

# Indonesia

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RISK & COMPLIANCE

DATE: November 2018

<b>Executive Summary - Indonesia</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	<p>Non - Compliance with FATF 40 + 9 Recommendations</p> <p>US Dept of State Money Laundering Assessment</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International &amp; W.G.I.)</p> <p>Failed States Index (Political Issues)(Average Score)</p>
<b>Medium Risk Areas:</b>	<p>Weakness in Government Legislation to combat Money Laundering</p> <p>World Governance Indicators (Average Score)</p>
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>rubber and similar products, palm oil, poultry, beef, forest products, shrimp, cocoa, coffee, medicinal herbs, essential oil, fish and its similar products, and spices</p> <p><b>Industries:</b></p> <p>petroleum and natural gas, textiles, automotive, electrical appliances, apparel, footwear, mining, cement, medical instruments and appliances, handicrafts, chemical fertilizers, plywood, rubber, processed food, jewelry, and tourism</p> <p><b>Exports - commodities:</b></p> <p>oil and gas, electrical appliances, plywood, textiles, rubber</p> <p><b>Exports - partners:</b></p> <p>Japan 15.9%, China 11.4%, Singapore 9%, South Korea 7.9%, US 7.8%, India 6.6%, Malaysia 5.9% (2012)</p> <p><b>Imports - commodities:</b></p> <p>machinery and equipment, chemicals, fuels, foodstuffs</p> <p><b>Imports - partners:</b></p> <p>China 15.3%, Singapore 13.6%, Japan 11.9%, Malaysia 6.4%, South Korea 6.2%, US 6.1%, Thailand 6% (2012)</p>	

**Investment Restrictions:**

Indonesia has a relatively open foreign investment regime. Recent reforms have put greater emphasis on improving the business climate, enhancing regional competitiveness, and creating a more vibrant private sector. Though public finance management and business freedom has declined, any resulting disadvantages are more than compensated for by significantly improved financial freedom and freedom of corruption, according to the Heritage Foundation 2013. In 2007, the government introduced a new Investment Law which provides a set of rules to protect investors such as non-discriminatory treatment and recourse to international arbitration in disputes against the government. However, according to the US Department of State 2013, the new Investment Law also significantly increased the number of sectors that are prohibited to foreign investment.

Restrictions on FDI are, for the most part, outlined in presidential decree 36/2010, commonly referred to as the Negative List. The Negative List consolidates FDI restrictions from numerous decrees and regulations to create greater certainty for foreign and domestic investors.

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## Section 1 - Background

The Dutch began to colonize Indonesia in the early 17th century; Japan occupied the islands from 1942 to 1945. Indonesia declared its independence shortly before Japan's surrender, but it required four years of sometimes brutal fighting, intermittent negotiations, and UN mediation before the Netherlands agreed to transfer sovereignty in 1949. A period of sometimes unruly parliamentary democracy ended in 1957 when President SOEKARNO declared martial law and instituted "Guided Democracy." After an abortive coup in 1965 by alleged communist sympathizers, SOEKARNO was gradually eased from power. From 1967 until 1988, President SUHARTO ruled Indonesia with his "New Order" government. After rioting toppled Suharto in 1998, free and fair legislative elections took place in 1999. Indonesia is now the world's third most populous democracy, the world's largest archipelagic state, and the world's largest Muslim-majority nation. Current issues include: alleviating poverty, improving education, preventing terrorism, consolidating democracy after four decades of authoritarianism, implementing economic and financial reforms, stemming corruption, reforming the criminal justice system, holding the military and police accountable for human rights violations, addressing climate change, and controlling infectious diseases, particularly those of global and regional importance. In 2005, Indonesia reached a historic peace agreement with armed separatists in Aceh, which led to democratic elections in Aceh in December 2006. Indonesia continues to face low intensity armed resistance in Papua by the separatist Free Papua Movement.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF List of Countries that have been identified as having strategic AML deficiencies

Indonesia was removed from the FATF List of Countries that have been identified as having strategic AML deficiencies on 26 June 2015.

#### FATF Statement: 26 June 2015

The FATF welcomes Indonesia's significant progress in improving its AML/CFT regime and notes that Indonesia has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in February 2010. Indonesia is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Indonesia will work with APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

#### Compliance with FATF Recommendations

The last Mutual Evaluation follow-up Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Indonesia was undertaken in 2018. According to that Evaluation, Indonesia was deemed Compliant for 6 and Largely Compliant for 29 of the FATF 40 Recommendations. It was deemed Highly Effective for 0 and Substantially Effective for 5 of the Effectiveness & Technical Compliance ratings.

#### Key Findings from latest follow-up Mutual Evaluation Report (2018):

Indonesia has a high risk of terrorist financing (TF), which was assessed in the 2015 national risk assessment (NRA) of TF and updated in 2017. Money laundering (ML) risk was assessed in the 2015 ML NRA, supplemented by 10 sectoral/strategic risk assessments and a 2017 update, which reasonably identifies corruption, narcotics and taxation as the three main proceeds/ML-generating predicate offences. The competent authorities that met during the onsite visit demonstrated a sound understanding of Indonesia's TF risk. The level of understanding of the ML risk is sound in key law enforcement agencies (LEAs) designated to conduct ML investigations. National coordination and cooperation is very strong with national priorities outlined in the 2017–2019 National Strategy on the Prevention and Eradication of Money Laundering and Terrorist Financing (STRANAS). Proliferation financing (PF) coordination is recent.

LEAs use operational and strategic analyses disseminated by Indonesia's financial intelligence unit (FIU), Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), in ML/TF and predicate crime investigations. PPATK uses suspicious transaction reports (STRs) in combination with other reports and sources of relevant information, including from LEAs, to develop its financial intelligence products, which are of high-quality. Indonesian LEAs are also developing their own financial intelligence, which is used to investigate ML/TF and predicate offences and to trace property for seizure and confiscation.

Since 2013, most of the 324 individuals convicted of ML in Indonesia are for self-laundering with few complex cases, although 43% of convictions relate to corruption, which is consistent with Indonesia's risk profile. However, the number of ML cases for other high-risk predicate crimes is not consistent with Indonesia's ML risk.

Indonesia has a national policy objective for confiscation in higher-risk ML cases, but not explicitly for TF or other predicate crimes. STRANAS does, however, include a strategy specifically focused on the prevention and eradication of TF (Strategy 3), which includes objectives to optimise the handling of all criminal actions, covering confiscations related to TF. Indonesia is confiscating property in predicate crime cases related to corruption, including the confiscation of property of corresponding value and, to a lesser extent, narcotics. There have been more limited confiscations in ML and other predicate crime cases. Overall, the value realised by the State is not fully commensurate with Indonesia's ML risk. Indonesia has terrorism and TF confiscations.

Since 2013, Indonesia has obtained TF convictions in 55 cases including for collection, movement, and use of funds with proportionate and dissuasive sanctions applied. Indonesia is largely successful in identifying TF activity associated with a terrorist attack, as well as TF where there is no link to a terrorist attack. TF convictions are generally consistent with Indonesia's TF risks—e.g. convictions obtained for cases involving funding of foreign terrorist fighters (FTFs). Indonesia is integrating TF into its broader national approach to counterterrorism.

Indonesia is not implementing targeted financial sanctions (TFS) for terrorism/TF without delay, the legal framework does not broadly provide for a prohibition on provision of funds, and Indonesia's use of listings under United Nations Security Council Resolution (UNSCR) 1267 is not consistent with identified TF risks. Notwithstanding the above, Indonesia has frozen funds, real property, and one life insurance policy in relation to UNSCR 1267. For UNSCR 1373, Indonesia listed five individuals and one entity in June 2017; no funds have been frozen; and Indonesia is not utilising its UNSCR 1373 TFS framework to combat its TF risks.

