

The Role of Notaries in Supporting the Implementation of Online Single Submission (OSS) in Establishing Business Licensing

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Abstract. *This study aims to analyze: 1) The role of notaries in supporting the implementation of Online Single Submission (OSS) in the licensing process for establishing a business entity in Batam. 2) Obstacles and solutions in the implementation of Online Single Submission (OSS) related to licensing for establishing a business entity in Batam. This type of research is empirical legal research. The approach method in this study is a sociological legal approach. The types of data in this study are primary and secondary data. The data collection method uses interview and literature (study document) techniques. The analysis in this study is prescriptive. The results of the study concluded: 1) The role of notaries in supporting the implementation of Online Single Submission (OSS) in the licensing process for establishing a business entity in Batam, namely as a compiler of authentic deeds of establishment of a business entity, as a legal facilitator, administrative assistant, and a communication bridge between business actors and the OSS system and government agencies. This role includes ensuring formal legality through deeds and ratification from the Ministry of Law and Human Rights, verification of legal data such as KBLI and company structure, and special assistance for MSMEs and foreign investors who often experience obstacles in navigating the OSS and IBOSS systems. In areas with complexity such as Batam, the active and adaptive role of notaries is the key to the success of the digital business licensing process. 2) Obstacles in the implementation of Online Single Submission (OSS) related to business establishment licensing in Batam still face a number of challenges, including the less than optimal integration between the national OSS and local IBOSS, limited human resources and information technology infrastructure, low understanding of business actors regarding digital systems, overlapping authority between BP Batam and the City Government, and minimal socialization and technical training. Solutions to overcome these obstacles include*

comprehensive system harmonization, increasing institutional and technological capacity, strengthening the role of notaries as official partners for OSS assistance, establishing clear technical regulations related to institutional authority, and massive education programs for business actors. If implemented consistently, OSS in Batam can become a digital licensing model that is efficient and responsive to the needs of areas with special status.

Keywords: Business Entity; OSS; Licensing.

1. Introduction

A state of law is closely related to the concept of a welfare state, which can only be realized through the effective implementation of the rule of law and sustainable development by the government. The meaning of development is a set of human efforts to direct social and cultural change in accordance with the goals of national and state life, namely achieving the growth of social and cultural civilization based on the targets that have been applied.¹

Licensing is a government/Regional Government (Pemda) policy instrument to control negative externalities that may arise from social or economic activities. Licensing is also an instrument for legal protection of ownership or implementation of activities. As a control instrument, licensing requires clear rationality and is stated in the form of government policy as a reference.² Electronically Integrated Business Licensing or Online Single Submission (OSS) is a Business Licensing issued by the OSS Institution for and on behalf of ministers, heads of institutions, governors, or regents/mayors to Business Actors through an integrated electronic system as regulated in Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services. With the issuance of PP No. 24/2018, all laws and regulations that are hierarchically lower than Government Regulations such as Presidential Regulations, Ministerial Regulations, Institutional Regulations, Regional Regulations, Regional Head Regulations must follow and adjust to the OSS system.

Conceptually and empirically, licensing reform requires three things, namely deregulation, debureaucratization, and digitalization. All are interrelated aspects. in the context of reforming all business licensing in the central government and regional governments. The main objective of the establishment of OSS is to create standardization of licensing services that lead to ease of doing business throughout Indonesia. OSS is expected to simplify the chain of list of procedures

¹Elly M. Setiadi and Usman Kolip, 2011, Introduction to Sociology: Understanding Social Facts and Phenomena: Theory, Application, and Solution, Kencana, Jakarta, p. 677.

