims and objectives of the company.

After being declared official and able to operate, the Minister then announces the Limited Liability Company in the Supplement to the State Gazette of the Republic of Indonesia (TBNRI) in accordance with Article 30 paragraph (1) of the Company Law.¹⁴ The purpose of the Limited Liability Company is announced in the Supplement to the State Gazette of the Republic of Indonesia (TBNRI) so that the public knows that the Limited Liability Company is legally in existence and can carry out business activities in accordance with the purposes and objectives of the limited liability company being formed.

3.2. Effectiveness of business license registration through the Online Single Submission (OSS) system for the registration of a Limited Liability Company (PT) by a Notary as a One Stop Integrated Licensing Service (PPTSP)

Based on the mandate of the 1945 Constitution, paragraph IV, which is the basic guideline in administering government in Indonesia. One of the breakthroughs issued by the current government in order to achieve the objectives mandated by the 1945 Constitution in the fourth paragraph is to improve public welfare, in this case Indonesian citizens. One example is to achieve this goal, it is necessary to have a strategy in order to improve economic aspects through foreign and domestic investment. Foreign Investment (hereinafter referred to as PMA) and Domestic Investment (hereinafter referred to as PMDN).

PMDN can be carried out by individual Indonesian Citizens, State business entities, and/or State Governments that make investments in the territory of the Republic of Indonesia. Business activities or types of business are open to investment activities, except for the business fields or types of business which are declared closed and open with the requirements and limits for State capital ownership of the company's business fields. 36 of 2010 concerning Changes in the List of Business Fields Closed and Business Fields Open with Requirements in the Investment Sector.¹⁵

¹⁴Provisions regarding announcements in the Supplement to the State Gazette of the Republic of Indonesia (TBNRI), must still be based on Act No. 2 of 1950 concerning the State Gazette and Announcements. Then the Minister of Justice publishes the State Gazette/Supplementary State Gazette by giving the Number and Year of Publication. The State Gazette/Supplementary State Gazette shall contain the deed of establishment and the letter of approval of the company.

¹⁵<http://www.sindikat.co.id/pembuatan/penanaman-modal/pendirian-pembuatan-pt-pmdnpenanaman-modal-dalam-negeri> Access September 30, 2021.

In supporting the acceleration of the rate of economic growth, the Government then issued Government Regulation no. 24 of 2018 concerning Electronically Integrated Licensing Services. The regulation changes the registration flow which was previously through the One Stop Integrated Service (PTSP) for non-legal entities to a system that is supported virtually through an electronic system, namely through the Online Single Submission (OSS) system. With the main purpose of the birth of OSS is to facilitate licensing services so as to accelerate and increase investment and growth of domestic businesses.

In addition, the presence of OSS also answers the problem of licensing so far regarding the slowness of licensing services in various regions in Indonesia. At the beginning of the issuance of Government Regulation no. 24 of 2018 concerning Integrated Licensing Services, until now the one that handles OSS is the Investment Coordinating Board (BKPM), but over time OSS involves several related Ministries. One of the related ministries is the Ministry of Law and Human Rights (KEMENKUMHAM) which focuses on implementing policies on legal subjects.

Furthermore, the registration of business licenses through the Online Single Submission system is still not effective because the implementation of OSS in Wonosobo from the beginning began to issue Government Regulation no. 24 of 2018 concerning Electronically Integrated Business Licensing Services in the first year for the management of legal entities still causes problems, the problem that occurs here is that there is still confusion about implementing or implementing PP No. 24 of 2018. In addition, notaries do not have full authority to run OSS, this is because the OSS system can be run by anyone who wants to register a business entity. However, a Notary as the official making the deed of establishment of a legal entity will be more effective if he directly registers the legal entity into the OSS system, This of course will benefit the community, because it is directly handled by officials who understand the system. Although a Notary does not have full authority in running the OSS, a Notary has full authority in making a legal entity deed.

3.3. Constraints Faced in Using the Online Single Submission (OSS) System for the Registration of a Limited Liability Company (PT) Legal Entity in the Wonosobo Regency

Online Single Submission is a web-based application that serves to assist the process of submitting complaints and permits for further action to be carried out by the role of decision makers, this Online Single Submission web application provides information such as business application data, existing licensing data, regional agency data, regional licensing data , etc.

Online Single Submission allows business actors to immediately start the production process simultaneously while completing other implementation documents such as location permits, building permits, environmental permits, as well as other obligations such as the Indonesian National Standard (SNI). OSS is designed to be integrated with the Directorate General of General Legal Administration, Ministry of Law and Human Rights, and the Directorate General of Taxes, Ministry of Finance. In fact, this OSS is also planned not only as a means of information, but also for complaints and grievances.

