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Legal Certainty and Ease of Doing Business as Determinants of MSME Development in Indonesia

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Abstract

Micro, Small, and Medium Enterprises (MSMEs) occupy a strategic position in Indonesia's economy, accounting for approximately 97% of total employment and contributing around 60.5% to gross domestic product (GDP). However, MSMEs continue to face structural challenges related to limited access to financing, inadequate human resource capacity, and low levels of business formalization. Law Number 6 of 2023 and the risk-based business licensing system implemented through the Online Single Submission Risk-Based Approach (OSS-RBA) represent a paradigm shift toward risk-proportionate regulation and administrative simplification. Nevertheless, streamlined administrative procedures do not necessarily guarantee legal certainty. This study aims to examine the legal framework governing MSME business activities and its implementation, evaluate risk-based licensing as an instrument for facilitating ease of doing business, identify regulatory inconsistencies affecting business predictability, and formulate policy recommendations to strengthen the legal framework for MSME development. This study employs a normative legal research method using statutory, conceptual, and analytical approaches. The primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 20 of 2008, Law Number 6 of 2023, and relevant implementing regulations governing risk-based business licensing. The legal materials are examined through qualitative and prescriptive analysis, involving regulatory mapping, identification of legal inconsistencies and compliance burdens, and assessment of the implications of the legal framework for MSME development. The findings indicate that legal certainty depends on regulatory coherence across sectors, predictable administrative decisions, regulatory stability supported by adequate transitional periods, and accessible legal remedies. Furthermore, ease of doing business should be assessed based on licensing completion times, compliance costs, the number of interactions with government agencies, and the predictability of administrative outcomes rather than solely on the number of permits issued. The study concludes that business formalization should serve as an entry point into a broader MSME development ecosystem. Accordingly, it proposes a five-pillar policy framework encompassing regulatory certainty, risk-proportionate regulation, assisted digitalization, integration of business formalization with tangible benefits, and impact-based regulatory review to promote inclusive and sustainable MSME development.

INTRODUCTION

MSMEs occupy a strategic position in Indonesia's economic structure because they contribute to job creation, income generation, and the equitable distribution of economic activities (Cahya et al., 2025; Wibowo et al., 2025). Government data cited by Statistics Indonesia (Badan Pusat Statistik, BPS) indicate that MSMEs are estimated to account for approximately 97% of total employment and contribute around 60.3% to gross domestic product (GDP) (Badan Pusat Statistik, 2024). At the same time, BPS continues to identify challenges related to access to financing, human resource quality, managerial capacity, and low levels of business formalization among micro and small enterprises (Badan Pusat Statistik, 2025). These conditions demonstrate that MSME development is a multidimensional issue involving legal, institutional, economic, and governance factors (OECD, 2018; Redi et al., 2022).

Despite their substantial economic contribution, the regulatory environment remains a critical factor influencing business costs and risks. MSME operators must obtain the necessary business licenses, comply with sector-specific requirements, understand tax obligations, access financing, meet product standards, and interact with both central and regional government authorities. When regulations change frequently, administrative procedures lack uniformity, or requirements are disproportionate to the risks associated with business activities, compliance costs may increase. For small-scale enterprises, additional administrative expenses and regulatory uncertainty can have a disproportionately greater impact than they do on larger companies with more extensive legal and administrative resources (OECD, 2021; World Bank, 2017).

Indonesia's business law reforms have increasingly emphasized regulatory simplification and digitalization. Law Number 6 of 2023 enacted Government Regulation in Lieu of Law (Peraturan Pemerintah Pengganti Undang-Undang, Perppu) Number 2 of 2022 concerning Job Creation into law (Undang-Undang Nomor 6 Tahun 2023, 2023). This legislative framework encompasses improvements to the investment ecosystem and business activities, the facilitation and empowerment of cooperatives and micro and small enterprises (MSEs), and measures to enhance the ease of doing business. Furthermore, the risk-based business licensing system represents a shift from a relatively uniform licensing model toward regulatory requirements calibrated to the risk levels associated with specific business activities (Adikancana & Santosa, 2024; van der Heijden, 2021).

