



The Responsibilities of Notaries in Assisting the Issuance of Business Identification Numbers (NIB) for Non-Legal Entity Businesses Through Online Single Submission

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ABSTRACT

The Business Identification Number (NIB) serves as the official identity for business entities and must be obtained through the Online Single Submission (OSS) system. Business actors are required to register their business entities through the OSS system to ensure legal certainty regarding business licensing. However, in practice, many business actors delegate the registration process to notaries by granting a power of attorney, despite this practice not being explicitly regulated in current laws and regulations. This study aims to analyze the legal basis and responsibilities of notaries in assisting business actors with the registration process through the OSS system. Using a doctrinal research approach, the study employs both secondary data from literature and primary data from interviews. The findings reveal that the power of attorney granted to notaries holds legal validity, making notaries responsible for tasks specified in the power of attorney, particularly in assisting with data entry in the OSS system. Notaries who fail to fulfill these duties may face administrative sanctions (e.g., written warnings), civil sanctions (e.g., compensation), or criminal sanctions. The implications of this research emphasize the need for clearer legal provisions regarding the role and responsibilities of notaries in the OSS registration process, which would enhance legal certainty and accountability in business licensing practices.

Keywords: Business Actors, Notary, Power of Attorney, Online Single Submission System.

INTRODUCTION

The rapid development of the times has encouraged technological advances in Indonesia, which ultimately allows the public to access and manage licenses online; this is expected to facilitate the community as business actors to be more interested in taking care of licensing because the manual method is considered inefficient with a long process and is detrimental to some people. With more and more business actors taking care of licenses, government supervision will become easier so that business activities carried out by business actors do not have a negative impact on the environment and society. Thus, the government created an

electronic licensing registration system known as Online Single Submission (hereinafter referred to as OSS) based on risk (Sudjarot, 2022).

Business licensing must be carried out with a risk level assessment; this assessment is important to identify business activities and to determine the type of license required, as stipulated in Law No. 6 of 2023 amending Law No. 11 of 2020 on Job Creation. Through the implementation of risk assessment, the competent authority can grant the appropriate license and set the necessary conditions to reduce the risk to realize the risk level assessment in business licensing, Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Business Licensing (hereinafter referred to as PP No. 5/2021) was issued.

The purpose of the issuance of PP No. 5 of 2021 is to improve the investment ecosystem and create a more conducive, fast, precise, and effective business environment that is able to accelerate the rate of economic growth and accelerate the business licensing process electronically through the OSS system (Nurita & Ayu, 2012). OSS is a system managed and organized by the Ministry of Investment or the Investment Coordinating Board (BKPM), which has the responsibility to issue business identification numbers (NIB), location permits to business licenses, with the aim of accelerating the increase in investment and trying to simplify all business licensing processes for business actors in Indonesia (Permana, 2018). The implementation of Risk-Based Business Licensing through the OSS System is the implementation of Law Number 11 of 2020 concerning Job Creation.

Notaries have an important role in government programs related to accelerating the implementation of business activities in national economic resilience; this is because notaries are public officials who are given the authority by the government to prepare and compile authentic deeds related to the establishment of Non-Legal Entity business entities such as Limited Liability Companies (CV) and Firma (S. M. Harahap, 2021). This important role cannot be separated from the duties and functions of notaries as officials authorized to make authentic deeds relating to various acts and agreements. With the existence of a notary, the validity of an agreement between business actors is guaranteed because the authentic deed has perfect evidentiary power, so business actors in establishing a business entity must use an authentic deed in order to have perfect legal force. Therefore, the presence of Notaries in Bengkulu City is very important, considering that they have a strategic role in assisting the process of issuing a Business Identification Number (hereinafter referred to as NIB) for non-legal entities through the Online Single Submission (OSS) system. Before running their business, business actors must have an NIB, which functions as an official identity for business actors in carrying out business activities legally and registered.

For business entities established based on authentic deeds, notaries need to register the deed with the Ministry of Law and Human Rights. This reporting is through the Business Entity Administration System (hereinafter referred to as SABU), which can be accessed through AHU Online; from this registration, business entities that are not legal entities will get a registered

certificate from the Minister, which can be printed through SABU (Tanzil & Anggoro, 2024). The establishment deed and registered certificate are two of the registration requirements on the OSS website. In accordance with Article 21 paragraph (2) of Government Regulation No. 24 of 2018 concerning Electronically Integrated Business Licensing Services, business actors should register their business activities through the OSS system electronically. In practice, business actors authorize notaries to help issue NIBs, but based on statutory regulations, notaries do not have authority in business licensing through the OSS system.