²Adrian Sutedi, 2010, Licensing Law: In the Public Service Sector, Sinar Grafika, Jakarta, p. v

that are assessed in the indicator of starting a business on the EODB index. Business Identification Number (NIB), for example, is one of the deregulation steps through a merger strategy.³

Simplification of regulations related to business licensing, namely through Law Number 11 of 2020 concerning Job Creation which was then last amended through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, one of the simplification clusters of which is the business licensing cluster. Through Law Number 6 of 2023, business licensing is carried out on a risk-based basis, and regulates that risk-based business licensing is carried out based on the determination of the risk level and the business scale ranking of business activities. Business licensing with this risk approach is different from the previous licensing mechanism, where several sectors were simplified.⁴

Through Government Regulation Number 5 of 2021, the government has emphasized to start implementing business licensing reform in Indonesia. The form of business licensing reform begins with establishing a risk-based approach (Risk-Based Approach) as the basis for determining the type of business licensing. Regarding the risk aspect that is the reference, it has been regulated in Article 1 number 2, namely that what is meant by risk is the potential for injury or loss from a hazard or a combination of the possibility and consequences of danger. Government Regulation Number 5 of 2021 also explains in Article 1 number 3 that risk-based business licensing is business licensing based on the level of risk of business activities.⁵ Business licensing with this risk approach is different from the previous licensing mechanism, where several sectors were simplified.

In Batam, every business actor is required to have a Business Identification Number (NIB) from OSS before taking care of other permits. This system covers all business sectors, both small, medium, and large, and can be accessed via oss.go.id. Meanwhile, I-BOSS (Indonesia Batam Online Single Submission) is a special licensing platform under the Batam Business Agency (BP). This system is used to take care of business permits related to BP Batam, especially for businesses operating in the Free Trade Zone (FTZ). If a business requires a permit from BP Batam, such as a location permit, land use permit, or large investment, then the use of I-BOSS is highly recommended. This service can be accessed via iboss.go.id. In the process of establishing a business entity through OSS, a notary plays an important role. The notary acts as a party that ensures that the deed of establishment is in accordance with applicable legal provisions, while also

³Slamet Mulyono, 2023. Updating Structured Business Licensing Law from the Perspective of the Provincial Government of the Special Capital Region of Jakarta, JIHHP: Journal of Law, Humanities and Politics, Vol. 3, No. 2., p. 43

⁴Mohamad Mova Al'afghani and Bisariyadi, 2021, The Concept of Risk-Based Regulation: A Critical Review of Its Application to the Job Creation Law, Jurnal Konstitusi, Vol. 18, No. 1, p.84

⁵Yunandi Permana, Op.cit., p. 185

assisting business actors in understanding the procedures in the OSS system. However, the implementation of OSS also presents new challenges for notaries.

2. Research Methods

This type of research is empirical legal research. The approach method in this research is a sociological legal approach. The types of data in this research are primary and secondary data. The data collection method uses interview and literature techniques (study document). The analysis in this research is prescriptive.

3. Results and Discussion

3.1. The Role of Notaries in Supporting the Implementation of Online Single Submission (OSS) in the Licensing Process for Establishing Business Entities in Batam

Batam City is one of the national strategic areas located in the Riau Islands Province and is part of the Indonesian border area with Singapore and Malaysia. Its location, which is only about 20 kilometers from Singapore, makes Batam the main gateway for Indonesia's international trade in the western region. In addition to its strategic geographical location, Batam also has a special status as a Free Trade Zone and Free Port (FTZ) based on Government Regulation Number 46 of 2007, which was later updated by Government Regulation Number 41 of 2021 concerning the Implementation of Free Trade Zones and Free Ports (KPBPB). This status provides Batam with various facilities and incentives, such as exemption from import duties and taxes for capital goods and raw materials, which are designed to encourage investment and economic growth. Along with its development, Batam has also been designated as the location of a Special Economic Zone (KEK), including the Nongsa Digital Park KEK and the Batam Aero Technic KEK, which aim to develop the technology-based economic sector, services, and aircraft maintenance. This determination aims to accelerate regional economic growth and provide benefits to the community, especially in encouraging the development of various sectors, increasing productivity, and strengthening competitiveness in the global market.