This paradigm shift is conceptually significant. However, administrative simplification does not automatically guarantee legal certainty. Legal certainty requires regulations that are clear, consistent, predictable, and uniformly implemented (Budiwitjaksono et al., 2025). Conversely, regulations that are procedurally straightforward but frequently amended, overlapping, or subject to inconsistent interpretations across government agencies may continue to generate uncertainty. Therefore, ease of doing business must be examined within the broader relationship between legal quality and development objectives. From a law and development perspective, law functions not only as an instrument of social control but also as an institutional mechanism that creates incentives and reduces uncertainty in economic activities (North, 1990). An effective legal framework should establish conditions that enable economic actors to make informed and rational decisions based on a clear understanding of their legal rights, obligations, procedures, and potential consequences. Accordingly, legal

certainty can be conceptualized as an essential component of the institutional infrastructure supporting economic development.

This article employs the term "determinant" to refer to institutional and normative determinants rather than to imply statistically established causal relationships. The research focuses on explaining how legal certainty and ease of doing business theoretically and juridically shape the institutional environment for MSME development. This conceptual distinction is essential to ensure that the study's conclusions remain consistent with its normative legal research methodology.

The specific regulatory challenge facing Indonesia extends beyond excessive bureaucracy to the coexistence of administrative simplification initiatives and persistent legal uncertainty. Law Number 6 of 2023, which enacted the Job Creation Perppu into law, established a legal framework for risk-based business licensing through the Online Single Submission Risk-Based Approach (OSS-RBA), with the objective of aligning regulatory requirements with the risk levels of business activities (Musthafa et al., 2023). Under this framework, low-risk microenterprises generally need only obtain a Business Identification Number (Nomor Induk Berusaha, NIB), which may also serve as a Company Registration Certificate (Tanda Daftar Perusahaan, TDP), an Importer Identification Number (Angka Pengenal Importir, API), and a means of obtaining customs access, subject to applicable requirements. Business formalization may also facilitate access to People's Business Credit (Kredit Usaha Rakyat, KUR), which offers government-subsidized financing with interest rates that may be as low as 3%, depending on the applicable financing scheme and policy period. However, implementation studies reveal a persistent gap between regulatory design and local administrative practices. Research on OSS-RBA implementation in Blora Regency found that although the number of NIBs issued increased substantially from 1,118 in 2021 to 8,132 in 2023, equitable access remained constrained by limited human resources, uneven program outreach, and technical disruptions at the central government level (Wella et al., 2025). Another study examining microenterprise licensing in Palembang concluded that although OSS-RBA facilitated licensing for low-risk microenterprises through automated issuance procedures, other business operators experienced delays attributable to limited familiarity with the system and lengthy verification processes (Duri et al., 2024).

Previous scholarly research on MSME licensing in Indonesia has generated valuable insights but also reveals identifiable limitations that warrant further investigation. A study employing the Islamic legal concept of maṣlaḥah mursalah (public interest considerations) to examine licensing reforms under the Job Creation Law found that although the risk-based licensing system simplified administrative procedures for MSMEs, its implementation continued to face challenges arising from inadequate public outreach and inconsistencies among regional regulations (Mustofa & Murni, 2024). Research examining OSS-RBA from the perspective of good governance principles identified obstacles associated with inconsistencies between central and regional regulations, concluding that legal certainty, institutional integration, and accountability in OSS-RBA-based public services require further strengthening (Silalahi & Putri, 2025). Studies conducted in Jakarta, including South Jakarta, have similarly identified communication, resource allocation, and bureaucratic structures as factors influencing service quality. These studies also reported that public understanding of the OSS system contributed to service outcomes, although its statistical association was not

significant (Hapsari et al., 2024a, 2024b). Collectively, these findings suggest that administrative simplification through digital platforms has produced observable but incomplete improvements. Meanwhile, the broader dimensions of legal certainty, including regulatory coherence, predictability, stability, and access to legal remedies (Hadjon, 1987), remain insufficiently integrated into normative analyses of MSME development.

