

TRANSITION OF ONLINE SINGLE SUBMISSION (OSS 1.1 TO RISK-BASED APPROACH) TO INCREASE INVESTMENT IN WEST SUMATERA

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Abstract

The implementation of an online single submission risk-based approach (OSS RBA) is a manifestation of a government program to increase investment in a region. Business risk classification is an instrument of the Central Government and Local Government in controlling business activity. This study aims to find out the readiness of the local government to implement an online single submission risk-based approach. The method of the study is empirical legal research. The result of this study shows that Padang City has issued Mayor Regulation No 43 /2021 on Guidelines and Procedures of an online single submission risk-based approach Supervision as a follow-up to Government Regulation No. 5/2021 on implementation of online single submission risk-based approach; meanwhile, several other regions are in the process of drafting local regulations relate to implementing online single submission risk-based approach in West Sumatera Province. The challenges of local government to implement OSS RBA consists of indefinite license periods in the particular business field (Appendix I Government Regulation No 5/2021), the regional support system has not integrated OSS RBA and the readiness for the transition from manual RDTR to digital RDTR in West Sumatera.

Keywords: Online Single Submission; Risk Based Approach; Investment.

INTRODUCTION

Investment is one of the determining factors in efforts to increase a country's economic growth. (Faazuloh, 2019). The investment is supported by clear regulation and should also be demonstrated through the administration of business licensing administration processes. Practical management is expected to provide a positive perspective for investors to be involved in national economic growth.

The Ministry of Investment/ Indonesian Investment Coordinating Board (BKPM) stated that investment realization from April-June to the second quarter of 2022 reached Rp. 302.2 trillion, an increase of 7% compared to the first quarter of 2022. The realization came to Rp. 282.4 trillion. With an increase in

investment value in the second quarter of 2022 by 7.0%, economic observers estimate that national economic growth will increase by 5%, surpassing the first quarter of 2022. (Ni Luh Angela, 2022). Therefore, the Government tries to provide convenience in every investment process to attract domestic and foreign investors to invest in Indonesia.

The guarantee of legal certainty and ease of doing business is a form of effort that the government can make to increase investment in a country. Clear regulations and simple mechanisms for administering permits are more accessible for the public to understand. It becomes the scope regulated in the strategic policy of the Job Creation Law in Article 4 a, such as improving the investment ecosystem and business activities.

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Regulation is one of the efforts made by the government to improve licensing. (Syarah Syam Amir, 2022). In addition, the purpose of licensing includes, a. The desire to be able to control certain activities. b. Permits can prevent environmental hazards and protect particular objects. c. So that fewer objects can be divided evenly. D. Provide direction by selecting people or activities with conditions that must be met. (Ridwan, HR, 2007). Furthermore, Nuriyanto explained that the facilities provided in a permit aim to control community activities in the surrounding environment due to business activities. (Nuriyanto A. Daim, 2019).

The implementation of license administration is crucial in providing positive information for investors to invest in existing sectors. Licensing is a form of legal protection granted in the implementation of an investment activity. (Adrian Sutedi, 2010). The government's ability to develop a practical licensing administration system is essential in responding to the integration of interests in several sectors, which are the responsibility and authority of particular the local bureaucracy (OPD). Next, the local bureaucracy (OPD) should be involved to minimize the challenges of technical problems that may occur in the future.

The implementation of license administration information technology that is currently developing is a manifestation of a government program to increase investment in a region. The existence of practical information technology supported by regulation. Then it is communicated to each related local bureaucracy, which certainly provides

clarity for investors to be involved in regional development. The transparency of the administrative process that has been integrated into the local bureaucracy is expected to provide education and information for investors to prepare for all administrative needs to support the smooth running of the business licensing implementation process.

Submission of business licenses has provided convenience for investors. The administrative process for submitting business licenses has changed to an administrative system based on information technology developments. The development was demonstrated through the implementation of the Online Single Submission (OSS) application information system, which began with the OSS 1.0 Application system with a focus on migrating investor databases supported by updating data by recording the total investment value based on the 2-digit Indonesian Standard Classification of Business Fields (KBLI), determining business location permits based on province/city and issuance of Operational/Commitment Permits (IOK).

The government improved the OSS 1.0 application system to respond to the challenges of becoming the OSS 1.1 application. The OSS 1.1 application has been able to overcome the problems encountered in the application of the OSS 1.0 application, namely the registration of nominal investment five-digit KBLI by negative investment list (DNI), the issuance of business location permits not only on the land area but also marine areas. Limited liability companies (PT) and other business entities are these legal business formats. The business revocation

process is not only based on liquidation but also non-liquidation.

