



BAGUS ENRICO & PARTNERS
COUNSELLORS AT LAW



OMNIBUS LAW SERIES

CHAPTER II.ii: INTRODUCTION OF RISK-BASED
BUSINESS LICENSING

Omnibus Series: Investment and Licensing Law

Chapter II.ii – Introduction of Risk-Based Business Licensing

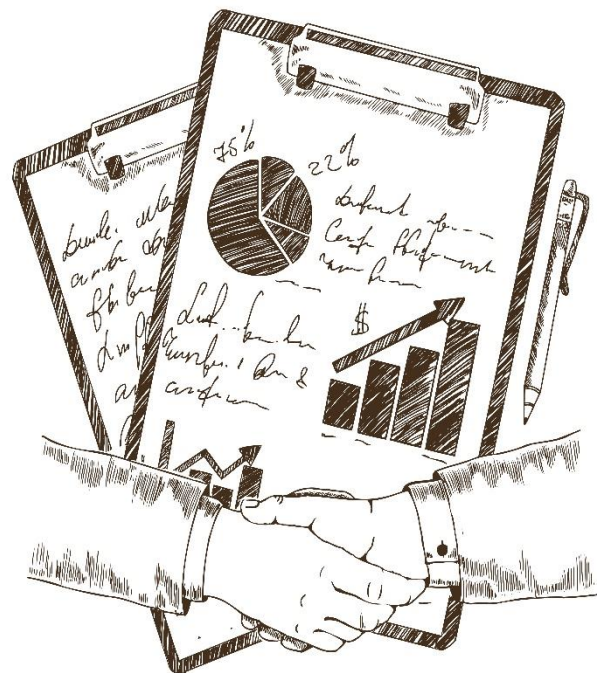
February 2021 marks the date of enactment of Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Business Licensing (hereafter referred to as “GR 5/2021”). GR 5/2021 was created as a tool to implement the provisions of Law 11 of 2020 on Job Creation (hereafter referred to as the “**Omnibus Law**”), which was introduced in November of 2020. GR 5/2021 effectively revokes and is supreme to Government Regulation No. 24 of 2018 on Electronically Integrated Business Licensing Services, the baseline of the current licensing system pre-Omnibus.

The continuance of GR 5/2021’s layered implementation, the Indonesian Investment Coordinating Board (locally known as *Badan Koordinasi Penanaman Modal* or “**BKPM**”) has launch a trial Online Single Submission (“**OSS**”) website for the risk-based approach in June 2021. Although, this trial OSS website gives us a sneak peek into the initial menu layout of the system, most of the platform’s menu still have limited access.

As such, no distinct or clear image has been acquired in regards to how the OSS system will accommodate the licensing application following GR 5/2021. Initial plans for the launch of the OSS system were to be on the 2nd of July 2021; this was followed by an announcement on the OSS website by the BKPM that the actual running of the system will be postponed until further notice – leading any current licensing matter to default back to using the previous Commitment-Based OSS system.

Basically, the risk-based business licensing is carried out based on the assessment of the level of risk and the scale of business activity, including MSMEs and / or large businesses. The determination of the level of risk will be based on the results of a risk assessment, which will then determine the type of business licensing (whether it be business activities with low, medium, or high risk). When conducting a risk analysis to determine the level of risk associated, the Central Government will carry out the following things:

- (i) business activity identifiers;
- (ii) hazard level assessments;
- (iii) hazard potential assessments;
- (iv) risk level assignments and business scale ratings; and
- (v) determination of the type of business license.



Furthermore, based on the above, the business activities will be classified into:

1. Low risk

Businesses with the low-risk activities are only required to obtain NIB to commence their business activity.

The main difference with the previous investment regime is that GR 5/2021 states that the NIB also serves as Halal Guarantee statement and Monitoring Capability Statement Letter (*Surat Pernyataan Kesanggupan Pengelolaan dan Pemantauan Lingkungan Hidup*)

2. Medium-low risk

Businesses with Medium-low risk activities are required to obtain NIB and a Standard Certificate (*Sertifikat Standar*) to commence their business activity.