The research gap lies in the limited availability of comprehensive normative legal analyses that integrate legal certainty and ease of doing business as institutional determinants of MSME development rather than examining them as separate administrative or economic variables. Existing studies predominantly assess OSS-RBA effectiveness through public policy frameworks or measure licensing outcomes based on the number of NIBs issued. However, relatively few studies systematically examine how the quality of legal norms, particularly their consistency, clarity, stability, and enforceability, influences the transformation of formal business registration into substantive economic opportunities for MSMEs. The World Bank's Business Ready (B-READY) 2024 assessment reported that Indonesia scored below 60 in areas related to financial services, market competition, and business insolvency, while also identifying the absence of specialized insolvency regulations for MSMEs (World Bank, 2024). These findings suggest that the regulatory environment surrounding MSMEs extends beyond business licensing to encompass institutional arrangements that may affect business continuity, resilience, and growth. Similarly, the OECD's OECD Economic Surveys: Indonesia 2024 identifies access to financing as a significant challenge for SMEs and indicates that, despite regulatory progress, Indonesia's Product Market Regulation indicators continue to reflect a relatively restrictive business environment (OECD, 2024).

The urgency of this research is further reinforced by the evolving nature of Indonesia's regulatory landscape. The OSS system continues to undergo adjustments, including revisions associated with the 2025 Indonesian Standard Industrial Classification (Klasifikasi Baku Lapangan Usaha Indonesia, KBLI) and changes to implementing regulations (Peraturan Pemerintah Nomor 28 Tahun 2025, 2025). These developments demonstrate that improving the ease of doing business is an ongoing regulatory process rather than a one-time policy intervention. Each regulatory or technological adjustment requires corresponding updates to administrative guidelines, communication strategies, and transitional assistance for MSME operators. Nevertheless, institutional capacities to manage these transitions vary considerably across regions. Without a coherent analytical framework explaining how legal certainty contributes to MSME development, regulatory reforms risk becoming fragmented technical interventions that address administrative inefficiencies without resolving underlying structural uncertainties. The World Bank's identification of gaps in science centers and technology transfer support for MSMEs further illustrates that regulatory simplification alone cannot compensate for deficiencies in complementary institutional support mechanisms (World Bank, 2024).

The novelty of this research lies in its explicit conceptualization of legal certainty and ease of doing business as institutional and normative determinants of MSME development. This conceptual positioning distinguishes the study from statistical analyses of causal relationships while maintaining consistency with normative legal research methodology. Rather than merely examining whether licensing reforms have increased the number of formally registered businesses, this study investigates how legal certainty within Indonesia's

MSME regulatory framework can establish the institutional conditions necessary for business operators to translate formal legal status into substantive development opportunities. The proposed approach integrates several dimensions frequently examined separately, including coherence across sectoral regulations, predictability of administrative decisions, regulatory stability, and access to legal remedies. Furthermore, it positions risk-based licensing not merely as an instrument of administrative efficiency but also as a means of assessing whether the legal principle of proportionality can be operationalized to reduce compliance burdens for low-risk enterprises while adequately addressing potential negative externalities.

This research aims to examine the conceptual foundations and juridical indicators of legal certainty within Indonesia's MSME regulatory framework, evaluate the regulatory design and implementation of risk-based licensing as an instrument for facilitating ease of doing business, identify regulatory inconsistencies and implementation challenges that undermine business predictability, and formulate legal policy recommendations to strengthen MSME development through coherent and proportionate regulation. The study employs a normative legal research method incorporating statutory, conceptual, and analytical approaches. It examines primary legal materials, including the 1945 Constitution of the Republic of Indonesia, Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (Undang-Undang Nomor 20 Tahun 2008, 2008), Law Number 6 of 2023, and relevant implementing regulations governing risk-based business licensing. This methodological approach reflects the study's premise that legal certainty is fundamentally a normative question concerning the clarity, consistency, enforceability, and institutional application of legal rules rather than solely an empirical question concerning business perceptions or registration rates.

The contribution of this research is twofold. Theoretically, it advances the conceptual understanding of legal certainty as a component of the institutional infrastructure supporting economic development by explaining how regulatory quality may influence MSME productivity through transaction costs and decision-making under uncertainty. Practically, it proposes a five-pillar policy framework comprising regulatory certainty, risk-proportionate regulation, assisted digitalization, the integration of business formalization with tangible economic benefits, and impact-based regulatory review. This framework is intended to assist Indonesian policymakers in designing MSME regulatory reforms that promote not only administrative efficiency but also substantive and sustainable economic development. The potential benefits extend to MSME operators, for whom clearer, more consistent, and proportionate regulations may reduce compliance burdens, improve business predictability, and facilitate access to the economic opportunities associated with formalization.