Indonesia's legal framework for TFS related to the proliferation of weapons of mass destruction (WMD) has major shortcomings. In addition, Indonesia has not designated any of the Iranian individuals/entities on the UNSCR 2231 List to their domestic list (WMD List)—most UN-listed individuals/entities from the Democratic People's Republic of Korea (DPRK) have been listed. No funds or other assets have been identified or frozen, but banks displayed a sound understanding of TFS obligations related to DPRK and are conducting automated screening.

Major financial institutions (FIs) demonstrated a sound understanding of ML/TF risks and AML/CFT obligations, with banks having relatively more sophisticated implementation of

preventive measures. Non-bank money value transfer services and money changers have a reasonable understanding of ML/TF risks and AML/CFT obligations. Other FIs have not yet implemented a risk-based approach (RBA) and are either in the early stages of implementing AML/CFT requirements or have relatively rudimentary implementation. There is some understanding of ML/TF risks and AML/CFT obligations among larger designated nonfinancial businesses and professions (DNFBPs) and those supervised by PPATK. However, overall, DNFBPs have not yet implemented AML/CFT measures effectively.

Supervisors are in various stages of implementing risk-based supervision. Otoritas Jasa Keuangan (OJK) and Bank Indonesia (BI), the major financial supervisors, have a sound understanding of ML/TF risks in their supervised sectors with both undertaking effective regulation and risk-based supervision of the most materially relevant and higher-risk sectors. PPATK is focusing its supervisory attention on higher-risk sectors, but there have not been onsite inspections of all these sectors. The other four supervisors are still in the process of implementing comprehensive risk-based supervision for other FIs and DNFBPs.

Indonesia has assessed ML/TF risks of legal persons, but competent authorities have a mixed understanding of these risks. All Indonesian legal persons must be established by notaries with limited liability companies (LLCs) required to register and maintain basic information, including on share ownership, with the company registrar (Ministry of Law and Human Rights or MLHR) for incorporation—this information must also be maintained by the company. There are similar registration requirements for other legal persons. As bearer shares and nominee share-ownership arrangements are prohibited, legal ownership and business-owner (BO) information of LLCs (to the extent held) can be ascertained through the information held by the MLHR and the company. However, MLHR information may not be accurate or current. Notaries as gatekeepers are not implementing customer due diligence (CDD) obligations and no AML/CFT supervision has been conducted. Competent authorities have access to CDD including BO information with major FIs taking reasonable measures to identify and verify legal persons, and major banks taking reasonable measures to identify and verify foreign trusts or trustees (express trusts cannot be formed under Indonesian law).

Since 2013, 58% of Indonesia's incoming mutual legal assistance (MLA) requests have been completed. While the MLHR, as the central authority, is undertaking activities to facilitate the MLA process, Indonesia is not consistently providing constructive and timely MLA. Since 2013, Indonesia has made a total of 92 outgoing MLA requests including for terrorism, ML, and corruption. Overall, Indonesia is not extending its ML and predicate crime investigations outside Indonesia in terms fully commensurate with Indonesia's ML risks. Indonesia is effectively using other forms of cooperation to combat its TF risks.

### **Risks and general situation**

Indonesia is a middle-income unitary sovereign state located in Southeast Asia. It is the fourth most populous jurisdiction in the world with approximately 261 million people living across 1,000 islands. The most populous island is Java, where the capital city of Jakarta is located. In 2017, Indonesia's GDP was 1,010.9 billion USD with real GDP growth of 5.2% and GDP per capita of 3,859 USD. Indonesia has a well-diversified financial sector, with the banking sector accounting for ~78% of total financial sector assets of ~ 648.5 billion USD.

There have been numerous terrorist attacks in the period under review including attacks as recently as May 2017. Indonesia's terrorism threats are designated domestic terrorist groups, such as Jemaah Islamiyah, and a loose network of spin-off groups (some with links to the Islamic State of Iraq and the Levant (ISIL) and al-Qaida), that use financial support obtained domestically and from abroad, including direct support and donations, terrorist group membership fees, abuse of non-profit organisations (NPOs) and social media, and legitimate and criminal activities, to carry out attacks. Furthermore, Indonesia has the highest official count of foreign terrorist fighters (FTFs) in Southeast Asia with above 500 Indonesians currently engaged in the Syria-Iraq conflict. These FTFs are funded domestically and from abroad and have also encouraged and directed attack planning by associates in Indonesia. Recently, Indonesia has also become a transit point for funds, weapons, and fighters moving from other conflict zones (e.g. Syria) to Southeast Asia.

Indonesia's ML risk primarily stems from domestic proceeds with higher risks being associated with predicate offences of narcotics (including connections with organised crime), corruption and taxation, and to a lesser extent forestry/environmental crime and fraud. Proceeds from these predicate crimes are primarily laundered through the banking, capital markets, real estate and motor vehicles sectors. Proceeds are also laundered off-shore in regional jurisdictions and then repatriated to Indonesia as needed. Indonesia is not a destination jurisdiction for illicit proceeds.

Regarding proliferation financing (PF), Indonesia has some exposure to DPRK financial activity as DPRK nationals and diplomats work in Jakarta and have accounts at Indonesian financial institutions (FIs). Indonesia also has some commercial and financial links with Iran.

### **Overall level of effectiveness and technical compliance**

Following the last APG mutual evaluation in 2008, Indonesia's AML/CFT regime has undergone significant reform across all areas of the FATF standards. Key reforms include: (i) enacting new ML and TF offences and changes to the designation of LEAs to investigate ML; (ii) introducing targeted financial sanctions (TFS) for terrorism and proliferation financing (although major/fundamental improvements are needed); and (iii) introducing comprehensive preventivemeasure obligations for FIs and DNFBPs and changes to supervisory arrangements.

### **Extract from 2014 Asia Pacific Group on Money Laundering Yearly Typologies Report:**

Emerging trends:

- The use of credit card for payment.
- Cuckoo smurfing scheme.

Declining trends:

- The use of alternative remittance system.
- The use of 'transfer/overbooking' payment.

Continuing trends:

- The use of 'hard' cash.
- The use of foreign currency.
- The use of false ID.
- The use of third party/ family member bank account.

## US Department of State Money Laundering assessment (INCSR)

### **Indonesia is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

#### OVERVIEW

While not a major regional financial center, Indonesia remains vulnerable to money laundering due to gaps in financial system legislation and regulation, a cash-based economy, weak rule of law, and ineffective law enforcement institutions. Most money laundering in Indonesia is connected to drug trafficking and other criminal activity such as corruption, tax crimes, illegal logging, wildlife trafficking, theft, bank fraud, embezzlement, credit card fraud, and the sale of counterfeit goods.

Indonesia is making progress in identifying and addressing money laundering vulnerabilities. Authorities continue to release regulations geared toward a risk-based approach to fighting money laundering. The primary areas for improvement are greater analytical training for law enforcement, judicial authorities' awareness of the money laundering offense, increased capacity and focus by investigators and prosecutors on conducting financial investigations as a routine component of criminal cases, and more education for workers in the financial services sector.

#### VULNERABILITIES AND EXPECTED TYPOLOGIES

Indonesia has a long history of being vulnerable to smuggling of illicit goods and bulk cash, made easier by unpatrolled coastlines, sporadic and lax law enforcement, and poor customs infrastructure. Proceeds from illicit activities are easily moved offshore and repatriated for commercial and personal use. Endemic corruption remains concerning and challenging for AML regime implementation.

FTZs are not a particular concern for money laundering in Indonesia. Indonesia offers many opportunities for narcotics smuggling and cross-border transfer of illegally earned cash without needing to rely on FTZs. The primary factors hindering the fight against narcotics-related money laundering are the lack of analytical training for law enforcement personnel, and insufficient training on money laundering detection and reporting for lower-level workers in the financial services sector.

#### KEY AML LAWS AND REGULATIONS

In 2015 Indonesia conducted a national risk assessment, concluding that narcotics, corruption, and tax crime are the most common predicate crimes for domestic money laundering. KYC requirements have been part of Indonesia's AML regime since 2001, and PEPs are subject to enhanced due diligence.

