

# LEGAL ALERT

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## Online Single Submission: A Game-Changing System of Business Licensing in Indonesia

### Introduction

On 21 June 2018, the Government of Indonesia (GOI) recently issued Government Regulation No. 24 of 2018 on the Electronics Application of Integrated Business Licensing (GR No. 24/2018) to introduce the new established centralised business licensing system namely Online Single Submission (OSS). The OSS is managed by OSS agency, a public service agency under the GOI. Following the launch of OSS, most of the authority of BKPM (Indonesia Investment Coordinating Board/ Badan Koordinasi Penanaman Modal – BKPM) to issue licenses has been transferred to OSS leaving BKPM with the authority to process licenses limited to certain sectors and types only.

### What's New Under the OSS System?

#### New Single Identification Number

The OSS regime introduces a new single identification number, known as Business Identification Number (Nomor Induk Berusaha – NIB). NIB is a 13 digit registration number which serves as the identity of a business owner in conducting their business activity and replaces the function of the Company Registration Number (Tanda Daftar Perusahaan/TDP), Importer Identity Number (Angka Pengenal Importir/API) and customs access (Akses Kepabeanan).

Obtaining NIB will be the first stage for every business owner in processing all business licenses needed to legally conduct their business. The licenses issued under the OSS system are simplified into two main licenses, i.e. (i) business license (Izin Usaha), which may be deemed as principle license for the business owner to conduct the preparation activities until they commence their commercial operation. The business license will be the basis for business owners to obtain the commercial or operational license; and (ii) commercial or operational license (Izin Komersial atau Operasional) to enable business owners to conduct commercial activities according to their line of business. In its attachment, the GR No. 24/2018 provides a list of licenses required in each respective sector that falls under the authority of OSS.

#### Commitment of the Business Owner

Each of the two main licenses contains different commitments that need to be declared by the business owner prior to the application of license, from location permit, water location permit, environment license, building construction permit (Izin Mendirikan Bangunan – IMB), standardisation, certification or license of goods/services, to registration of goods/services. Unlike the previous regime, the business owner only needs to declare the commitment to the OSS and the two main licenses will be issued thereafter. However, within a certain period of time – depending on the declared commitment, the business owner needs to fulfill their commitment supervised by the OSS Agency. Failure to fulfill the declared commitment may lead the OSS Agency to revoke the issued license.

#### Applicant of the Licenses

The GR No. 24/2018 accommodates all types of business owners, both individual and non-individual, to process their business license through the OSS system.

Besides limited liability companies, the scope of non-individual applicants cover broader entities whose licences previously were processed by different government agencies or ministries, i.e. Cooperative (koperasi), foundation, commanditaire vennotschap (persekutuan komanditer), venootschap onder firm (persekutuan firma), and private partnerships, among others. It is worth to note that the OSS system receives only the application of licenses from a properly established entity. That being said, the non-individual applicants must first complete the establishment of their entity according to the relevant regulations before submitting their application to OSS.

### Transitional Period

All business licences issued prior to the enactment of GR No. 24/2018 will be deemed valid until the expiration date. Nonetheless, business owners still need to register and obtain an NIB from OSS. The OSS will also process all applications of licenses applied to other relevant agencies or ministries before the GR No. 24/2018 under the new terms and requirements provided in the GR No. 24/2018. To support the process, all data of business owners including their history of licenses contained in other databases will be integrated into OSS system.

### Licenses that are still processed by BKPM

On 17 July 2018, BKPM announced that 30 types of licenses are still processed by BKPM. The 30 types of licenses are listed below:

Sector	Type of Licenses
BKPM	<ol style="list-style-type: none"> <li>1. Representative Office (KPPA), exclude trade and construction sectors.</li> <li>2. Branch office opening license, which the business license was issued by One Stop Service Center (PTSP Pusat) in BKPM.</li> <li>3. Limited stay visa recommendation as a shareholder.</li> <li>4. Recommendation of change of status from Visit Stay Permit to Temporary Stay Permit (ITAS).</li> <li>5. Recommendation of change of status from Temporary Stay Permit (ITAS) to Permanent Stay Permit (ITAP).</li> <li>6. Priority infrastructure services in the energy and mineral resources sectors.</li> </ol>
Finance	<ol style="list-style-type: none"> <li>1. Provision of machinery, capital goods and materials import facilities for the industrial sector and industries that produce services investment.</li> <li>2. Provision of machinery, capital goods import facilities of the electricity sector.</li> <li>3. Provision of machinery, capital goods import facilities for Contract of Work (CoW) and Coal Contract of Work (PKP2B).</li> <li>4. Recommendation of Tax Holiday facility.</li> <li>5. Recommendation of Tax Allowance facility.</li> </ol>
Public Works and Public Housing	<ol style="list-style-type: none"> <li>1. Property development and exploitation business license.</li> <li>2. Residential business license.</li> </ol>
Energy and Mineral Sources	<p><b>Electricity Subsector:</b></p> <ol style="list-style-type: none"> <li>1. Geothermal licenses.</li> <li>2. Geothermal business support approval.</li> </ol>



<p><b>Oil and Gas Subsector:</b></p> <ol style="list-style-type: none"><li>1. Oil and gas data utilization license.</li><li>2. Survey license.</li><li>3. Oil and gas storage business license (temporary license/permanent license).</li><li>4. Oil and gas processing business license (temporary license/permanent license).</li><li>5. Oil and gas transportation business license (temporary license/permanent license).</li><li>6. Oil and gas general trade business license (temporary license/permanent license).</li><li>7. Representative Office license in oil and gas subsector.</li></ol> <p><b>Mineral and Coal License:</b></p> <ol style="list-style-type: none"><li>1. Exploration mining business license.</li><li>2. Termination of mining business license due to return.</li><li>3. Special mining business license for production operations for transport and sale and its renewal.</li><li>4. Mining business license for production operations and its renewal.</li><li>5. Special mining business license for production operations for processing and purification and its renewal.</li><li>6. Temporary license to carry out transportation and sales.</li><li>7. Mining business license for production operations for sales.</li><li>8. Mining services business license and its renewal.</li></ol>
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### Closing

As a new established system, the implementation of GR No. 24/2018 through OSS creates uncertainty especially in relation to existing licenses and transaction structure involving the process and issuance of licenses. By hierarchy of regulations, since the GR No. 24/2018 supersedes all implementing regulations related to business licensing, including among others, the regulation of the Head of BKPM and most of the relevant regional regulations, therefore, the GOI has to amend those regulations to be in line with the OSS system and provide certainty to business owners. To date, the GOI is still working on the technical guidelines for every ministry, regional government and agency to smoothly implement and integrate their system into the OSS.

Notwithstanding the above, the GOI must be appreciated for their spirit to progressively support the ease of doing business in Indonesia by establishing the OSS. The OSS itself has established a centralised agency in assisting and monitoring the application and approval business licenses, to develop an integrated information technology for licensing purpose, and to initiate business licensing reform.

Since the enactment of GR No. 24/2018, we have been in constant consultation with the OSS Agency to monitor any development on the implementation of the OSS system.

If you have any questions or require any additional information, please contact [Fadjar W. Kandar](#), [Louise Patricia Esmeralda](#) or the ZICO Law partner you usually deal with.

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