METHOD

This study employed a normative legal research method incorporating statutory, conceptual, and analytical approaches. The statutory approach examined the legal framework governing the ease of doing business, business licensing, and Micro, Small, and Medium Enterprises (MSMEs). The conceptual approach explored legal certainty, regulatory quality, proportionality, and law and development, while the analytical approach assessed the institutional implications of regulatory provisions for MSME operators.

The primary legal materials comprised the 1945 Constitution of the Republic of Indonesia, Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises, Law

Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, and relevant implementing regulations governing risk-based business licensing. Secondary legal materials included academic books, peer-reviewed journal articles, official reports, and scholarly publications addressing economic law, law and development, regulatory governance, and MSME development.

The legal materials were analyzed qualitatively using a prescriptive approach. The analysis involved mapping relevant regulatory provisions, identifying regulatory inconsistencies and compliance burdens, examining their implications for MSME development, and formulating legal policy recommendations. As the study did not employ quantitative methods, the term "determinants" referred to institutional and normative factors shaping the regulatory environment for MSME development rather than statistically established causal relationships.

RESULTS AND DISCUSSION

Legal Certainty in the MSME Regulation Ecosystem

First, legal certainty requires coherence between one norm and another. MSMEs often deal with regulations across sectors: licensing, trade, food, health, environment, employment, taxation, and consumer protection. Each sector can have legitimate policy objectives, but without harmonization, business actors can face repetitive requirements or asynchronous procedures.

Second, legal certainty is related to the predictability of administrative decisions. Business actors need clear information about the required documents, process stages, service time standards, and consequences if errors occur. Digital systems can strengthen predictability if information and service algorithms are consistent. However, digitalization does not automatically solve problems if basic data, sectoral requirements, or local government practices have not been integrated.

Third, regulatory stability is an important factor for investment decisions. MSMEs may invest in equipment, labor, certification, or digitalization based on the assumption that legal requirements are relatively stable. Policy changes that are not accompanied by a transition period, guidance, and adequate communication can increase regulatory risk. Therefore, any regulatory changes that have a direct impact on MSMEs should ideally be accompanied by a regulatory impact assessment and transition strategy.

Fourth, legal certainty requires access to remedies. MSME actors who face rejection, delay, or administrative decisions must have complaint channels and objection mechanisms that are easy to understand. These mechanisms are not only individual protection, but also government learning instruments to find problem points in the implementation of regulations.

Risk-Based Licensing as an Instrument of Ease of Doing Business

Risk-based licensing is an important change because it differentiates treatment based on the level of risk of business activities. In this framework, low-risk businesses should not be burdened with requirements equivalent to high-risk activities. This approach is in line with the principle of proportionality and can reduce entry barriers.

However, the measure of success should not stop at the amount of NIB issued. A more substantive indicator is whether the legality helps MSMEs access financing, markets, procurement, certification, legal protection, and empowerment programs. In other words,

legality must generate economic value. If the NIB is merely an administrative document with no connection to economic services, the incentives for formalization remain limited.

The current OSS also shows continuous development in the licensing ecosystem, including adjustments to the 2025 KBLI and changes in implementing regulations. These dynamics show that ease of doing business is a sustainable process, not a one-time policy. Any system change must be followed by updates to guidelines, communication, and transition support for MSME actors.

Therefore, ease of doing business should be assessed through four measures: completion time, compliance costs, number of interaction points with the government, and level of certainty of results. These four can be used as policy indicators that are closer to the real experience of business actors than just a simplified number of regulations.