The next step, the application of OSS 1.1 has improved the OSS risk-based approach (OSS RBA), making business risk factors one of the key factors in building a good investment in regions. The Job Creation Law regulates that "risk" can be interpreted differently.

If the aim is, an investment, then the risks include convoluted bureaucracy, politics, low public trust, etc. However, if the environmental law sector protects it, the risk is inadequate supervision, licensing, and regulation. (Moya M,2021).

The implementation of the OSS RBA shows business risk as fundamental to maintain good investment growth based on norms, standards, procedures, and criteria (NSPK). The issuance of Government Regulation No 5/2021 on Implementation of Online Single Submission Risk Based Approach, the classification of existing business sectors provides clarity for business actors to obtain business licenses. The determination of the norm, standard, procedure, and criteria (NSPK) risk-based approach can give benefits in terms of clarity terms of costs that business actors will receive. The risk-based OSS concept is one of the government's steps to realize licensing reform in Indonesia. The community is easier to see the licensing process through the OSS system (Habibi Hendra Carlo, et al. 2021).

The ease of licensing services is also shown by Article 211 Government Regulation 5/2021 on risk-based business licensing monitoring mechanism. It shows that the OSS RBA application development process is beneficial

regarding transparent, centralized, and integrated information for business actors.

However, the Appendix to Government Regulation No. 5/2021 on the Implementation of Risk-Based Business Licensing has not regulated the terms and period of licensing clearly. In addition, the forms and supervision in specific sectors are not regulated. The impact will cause variations in application between regions because there is no service reference standard, raising the potential for local governments to return to using the old standard operational procedure (SOP).

The relevance of the transition from the OSS 1.1 system to an OSS risk-based system (OSS RBA) is also a strategic issue to realize target investment growth in West Sumatra. The reflection on investment development is shown by the realization of West Sumatra's investment target in 2022 per quarter I, which is 19.80 percent (the real target of 1.01 trillion out of 5.1 trillion) and is quite a challenge for local governments on the realization of the target produced in 2021, namely amounting to 105.52 percent has exceeded the target that has been announced, namely the completion of 5.16 trillion from 4.89 trillion. (Nita Inrawati, 2022). This target concerns the regional government to consider mechanisms for supervision, guidance, and monitoring in increasing investment realization in West Sumatera.

RESEARCH METHOD

This study uses an empirical juridical problem approach. The approach is legal research by looking at and observing what is happening in the field, then the application of these regulations in practice. (Soerjono Soekanto, 2006).

ANALYSIS AND DISCUSSION

1. The Transition of Online Single Submission System (OSS 1.1 to OSS Risk Based Approach) in West Sumatera

The information system of Online Single Submission (OSS) is a significant factor in accelerating investment growth related to providing benefits to the national economy. In issuing Law No. 25 of 2007 on Investment, the government tries to provide effective and efficient services by establishing the One Stop Integrated Service Licensing system (PTSP). Furthermore, central government delegates to local government was followed up with the issuance of Government Regulation Law No. 23 of 2014 on local government. It gives the local government authority to respond to investment problems by establishing the One Door Integrated Service Office (DPMPTSP).

In the digitalization era, the government tries to create an innovation related to responding to investment challenges by establishing an integrated electronic service licensing system or online single submission (OSS). The system is a relevant approach to synergize regional economic growth targets at the national level through a licensing system that is integrated electronically. It was followed up with the issuance of Government Regulation No. 24/2018 on Online Single Submission.

The regulatory process based on the need for accelerating investment makes Online Single Submission one of the suitable media to facilitate challenges and opportunities at the local and central government. The challenges of differences in characteristics and wisdom

region so that it has an impact on the regional authority mechanism in deciding the proper investment pattern. Then, it impacts the effectiveness of targets to be achieved nationally. The clarity of procedures in completing permits, including costs, time, and those stated in normative provisions. (Y. Sri Pudyatmoko, 2009).

This challenge considers the central government to develop an integrated regulatory mechanism to anticipate risk uncertainty for every investment opportunity.

