

POLICY BRIEF (APRIL 2021)

**MICRO, SMALL, AND MEDIUM ENTERPRISES: LICENSING, BENEFITS, AND WAIVERS
UNDER GOVERNMENT REGULATION NO. 7/2021**

1. Background

Micro, Small, and Medium Enterprises (“**MSMEs**”) in Indonesia are defined generally as businesses that are run by individuals or business entities, and fulfill the criteria for MSME in Indonesia.¹ MSMEs are often promoted as one of the pillars of the Indonesian economy, seen as a cornerstone for development, entrepreneurship and ingenuity of Indonesia. Accordingly, the Indonesian government issued Government Regulation No. 7 of 2021 on the Ease, Protection, and Empowerment of Cooperatives and MSMEs (“**GR No. 7/2021**”), also Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Business Licensing (“**GR No. 5/2021**”).

The aforementioned are implementing regulations of Law No. 11 of 2020 on Job Creation (“**Job Creation Act**”). One of the goals of the Job Creation Act is increased facilitation and empowerment of MSMEs both as viable businesses and employers. Accordingly, this policy brief will discuss new regulations, particularly in regards to the licensing requirements for MSMEs and the benefits and waivers provided by the Indonesian Government towards MSMEs.

Summary of Key Issues

No.	Issues	Regulations	Notes
1.	MSME Classification <i>(Article 35 GR No. 7/2021)</i>	The criteria for MSMEs are classified based on their capital and annual revenue.	These new stipulations replace the previous regulations where the criteria for MSMEs were based on their net worth and annual revenue. Then, the number of the values that determine these criteria also changes.
2.	MSMEs’ Business Licensing <i>(Article 37 GR No. 7/2021)</i>	MSME Business Licensing is carried out through an integrated electronic business licensing system and is given based on the risk level of the respective business activities.	This new stipulation has not been regulated in the previous regulations.

¹ Article 1, 35, and 36 GR No. 7/2021.

3.	<p>Benefits and Waivers for MSMEs</p> <p><i>(Article 48, 58-59, 79, 81, 88-89, 101 GR No. 7/2021)</i></p>	<ul style="list-style-type: none"> - Free legal assistance for Micro and Small Enterprises; - Publication of MSMEs' data through a publicly-accessible information system; - Reservation of strategic areas in public infrastructure for the promotion and development of MSEs; - 50% reduction in Intellectual Property Rights registration fees for MSEs; - Different minimum wage stipulations for MSEs; and - Allocation of specific business sectors to MSMEs. <p>In some projects, large enterprises are obliged to have partnership with MSMEs</p>	<p>These new stipulations have not been regulated in the previous regulations.</p>
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2. MSME Classification

Businesses in Indonesia are classified into categories of micro, small, medium, and large enterprise. For MSMEs, the criteria of the classification is regulated under **Article 35 of GR No. 7/2021**, which distinguishes micro, small, and medium enterprises based on their capital and yearly revenue:

Category	MSME Classification	
	Based on MSMEs' capital (excluding land and building)	Based on MSMEs' annual revenue
Micro Enterprise	Enterprises with the maximum business capital of Rp1.000.000.000,-	Enterprises with the maximum annual revenue of Rp2.000.000.000,-
Small Enterprise	Enterprises with business capital between Rp1.000.000.000,- up to Rp5.000.000.000,-	Enterprises with annual revenue between Rp2.000.000.000,- up to Rp15.000.000.000,-
Medium Enterprise	Enterprises with business capital between Rp5.000.000.000,- up to Rp10.000.000.000,-	Enterprises with annual revenue between Rp15.000.000.000,- up to Rp50.000.000.000,-

It is worthy to note that the aforementioned classifications exist as the sole method to classify a business as an MSME. For other purposes (unmentioned in GR No. 7/2021), pursuant to **Article 36 of the GR No. 7/2021**, the Ministry of Cooperatives and Small-Medium Enterprises can use the following identifiers to classify a business as an MSME:

- Net worth;
- Investment;
- The number of employees;
- Incentive and disincentive;²
- Domestic component rate (*Tingkat Komponen Dalam Negeri*–TKDN); and/or
- The implementation of eco-friendly technology.

3. **MSME Business Licensing**

Just like everyone else, MSMEs must possess business licenses in performing their business activities. The business licenses for MSMEs, as with any other business, are issued based on the risks of their business activities. In according to **Article 8 of GR No. 5/2021**, the risks are examined by the central government with the following procedure:

- a. Identification of the business activities;
- b. Assessment of the hazardous rate;
- c. Assessment of the potential hazards;
- d. Determination of the risk rate and the business scale; and
- e. Determination of the type of business licensing.