Table 1. Regulatory Issues and Policy Response Matrix

Problem	Risks for MSMEs	Legal/policy response
Overlapping requirements	Cost and time increase	Harmonization and one-stop requirements
Rapid regulatory changes	Regulatory uncertainty	Transition period and policy communication
Limited digital literacy	Exclusion from digital services	Assistance, helpdesk, and assisted digital service
Implementation differences	Uncertainty between regions	Service standards and monitoring of the centers
Legality is not connected to benefits	Low formalization incentives	NIB integration with financing, marketplace, and empowerment

Legal Certainty, Compliance Costs, and MSME Productivity

The relationship between legal certainty and productivity can be explained through transaction costs. When rules are unclear, businesses must allocate additional resources to obtain information, consult, document management, or anticipate policy changes. Resources that should be used for innovation, marketing, product quality improvement, and expansion are absorbed to manage uncertainty.

On the contrary, a predictable legal environment improves the quality of economic decisions. MSME actors can estimate market entry costs, compliance obligations, investment needs, and administrative risks. This creates conditions that are more conducive to reinvestment and business growth.

However, deregulation that is too broad can also cause externalities. Reducing standards without considering risks can harm consumers, workers, the environment, and even MSME actors themselves. Therefore, the policy goal is not "regulation as little as possible", but "regulation that is appropriate, clear, proportionate, and implementable".

The Challenge of Central and Regional Harmonization

Decentralization provides space for local governments to manage public services and develop the local economy. However, for business actors, the existence of many authorities can be a source of uncertainty if standards and procedures are not coordinated. In the context of MSMEs, harmonization does not mean removing regional authority, but ensuring that it is exercised within a framework of compatible and easy-to-understand norms.

Strengthening coordination can be done through standardization of minimum requirements, data interoperability, service monitoring dashboards, and escalation mechanisms when there are differences in interpretation. Evaluation of local government performance also needs to include user experience indicators, such as completion time, number of document repetitions, and complaint resolution rate.

From Legality to MSME Development

Business legality should be positioned as the gateway to the development ecosystem, not the final destination. NIB and other legalities have development value when used to open access to formal financing, government procurement, corporate supply chains, digital markets, training, certification, and legal protection. This approach shifts the paradigm from compliance-oriented to development-oriented regulation.

The implication is that MSME policies must build a "policy chain": legality → access to services → capacity building → productivity → market access → reinvestment → business growth. If one of the links is broken, the development effects of regulatory reform will be limited.

Therefore, MSME law reform needs to use impact-based evaluation. The government can set indicators such as the time to obtain legality, compliance costs, the level of legality use for access to financing, the proportion of MSMEs entering the formal supply chain, and the level of business sustainability. These indicators allow policy evaluation to be more substantive than simply calculating the number of regulations or permits.

Proposed Legal Policy Model

Based on the above analysis, the model of strengthening MSME development can be formulated in five pillars:

1. Pillar 1 — Regulatory certainty: ensuring that norms are easy to understand, consistent, stable, and have an adequate transition period.
2. Pillar 2 — Risk-proportionate regulation: adjusting the burden of requirements to the level of risk, so that low-risk businesses are not overburdened.
3. Pillar 3 — Digital but assisted: maintain digitalization as the default, but provide human assistance, helpdesk, and mentoring to avoid digital exclusion.
4. Pillar 4 — Benefit-linked legality: linking legality to financing, procurement, markets, certifications, and capacity building programs.
5. Pillar 5 — Impact-based review: conducting regulatory evaluation based on the impact on compliance costs, productivity, formalities, and competitiveness of MSMEs.

Table 2. Direction of MSME Regulation Reform

The Old Approach	Recommended Approaches	Outcome
Focus on the number of requirements	Focus on regulatory risks and objectives	Proportionalities
Legality as compliance	Legality as access to benefits	Productive formalization
Digitalization without support	Digitalization + assisted service	Service inclusions
Output-based evaluation	Impact-based evaluation	Adaptive policies
Fragmentation of authority	Interoperability and coordination	Certainty of service

Policy Implications

First, the government needs to strengthen regulatory coherence by mapping the requirements of MSMEs across sectors. Each requirement needs to have a clear legal basis, objectives, responsible authority, service standards, and evaluation indicators.

Second, licensing reform needs to move from procedural simplification to substantive simplification. Reducing clicks on applications but maintaining paperwork and repeated checks has not completely reduced compliance costs.