The role of notaries in assisting business actors to manage business license registration is ultimately followed by the authority and responsibility that must be carried out completely and thoroughly so that notaries, as public officials who make deeds of establishment, are required to have complete knowledge related to business activities in Indonesia. As a result, notaries get additional tasks from business actors because notaries understand more about filling in data electronically, such as filling in data on business entity management, business entity domicile, business entity address, and filling in data on business field book classification (hereinafter referred to as KBLI) through SABU which is directly connected to the OSS system. If the data filled in SABU does not match the data in OSS, the data in OSS will be rejected because the data must be the same as the authentic deed made by a notary. Therefore, business actors often ask notaries to help; even though notaries only help business actors, the role of notaries is very clear in terms of issuing licenses through OSS; in filling out OSS, this raises the question of the extent of the role of notaries in OSS issuance.

Previous studies have stated that the role of notaries in supporting business administration processes, particularly in drafting deeds of establishment, is crucial to ensuring legal certainty for business actors (Isnaeni, 2021). However, other research also highlights that the involvement of notaries in the licensing process through the OSS system has not been fully and explicitly regulated in the prevailing laws and regulations (Muljadi, 2019). This has resulted in legal gaps and practical challenges that require further attention. Another study explains that OSS is a system designed to simplify the licensing process, but its implementation still faces obstacles, particularly regarding data synchronization between the SABU and OSS systems, as well as the limited understanding of business actors regarding electronic procedures (Ardiansyah, 2023). The novelty of this research lies in an in-depth analysis of the extent of the role, authority, and responsibility of notaries in assisting business actors to obtain NIB through the OSS system, which has not been extensively discussed in previous studies.

Based on the aforementioned background, the purpose of this research is to analyze the strategic role of notaries in supporting the NIB registration process through OSS and to evaluate the legal implications of notary involvement in this process. The benefits of this research include providing a more comprehensive understanding of the responsibilities and limits of notary authority in electronic licensing, as well as offering recommendations to the government to

clarify regulations related to the role of notaries in the OSS system, thereby creating a more transparent and accountable licensing system.

RESEARCH METHOD

The research method used by the author in this journal is Doctrinal research, which is a type of legal research that focuses on the study of legal theories or doctrines contained in laws and regulations, as well as scientific opinions from legal experts. This research aims to analyze and explore the understanding and interpretation of applicable legal norms by referring to existing legal texts (Muhdar, 2019). This approach emphasizes analysis of legal texts, doctrine, and jurisprudence to understand how these regulations are applied in practice. The data that has been obtained and collected in the form of primary legal materials and secondary legal materials then the data is processed and analyzed qualitatively, the results of which are presented in a descriptive manner defined as an approach that describes, describes, and explains the problems and their solutions related to this writing.

RESULT AND DISCUSSION

Notary Responsibilities in Assisting the Issuance of Business Identification Number Licenses for Non-Legal Entities

Notaries, as public officials, have duties and authorities granted by the State to assist the public in providing legal certainty in the form of the legalization of business entities (Ratnawati, 2015). The duties and authorities must be carried out by notaries as a form of notary responsibility in carrying out their positions; the duties and authorities of notaries are regulated in the Notary Position Law, which states that in carrying out their official duties notaries are obliged to act trustworthily, honestly, carefully and maintain the interests of the parties involved in legal acts impartially.

The authority of notaries is divided into general authority, special authority, and authority to be determined later, but the UJUN emphasizes the authority of notaries, namely to do authentic deeds that function as valid evidence for all certain actions or actions based on the information of the parties. This is referred to as the general authority of notaries with restrictions throughout:

1. Not exempted to other officials stipulated by law;
2. Concerning deeds that must be made or authorized to make authentic deeds regarding all acts, agreements, and provisions required by legal rules or desired by the person concerned;
3. Regarding the legal subject (person or legal entity) for whose benefit the deed was made or willed by the interested party.

Notaries based on UJUN regulations are given the authority to pour out all actions, agreements, and stipulations desired by the faces who are present before them, but before

pouring the information of the faces into the deed, the notary must confirm the information, so that the deed he made has legal force and can be accounted for (Sudjarot, 2022). The process of establishing a non-legal entity business entity based on statutory regulations does not require the establishment to be made in the form of an authentic deed, but the notary suggests that the confronters make non-legal entity business entities such as CV and Firma made with an authentic deed so that in running the business it is considered legal and to avoid future disputes.