In January 2012, the Indonesian government established an interagency National Coordinating Committee on the Prevention and Combating of Money Laundering (AML Committee) to coordinate Indonesia's AML efforts. The Coordinating Minister for Political, Legal, and Security Affairs chairs the Committee; the Deputy Coordinating Minister for Economic Affairs and the Head of Indonesia's FIU, the Indonesian Financial Transaction Reports and Analysis Center (PPATK), serve as Committee secretaries.

PPATK coordinates Indonesia's AML/CFT efforts and programs. It reports directly to the president and submits implementation reports every six months to the president and legislature. Much of PPATK's AML activities are tied into its efforts to identify and combat terrorist financing.

In May 2017, President Joko Widodo issued Government Regulation in Lieu of Law No. 1 of 2017 Concerning Access to Financial Information for Tax Interests. The executive order permits Indonesian tax authorities to access financial accountholder data without a court order. It gives Indonesian authorities legal protection to exchange accountholder data under the Automatic Exchange of Information (AEOI). The exchange of information between relevant jurisdictions will begin in 2019.

Indonesia is a member of the APG, a FATF-style regional body.

#### AML DEFICIENCIES

The main deficiencies in Indonesia's AML regime are lack of law enforcement expertise and insufficient knowledge of reporting requirements by lower-level bank officials. Indonesia is not subject to U.S. or international sanctions for money laundering.

#### ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

Indonesia is taking steps to implement the 1988 UN Drug Convention and other applicable agreements and conventions. Combating narcotics abuse is a priority for the current administration. Indonesia recognizes the need for international cooperation to stem this transnational threat.

PPATK publishes a monthly report summarizing reporting activity. In addition to CTRs and STRs, PPATK and the Ministry of Finance's Directorate General of Customs and Excise jointly publish a Cash Carry Report to track physical cross-border transfers of cash. PPATK also invites the public to report any suspicious transactions. PPATK refers both Analysis STRs (reports that follow up on the initial notifications provided by financial institutions) and Examination Reports (the final assessment after full analysis and evaluation of an STR) to investigators. Referrals of both types of reports continued to increase in 2017, compared to prior years. Most of the Analysis STRs involved alleged corruption cases. The Indonesian government lacks sufficient practices or procedures to collect high-quality prosecution and conviction statistics.

There were no money laundering convictions for the period January-October 2017.

### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Indonesia does not conform with regard to the following government legislation: -

- Arrangements for Asset Sharing: By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.
- Ability to freeze assets without delay: The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations).

### **EU White list of Equivalent Jurisdictions**

Indonesia is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Indonesia is not considered to be an Offshore Financial Centre

## **Narcotics – 2017 (introduction):**

### **Introduction**

Indonesia is both a transshipment point and a destination for illegal drugs. Indonesia remains a significant consumer of methamphetamine, marijuana (cannabis) and heroin. Cannabis remains the country's most widely-used illegal drug, but Indonesian law enforcement agencies, including the National Narcotics Board (BNN), have identified crystal methamphetamine (known locally as "shabu") as the country's top drug threat. A significant amount of the methamphetamine available within Indonesia originates in China. The Indonesian Government, including BNN and the Indonesian National Police (INP), continued efforts to investigate, disrupt, interdict and prosecute crimes related to illegal drugs in 2016, but faced challenges due to porous borders, poorly administered prisons and endemic corruption. Indonesia's government is committed to addressing these challenges. With more than 12,000 Indonesians estimated to die annually from drug use, a "National Drug Emergency" declared by President Joko Widodo in 2015 remained in effect through 2016.

### **Conclusion**

Despite Indonesian government efforts, the demand for illegal drugs is believed to be increasing across Indonesia. The United States will continue to support Indonesia's efforts to reduce drug consumption and enforce its drug laws, including through the provision of additional training, support for demand reduction and treatment programs, and coordinated law enforcement investigations.

## **Trafficking in Persons**

Indonesia is classified a Tier 2 country - A country whose governments does not fully comply with the Trafficking Victims Protection Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

Indonesia is a major source and, to a much lesser extent, destination and transit country for women, men, and children subjected to forced labor and sex trafficking. Each of its 34 provinces is a source and destination of trafficking. The government estimates 1.9 million of the 4.5 million Indonesians working abroad—many of whom are women—are undocumented or have overstayed their visas, increasing their vulnerability to trafficking. Indonesians are exploited in forced labor abroad—primarily in domestic service, factories, construction, and on Malaysian palm oil plantations—and subjected to sex trafficking. A significant number of Indonesian migrant workers face forced labor, including debt bondage, in Asia, the Middle East, and on fishing vessels. Malaysia remains the top destination for Indonesian migrant workers, followed by Saudi Arabia, and the government

estimates more than one million of the 1.9 million Indonesian workers in irregular status are in Malaysia. Indonesian victims were identified in other Asian and Middle Eastern countries during the reporting period—including South Korea—as well as in the Pacific Islands, Africa, Europe (including the Netherlands and Turkey), and North America. Indonesian women and girls are subjected to sex trafficking primarily in Malaysia, Taiwan, and the Middle East. Experts report the government's expanding use of biometric travel documents, which make false travel documents harder to obtain, have resulted in more undocumented workers traveling abroad by sea.

Reports continue of Indonesian fishermen in forced labor on Taiwanese and South Korean fishing vessels in non-Indonesian waters. In past years, Indonesian men have been subjected to forced labor on fishing vessels in Indonesian waters. The government reported a significant number of foreign men in forced labor on fishing vessels in Indonesian waters, including from Burma, Cambodia, and Thailand; most of the vessels belong to Thai parent companies that operate under the auspices of Thai-Indonesian shell companies. Thai traffickers issue fake Thai identity documents to foreign workers and force them to fish in Indonesian waters, threatening to expose their fake identities if they contact Indonesian authorities. Thai-Indonesian shell companies based in fishing ports in eastern Indonesia perpetuate these abuses by prohibiting fishermen from leaving their vessels or detaining them on land in makeshift prisons after the government's 2014 moratorium on foreign fishing vessels grounded many of the men's ships in port.

NGOs estimate labor recruiters are responsible for more than half of Indonesian female trafficking cases overseas. The government and NGOs note as awareness of trafficking increases, traffickers are recruiting more victims from eastern Indonesian provinces, where awareness is lower. Migrant workers often accumulate significant debt from independent labor recruiters overseas and Indonesian recruitment companies, making them vulnerable to debt bondage. Some companies use debt bondage, withholding of documents, and threats of violence to keep migrants in forced labor. In many cases, corrupt officials facilitate the issuance of false documents, accept bribes to allow brokers to transport undocumented migrants across borders, protect venues where sex trafficking occurs, practice weak oversight of recruitment agencies, and thwart law enforcement and judicial processes to hold traffickers accountable.

In Indonesia, women, men, and children are exploited in forced labor in fishing, fish processing, and construction; on plantations, including palm oil; and in mining and manufacturing. Many females are exploited in domestic servitude and sex trafficking, including Colombian women in forced prostitution. Victims are often recruited with offers of jobs in restaurants, factories, or domestic service but are subjected to sex trafficking. Debt bondage is particularly prevalent among sex trafficking victims. Women and girls are subjected to sex trafficking near mining operations in Maluku, Papua, and Jambi provinces. When the government closed a large red light district in 2014, protections for women who worked in prostitution in the district decreased, increasing their vulnerability to sex trafficking in other regions, including Bali and Papua. Children are exploited in sex trafficking in the Batam district of Riau Islands province and have been exploited in West Papua province in previous years. Reports suggest an increase in university and high school students using social media to recruit and subject other students to sex trafficking. Child sex tourism is prevalent in the Riau Islands bordering Singapore, and Bali is a destination for Indonesian child sex tourists.