Third, it is necessary to build a mechanism for "MSME regulatory impact review", which is an assessment of the impact of new policies on micro and small businesses before the rules are enforced. The assessment can test administrative costs, time, compliance investment needs, and potential impacts on business groups with limited capacity.

Fourth, local governments need to be placed as important actors in ensuring the certainty of implementation. National standards need to be translated into consistent local services without adding unnecessary requirements.

Fifth, legality must be linked to real economic benefits. The government can build data integration to make it easier for MSMEs that already have NIB to access financing, procurement, training, certification, and markets.

The recommendations show that legal certainty and ease of doing business do not stand alone. Both are part of institutional quality that affects the ability of MSMEs to turn legality into productivity and productivity into economic development.

CONCLUSION

Based on the examination of legal certainty and ease of doing business as institutional determinants of MSME development in Indonesia, this study concluded that the regulatory framework governing MSMEs continued to exhibit a substantial gap between normative design and practical implementation. Although Law Number 6 of 2023 and the risk-based business licensing system implemented through the Online Single Submission Risk-Based Approach (OSS-RBA) represented significant shifts toward regulatory proportionality and administrative simplification, legal certainty required more than procedural efficiency. The findings identified four fundamental dimensions requiring further institutional strengthening: coherence across sectoral regulations, predictability of administrative decisions, regulatory stability supported by adequate transitional mechanisms, and accessible legal remedies for administrative disputes. Risk-based licensing had facilitated market entry for low-risk microenterprises; however, its effectiveness could not be assessed solely by the number of Business Identification Numbers (Nomor Induk Berusaha, NIBs) issued. Instead, its effectiveness needed to be evaluated based on the extent to which business formalization facilitated access to financing, markets, public procurement, certification, and legal protection. The analysis further indicated that harmonization between central and regional regulations remained a critical challenge, as inconsistencies in administrative requirements and limited interoperability among government information systems contributed to disparities in regulatory implementation and reduced business predictability. Furthermore, the relationship between legal certainty and MSME development was conceptually explained through transaction costs, whereby unclear, inconsistent, or unstable regulations could divert resources from innovation, quality improvement, and business expansion toward managing regulatory uncertainty. Accordingly,

the proposed five-pillar policy framework, comprising regulatory certainty, risk-proportionate regulation, assisted digitalization, the integration of business formalization with tangible economic benefits, and impact-based regulatory review, provided a structured approach to shifting MSME governance from administrative compliance toward sustainable economic development. This framework emphasized that business formalization should function as an entry point to broader economic opportunities rather than merely an administrative requirement.

Future research should extend these normative findings through empirical, comparative, and interdisciplinary investigations. Mixed-methods studies could assess compliance costs across MSME risk categories and geographical regions to examine the practical application of proportionality in risk-based licensing. Comparative research involving other Association of Southeast Asian Nations (ASEAN) member states could identify regulatory practices and institutional arrangements that support effective business licensing. Longitudinal studies could investigate whether business formalization was associated with sustained improvements in financing accessibility, market participation, and enterprise resilience. Further normative legal research should examine MSME insolvency and business exit mechanisms, particularly in relation to regulatory gaps identified in the World Bank's Business Ready (B-READY) assessment. Additionally, research on digital licensing systems should explore the implications of automated administrative decision-making for transparency, accountability, and legal certainty, particularly among MSME operators with limited digital literacy. Finally, future studies should assess regional government capacity to harmonize national regulatory standards with local administrative practices and identify governance mechanisms capable of reducing implementation disparities and improving the consistency, predictability, and accessibility of business licensing services throughout Indonesia.

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CONFLICT OF INTEREST

The authors state that there is no conflict of interest in the research, writing, or publication of this article.

AUTHOR'S CONTRIBUTION

All authors contributed to the preparation of this article. Author 1 (Keisha Pasaribu) played a role in the conceptualization of the research, played a role in the collection and analysis of data, played a role in the interpretation of the results and the preparation of the manuscript, while the other authors contributed to the review, editing, and final approval of the manuscript.

GENERATIVE ARTIFICIAL INTELLIGENCE USAGE STATEMENT

The author states that no generative artificial intelligence was used in the preparation of this article.

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