In line with national policies, Batam City also implements the Online Single Submission (OSS) system as a digital-based business licensing mechanism. The implementation of the OSS system in Batam is the authority of BP Batam, which is tasked with providing licensing services to the public, especially for business activities in the free trade area. Technically, OSS in Batam has been integrated with a local system known as the Indonesia Batam Online Single Submission (IBOSS). IBOSS functions to manage permits that require verification and approval from BP Batam, as regulated in PP No. 41 of 2021 concerning the Implementation of Free Trade Areas and Free Ports (KPBPB).

The integration between the national OSS system and Batam IBOSS has been formalized through a Memorandum of Understanding (MoU) signed on March 9, 2020 between the Investment Coordinating Board (BKPM), BP Batam, and the Batam City Government. Although they have similar service features, OSS and IBOSS have differences in scope and implementation. IBOSS is a subsystem of OSS that has special authority, such as issuing Operational/Commercial Permits (IOK) and determining a list of imported goods for industrial companies that receive fiscal facilities, such as exemption from import duties, VAT, and PPnBM, similar to the master list system from BKPM.

Referring to official information from the iboss.go.id page, the IBOSS system was developed to improve the quality of licensing services in Batam through an online platform integrated with all stakeholders. With this approach, the licensing process is expected to be faster, easier, and more transparent. For business actors in the trade sector, IBOSS allows the issuance of IOK based on the consumer goods quota set by BP Batam, with a system that is directly connected to the national OSS.

Online Single Submission(OSS) or known as the Electronically Integrated Business Licensing System is a business licensing mechanism issued by the OSS Institution on behalf of the Minister, Head of Institution, Governor, or Regent/Mayor. This system is intended for business actors, both individuals and business entities, through an electronic platform that is interconnected nationally. The regulation regarding OSS was first contained in Government Regulation Number 24 of 2018, which became the initial milestone for the integration of cross-sector licensing services. The main objective of this system is to provide convenience in the business licensing process while encouraging the acceleration and increase of investment in Indonesia.

Online Single Submission(OSS) is a system that is able to integrate business licensing electronically and this system also provides electronic services online to business actors and/or investors. The OSS system is intended to make it easier for business actors to obtain legal business permits. Now through the OSS page, business actors are given easy access to information and clarity of procedures. This OSS website provides information such as business application data, existing licensing data, regional agency data, regional licensing data, and others. There are still many things that need to be prepared in implementing e-government-based business licensing services aimed at the community. One of them is the readiness of the server from the Online Single Submission (OSS) system when used, so that it will not give rise to the idea that this Online Single Submission (OSS) system is not feasible.

The implementation of the Online Single Submission (OSS) system, especially in Batam City which has administrative specialties through integration with IBOSS, requires the readiness of various supporting elements so that the business licensing process can run effectively and efficiently. In this case, the success of

OSS is not only determined by the sophistication of the electronic system alone, but also greatly depends on the accuracy and validity of the legal documents that are the basis for submitting a business license. Therefore, the existence of a notary is an important component that cannot be separated from the OSS system, because a notary has the authority to prepare a valid deed of establishment of a legal entity, which is an absolute requirement in obtaining a Business Identification Number (NIB) and access to other permits.

A notary is a legal professional who has the authority and important duties in validating and recording agreements and other legal documents so that they have valid and binding legal force. According to the Notary Law (UUJN), a notary is defined as an individual who has been appointed by the state and has the authority to make authentic deeds, carry out tasks related to law, and provide guarantees for the validity and accuracy of the documents he prepares. Within the scope of his duties, a notary has a central role in creating legal certainty and protecting the interests of the parties involved in a legal agreement.

The main task of a notary based on Article 1 paragraph (1) of the UUJN, is defined as a notary is a public official who has the authority to draft authentic deeds and other authorities in accordance with the provisions of this Law or other laws is to ratify authentic deeds. An authentic deed is a legal document drafted by a notary after the parties involved have stated the contents of the agreement clearly before him. This document has strong evidentiary power in the eyes of the law because it is considered authentic evidence produced by an independent party with authority. In addition, the notary is also responsible for storing and archiving the deeds, so that they can be accessed again in the future if needed. The UUJN also gives the notary the authority to provide legal advice to parties who need it. This includes an explanation of the legal implications of the agreement to be made, as well as providing an objective view of the validity of the legal documents submitted. Thus, the notary has a role as a legal advisor who helps the parties understand the legal consequences of the legal actions they take.