The Government of Indonesia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government convicted 119 traffickers, repatriated 5,668 Indonesian trafficking victims identified abroad, and provided short-term shelter and services to more than 441 trafficking victims. In one case the government convicted eight traffickers for forced labor on fishing vessels, but it did not initiate any other prosecutions for trafficking offenses in the fishing industry, despite the identification of over 1,500 trafficking victims in that sector. The government created eight new shelters to serve victims of crimes, including trafficking, but the quality and services of shelters varied widely across regions. Officials' lack of knowledge of trafficking indicators and anti-trafficking legislation impaired proactive victim identification among vulnerable populations and anti-trafficking law enforcement efforts; inadequate coordination between government agencies hampered the implementation of the national anti-trafficking strategy. Despite endemic corruption among law enforcement that impedes anti-trafficking efforts and enables traffickers to operate with impunity, law enforcement prosecuted only one official for trafficking offenses.

### **Terrorist Financing 2016:**

**Overview:** Indonesia uses a civilian law enforcement led, rule-of-law-based approach in its domestic counterterrorism operations. Since the Bali bombings in 2002, Indonesia has applied sustained pressure to degrade the capabilities of terrorists and their networks operating within Indonesia's borders. Several small-scale attacks or attempted attacks by pro-ISIS extremists occurred throughout 2016 in different parts of Indonesia. Police continued to detect and disrupt multiple plots and cells, including a plot to bomb the presidential palace in December that was linked to a prominent Indonesian terrorist fighting with ISIS, Bahrun Naim.

Indonesian violent extremists continued to use websites, social media, and private messaging to spread their radical ideology, raise funds, recruit, and communicate with new followers. Additionally, there was growing concern that Indonesian foreign terrorist fighters could return from Syria and Iraq with operational training, skills, and experience, and therefore conduct more sophisticated attacks against Indonesian government personnel or facilities, western targets, and other soft targets.

As of December, amendments to strengthen Indonesia's 2003 counterterrorism law, which would strengthen provisions against foreign terrorist fighters by criminalizing extraterritorial fighting, preparatory acts, and material support for terrorism, had not passed the Indonesian legislature. Indonesia is not a member of the Global Coalition to Defeat ISIS, but the Indonesian government and Muslim civil society leaders have forcefully and repeatedly denounced the group. Official estimates on the number of Indonesian foreign terrorist fighters vary between agencies and services. At least 800 Indonesians departed for Iraq and Syria since the beginning of the conflict, including women and children. In August, officials said that 568 Indonesians remained in Iraq and Syria, 69 had died in the conflict zone, and 183 had returned to Indonesia. The number of returnees includes Indonesians who were deported by authorities in transit countries while traveling to the Middle East. Foreign terrorist fighters may also return undetected by exploiting vulnerabilities in the land and sea borders of this vast archipelagic nation.

A prominent Indonesian terrorist fighting with ISIS, Mubarak Salim (aka Abu Jandal Attamimi), was reportedly killed in Mosul, Iraq, in November, although police have yet to independently verify his death.

Indonesian officials describe the pro-ISIS Jemaah Ansharut Daulah (JAD) and its network as the most dangerous terrorist organization in Indonesia because of its international and regional connections. A joint police-military operation killed Abu Wardah (aka Santoso), the leader of the pro-ISIS Mujahidin Indonesia Timur, on July 18, and captured his deputy, Mohammad Basri (aka Bagong), on September 14. The operation continued to pursue less than 20 remaining members in the remote, mountainous area around Poso, Central Sulawesi.

**Legislation, Law Enforcement, and Border Security:** Indonesia follows a rule-of-law-based counterterrorism approach. After investigation by the police, terrorist suspects' dossiers are sent to the Task Force on Counterterrorism and Transnational Crimes, part of the Attorney General's Office, for prosecution. Relevant legislation includes the Law on Combating Criminal Acts of Terrorism (15/2003), the Law on Prevention and Eradication of Anti-Terrorist Financing (9/2013), the 1951 Emergency Law, and Indonesia's Criminal Code.

Counterterrorism efforts are police led, with Detachment 88 – the elite counterterrorism force of the police – leading operations and investigations. The president may authorize counterterrorism units from the Indonesian military to support domestic counterterrorism operations on an as-needed basis. Law enforcement units are increasingly able to detect, deter, and prevent most attacks before they are carried out. Law enforcement personnel participated in a range of U.S.-funded training and professional development activities, to build sustainable police capacity in both investigative and tactical skills. These programs were implemented by the Department of State's Antiterrorism Assistance program, the Federal Bureau of Investigation, the Department of Justice (DOJ) International Criminal Investigative Training and Assistance Program, and DOJ's Office of Overseas Prosecutorial Development Assistance and Training Program. Frequent personnel rotation at various agencies, including the police, legal cadres, and the judiciary, constrained the development of long-term institutional expertise.

Indonesia recognizes the threat posed by foreign terrorist fighters, but it has yet to pass laws explicitly criminalizing material support, travel to join foreign terrorist organizations, or commission of extraterritorial offenses related to terrorism. On February 15, the president submitted to the Indonesian legislature a draft amendment to Law 15/2003 to address these legal gaps. As of December, the amendment was being debated and had not passed the legislature.

Indonesian prosecutors stated that between January and November they prosecuted, or were in the process of prosecuting, 104 terrorism-related cases. Of those, 23 cases are related to ISIS activity, including eight related to the January 14 attack. In November, a key facilitator in the attack, Saiful Muhtorir (aka Abu Gar), was sentenced to nine years in prison. Two bomb-makers were sentenced to 10 years in prison, and a facilitator who helped to procure small arms was sentenced to four years in prison. In August, the Supreme Court rejected a judicial case review filed in 2015 by incarcerated terrorist ideologue and founder of Jamaah Ansharut Tauhid, Abu Bakar Ba'asyir.

As of early December, there were 241 terrorist prisoners in 71 correctional facilities throughout Indonesia. An estimated 150 terrorist suspects were held in police pre-trial detention facilities. Terrorists convicted on non-terrorism charges are not always counted or tracked through the justice system as convicted terrorists, creating a potential loophole in disengagement and de-radicalization efforts. There is a lack of effective risk assessment, classification, and management of terrorist prisoners, although prison authorities recognized and worked to address this systemic challenge. In February, authorities isolated some convicted terrorist ideologues implicated in plotting attacks. Authorities remained concerned about the potential recidivism of released terrorist prisoners.

The National Counterterrorism Agency (BNPT) is responsible for coordinating terrorism-related intelligence and information among stakeholder agencies. BNPT is staffed by detailees from the Ministry of Foreign Affairs, the Indonesian military, and the Indonesian National Police. Immigration officials at major ports of entry, especially larger international air and seaports, have access to biographic and biometric domestic-only databases, but there was no centralized border screening system. Police maintained a watchlist of suspected terrorists, but there were not always clear lines of communication and coordination among stakeholder agencies. Indonesia shares information through INTERPOL and is developing systems to enhance border screening at major ports of entry using INTERPOL data. Military and police personnel are often posted at major ports of entry to ensure security.

**Countering the Financing of Terrorism:** Indonesia is a member of the Asia/Pacific Group on Money Laundering, a Financial Action Task Force (FATF)-style regional body. Indonesia's financial intelligence unit, the Indonesian Financial Transaction Reports and Analysis Center (PPATK), is a member of the Egmont Group of Financial Intelligence Units. Indonesia's Counterterrorist financing Law 9/2013 criminalizes money laundering and terrorist financing, and authorized terrorist asset freezing pursuant to UN Security Council resolution (UNSCR) 1373 and the UN Security Council (UNSC) ISIL (Da'esh) and al-Qa'ida sanctions regime and (Taliban) Sanctions Committees' lists. The implementation process requires Indonesia issue court orders of listed individuals and entities and subsequent freeze orders to be able to freeze the assets of UNSC ISIL (Da'esh) and al-Qa'ida-listed individuals and entities. Indonesia instituted and continued to improve upon an electronic process designed to ensure that the orders requiring multiagency action is issued without delay and identified assets are frozen immediately. It is unclear if Indonesia has been consistently implementing UNSCR 1267, which require all freezes to be subject to a yearly renewal by the authorities.