The existence of Government Regulation No. 24/2018 on Online Single Submission is evidence that the government has attempted to provide the solution to regulatory issues of local and central government authorities. Based on Government Regulation No 24/2018, the government has started the initial stages of synergizing between regional and central authorities to contribute to regional investment growth. Government Regulation No 24/2018 emphasizes that bureaucratic and administrative problems can be minimized (somebody can not predict service time clearly, so people must wait a long time to obtain permits and convoluted services). Therefore, it can provide benefits in building a positive perspective for investors to invest in the region. The government's consistency in developing OSS applications precise. It shows the problem of bureaucratic and administrative authority in obtaining business permits which is the main factor to slow down the investment growth rate.

The issue of authority and the uncertainty of business risk being developed makes online single submission (OSS) a relevant regulation in

strengthening the integrated process of monitoring investment growth from the local to the central government.

The government's commitment to implement Government Regulation No 24/2018 on Online Single Submission is also shown through the government's consistency in developing OSS applications, namely Version.1.1 and OSS Risk Based Approach (OSS RBA) after the promulgation of Law No 20 of 2021 on Job Creation.

The government has added an element of risk to investment activities in Job creation law. Besides that, it also followed Government Regulation No. 5/2021 on The Implementation of OSS Risk Based Approach (OSS RBA). The definition of OSS Risk Based Approach (OSS RBA) as regulated in Article 1 number 3 Government Regulation No. 5 of 2021 is Business Licensing based on the level of risk of business activities. The risks that form the basis of licensing consist of high, medium, and low risks.

- a) Business actors with a low level of risk obtain a Business Identification Number (NIB), which automatically applies as legality to carry out a business (Article 12 paragraph (1) Government Regulation 5/2021). The NIB also applies as the Indonesian national standard (SNI) and a statement of halal assurance by statutory provisions for MSE business actors (Article 12 paragraph (1) Government Regulation No 5/2021);
- b) Business actors with a medium-low risk level obtain business licenses in the form of NIB and standard certificates in the form of statements to meet business standards (Article

13 paragraph (1) Government Regulation No 5/2021);

- c) Business actors with medium to high-risk levels obtain NIB as business permits and standard certificates issued by the central government or regional government (Article 14 paragraph (1) Government Regulation No 5/2021);
- d) Business actors with a high level of risk obtain NIB and permits that must be fulfilled before conducting business activities (Article 15 paragraph (1) Government Regulation No 5/2021).

The purpose of being classified based on risk is to determine the hazard qualifications of a business. Therefore, risk safety requirements are needed to minimize the social, economic, and environmental impact. Hazard qualification can be measured through the potential risk level from the business activity's hazard. (Nathania Michico Tambunan, 2021)

The implementation of the OSS Risk Based Approach (OSS RBA) West Sumatera has been followed up by issuing several derivative regulations in several regions, including Padang city as the provincial capital, which has issued Mayor Regulation/Perwako No 43 of 2021 on Guidelines and Procedures OSS Risk Based Approach (OSS RBA) Supervision, while in several other regions are still in the process of being drafted derivative regulations (regional regulation) at the local government level and related agencies, besides that the availability of information systems has not optimal to integrate administrative process from OSS 1.1 to OSS RBA.

2. The Readiness Of Local Government to Implement the Transition of Online Single Submission (OSS 1.1 to OSS RBA) in West Sumatera

The process of implementation the Online Single Submission (OSS) system provides quite a challenge related to the existence of regulation at the national and regional levels. The issuance of Government Regulation Number 5/2021 on the Implementation of OSS Risk Based Approach (OSS RBA) was followed up by Government Regulation Number 6 of 2021 regarding OSS Risk Based Approach (OSS RBA) in the region. It impacts the readiness of local government and related institutions to support investment growth targets both regionally and nationally.

The development of the OSS 1.1 system to become OSS Risk Based Approach (OSS RBA) is expected to be able to integrate authorities both vertically (central and local government) and horizontally (institutional authority) related to facilitating the business licensing process. The perception of the importance of integrating licensing processes in the regions because each region has different characteristics and readiness to implement OSS RBA.

This condition shows that the implementation process of OSS RBA also requires time due to the availability, readiness, and compatibility of regional regulation with existing regulation at the central government.

The implementation of OSS RBA shows institutional involvement is a crucial factor in determining the risk classification process for each type of business. The involvement of the

institution has to be supported by other regional regulations. It is an essential factor in classifying risk, such as low, medium, and high-risk classifications. The process of OSS RBA shows consideration of institutional authority as a critical factor to give consideration (recommendations) related to business feasibility standard certificates in response to the risk impact classification of the business to be developed.