A business entity in the form of a Limited Liability Company (CV) is one of the options for a form of business entity that is in great demand by the public because the establishment process is easy and the amount of capital depends on the agreement of the founders, this is because there are no specific rules regarding CVs in the law, but usually notaries recommend following the UUPT, namely that the authorized capital must be deposited at least 25% (twenty-five percent) at the time of establishment and then proof of deposit is given to the notary, if there is no proof of deposit, the faces can use a statement letter as an alternative which states that the founders of the CV have deposited the agreed amount of money.

A notary's role in the establishment of a CV is needed. Therefore, a notary needs to understand and master the procedures for establishing a CV, starting from the preparation of the deed of establishment to processing the submission of the Decree of the Ministry of Law and Human Rights and other administrative matters. This is so that the CV can operate with the appropriate legality and fulfill the applicable legal provisions. Business actors who have established their business entity through a notary are required to register the business entity and/or business activity through the OSS system as stipulated in Government Regulation No. 24/2018 Article 1 point 7. Business actors are required to obtain business licenses as a form of legality given to them to start and carry out business activities. The license is an important requirement that supports sustainability and compliance with applicable legal provisions.

Government Regulation No. 5/2021 only states that the person authorized to register a business entity is the business actor himself, not a notary, but in practice, business actors will use the services of a notary to help register their business entity through the OSS system, because the requirements for registering a CV license must have a deed of establishment made by a notary and then will be registered through the OSS system, this makes notaries able to do work outside their daily main duties based on a power of attorney made by business actors. Notaries can indeed assist business actors based on power of attorney, but the main tasks carried out by notaries must be in accordance with applicable legal provisions, namely regulated in the Notary Position Law. The reason why business actors appoint a notary as a proxy in filling out data in the OSS system is because notaries have a deep understanding of the procedures and filling out the data required in the process. The data entered into the OSS system must be in accordance with the contents of the authentic deed made by the notary; if there is a discrepancy or error in filling in the data, this can have implications for the invalidity of the business entity license, considering that the error can be considered a violation of the applicable

provisions, this is what causes business actors to authorize a notary to fill in the business entity license. The authority of a notary, in general, is to do authentic deeds that have legal force; this is related to business actors who want to establish a non-legal entity business entity so that a notary can assist in the following matters:

1. Notaries can help make company establishment deeds, deeds of amendment to the articles of association, or deeds of change in the status of business entities such as CV can be converted into PT;
2. Notaries can assist businesses in drafting power of attorney for business or legal matters, such as licensing, trademark registration, or even representing businesses in certain transactions;
3. Notaries can help by legalizing or attesting documents required for business activities.

However, to be able to act or take legal action based on a power of attorney, a notary must ensure that the power of attorney given to him is clear and valid in accordance with applicable legal provisions because, basically, a notary can only exercise his authority in accordance with the rules of the UUJN, with this power of attorney providing legal certainty and can be used as evidence of delegation for notaries to assist business actors in filling out OSS system data. Notaries in carrying out their main duties based on the power of attorney, business actors should include the time period for completing the Business Identification Number (NIB) of the business entity that is the responsibility of the notary so that the period of authority becomes clear and measurable, in addition to including the time period, the contents of the power of attorney should also clearly describe the type of Indonesian Standard Business Field Classification (KBLI) that is relevant according to the needs of business actors. It is important to ensure that business activities run smoothly without any obstacles caused by a mismatch when determining the classification. Thus, a power of attorney granted to the notary must contain specific provisions so that the exercise of such authority can be carried out effectively and in accordance with applicable regulations.

A power of attorney granted to a notary is a type of Special Power of Attorney based on Article 1795 of the Civil Code, which explains that a power of attorney in which it is explained what actions may be carried out by the recipient of the power of attorney which means that the recipient of a power of attorney will later act on behalf of the grantor but the recipient of the power of attorney can only perform certain legal actions such as notaries filling in the data required to fulfill the requirements for NIB licensing applications through the OSS system (Tarihoran, 2024). A power of attorney must be drafted clearly and unequivocally, including details regarding the affairs or actions that are the object of the power of attorney granted. Therefore, the authority of the power of attorney recipient should be described in detail in the power of attorney to ensure that the power of attorney recipient understands the limitations and scope of duties that must be carried out in accordance with the mandate given by the power of attorney, as stipulated in Article 123 HIR.