For the second consecutive year, Indonesia and Australia co-hosted the Counterterrorist Financing (CTF) Summit in Bali in August, attended by more than 200 specialists from more than 20 countries. Indonesia and Australia also co-led the publication of the first Regional Risk Assessment on Terrorist financing, which was released during the summit.

Non-profit organizations (NPOs) such as religious and charitable organizations are licensed and required to file suspicious transaction reports. PPATK conducted an NPO-sector risk assessment and proposed a presidential regulation to require monitoring and the regulation of NPOs to prevent terrorist finance exploitation. As of December, the president had not signed the new regulation. In accordance with FATF recommendations, Indonesia should take a risk-based approach to monitor the high-risk NPOs rather than imposing the same requirements on the entire NPO sector.



## International Sanctions

Indonesia is not currently subject to any International Sanctions

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	37
World Governance Indicator – Control of Corruption	43

Indonesia's business environment suffers from widespread corruption. The efficiency of business operations is restricted by a corrupt judiciary, complicating the process of dispute settlement and weakening property rights protections. Extensive bribery in Indonesia's public service is a reason for concern for foreign investors: Corruption at the borders is cited by companies as a problem, and public officials often exploit ambiguous legislation to extort informal payments and bribes from companies in the process of registering a business, filing tax reports or obtaining permits and licenses. Corruption is also rampant in the natural resources sector owing to weak oversight. The Law on Eradication of Criminal Acts of Corruption criminalizes major acts of corruption - including active and passive bribery, abuse of office and extortion - and Indonesia's Criminal Code forbids embezzlement and gifts to public officials. Corruption legislation is poorly enforced and does not address facilitation payments. **Information provided by GAN Integrity.**

### US State Department

President Yudhoyono campaigned and was re-elected in 2009 on a strong anti-corruption platform. However, corruption remains a serious problem, preventing increased FDI, according to some U.S. companies. Although the government has issued detailed directions on combating corruption in targeted ministries and agencies, there has not been a concerted government-led effort to encourage or require companies to establish internal codes of conduct, or effective internal controls, ethics, and compliance programs to detect and prevent bribery of public officials.

Indonesia's ranking in Transparency International's Corruption Perceptions Index in 2013 is 114 out of 183 countries. Corruption remains pervasive despite laws to combat corruption and a strong, independent Corruption Eradication Commission (KPK). The KPK's purview in corruption cases is typically limited to law enforcement and other public officials, cases that exceed \$105,000 in value and/or that represent significant loss to the state. Corruption cases are also handled by the Indonesian National Police and Attorney General's Office, neither of which have the same organizational capacity to investigate or prosecute corruption cases. Giving or accepting a bribe is a criminal act, with possible fines ranging from \$5,500 to \$110,000 and imprisonment up to a maximum of 20 years, depending on the severity of the charge.

Indonesia ratified the UN Convention Against Corruption in September 2006. Indonesia has not yet acceded to the OECD Anti-Bribery Convention, but attends meetings of the OECD

Anti-Corruption Working Group. Indonesia is a lead co-chair along with Mexico of the Open Government Partnership, a multilateral platform to promote transparency, empower citizens, fight corruption, and strengthen governance. Several civil society organizations function as vocal and competent corruption watchdogs, including Transparency International Indonesia and Indonesia Corruption Watch.

## **Corruption Report - Global Security**

### **Political Climate**

Indonesia is trying to break a long tradition of corruption by implementing transparent and accountable governance. However, the former political, administrative, and business elites continue to seek influence and consolidate their position in the new democratic system through informal networks. Decades of collusion between business and government has created a relatively stable, but highly unaccountable system, which does not benefit the general population. Institutionally, Indonesia has a federal structure and there has been wide-ranging decentralisation over the past years. The party system and executive-legislative relations remain unstable and a strong institutional framework is absent, although improvements have been seen in recent years.

In 2004, Indonesia held its first direct presidential elections, during which Yudhoyono's Democratic Party came won based on a campaign platform focusing on economic growth and fighting corruption. In July 2009, Yudhoyono was re-elected and stated repeatedly that eliminating corruption was among the top priorities of his administration. According to a May 2010 article published in The Sydney Morning Herald, Yudhoyono's re-election was also boosted by his corruption-free image and his vows to fight against corruption. Even though several politicians, legislators and former ministers have been sentenced on corruption charges during his presidency, Yudhoyono has been criticised for failing to net key figures from the tenure of former dictator Suharto.

Indonesia's recently democratised system reportedly contains some legislative and institutional shortcomings that allow for corrupt practices to continue. At the same time, many legal and institutional initiatives have been undertaken to combat corruption, such as the ratification of the UNCAC in 2006 and the establishment of Corruption Eradication Commission (KPK, in Indonesian) under Law No. 30 of 2002. These measures signify a keen ambition on the side of the government to curb corrupt practices, but in reality the enforcement lags behind, and the country continues to be seen as one of the most corrupt countries in the world, according to the Bertelsmann Foundation 2012.

Recent high-profile corruption scandals have damaged the reputation of the ruling Democratic Party including Muhammad Nazaruddin, the former treasurer of the Democratic Party, and Angelina Sondakh, a legislator of the ruling party. Nazaruddin has been indicted on charges of bid-rigging and accepting bribes in connection with the tenders for the Southeast Asian Games in 2011. Similarly, in March 2012, Angelina was named as a suspect in the same on-going case, according to several 2011 and 2012 news articles such as The Jakarta Post and BBC News. According to Freedom House 2013, corruption remains endemic in the legal system, the parliament and in other key institutions. Corruption is reported to cost

Indonesia nearly USD 239 million in 2011, with embezzlement being the most prevalent form of corruption, followed by bogus projects, travel costs and misappropriations, as reported in a January 2012 article by The Jakarta Globe. According to Transparency International's Global Corruption Barometer 2010/2011, 43% of surveyed Indonesians perceive the level of corruption as having increased in the past three years, and 35% consider the government's efforts to fight corruption as 'ineffective', while 33% consider it as 'effective'. Compared to the same survey conducted by Transparency International in 2009, in which 74% of Indonesians considered the government's efforts to fight corruption as 'effective', it indicates that the Indonesian government has only shown a limited commitment to the anti-corruption agenda in the eyes of the general public.

### **Business and Corruption**

Indonesia has witnessed solid economic growth in recent years. According to the Bertelsmann Foundation 2012, Indonesia has become a more attractive place for foreign investment compared to several years ago, and there are significant improvements to be seen with regard to the general investment climate. Despite the deregulation process being successfully implemented, investors still point to corruption and red tape as the main challenges to doing business in the country, as reported by the US Commercial Service 2012. This is further supported in an April 2012 article by The Jakarta Globe, in which the executive director of the British Chamber of Commerce in Indonesia stated that red tape and corruption are an equal issue of concern in Indonesia. Companies continue to be concerned about concessions based on personal relationships and demands for irregular fees to obtain government contracts, permits or licences. In Transparency International's Business Survey 2011, a little less than half of the surveyed entrepreneurs reportedly perceive that their company's failure to secure a contract or gain new business over the last year has been due to competitors' bribe activities. Around a third of the surveyed businesspeople believe that the failure to prosecute bribery-related crimes poses the ultimate barrier to eliminating bribery and corruption in Indonesia, while a little less than one-fifth believe the main reason is due to the lax attitude among businesses regarding the issue.