GR 5/2021 stipulates that a Standard Certificate is a statement and / or evidence of compliance with standards for the conduct of certain business activities. Furthermore, for Medium-low risk businesses, the Standard Certificate is in the form of a self-assessment (same approach with commitments in the previous regime)

3. Medium-high

Broadly speaking, the Medium-high risk has the exact requirements as the Medium-low risk. However, the difference is in the types of Standard Certificates, which must be verified first from the relevant authority before a company can carry out its business activities

4. High risk

A business that is categorized as a high-risk business activity, will require them to

obtain the **NIB** alongside any relevant **License / Permits**.

The continuance of GR 5/2021's layered implementation, the Indonesian Investment Coordinating Board (locally known as Badan Koordinasi Penanaman Modal or "BKPM") has launch a trial Online Single Submission ("OSS") website for the risk-based approach in June 2021.

The upcoming OSS system will issue such Licenses / Permits upon fulfilling certain conditions and verifications. Depending on the type of business activity, there might be further requirements to obtain an additional standard certificate.

The implementation of Risk-Based Business Licensing as referred to in GR 5/2021 will be imposed on the following sectors:

1. Marine and fisheries;
2. Agriculture;
3. Environment and forestry;
4. Energy and mineral resources;
5. nuclear power;
6. Industry;
7. Trade;
8. Public works and public housing;
9. Transportation;
10. Health, medicine and food;
11. Education and culture;
12. Tourism;
13. Religious;
14. Post, telecommunications, broadcasting, and electronic systems and transactions;
15. Defense and security; and
16. Employment.

Later, in each sector requiring Risk-Based Business Licensing, GR 5/2021 has provided details that need to be fulfilled and known by business actors, such as (i) related KBLI code, KBLI title, the scope of activities, risk parameters, risk level, business license, period,

validity period, and business licensing authority, (ii) requirements and / or obligations for risk-based business licensing, and (iii) Risk-Based Business Licensing guidelines, as stated in the attachment. Please kindly find the example for industry sectors below.

	Remarks	Attachment
KBLI Code	55120	Attachment I ¹
KBLI Title	Hotel, with the number of guest bedrooms of 101 – 200 unit or the number of employees of 100 – 200	
Scope of Activities	Providing lodging services that meet the requirements as star hotels, as well as other services for the public by using part or all of the building	
Risk Parameters	Business Scale: Micro, Small, Medium, and Large	
	Land Size: >6,000 m ² - <10,000 m ²	
Level of Risk	Medium High	
Business Licensing	NIB and Standard Certificate	
Validity Period	As long as the Business Actor carries out business activities	
Business Licensing Authority	Province: Governor	
Requirements for Business Licensing + Period of Fulfillment	UKL-UPL or AMDAL (Environmental License)	Attachment II ²
	30 days	
Obligations for Business Licensing + Period of Fulfillment	<ol style="list-style-type: none"> 1. Business Standard Certificate (1 year) 2. Health Feasibility Certificate (1 year) 	

All business licenses based on GR 5/2021 are issued by the Central Government and Local Governments according to the norms, standards, procedures and criteria set by the Central Government and their implementation is carried out by the OSS system.

For businesses that has already obtained an effective business license within the Commitment-Based Licensing regime, such licenses will not be subject to the provisions stipulated in GR 5/2021. Meaning that those businesses can still continue their business activities using their current effective business licenses. However, for businesses that carry a non-effective business license, they will be required to obtain the 'business license' according to GR 5/2021 provisions.

Should there be any queries related to how this specific regulation may affect your business or personal interests please do not hesitate to contact us.

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¹ Section I.12.A.71 of Attachment I of GR 5/2021

² Section II.12.A.4 of Attachment II of GR 5/2021