As in other authorities in Article 1 above, it is further regulated in Article 15 paragraph (1) that a Notary is authorized to make an authentic Deed regarding all acts, agreements and determinations required by laws and/or desired by the interested party to be stated in an authentic Deed, guarantee the certainty of the date of making the Deed, store the Deed, provide grosse, copies and extracts of the Deed, all of which as long as the making of the Deed is not also assigned or excluded to other officials or other people determined by law. Therefore, in order to create public order in society, a Notary as a person authorized to make an authentic deed as stipulated by law regarding the form of an authentic deed and understands the valid requirements in an agreement, then if these requirements are still violated, it is the responsibility of the notary as a person who knows about the law and plays a role in providing legal advice to clients as a

preventive measure, so that there is no legal chaos and the notary is free from legal problems.

Notaries, who are one of the law enforcers in Indonesia, play an important role in protecting and providing legal certainty assistance to the community, especially regarding anything related to authentic deeds. Civil law and Notaries are closely related so that in carrying out their work, Notaries are trusted to take care of several jobs that concern the community and the branch of law. Notaries, as public officials who are tasked with serving the public, explain alternative efforts to fulfill the wishes of the parties, accompanied by reasons and legal consequences that may arise, so that those appearing can make choices according to their wishes. The authority to make authentic notarial deeds also includes the authority to make deeds of establishment of business entities.

Notaries play a strategic role in the risk-based business licensing system through the Online Single Submission (OSS), because they function as the initial guard that ensures the legality of a business entity before the electronic licensing process can be continued. The role of notaries in supporting the implementation of the Online Single Submission (OSS) in the licensing process for establishing a business entity in Batam, namely:

1. Ensuring the Formal Legality of Establishing a Business Entity

Notaries have a very important role, especially in the early stages of the business establishment process. This is because one of the main requirements for obtaining a business license through OSS is the legality of a valid business entity that has been registered in the General Legal Administration (AHU) system of the Ministry of Law and Human Rights (Kemenkumham). Notaries as public officials have the authority to make authentic deeds of establishment of legal entities such as Limited Liability Companies (PT), CVs, cooperatives, and foundations, which are the legal basis for submitting permits through OSS. Without a deed of establishment and legal entity approval from Kemenkumham, business actors cannot obtain a NIB or access OSS services in full.

2. Ensuring the Accuracy and Consistency of Legal Data

Notaries also play a role in ensuring the completeness and accuracy of the company's legal data to be entered into the OSS, such as capital owner data, KBLI (Indonesian Standard Business Field Classification) classification, board of directors and commissioners, and business domicile. Errors in compiling such data can cause the licensing process in the OSS to be rejected automatically, so that notaries have the responsibility to conduct initial verification of the company's legal documents and data.

3. Adapting Documents to Batam's Local Characteristics

In the Batam City area, the role of notaries is increasingly strategic because this area has legal and administrative specialties as a Free Trade and Free Port Area (KPBPB) based on Government Regulation Number 41 of 2021, and is the location of several Special Economic Zones (KEK). The implementation of OSS in Batam is integrated with a local system known as the Indonesia Batam Online Single Submission (IBOSS). The IBOSS system is managed by BP Batam and functions to handle Batam-specific permits such as Area Business Permits (IUK), Operational/Commercial Permits (IOK), and logistics and port permits. However, the management of NIB and the establishment of business entities are still carried out through the national OSS which is interconnected with the AHU Kemenkumham system and IBOSS. Therefore, notaries must not only understand the national legal system, but must also adjust to local provisions and procedures in Batam.

4. Providing Administrative Assistance to Business Actors

In practice, many business actors, especially foreign investors and MSME actors, still have difficulty in using OSS and IBOSS independently. Therefore, they are very dependent on notary services, not only to make deeds but also in administrative assistance such as uploading documents, selecting KBLI, to checking the completeness of legal requirements before the permit is submitted. This shows that notaries also play a role as OSS assistants in the field.