Ernst & Young's Global Fraud Survey 2012 reveals that 72 per cent of the surveyed executives perceive bribery and corruption to be widespread in the Indonesian business environment. Furthermore, 76 per cent of respondents admitted that they were willing to make cash payments or give personal gifts to gain or retain business, or misstate the company's financial performance in order to survive an economic downturn. Interestingly, every surveyed executive believed that the board of their company needed to have a better understanding of the way in which business is conducted in order to effectively mitigate the risks of bribery and corruption. According to the World Economic Forum Global Competitiveness Report 2012-2013, corruption, bribery, and unethical behaviour within the private sector undermine the institutional framework. Surveyed business executives point to corruption as the second most problematic factor for doing business, and state that it is common for companies to make irregular payments or bribes in connection with imports and exports, public utilities, annual tax payments, and awarding of public contracts and licences. In contrast, business executives report that the extent to which government officials favour

well-connected companies and individuals when deciding upon policies and contracts constitutes a competitive business advantage for Indonesia.

Bribery typically occurs during licensing procedures, as reported by the US Commercial Service 2011. According to the same source, foreign companies report that unwarranted fees or facilitation payments are required in order to obtain permits and licences, to speed up processes or to win government contracts and concessions. According to the US Department of State 2013, although the Indonesian government has created guidelines specifying how to combat corruption in certain ministries and agencies, the government has not concentrated its efforts to encourage or demand companies to institute 'internal codes of conduct, or effective internal controls, ethics, and compliance programs to detect and prevent bribery of public officials'. Companies are generally advised to consult with experienced attorneys, to develop, implement and strengthen integrity systems, and to carry out extensive due diligence before committing funds or when already doing business in the Indonesia.

### **Regulatory Environment**

Indonesia has a relatively open foreign investment regime. Recent reforms have put greater emphasis on improving the business climate, enhancing regional competitiveness, and creating a more vibrant private sector. Though public finance management and business freedom has declined, any resulting disadvantages are more than compensated for by significantly improved financial freedom and freedom of corruption, according to the Heritage Foundation 2013. In 2007, the government introduced a new Investment Law which provides a set of rules to protect investors such as non-discriminatory treatment and recourse to international arbitration in disputes against the government. However, according to the US Department of State 2013, the new Investment Law also significantly increased the number of sectors that are prohibited to foreign investment. Nevertheless, business executives in the World Economic Forum Global Competitiveness Report 2012-2013 indicate that the level of government regulation over private businesses has eased and now represents a competitive business advantage for Indonesia.

Generally, the lack of local compliance with national law, and inconsistencies between local and national law is a major problem in Indonesia. According to the US Commercial Service 2012, laws and regulations are frequently vague and conflicting, and require extensive interpretation, leading to increased business uncertainty and opportunities for rent-seeking. According to the World Bank & IFC Doing Business 2013, it takes 47 days and 9 procedures to start a company at a cost of nearly 23% of GNI per capita. Obtaining necessary construction permits takes 158 days, 13 procedures and costs 95% of income per capita on average. Companies seem to receive a relatively uniform regulatory treatment by the government, although the picture varies considerably from region to region. [Click here](#) to access the Subnational Report 2012 by the World Bank & IFC.

The Bertelsmann Foundation 2012 states that enforcing private property rights continues to be constrained mostly due to a flawed legal and regulatory framework, not to mention corruption and questionable and varying court verdicts. The US Department of State 2013 reports that some companies in Indonesia resort to ad hoc arbitration using the UN Commission on International Trade Laws (UNCITRAL), as foreign arbitral awards are not always enforced in the courts. The judicial rulings are often irregular due to corrupt and

collusive practices. Local courts have in several cases accepted jurisdiction over commercial disputes despite contractual arbitration clauses calling for adjudication in foreign venues. Companies are often advised by legal experts to resolve disputes through arbitration outside Indonesia, since the judicial system operates irregularly and opaquely. Indonesia is a signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID). For more information on dispute settlement, see the section on the judicial system under Corruption Levels. Access the Lexadin World Law Guide for a collection of legislation in Indonesia.

### Section 3 - Economy

Indonesia, the largest economy in Southeast Asia, has seen a slowdown in growth since 2012, mostly due to the end of the commodities export boom. During the global financial crisis, Indonesia outperformed its regional neighbours and joined China and India as the only G20 members posting growth. Indonesia's annual budget deficit is capped at 3% of GDP, and the Government of Indonesia lowered its debt-to-GDP ratio from a peak of 100% shortly after the Asian financial crisis in 1999 to less than 25% today. Fitch and Moody's upgraded Indonesia's credit rating to investment grade in December 2011.

Indonesia still struggles with poverty and unemployment, inadequate infrastructure, corruption, a complex regulatory environment, and unequal resource distribution among its regions. President Joko WIDODO - elected in July 2014 – seeks to develop Indonesia's maritime resources and pursue other infrastructure development, including significantly increasing its electrical power generation capacity. Fuel subsidies were significantly reduced in early 2015, a move which has helped the government redirect its spending to development priorities. Indonesia, with the nine other ASEAN members, will continue to move towards participation in the ASEAN Economic Community, though full implementation of economic integration has not yet materialized.

#### **Agriculture - products:**

rubber and similar products, palm oil, poultry, beef, forest products, shrimp, cocoa, coffee, medicinal herbs, essential oil, fish and its similar products, and spices

#### **Industries:**

petroleum and natural gas, textiles, automotive, electrical appliances, apparel, footwear, mining, cement, medical instruments and appliances, handicrafts, chemical fertilizers, plywood, rubber, processed food, jewellery, and tourism.

#### **Exports - commodities:**

mineral fuels, animal or vegetable fats (includes palm oil), electrical machinery, rubber, machinery and mechanical appliance parts

#### **Exports - partners:**

Japan 12%, US 10.8%, China 10%, Singapore 8.4%, India 7.8%, South Korea 5.1%, Malaysia 5.1% (2015)

#### **Imports - commodities:**

mineral fuels, boilers, machinery, and mechanical parts, electric machinery, iron and steel, foodstuffs

#### **Imports - partners:**

China 20.6%, Singapore 12.6%, Japan 9.3%, Malaysia 6%, South Korea 5.9%, Thailand 5.7%, US 5.3% (2015)

## Banking

The Indonesian banking system has consolidated significantly in the wake of the Asian financial crisis. As of end-2010, Indonesia had 122 commercial banks and 1,706 rural banks. Banks continue to dominate Indonesia's financial system and as of end-2010, banks held 80 percent of total financial system assets. The largest 10 banks contain almost 65 percent of bank assets. There are four state-owned banks: Bank Mandiri, Bank Negara Indonesia, Bank Rakyat Indonesia and Bank Tabungan Negara. Bank Indonesia (BI), the central bank of Indonesia and an independent state institution, regulates key aspects of the banking and financial system, including bank regulation and supervision. Indonesia is encouraging the development of Islamic banking and seeks to increase its share of total banking assets to over five percent. As of December 2010, Islamic banking institutions in Indonesia comprised about 3.3 percent of total banking system assets.

## Syariah Banking

The Syariah banking (Islamic banking) system differs from conventional banking primarily for the reason that it is based on Islamic law (Syariah). The underlying themes of Syariah banking are the prohibition on interest (riba) and on investments in businesses that are considered unlawful in Islam (Haram).

Syariah banks are subject to prudential controls of all commercial banks; in addition, banks carrying on Syariah banking are required to have a Syariah Supervisory Board at their head office.

Syariah banks are permitted to accept demand or time deposits under Wadiah or Mudharabah principle. "Wadiah" is an agreement for placement of funds made with the obligation for the bank to return the funds at any time while under "Mudharabah" funds are placed with a bank to conduct a specified business on the basis of profit and loss sharing or revenue sharing in a ratio agreed in advance.

The deposits can be lent out by these banks by way of entering into a sale-purchase agreement, profit sharing agreement or a lease agreement. The sale-purchase agreement can be in form of Murabahah, Istishna and Salam. Each category of these agreements differs from others only in the form of method of payment. Similarly, profit and/or revenue can be shared in an agreed ratio (Murabahah) or in the ratio of the capital (Musyarakah).

## Stock Exchange

The [Indonesia Stock Exchange \(IDX\)](#) resulted from the 2007 merger of the Jakarta and Surabaya Stock Exchanges.

