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NEW REGULATION REGARDING TRADING BUSINESS LICENSING

On the 10th of February 2020, the Minister of Trade (“**Minister**”) has issued Regulation No. 8 of 2020 concerning in Electronically Integrated Business Licensing Service within the Trade Sector (“**Regulation No. 8/2020**”), as the new legal framework for licensing services in trade sector. This Regulation No. 8/2020 was initiated to replace the Ministry Regulation No. 77 of 2018 with the same title (“**Previous Regulation**”).

By enacting Regulation No. 8/2020, the Ministry is mapping out the Trade Business License based on Standard Indonesian Business Field Classification (*Klasifikasi Baku Lapangan Usaha Indonesia* or “**KBLI**”). The attachment 1 of Regulation No. 8/2020 stipulates which Business License and Commercial or Operational License are required for the certain type of license, nomenclature and its KBLI. The KBLI number on attachment I of Regulation No. 8/2020 will determine the type of Trade Business License and the type of its commitment. Furthermore, terms and conditions of the type of Trade Business License together with its authority are listed in attachment II of Regulation No. 8/2020.

REGISTRATION

The Regulation No. 8/2020 specifies that prior to obtaining Trade Business Licenses, the business actor is required to have the Business Identification Number (*Nomor Induk Berusaha* or “**NIB**”), which is issued by the Online Single Submission (“**OSS**”) Agency. The business actor who has obtained NIB shall apply Business License, then Commercial or Operational License as necessary based on the relevant KBLI of his/her business. If such Commercial or Operational License are not required, the Business License held by the business actor is deemed as its Commercial or Operational License.

ISSUANCE OF BUSINESS LICENSES

After obtaining NIB through OSS system, business actor shall:

1. Apply Business License and/or Commercial or Operational License based on the commitment in OSS system.
2. After Business License is issued, business actor fulfills any commitment of Business License based on the KBLI of such business activities.
3. Once the Business License is effective, then business actor applies Commercial or Operational License if required by the KBLI of such business activities.
4. For any particular KBLI which requires the completion of the commitment of Commercial or Operational License, the business actor shall meet such commitment.
5. After meeting all of the required commitments depending on its KBLI, OSS Agency issues Commercial or Operational License through OSS system.

BUSINESS LICENSING SERVICE ORGANIZATION

The Regulation No. 8/2020 divides the business licensing service between two authorities, as follows:

1. Business Licensing in the Ministerial Level.
2. Business Licensing in the Regional Government Level.

Below are the details of the competency between two authorities issuing the business licenses:

No.	Remarks	Ministerial Level	Regional Level
1.	The party/system who will implement the service.	Trading Information System (Sistem Informasi Perdagangan or “SIPERDAG”).	One Stop Integrated Services Agency (<i>Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu</i> or “DPMPTSP”).
2.	The Party who will evaluate the completion of commitment.	Working Unit (<i>unit kerja</i>).	Technical team.
3.	Payment.	Non Tax State Income (<i>Penerimaan Negara Bukan Pajak</i> or “PNBP”).	Original Government Revenue (<i>Pembayaran Asli Daerah</i> or “PAD”).
4.	Procedures of fulfillment of commitment for Commercial or Operational License.	The fulfillment by the business actor shall be evaluated by working unit.	<ol style="list-style-type: none">1. DPMPTSP shall process the fulfillment of commitment by coordinating with the relevant trade office.2. In case the technical consideration is needed, Regional Secretary on behalf of the Governor or Regent/Mayor shall establish a technical team which consist of representatives from the relevant regional apparatus.3. Technical team has the duty to provide technical consideration as the basis for approval of rejection of commitment fulfillment submitted by business actor.

TYPES OF BUSINESS LICENSE

Based on the conditions and commitment fulfillment, the business processes are classified into 4 (four) types:

1. Type 1 (business license without commitment fulfillment).
2. Type 2 (business license with technical requirement).
 - The business actor should submit the completed commitment of the business license through the OSS system which is integrated into SIPERDAG/DPMPPTSP.
 - The SIPERDAG will then notify the work unit (*unit kerja*) or DPMPPTSP and coordinate with technical team to evaluate the commitment fulfillment documents as the basis to approve or reject the commitment fulfillment.
 - Any approval or rejection will be notified by the OSS system in no later than 2 (two) working days.
 - If the commitment fulfillment is approved, the OSS Institution will issue the effective business license. Otherwise, the business actor may submit the revision of the business license commitment fulfillment.
3. Type 3 (business license with fee requirement).
 - SIPERDAG/DPMPPTSP will issue PAD/PNBP payment order in accordance to its authority;
 - As part of the commitment fulfillment, the business actor is required to pay PAD/PNBP in no later than 3 (three) working days upon the issuance of such payment order.
 - Based on the payment confirmation from the business actor, the SIPERDAG/DPMPPTSP will inform the OSS system, where the OSS Institution will then issue the effective business license.
4. Type 4 (business license with technical and fee requirement).
 - The commitment for business license Type 4 is a combination of the requirements of business license Type 2 and Type 3. After the commitments are fulfilled, OSS Agency will then issue the effective Business License.

TYPES OF COMMERCIAL OR OPERATIONAL LICENSE

4 (four) types of the Commitment Fulfillment of Commercial or Operational License:

1. Type 1 (commercial and operational license without commitment fulfillment).
2. Type 2 (commercial and operational license with the technical requirement).
 - Business actor shall submit the fulfillment of Commercial or Operational License through SIPERDAG/DPMPPTSP.
 - SIPERDAG will then notify the work unit (*unit kerja*) or DPMPPTSP and coordinate with technical team to evaluate the commitment fulfillment documents as the basis to approve or reject the commitment fulfillment.
 - Any approval or rejection will then be notified the OSS system by no later than 2 (two) working days.
 - If the commitment fulfillment is approved, the OSS Institution will issue the effective Commercial or Operational license. Otherwise, if there is any rejection, the business actor

may re-submit the revised version of the Commercial or Operational license commitment fulfillment.

3. Type 3 (commercial and operational license with fee requirement).
 - SIPERDAG/DPMPTSP will issue PAD/PNBP payment order in accordance to its authority.
 - As part of the commitment fulfillment, business actor is required to pay PAD/PNBP in no later than 3 (three) working days upon the issuance of such payment order.
 - Based on the payment confirmation from the business actor, SIPERDAG/DPMPTSP will inform the OSS system, where the OSS Institution will then issue the effective Commercial/Operational license.
4. Type 4 (Commercial and Operational License with technical and fee requirement).
 - The commitment for Commercial and Operational License Type 4 is a combination between the requirements of Commercial and Operational License Type 2 and Type 3. After the commitments are fulfilled, OSS Agency will then issue the effective Commercial and Operational License.

COMMERCIAL OR OPERATIONAL LICENSE FOR IMPORT AND/OR EXPORT ACTIVITIES

The business actor shall obtain various commitment of commercial or operational in export and import activities through the OSS system. The OSS system will send the required lists of commitment to SIPERDAG and Indonesia National Single Window System (*Sistem* Indonesia Single Window or “**INSW**”). The completion of commitment should then be uploaded in SIPERDAG or INSW.

INFRASTRUCTURE LICENSING

Further, the Regulation No. 8/2020 also introduce infrastructure licensing. Infrastructure Licensing is a licensing that is related to location, water locations, forest areas, buildings and environment with regards to the provisions of the laws and regulations. In essence, the Infrastructure licensing is a subset of the Business License. On that account, the Infrastructure licensing commitment should be done prior to the fulfillment of the Business License commitment. If the relevant KBLI does not require any commitment, then the business actor may directly apply for the Infrastructure Licensing. Once it is issued, the business actor may submit it to the OSS system in order to change the Business License status to become effective. It is important to note that not every business activities are required to obtain the infrastructure license. The necessity of applying infrastructure license shall be based on the KBLI.

SUPERVISION

In order to conduct supervision within the trade licensing process in ministerial level, the Minister introduced the SIPERDAG in Regulation No. 8/2020. On the other hand, the Minister has introduced the Smart Application Integrated Licensing Services for the Public (*Aplikasi Cerdas Layanan Perizinan Terpadu Untuk Publik* or SiCantik), to conduct licensing process supervision and simplifying the process in Regional Government level, where both systems are integrated with the OSS system.

FOR THE BUSINESS LICENSE OBTAINED PRIOR TO REGULATION NO. 8/2020

For the business actors who have obtained Trade Business License prior to the enforcement of Regulation No. 8/2020, the Trade Business License shall remain valid, although the license is still required to be registered to the OSS System. After inspecting the commitment(s) required from the OSS system, it is important to also go over the SIPERDAG (ministerial level) and relevant system (regional level) to check if there would be any additional commitment that is required.

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