5. Bridging Coordination Between Business Actors and Government Agencies

Furthermore, notaries also act as a party that bridges coordination between business actors and related agencies, especially if there is a data mismatch or system rejection due to administrative errors. In situations like this, notaries often clarify or communicate directly with the Directorate General of AHU, BKPM/Ministry of Investment, or even BP Batam. Thus, notaries not only function as deed makers, but also as legal and administrative facilitators in the process of establishing and legalizing businesses through OSS.

6. Ensuring Legal Certainty and Protection of the Parties

The role of a notary also includes legal and social aspects, because a notary ensures that all legal actions taken in establishing a business meet the principles of formal legality and provide legal certainty for the parties. With valid documents and an integrated system, the presence of a notary helps prevent disputes in the future and provides legal confidence for investors and other stakeholders.

7. Supporting Investment Ecosystem and Ease of Doing Business

Notaries play a role as strategic partners of the state in strengthening digital-based business licensing governance, especially since the OSS and IBOSS systems in Batam are increasingly complex in their implementation. The active and

professional involvement of notaries contributes to creating a transparent, efficient, and trusted investment climate, which is very important to encourage regional economic growth such as Batam which has high potential in international trade and regional industry.

The implementation of the Online Single Submission (OSS) system in the licensing process for establishing a business entity is a form of public service transformation that requires collaboration between various parties, including the active role of notaries. In practice, notaries not only carry out administrative functions as public officials who make deeds of establishment of business entities, but also become part of a system that supports the smoothness and legality of the electronic registration process for business entities through OSS. The role of notaries in this context is certainly inseparable from the aspect of legal authority inherent in the position of notary itself.

3.2. Obstacles and Solutions in the Implementation of Online Single Submission (OSS) Related to Business Establishment Licensing in Batam

A notary is a legal professional who has the authority and important duties in validating and recording agreements and other legal documents so that they have valid and binding legal force. According to the Notary Law (UUJN), a notary is defined as an individual who has been appointed by the state and has the authority to make authentic deeds, carry out tasks related to law, and provide guarantees for the validity and accuracy of the documents he prepares. Within the scope of his duties, a notary has a central role in creating legal certainty and protecting the interests of the parties involved in a legal agreement.

Notaries, based on Article 1 paragraph (1) of the Notary Law (UUJN), are public officials who are authorized to make authentic deeds and provide other legal services such as storing deeds and providing legal advice. In the context of business licensing, notaries not only prepare deeds of establishment of business entities, but also act as a liaison between business actors and the digital licensing system, especially in the Online Single Submission (OSS) system. The implementation of OSS in Batam faces various challenges due to its unique administrative structure as a Free Trade and Port Area (KPBPB), including:

1. The integration of OSS and IBOSS is not optimal, causing duplication of input and additional manual processes.
2. Low digital literacy of MSME actors, who often make technical errors.
3. Limited human resources and technological infrastructure, which do not yet support the system load.
4. Overlapping authority between BP Batam and Batam City Government, which creates confusion.
5. Lack of socialization and assistance causes many business actors to have difficulty accessing the OSS system.

The proposed solution is:

1. Integration of OSS-IBOSS systems technically and procedurally through integrated interfaces and data alignment.
2. Empowerment of notaries as official OSS assistants, through training and supporting regulations.
3. Improving human resource capacity and IT infrastructure, including regular training and system upgrades.
4. Arrangement of technical regulations of authority, so that the division of tasks between BP Batam and the Batam City Government is clear.
5. Digital education and literacy through mass training, with direct practice methods.

The presence of a notary in running an electronic-based business licensing system through the Online Single Submission (OSS), namely as a supporting actor, not only has administrative significance, but also brings legal implications that are closely related to the principles of public law. One of the fundamental principles that is a benchmark in assessing the quality of licensing is the principle of legal certainty.