The special power of attorney recipient is responsible for his actions in accordance with those stated in the special power of attorney; the following obligations must be fulfilled by the power of attorney recipient, namely as follows (Hasan & Santoso, 2023) :

1. The recipient of the power of attorney must not take any action that exceeds the power of attorney;
2. The recipient of the power of attorney must be responsible for all loss expenses and interest incurred due to the non-execution of the power of attorney to the detriment of the service provider;
3. The power of attorney recipient must be responsible for the tasks assigned to him which must be carried out as well as possible.
4. Provide reports to the authorizer on what has been done;
5. The recipient of the power of attorney is responsible for actions carried out intentionally, which result in losses for the grantor; then, the recipient of the power of attorney must compensate for the loss.
6. The recipient of a power of attorney is responsible for the other person he chooses as a substitute to carry out his power.

Granting power of attorney becomes an agreement or agreement with a person who gives his power to another person and on his behalf to carry out an affair (Raharjo, 2019). The delegation of authority through a power of attorney granted to a notary to assist business actors in the process of filling in data through the OSS system is an obligation that must be carried out by a notary. As the recipient of a power of attorney, the notary has the responsibility to carry out the task in accordance with the authority given to him. One of the tasks that must be carried out by a notary is filling in data, including information regarding business capital, which is an important part of the process of establishing a business entity through the OSS institution (Tanzil & Anggoro, 2024).

A power of attorney based on a power of attorney becomes the representative of a power of attorney, which means that the actions to be taken by a power of attorney will be bound by the power of attorney unless the power of attorney acts outside his authority, then the power of attorney is not responsible for his actions (Hartanto, 2019). The use of power of attorney must be done appropriately and carefully to avoid potential abuse of power of attorney. This is in line with the provisions of Article 1338 of the Civil Code, which requires the power of attorney recipient to act in good faith in carrying out the assigned duties. This good faith is important to keep the exercise of power of attorney from deviating from its legitimate purpose and in accordance with the interests of the grantor.

Based on the provisions regarding the power of attorney, the notary has specific obligations that must be carried out by him based on the power of attorney because the power of attorney has legal force. Therefore, the notary's responsibility is only limited to the implementation of the tasks stated in the power of attorney, namely assisting business actors

in the process of filling in data through the OSS system. This responsibility only covers clear and specific actions as outlined in the power of attorney granted by the grantor. Thus, the notary is only responsible within the limits of the tasks stated in the power of attorney, and for matters that are outside of this scope, the notary does not bear responsibility.

Implementation of Sanctions for Notaries who Do not Carry out Responsibilities that have been authorized by Business Actors in the Management of OSS

Notaries are public officials who have duties and authorities that must be carried out in accordance with statutory regulations as a form of responsibility for the implementation of their position (K. P. Putri, 2016). Liability arises when a person commits an act that violates the law and causes harm to another party as stipulated in Article 1365 of the Civil Code; in this case, the responsibility of the notary refers to the principle of fault-based liability, which requires the notary to be accountable for all actions taken if there is evidence of negligence or error in the performance of his duties (Amanda, 2023). The principle of fault-based liability must fulfill four elements, namely (PAMSUKMAYANTI, 2022) :

1. The existence of a tort,
2. Error or negligence of the responsible party,
3. The loss incurred as a result of the act, and
4. Causal connection between the act and the harm caused.

This refers to a situation where a notary, as the recipient of a power of attorney granted by a business actor as the grantor, does not complete the Business Identification Number (NIB) of the business entity within the specified time, as stipulated in the power of attorney, which can have implications for the smooth administrative process and legality of the business entity concerned, this non-compliance causes losses to the grantor. Furthermore, if a notary makes a mistake in entering data, such as the type of KBLI of a business entity through the OSS system, it can potentially cause significant losses to business actors. Errors in inputting KBLI data may result in a mismatch between the business activities carried out and the officially registered category, which in turn may hinder business licenses, financing, or other aspects related to administrative compliance, in which case, the notary must be held accountable for errors that occur in the performance of his/her duties based on a power of attorney received.

The granting of power of attorney to a notary to manage a business license is a valid and binding agreement as long as it does not violate the provisions stipulated in the applicable law, as stipulated in Article 1795, which means that the authority of the notary in managing the business license is valid, covering the entire series of processes starting from the initial stage of creating an account, uploading the required documents, to the final stage of issuing a business license, all of which are carried out in accordance with the wishes of the business actor, if the power of attorney agreement conflicts with the laws and regulations, it can result in a power of attorney becoming invalid or null and void.

The responsibility of notaries in conducting risk-based business licensing through the

Online Single Submission (OSS) System that results in losses for business actors must be proven through the existence of a causal relationship between the notary's actions and the losses caused. The management authority has led to overlapping authorities granted to notaries, considering that, in essence, notaries only play a role in civil activities, as stipulated in the Notary Position Law; in these regulations, there are no provisions that explicitly regulate the authority of notaries to carry out their duties in the realm of public law (Setiawati & Adjie, 2023). Based on the rules of the UUJN, notaries are only responsible for their mistakes and negligence in carrying out their official duties for the contents of the deed made before them and are responsible for the formal form of the authentic deed as stated in the law.