The Indonesia Stock Exchange (IDX) index closed at 4,316.69 on December 28, 2012, up 12.9% for the calendar year. As of December 28, 2012, IDX had 454 listed companies with a total capitalization Rp 4,126.99 trillion (\$428.3 billion). There were 23 initial public offerings in 2012. Foreigners conducted about 43.0% of the total stock trades in 2012. In 2011, the IDX launched the Indonesian Sharia Stock Index (ISSI), its first index of sharia-compliant

companies, primarily to attract greater investment from Middle East companies and investors. The ISSI is composed of 214 stocks that are already listed on IDX's Jakarta Composite Index.

## Section 4 - Investment Climate

### Executive Summary

While Indonesia's population of 245 million, growing middle class, and stable economy remain attractive to U.S. investors, investing in Indonesia remains challenging.

Since October 2014, the Indonesian government under President Joko Widodo has prioritized boosting investment, including foreign investment, to support Indonesia's economic growth goals, and has committed to reducing bureaucratic barriers to investment, including announcing the creation of a "one stop shop" for permits and licenses at the Investment Coordination Board. However, factors such as a decentralized decision-making process, legal uncertainty, economic nationalism, and powerful domestic vested interests create a complex and difficult investment climate. The Indonesian government's requirements, both formal and informal, to partner with Indonesian companies and purchase goods and services locally, restrictions on some imports and exports, and pressure to make substantial, long-term investment commitments, also factor into foreign investors' plans. While the Indonesian Corruption Eradication Commission has come under significant political pressure in the last year, it continues to investigate and prosecute high-profile corruption cases. Investors continue to cite corruption as an obstacle to pursuing opportunities in Indonesia.

Other barriers include poor government coordination, the slow rate of land acquisition for infrastructure projects, poor enforcement of contracts, an uncertain regulatory environment, and lack of transparency in the development of laws and regulations. New regulations are at times difficult to decipher and often lack sufficient notice and socialization for those impacted. The lack of coordination among ministries creates redundant and slow processes, such as for securing business licenses and import permits, and at times, conflicting regulations.

Indonesia restricts foreign investment in some sectors through a Negative Investment List. The latest version, issued in 2014, details the sectors in which foreign investment is restricted and outlines the foreign equity limits in a number of sectors. In February 2016 the Indonesian government announced a major revision to the Negative Investment List; however the revised regulation with details of this potential liberalization had not been issued as of May 2016. Thus for the time being, telecommunications, pharmaceuticals, e-commerce, film and creative industries, construction and other sectors remain closed to foreign investment. Energy and mining also face significant investment barriers.

Indonesia began to abrogate its more than 60 existing Bilateral Investment Treaty agreements (BITs) in February 2014, allowing the agreements to expire. While the United States does not have a BIT with Indonesia, the Indonesian government's action reminds foreign investors of the unpredictability of Indonesia's investment climate.

Despite these challenges, Indonesia continues to attract foreign investment. Private consumption is the backbone of the economy and the middle class is growing, making Indonesia a promising place for consumer product companies. Indonesia has ambitious plans to improve its infrastructure with a focus on expanding access to energy, strengthening its maritime transport corridors, which includes building roads, ports, railways and airports, as well as improving agricultural production, telecommunications, and broadband networks

throughout the country. Indonesia continues to attract U.S. franchises and consumer product manufacturers.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	88 of 168	<a href="http://www.transparency.org/cpi2015">http://www.transparency.org/cpi2015</a>
World Bank's Doing Business Report "Ease of Doing Business"	2016	109 of 189	<a href="http://www.doingbusiness.org/rankings">http://www.doingbusiness.org/rankings</a>
Global Innovation Index	2014	97 of 141	<a href="https://www.globalinnovationindex.org/userfiles/file/reportpdf/GII-2015-v5.pdf">https://www.globalinnovationindex.org/userfiles/file/reportpdf/GII-2015-v5.pdf</a>
World Bank GNI per capita	2014	USD 3,630	<a href="http://data.worldbank.org/country/indonesia">http://data.worldbank.org/country/indonesia</a>

#### *Millennium Challenge Corporation Country Scorecard*

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) of \$4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015>.

### **1. Openness To, and Restrictions Upon, Foreign Investment**

#### Attitude toward Foreign Direct Investment

While Indonesia's GDP growth slowed to just under 5 percent in 2015, Indonesia's young population, growing middle class, strong domestic demand, stable political situation, and conservative macroeconomic policy make Indonesia an attractive destination for Foreign Direct Investment (FDI). Indonesian government officials welcome increased FDI, aiming to create jobs and spur economic growth, and court foreign investors, notably focusing on infrastructure development and export-oriented manufacturing. However, vague and conflicting regulations, poor existing infrastructure, rigid labor laws, sanctity of contract issues and corruption continued to be significant concerns for foreign investors. U.S. firms have expressed hope that better coordination under Indonesia's current administration will help to improve the investment climate.

#### Other Investment Policy Reviews

The April 2013 World Trade Organization (WTO) Investment Policy Review (IPR) of Indonesia can be found here: [http://www.wto.org/english/tratop\\_e/tpr\\_e/tp378\\_e.htm](http://www.wto.org/english/tratop_e/tpr_e/tp378_e.htm)

The most recent OECD Investment Policy Review (IPR) of Indonesia can be found here: <http://www.oecd.org/daf/inv/investmentfordevelopment/indonesia-investmentpolicyreview-oecd.htm>

UNCTADs report on ASEAN Investment can be found here: [http://unctad.org/en/PublicationsLibrary/unctad\\_asean\\_air2015d1.pdf](http://unctad.org/en/PublicationsLibrary/unctad_asean_air2015d1.pdf)

#### Laws/Regulations on Foreign Direct Investment

Foreign Direct Investment in Indonesia is regulated by Law 25/2007 (the Investment Law). Under the law, any form of FDI in Indonesia must be in the form of a limited liability company, with the foreign investor holding shares in the company. In addition, the government outlines restrictions on FDI in presidential decree 39/2014, commonly referred to as the Negative Investment List. The Negative Investment List aims to consolidate FDI restrictions in certain sectors from numerous decrees and regulations to create greater certainty for foreign and domestic investors. In May 2016 the Indonesian government announced a major revision to the Negative Investment List which opened e-commerce, film, tourism, and other sectors to foreign investment. A number of sectors remain closed to investment or are otherwise restricted.

#### *Business Registration*

The Investment Coordination Board or BKPM serves as an investment promotion agency, a regulatory body and the agency in charge of approving planned investments in Indonesia. As such, it is the first point of contact for foreign investors, particularly in manufacturing, industrial, and non-financial services sector. Some industries (e.g. financial services, oil and gas, and mining) require specific licenses from other relevant ministries or regulatory authorities. BKPM's website is here: <http://www2.bkpm.go.id/>.

In order to conduct business in Indonesia, foreign investors must be incorporated as a foreign-owned limited liability company in Indonesia (PMA) To apply for a principle license investors must provide: a company deed legalized by a notary; clearance for the Indonesian company's name from the Ministry of Law and Human Rights; the company's certificate of domicile; a tax identification number; and proof of registration with either the Ministry of Industry or Ministry of Trade. Investors are also required to participate in the Workers Social Security Program or BPJS. Once an investor has obtained a principle license he may apply for a business license. At this stage, investors must: document their legal claim to the proposed project land/location; provide an environmental impact statement (AMDAL); show proof of submission of an "investment realization report"; and provide a recommendation from relevant ministries as necessary. Previously the business registration process averaged 260 days. Following the January 2015 establishment of a one stop shop (OSS) Center by the BKPM, which includes representatives of 21 ministries/agencies, the process has purportedly been reduced to 90 days. Special expedited licensing services are available for investors making investments in excess of approximately USD 7 million and meeting certain other criteria.