4. Conclusion

The role of notaries in supporting the implementation of Online Single Submission (OSS) in Batam is very important, not only as authentic deed makers, but also as legal facilitators and administrative assistants for business actors. Notaries ensure the legality of the establishment of a business entity through deeds and ratification from the Ministry of Law and Human Rights as a requirement to obtain a Business Identification Number (NIB). In addition, notaries also help adjust documents to Batam's local characteristics and provide consultation to business actors, especially MSMEs and foreign investors. However, the implementation of OSS in Batam still faces various obstacles such as the lack of synchronization of integration between OSS and IBOSS, limited human resources and IT infrastructure, low digital literacy, overlapping authority between institutions, and minimal socialization. Solutions that can be implemented include improving system integration, empowering notaries, strengthening human resource capacity, affirming authority through technical regulations, and intensive training for business actors. If implemented consistently, these steps will make OSS in Batam more effective and become a national model in digital licensing governance.

5. References

Journals:

Ary Yuniastuti, Jawade Hafidz, Tinjauan Yuridis Kebatalan Akta dan Pertanggungjawaban Notaris, Jurnal Akta, Volume 4 Nomor 2 Juni 2017.

Dewi Ajeng Wulansari dan Anis Mashdurohatun, Peran Notaris Dalam Pembuatan Akta Badan Hukum Perkumpulan Nelayan, Prosiding KONSTELASI ILMIAH MAHASISWA UNISSULA (KIMU) 7, Universitas Islam Sultan Agung Semarang, 19 Januari 2022.

Imam Muazansyah, 2020, 'Application Of Online Single Submission (OSS) Innovation In The Integrated Investment And Service Of Bulungan District', Jurnal Ilmiah Administrasi Publik, Vol. 18 No. 1.

Mochamad Elmo Sidiq, Asep Sunarsa, Amin Purnawan, Peran Notaris Dalam Transaksi Pengadaan Tanah Untuk Lokasi Pembangunan Komplek Perkantoran Pemerintah Kabupaten Sekadau, Jurnal Akta, Vol 5 No 1 Maret 2018.

Mohamad Mova Al'afghani dan Bisariyadi, 2021, Konsep Regulasi Berbasis Risiko: Telaah Kritis dalam Penerapannya pada Undang-Undang Cipta Kerja, Jurnal Konstitusi , Vol. 18, No. 1.

Muhammad Luthfillah dan Jajang Sutisna, 2023, Kualitas Pelayanan Badan Pengusahaan Batam dalam Pelayanan Perizinan Berbasis Sistem Indonesian Batam Online Single Submission Tahun 2022–2023, NeoRespublica: Jurnal Ilmu Pemerintahan, Volume 5 Nomor 1.

Slamet Mulyono, 2023. Pemutakhiran Hukum Perizinan Berusaha yang Terstruktur dari Sudut Pandang Pemerintah Provinsi Daerah Khusus Ibukota Jakarta, JIHHP: Jurnal Ilmu Hukum Humaniora dan Politik, Vol. 3, No. 2.

Books:

Adrian Sutedi, 2010, Hukum Perizinan: Dalam Sektor Pelayanan Publik, Sinar Grafika, Jakarta.

Elly M. Setiadi dan Usman Kolip, 2011, Pengantar Sosiologi: Pemahaman Fakta Dan Gejala Sosial: Teori, Aplikasi, Dan Pemecahannya, Kencana, Jakarta.

Satria, I Made, 2023, Aspek Hukum dalam Pelayanan Notaris, Makmur Jaya, Solo.

Soebekti, R., & Gunawan, D, 2012, Kamus Istilah Hukum: Notariat dan Peradilan, Prenada Media, Jakarta.

Regulation:

The 1945 Constitution of the Republic of Indonesia

Civil Code (KUHPerdata).

Law Number 25 of 2007 concerning Investment.

Law Number 25 of 2009 concerning Public Services.

Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts.

Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of the Job Creation Law.

Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing.

Government Regulation Number 6 of 2021 concerning the Implementation of Business Licensing in the Regions.