Notaries who do not carry out their responsibilities in accordance with the power of attorney granted to them may be subject to sanctions based on applicable legal provisions. The sanctions will be adjusted to the policies set by the relevant parties, depending on the decision of the business actors regarding the form of punishment given to the notary. Sanctions against notaries who do not carry out their obligations as business licensing organizers have not been expressly regulated in the applicable laws and regulations; however, if a notary has been given a power of attorney and states an agreement to carry out the assigned duties, but it is not carried out, then the authorizer has the right to impose sanctions on the notary, either in the form of civil, administrative, or criminal sanctions (N. P. S. Harahap, 2011). Civil sanctions are legal consequences arising from violations of private law, which regulate personal relationships and attachments in the fulfillment of various individual interests; civil sanctions are usually imposed as a result of mistakes made by notaries in carrying out their duties and positions, which result in losses for other parties, this sanction is in the form of reimbursement of costs, compensation, and interest (Mardiyah et al., 2017). Before a notary is subject to civil sanctions in the form of reimbursement of costs, compensation, and interest, it must first be proven that the elements of PMH as stipulated in Article 1365 of the Civil Code are (Ayutiar, 2020) :

- a. Any losses incurred;
- b. There is a clausal or causal relationship between the loss and the wrongful act committed by the parties and
- c. There is a breach of conduct or negligence caused by a fault that can be held accountable to the notary concerned.

The concept of losses experienced by business actors, if notaries do not exercise their authority to assist in the registration of business entities through the OSS system, is that the business entity can cause various serious problems in terms of law, administration, and operations. Unregistered business entities may be considered illegal, experience difficulties in accessing licenses and facilities, and face administrative and legal sanctions. Therefore, registering a business entity through OSS is essential to ensure that the business is legitimate, protected by law, and can operate effectively and efficiently.

In addition to civil sanctions, notaries can also be subject to administrative sanctions if

they violate the provisions of the following articles: Article 7 paragraph (1), Article 16, Article 17, Article 19, Article 32, Article 37, Article 54, Article 58, and Article 59. Administrative sanctions are regulated in the UUJN, which consists of 4 (four) types of sanctions that can be given to notaries who violate the provisions of the UUJN, namely written warnings, temporary dismissal, respectful dismissal, and dishonorable dismissal (N. M. Putri & Marlyna, 2021).

These conditions can cause significant losses for business actors, especially in terms of managing business licenses through the OSS system by appointing a notary as a proxy that is not carried out by the notary as stated in the power of attorney; this has the potential to damage the reputation of the notary, considering that business actors have given full trust to the notary to take care of business licenses. If the task is not carried out by the notary, then the notary can no longer be considered a trusted official; if the business entity is not registered through the OSS system, the business entity is invalid or incomplete documents so that business actors will experience difficulties in carrying out their operations, accessing licenses or financing and potentially getting administrative sanctions from related authorities, notaries who do not carry out their duties in accordance with a power of attorney given to them will be subject to administrative sanctions (written warnings), civil sanctions (compensation), to criminal sanctions if there are indications of serious violations, this aims to maintain the integrity of the notary profession and provide protection to parties who use their services.

CONCLUSION

The conclusion in this study shows that the power of attorney given by business actors to notaries to assist in processing NIB licensing applications through the OSS system is a special power of attorney as referred to in Article 1795 of the Civil Code. This legal instrument provides the notary with the authority to perform specific actions related to the data entry required for the NIB application. The power of attorney is valid, provided it is granted by a competent individual and the actions of the notary fall within the authority outlined in the document. The notary is obligated to perform the tasks in good faith, as stipulated in Article 1338 of the Civil Code and in accordance with the UUJN, which mandates that notaries act with integrity and trustworthiness. Non-compliance with these obligations may result in administrative sanctions, civil liability in the form of compensation for damages, and, in cases of severe violations, criminal penalties.

This research contributes to the future development of legal frameworks by highlighting the importance of clear and detailed regulations regarding the role and responsibilities of notaries in electronic licensing through the OSS system. The study underscores the necessity for government action to provide greater legal certainty and accountability in this area. By addressing the gaps in regulation and emphasizing the need for notaries to uphold professional standards, this research offers practical insights for policymakers and stakeholders in developing

a more transparent and efficient licensing system that aligns with the principles of good governance.

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