

New Risk-Based Approach to Business Licensing Requirements in Indonesia

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Changes to the business
licensing regime coming!
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What this means for
Investments and
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For many years, the Indonesian government has taken a strict business licensing approach that required investors to obtain various types of licenses and/or permits before they were able to complete their investment plan and start doing business in Indonesia.

This approach has unfortunately in practice introduced complexities and hurdles that investors have had to overcome when starting a business in Indonesia, a situation reflected in the World Bank's Ease of Doing Business ("EODB") index ranking for Indonesia. In the most recent edition of the index, Indonesia's ranking for starting a business did not improve as expected after the implementation of various initiatives designed to make the investment environment better, such as the introduction of the Online Single Submission ("OSS") Agency and the delegation of licensing responsibilities to the OSS Agency for the past couple of years.

Considering the above, the Job Creation Omnibus Law ("Omnibus Law") has mandated the introduction of a new business licensing approach, called the Risk-Based Approach, with the objective to further simplify Indonesia's business licensing requirements. This approach has been adopted by other countries – including the United Kingdom and Australia - for their business licensing processes.

Changes to the business licensing regime coming!

The implementation of the Risk-Based Approach will lead to a number of changes that businesses should prepare for.

Risk-Based Business Classifications

Under the Risk-Based Approach, the number of licenses and permits that are issued by the government will be based on business risk level that will be determined by the scale of the hazards that a business has the potential to create.

The scale of the potential hazards will be determined by the following four aspects, among others: health, safety, environment, and the utilisation and

management of natural resources – while also considering the criteria, type, and location of the business, any limitations on natural resources, and business volatility risks.

The potential hazards will be classified into four categories: unlikely, probable, possible, and likely.

Based on the scale of the potential hazards, the government will then categorise new businesses into one of the following three classifications:

- a. Low risk businesses;
- b. Medium risk businesses; and
- c. High risk businesses.

In order to implement this new approach, we understand that the government will in due course issue more detailed business classification guidelines that will be based on the five-digit Industrial Standard Classification (“KBLI”/ *Klasifikasi Baku Lapangan Indonesia*).

We also noted that the government has recently issued KBLI 2020, replacing the previous KBLI 2017, to ensure that it is able to account for the increasingly diverse range of business activities in Indonesia.

Business Licensing Requirements

With the Risk-Based Approach, the business licensing requirements will follow the business risk classifications that have been mentioned above: the lower the business risk, the simpler the business licensing requirements will be.

The Omnibus Law determines the business licensing requirements for each level of risk classification as follows:

Risk Level		Business Licensing Requirements
Low		Business Identification Number (“NIB”/ <i>Nomor Induk Berusaha</i>)
Medium	Medium Low	NIB + Statement on the Fulfilment of the Business Standards
	Medium High	NIB + Standards Certification
High		NIB + Business Permits

For all classifications of businesses, companies will be required to register their business and obtain an NIB as a minimum requirement for conducting business. For businesses with low risk classification, this is expected to be the only requirement.

For businesses with a medium risk classification, the company must also comply with certain business standards, as determined by the government. Those businesses that are medium low risk only need to provide a statement that they comply, while those of medium high risk will also be required to obtain a Standards Certification from either the central government or a regional government, confirming their fulfilment of the business standards.

As such, this will simplify the current requirements, which state that all businesses must obtain a business license/permit either from the central government or a regional government.

For businesses with a high risk classification, considering the scale of the potential hazards, the Omnibus Law still requires such companies to obtain a business permit in addition to an NIB in order to conduct business.

It is also our understanding that to ensure the alignment of the regional governments with the central government, in relation to the structuring of the Standards or Licensing Authorities, the government will in due course introduce further guidance, named the Norms of Criteria Procedure Standards (“NSPK”/ *Norma Standard Prosedur Kriteria*).

Supervision

Under the Risk-Based Approach, the government will perform inspections to supervise businesses and make sure that companies are complying with the necessary business standards for conducting their business. The frequency of such inspections will depend upon the business’s level of risk classification, as determined by the government – i.e. the government will adopt a form of standards-based supervision.

What this means for Investment and Business

The detailed regulations that will cover the implementation of the Risk-Based Approach will need to be further monitored. They will be based on the Omnibus Law and issued in the form of a Government Regulation (“PP”/ *Peraturan Pemerintah*).

Such detailed regulations should cover the following areas:

- a. The Risk-Based Business classification, based on the KBLI;
- b. The determination of the business standards that companies must comply with;
- c. The business permits that will be required for high risk businesses; and
- d. The government’s supervisory procedures.

Following the issuance of the detailed regulations, companies will need to identify the risk classifications of their businesses, based on the KBLI (including a review of whether their existing KBLI has changed under the KBLI 2020). Based on this, it will be necessary to assess whether any adjustments or amendments to current business licenses are required.

For monitoring going forward, it will also be necessary to identify any business standards that will need to be complied with, and formulate a plan to implement and monitor such compliance.

PwC professionals remain ready to help you work through the impact and future planning!



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