Furthermore, based on the aforementioned risk and hazardous rates, business activities are further classified into these following groups:

- a. Low-risk business activity;
- b. Medium low-risk business activity;
- c. Medium high-risk business activity;
- d. high-risk business activity;

Ultimately, a business activity's risk level decides the amount and/or difficulty of requirements/licenses a business actor has to fulfil before being allowed to perform said business activity. The business licenses for every group of risk are in the form of: (**Article 37 GR No. 7/2021**)

- a. Business Identification Number (Business ID or *Nomor Induk Berusaha* (“**NIB**”)), for low-risk business activity;
- b. NIB, and Product Standard Certificate and/or Business Standard Certificate, for medium low-risk and medium high-risk business activity; and

² The definition of incentive and dis-incentive are provided in the annex (*Article 1 of the Draft of Ministerial of Agrarian and Spatial Planning Regulation/Head of National Land Agency Regulation on the Guidelines for Giving Incentives and Disincentives as a Realization of Spatial Plan*) of letter No. PPE.PP.01.03 – 1046 from the Directorate General of Legislation to the Secretary General of The Ministry of Agrarian and Spatial Planning/National Land Agency, which can be found through this [link](#).

- c. NIB, License, and Product Standard Certificate and/or Business Standard Certificate, for high-risk business activity.

The business licensing for MSMEs is conducted through the integrated electronic business licensing system (Online Single Submission System–“OSS”) (**Article 38 Paragraph (1) GR No. 7/2021**). Business licenses may be issued by the central or regional government, depending on the type of business as set out by the central government (**Article 22 Paragraph (1) GR No. 5/2021**).

The aforementioned types of business are determined by the Indonesia Standard Industrial Classification (*Klasifikasi Baku Lapangan Usaha*–“KBLI”) Code which being regulated by the **Director of the Central Statistics Bureau** (*Badan Pusat Statistik*–BPS) **Regulation No. 19 of 2017 on KBLI, further amended by the Director of the Central Statistics Bureau Regulation No. 2 of 2020. GR No. 5/2021, specifically in Annex I and Annex II**, however lists down the exact risk levels and issuing authority pertaining to each activity mentioned in KBLI Code.

For example, KBLI Code 47221: Alcoholic Beverages Retail Trade Business Activity. Pursuant to Annex I.7.A.1 of GR No. 5/2021, KBLI Code No. 47221 is classified as a high-risk business activity, therefore, it requires NIB and other corresponding licenses for a business actor to apply. The business licenses for KBLI Code No. 47221 may be issued by the minister of trade, governor, or regent/mayor depending on location, scale, as well as municipal/regional regulations. Subsequently, Annex II.7.A.102 of GR No. 5/2021 sets out the obligations and licenses/documents needed by business actors who run business activities according to the KBLI Code No. 47721.

4. Benefits and Waivers for MSMEs

Article 2 of GR No. 7/2021 stipulates that the central and regional governments are responsible for the protection and empowerment of MSMEs by providing benefits and waivers not available to large businesses, as follows:

- a. Free legal assistance for Micro and Small Enterprises (“MSEs”) (**Article 48 of GR No. 7/2021**), including:
 - Socialization of new laws/regulations;
 - Legal consultation;
 - Mediation;
 - Preparation of legal documents; and
 - Legal aid outside of court.
- b. Publication of MSMEs’ data through a publicly-accessible information system (**Article 58 GR No. 7/2021**);
- c. Reservation of strategic areas in public infrastructure for the promotion and development of MSEs (**Article 60 GR No. 7/2021**);
- d. 50% reduction in Intellectual Property Rights registration fees for MSEs (**Article 79 GR No. 7/2021**);

- e. Obligation for ministries/non-ministerial government institutions and regional officials to allocate at least 40% of the corresponding budget to use MSEs' goods/services from domestic production in the procurement of goods and/or services (**Article 81 GR No. 7/2021**);
- f. Free training and assistance in the usage of financial accounting applications MSEs (**Article 88 GR No. 7/2021**);
- g. Allocation of specific business sectors to MSMEs. In some projects, large enterprises are obliged to have partnership with MSMEs (**Article 89 GR No. 7/2021**). The list of the business sectors is provided in Annex II of Presidential Regulation No. 10 of 2021 on Business Sectors for Investment ("**PR No. 10/2021**"). Additionally, Article 12 of the Law No. 25 of 2007 on Investment as amended by the Job Creation Act stipulates that 'closed investment sectors' also apply to MSMEs;
- h. General minimum wage rules do not apply to MSEs. For MSEs, the wage must be at least 50% of the average public consumption at the provincial level, and at least 25% above the poverty line in the provincial level (**Article 101 GR No. 7/2021 jo. Article 36 of Government Regulation No. 36 of 2021 on Remuneration**) Said figures are decided by data provided by the Central Statistics Bureau.

5. Conclusions

Based on the discussion above, we may deduce that the new regulations reflect Indonesian government's pro-small business stance. In tandem with the Job Creation Act and GR No. 5/2021, the two new regulations as found under GR No. 7/2021, PR No. 10/2021, have (normatively) cemented the Indonesian government as an active proponent and advocate of small entrepreneurs, with both central and regional governments obliged to provide various benefits and waivers to ease the growth of MSMEs. With these new regulations, the Indonesian government hopes to boost MSMEs and thus create a business-friendly environment for both small and large businesses alike.

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