For more details, the challenge of local government readiness for the transition from the OSS 1.1 to OSS (RBA) to increase investment in West Sumatera as follows:

a) The Mechanism of Requirements and License Period in West Sumatera

The OSS (RBA) mechanism is essential to communicate the commitment to provide integrated license service regionally and nationally. OSS (RBA) reflects the readiness of the regional license information system to provide comfort and convenience in obtaining a business license.

The clarity of license requirements and term provides clear information related to updating data to investors periodically. For example, the change in the Standard Classification of Business Fields accompanied the difference in business risk. The clarity of the term and condition license process mechanism based on the Standard Classification of Business Fields (KBLI) also makes the related business actors consider the type of business to be registered. Business classification is determined based on business risk. It becomes a consideration for regions to determine business

feasibility relate to applying for business licenses.

Business feasibility is based on the fulfillment of commitments to essential permits by business actors (such as environmental permits, building permits (IMB), proper function certificates (SLF), and location permits to provide transparent information for local governments to follow up the process of issuing business permits. The clarity of the mechanism for terms and conditions based on the Standard Classification of Business Fields (KBLI) can provide clear directions for business actors to identify the classification of types of business to be developed. Administrative processes supported by the initial education of business actors are essential in determining the effectiveness of a smooth-running regional business licensing process.

However, Appendix I of Government Regulation No. 5/2021 on the Implementation of OSS Risk Based Approach (OSS RBA) shows that there is still an unclear license period in specific business sectors, namely the electricity support activity sector, without including a particular license period of the issuance process business. This also impacts the clarity of terms and procedures for licensing administration for related regions in communicating investment potential to investors in areas.

b) The Challenges to Integrating Institutional Authorities and Ministries Relate to Implementing Online Single Submission Risk Based Approach (OSS RBA) in West Sumatera.

The effectiveness of the implementation of the OSS RBA is based

on the clarity of the oversight mechanism at both the licensing stage and the operational stage of a business. A precise monitoring mechanism should be supported by clear indicators related to avoiding risk uncertainty during the post-activity of a business/company that has been granted a permit.

The oversight mechanism is the main factor in the licensing process related to the increasingly integrated problems that may occur because each existing business sector has a different level of risk and risk impact. Therefore, local governments and related institutions should strengthen the licensing process monitoring mechanism. Risk management is a practical approach to minimizing risk uncertainty for each business sector that will be developed in the region.

Integrated delegation of authority institutionally reinforces for the government to identify technical problems during the license process and supervision activities business sector. The delegation of authority is coordinated at the local government level through the availability of LKPM (Investment Activity Reports). It can positively impact the effectiveness of the oversight mechanism that local governments should achieve.

An integrated institutional system is also a priority in supporting the supervision of a growing business sector. Institutions based on authority in anticipating technical problems in the business sector make an integrated monitoring system the first step to verify business licensing risk factors.

However, there are still specific business sectors that have not been clearly regulated by the authority of the relevant institutions/ministries/OSS in determining

the timeframe for fulfilling the requirements, especially in the wholesale business sector of dangerous substances in Appendix II PP No. 5 of 2021 on the Implementation of OSS Risk Based Approach (OSS RBA). Institutional ambiguity in this business field impacts the clarity of the business licensing mechanism and the process of business supervision authority in the regions.

c) The Availability of Support System to Implement Online Single Submission Risk Based Approach (OSS RBA) in West Sumatera.

The availability of supporting systems (application features in regions) that have not been able to accommodate related systems to implement the OSS RBA licensing system is an important matter to consider. The diversity of business characteristics and risks requires the region to prepare a connected support system to respond to regional readiness for clarity on business feasibility. The Clarity and business feasibility based on the diversity of existing business sectors requires local governments to ensure the availability of supporting facilities and infrastructure between related institutions to produce a better assessment of businesses.

The existence of a regional support system also provides benefits to delegating relevant institutional authority over problems that will occur during business activities that have obtained permits. It is caused by the issues and risks faced by the business sector and requires technical supervision from the relevant institution or local bureaucracy (OPD). The involvement of related institutions or local bureaucracy (OPD) benefits the related regional government

in responding to technical arguments related to problems that occur in the business sector. Technical recommendations produced by related institutions or local bureaucracy are the main factor for local governments in making decisions on the eligibility of business permits granted to business actors. The availability of support systems based on the conditions and readiness of regional facilities and infrastructure is also the priority in understanding the urgency of the availability of information system facilities and infrastructure, which is a significant factor in integrating regional licensing systems.