In the implementation that occurred in Wonosobo Regency, this system still tends to be weak. There are certain times when the OSS system page cannot be accessed, cannot enter the Log-In page, and a system error occurs during the issuance process of the Business Identification Number (NIB). So that it will return to the start page which makes KBLI points lost that have been included in the OSS system. However, this can be overcome by representatives of business actors by transferring data from the previous browser to another browser. This is what makes the system in the OSS not run in full. The system has not even been able to reach remote areas with weak internet networks or areas that have not yet been connected to the internet network.

For some business actors or representatives of business actors, the implementation of the OSS system is considered good enough because it can be done online, but after passing the permits, business actors or representatives of business actors still need to take care of other permits, such as taking care of permits that are with the ministry and related institutions that have not been well integrated so that it becomes an obstacle. The OSS system does not carry out the entire licensing process. The OSS system only provides a Business Identification Number (NIB) for all licensing applications entered in the system.

A very risky obstacle is when there is an error in entering data in the OSS system, representatives of business actors or business actors establishing PT still have to submit reports to the central OSS, so it takes a long time, because it is not yet available online. This is what makes the NIB issuance process for business actors to establish PT which should take approximately 2 hours, to be delayed for several days, due to waiting for an answer to an error report in data entry from the Center for the Electronically Integrated Business Licensing Service, namely Online Single Submission / OSS in refinement. Furthermore, the improvement of OSS services is under scrutiny, and facilitation of large projects investing in areas that require inter-ministerial and agency advisory services. OSS is targeted to become an online coordination platform between agencies and ministries to address investment constraints.

Not only that, in creating a PT account on the OSS page, business actors are required to register the e-mail of the PT in question along with the Population

Identification Number (NIK) of the main director of the PT. In its implementation, representatives of business actors incorrectly include data, which should be non-individual but become individuals, which makes representatives of business actors unable to carry out the business process. Meanwhile, if you want to repeat the registration, you can't. This is because the main director's population identification number (NIK) can only be used 1 (one) time and cannot be used multiple times. So that representatives of business actors make a report to the central OSS in advance of the inclusion error.

However, according to the author, this is very reasonable to happen, considering that the online single submission (OSS) system is a product within the scope of public services that is relatively new. Thus, further development is needed, both in terms of the application system that can be made lighter so that business actors who need services for establishing business entities in remote areas that do not have connections as fast as big cities can still enjoy this service.

3.4. The establishment of a limited liability company

In principle, not everyone can set up a limited liability company, but those who can establish a limited liability company are people who have met the requirements specified in the legislation. In Article 7 of Act No. 40 of 2007 concerning Limited Liability Companies, the conditions for establishing a limited liability company have been determined. These conditions are presented below:

- a. The Company is established by 2 (two) or more persons with a notarial deed drawn up in the Indonesian language.
- b. Each founder of the Company is required to subscribe to shares at the time the Company is established.
- c. The Company obtains the status of a legal entity on the issuance date of the Ministerial Decree concerning the legalization of the Company's legal entity.
- d. After the Company has obtained the status of a legal entity and the shareholders have become less than 2 (two) persons, within a maximum period of 6 (six) months as of the said circumstances, the relevant shareholders must transfer part of their shares to other people or the Company issues new shares to other persons.

In the event that the time period has been exceeded, the shareholders remain less than 2 (two) persons, the shareholders are personally responsible for all engagements and losses of the Company, and at the request of the interested parties, the district court may dissolve the Company.

Thus, in general, the establishment of a Limited Liability Company through the mechanism of the legal entity administration system begins with an application

for ordering the name of the company and is followed up with the making of a Notary deed of establishment of a Limited Liability Company. Based on the power of attorney given by the founders to the Notary as an applicant, the applicant makes payment of Vouchers, validation PNBPN, and BN/TBN, then fills in the Notary Deed Filling Form on the SABH page and sends the Notary Deed of Establishment of PT electronically or via email. If the PT data is filled in completely and correctly, an Electronic Statement Letter will immediately be issued regarding the correctness of the Limited Company Data.

4. Conclusion

Online single submission is an application issued based on the mandate of the law, namely government regulation number 24 of 2018 concerning licensing services. Also as an answer to the challenges of the global economy in attracting investors to invest their capital in Indonesia. From this, a system emerged that facilitates the registration of legal entities, especially business-based limited liability companies with a joint capital merger system in order to benefit from the business objectives to be driven. In the registration of a legal entity such as a limited liability company, legality is required in the form of a deed made by a notary official which is then converted in the form of NIB (Business Registration Number). The government needs to socialize about OSS as a manifestation of the Ease of Doing Business (EODB), not only to business actors, but to all levels of society. Furthermore, the Central Government needs to be further improved related to regulations, systems and management in the implementation of the OSS system itself to make it easier for business actors to access it. The OSS application system must be designed in such a way as to make it easier for local governments to access and obtain the required data. The government as the implementing agency for the OSS system should cooperate with several institutions and organizations that are directly related to the use of OSS such as the Indonesian Notary Association (INI) in order to maximize socialization related to OSS.

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Notary Elisa Suryatriardhini On September 6, 2021, 14.00 WIB