The availability of facilities and infrastructure for licensing information systems should also be supported by the availability of relevant human resources related to diversity. The availability of supporting facilities and infrastructure, mainly to ensure the implementation of an integrated licensing system and can be carried out by each institution or local bureaucracy (OPD) that has relevant authority in testing the feasibility of a business. The availability of vertical and horizontal facilities and infrastructure between agencies and local bureaucracy also strengthens the effectiveness of implementing an integrated OSS RBA information system in districts and cities in each region. It provides benefits in responding to the successful challenges of integrated licensing systems nationally.

d) The Transition of Manual Spatial Plan (Manual RDTR) to Digital Spatial Plan (Digital RDTR) in West Sumatera

The challenges of implementing OSS RBA specifically are also shown through the readiness and availability of regional

derivative regulations related to synergizing the suitability of the licensing system mechanism both at the central and regional government. The synergy of regulatory conformity can be reviewed through the availability and Regional Spatial Plan Regulation. Then it is supported by regional regulation related to RDTR issues (spatial plan) so that they have an impact on regional readiness digitally in supporting the effectiveness of implementing online single submission risk-based approach (OSS RBA) nationally.

The implementation of the digital spatial plan (Digital RDTR) requires remapping of the region related to identifying the suitability of RDTR implementation in the area. Furthermore, the clarity of the RDTR provides positive information in investing because the institutionally integrated licensing access process is expected to provide clarity in the investment realization process by investors. It also has implications for migrating RDTR data from conventional to digital, an essential factor in aligning regional and national development.

The implementation of Online Single Submission Risk Based Approach (OSS RBA) and spatial plan digital (Digital RDTR) is a requirement that must be owned by each region. It is regulated in Article 53 Government Regulation No 20/2021 on The Implementation of Spatial Planning, which states that "Ministers and heads of agencies that carry out government affairs in the field of investment are required to integrate Spatial Plan Digital for State Border Area (KPN RDTR) digital to the online single submission system". Furthermore, in Article 20 (6) Regulation of the Minister

of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia, No 11/2021 on The Procedures for Compilation, Review, Revision, and Issuance of Approval of the Substance of Spatial Plans for Provinces, Districts, Cities, and Plans The Spatial Detail states that "Regency/city regional governments are required to prepare and provide district/city RDTRs that have been set in digital form and according to standards set by the Central Government".

However, only several regions (Sijunjung, Payakumbuh, Padang Pariaman, Bukittinggi) have spatial plan digital (digital RDTR) related to clarifying investment development in West Sumatera. This condition is also shown in several regions outside West Sumatera (Jakarta, Surabaya, Medan), which also have spatial plan digital (digital RDTR) through the issuance of regional regulation on the implementation of Online Single Submission Risk Based Approach (OSS RBA). (KPPOD,2021).

CONCLUSION

1. The transition of Online Single Submission from the OSS 1.1 system to Online Single Submission Risk Based Approach (OSS RBA) to realize investment growth in West Sumatra has gone well. It is demonstrated by several regions in West Sumatra which have attempted to issue several regulations as a followup to Government Regulation No. 5/2021 on the Implementation of OSS Risk Based Approach (OSS RBA), such as: Padang city, through the issuance of Mayor Regulation/Perwako No 43 of 2021 on Guidelines and Procedures OSS

Risk Based Approach (OSS RBA) Supervision while several other regions are still in the process of drafting regional regulation and Mayor Regulation related to OSS RBA in West Sumatera.

2. The Regional Government has attempted to implement OSS RBA by issuing Regional Regulation related to OSS RBA as a follow-up Government Regulation No. 5/2021 on the Implementation of the OSS Risk Based Approach (OSS RBA), for example, Padang City. It has issued Mayor Regulation/Perwako No 43 of 2021 on Guidelines and Procedures OSS Risk Based Approach (OSS RBA) Supervision. However, the implementation of the OSS RBA is quite a challenge for local governments to understand the unclear license period in specific business fields (Appendix I Government Regulation No. 5/2021 on the Implementation of OSS Risk Based Approach (OSS RBA) and regional support system related to licensing that have not been integrated into the OSS system and readiness for the transition from Manual Spatial Plan (Manual RDTR) to Digital Spatial Plan (Digital RDTR) in West Sumatera.

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