Foreign investors are generally prohibited from investing in Micro, Small and Medium Enterprises (MSMEs) in Indonesia, although a proposed revision to the Negative Investment List may open some opportunities for partnerships in farming, catalog and online retail. In

accordance with the Indonesian SMEs Law No. 20/2008, MSMEs are defined as enterprises with net assets less than IDR10 billion (about \$7 million) or with a total annual sales under IDR 50 billion (\$35 million). However, the Indonesian Central Bureau of Statistics defines MSMEs as enterprises with fewer than 99 employees. The GOI provides assistance to SMEs, including expanded access to business credit for SMEs in farming, fishery, manufacturing, creative business, trading and services sectors, a tax exemption for MSMEs with annual sales under IDR 200 million, and assistance with international promotion.

#### Industrial Promotion

#### Natural Resources

Indonesia's vast natural resource wealth has attracted significant foreign investment over the last century and continues to offer significant prospects. But a variety of government regulations have made doing business in the resources sector increasingly difficult, and Indonesia now ranks near the bottom (91st) among the world's 109 mining countries in the Fraser Institute's Mining Policy Perception Index. In 2012, the Government of Indonesia (GOI) banned the export of raw minerals, dramatically increased the divestment requirements for foreign mining companies, and required major mining companies to renegotiate their contracts of work with the government. The ban on the export of raw minerals went into effect in January 2014. In July 2014, the government issued regulations that allow, until 2017, the export of copper and several other mineral concentrates with export duties, but only by companies that meet specified requirements toward developing refining facilities. The 2009 mining law devolved the authority to issue mining licenses to local governments, who have responded by issuing more than 10,000 licenses, many of which overlap or are unclearly mapped. In the oil and gas sector, Indonesia's Constitutional Court disbanded the upstream regulator in 2012, injecting confusion and more uncertainty into the natural resources sector. Until a new oil and gas law is enacted, upstream activities are supervised by the Special Working Unit on Upstream Oil and Gas (SKK Migas).

#### Infrastructure

Since taking office in October 2014, President Jokowi and his Administration have made infrastructure development a top priority. The government announced plans to add 35,000 megawatts of electricity capacity and create a maritime nexus, to include the development and/or expansion of 24 ports and other transportation infrastructure. The current institutional arrangement for infrastructure development still suffers from overlap of functions, lack of capacity for public-private partnership (PPP) projects in regional governments, lack of solid value-for-money methodologies, crowding out of the private sector from SOEs, legal uncertainty, lack of a solid land-acquisition framework, long-term operational risks for the private sector, unwillingness from stakeholders to be the first ones to step in the new and fragile system, and especially, lack of an institutional champion. Currently infrastructure development is largely taking place through SOEs, with PPPs having only a marginal share of infrastructure projects.

#### Limits on Foreign Control and Right to Private Ownership and Establishment

Restrictions on FDI are, for the most part, outlined in presidential decree 39/2014, commonly referred to as the Negative Investment List. The Negative Investment List aims to consolidate

FDI restrictions from numerous decrees and regulations, in order to create greater certainty for foreign and domestic investors. In 2014, the share of foreign ownership permitted was increased in pharmaceutical manufacturing, venture capital companies, land transportation facilities, certain agricultural activities larger than 25 hectares, and certain power sector investments, but decreased in warehousing, distribution and cold storage, certain oil and gas services, telecommunication network services, e-commerce, certain retail sales, and power plants with less than 10 megawatts of installed capacity. For investment in certain sectors, such as mining and higher education, the Negative Investment List is useful only as a starting point, as additional licenses and permits are required by individual ministries. In May 2016 the Indonesian government announced a major revision to the Negative Investment List which opened e-commerce, film, tourism, and other sectors to foreign investment. A number of sectors remain closed to foreign investment or are otherwise restricted. Foreigners may purchase equity in state-owned firms through initial public offerings. Capital investments in publicly listed companies through the stock exchange are not subject to Indonesia's Negative List unless an investor is buying a controlling interest.

The Ministry of Law and Human Rights' implementation of an electronic business registration filing and notification system has dramatically reduced the number of days needed to register a company. Foreign firms are not required to disclose proprietary information to the government before investing.

#### Privatization Program

While some state-owned enterprises have offered shares on the stock market, Indonesia does not have an active privatization program.

#### Screening of FDI

The Investment Coordinating Board (BKPM) is responsible for issuing investment licenses to foreign entities and has taken steps to simplify the application process through better coordination between various government institutions. BKPM has launched an online portal for its National Single Window for Investment which allows foreign investors to apply for and track the status of licenses and other services online. In an effort to streamline the investment licensing and permitting process, BKPM launched a national one-stop shop to coordinate many of the permits issued by more than a dozen ministries and agencies required for investment approval. While the BKPM one-stop shop's goal is to help ease investment approvals, investments in the mining, oil and gas, plantation, and most other sectors still require multiple licenses from related ministries and authorities. Likewise, certain tax and land permits, among others, typically must be obtained from local government authorities. Though Indonesian companies only require one approval at the local level, businesses report that foreign companies often must obtain both administrative and de facto legislative approval in order to establish a business. In January, 2016, BKPM also launched a three-hour shop for investments in excess of IDR 100 billion (approximately USD 7 million) which meet certain other requirements.

The Coordinating Ministry of Home Affairs, Ministry of Administrative Reform and Bureaucracy Reform, and BKPM issued a circulating letter on September 15, 2010, to clarify investment that crosses provincial and regional boundaries. Investment in a regency (a sub-provincial level of government) is managed by the regency government; investment that lies in two or more

regencies is managed by the provincial government; and investment that lies in two or more provinces is managed by central government, or central BKPM. BKPM has plans to roll out its one-stop shop structure to the provincial and regency level to streamline local permitting processes at more than 500 sites around the country.

#### Competition Law

The Indonesian Competition Authority (KPPU) implements and enforces the 1999 Indonesia Competition Law. The KPPU reviews agreements, business practices and mergers that may be deemed anti-competitive, advises the government on policies that may affect competition, and issues guidelines relating to the Competition Law.

## **2. Conversion and Transfer Policies**

#### Foreign Exchange

The rupiah (IDR), the local currency, is freely convertible. Currently, banks must report all foreign exchange transactions and foreign obligations to the Bank of Indonesia (BI). With respect to the physical movement of currency, any person taking cash into or out of Indonesia in the amount of IDR 100 million (approximately USD 7,600) or more, or the equivalent in another currency, must report the amount to the Director General of Customs and Excise.

Banks on their own behalf or for customers may conduct derivative transactions related to derivatives of foreign currency rates, interest rates, and/or a combination thereof. BI requires borrowers to conduct their foreign currency borrowing through domestic banks registered with BI. The regulations apply to borrowing in cash, non-revolving loan agreements, and debt securities.

Under the 2007 Investment Law, the GOI gives assurance to investors relating to the transfer and repatriation of funds, in foreign currency, on:

- capital, profit, interest, dividends and other income;
- funds required for (i) purchasing raw material, intermediate goods or final goods, and (ii) replacing capital goods for continuation of business operations;
- additional funds required for investment;
- funds for debt payment;
- royalties;
- income of foreign individuals working on the investment;
- earnings from the sale or liquidation of the invested company;
- compensation for losses;
- and compensation for expropriation.

U.S. firms report no difficulties in obtaining foreign exchange.

Bank Indonesia began in 2012 to require exporters to repatriate their export earnings through domestic banks within three months of the date of the export declaration form. Once repatriated, there are currently no restrictions on re-transferring export earnings abroad. Some companies report this requirement is not enforced.

In March 2015 the government of Indonesia announced a regulation requiring the use of rupiah in domestic transactions. While import and export transactions can still use foreign currency, importers' transactions with their Indonesian distributors must now use rupiah, which has impacted some U.S. business operations. The application of these rules to various financial transactions remains vague and uneven.

### *Remittance Policies*

The Indonesian government places no restrictions or time limitations on investment remittances. However, certain reporting requirements exist. Any transfer of funds in excess of USD 10,000, whether incoming or outgoing, must be reported to Bank Indonesia (BI) along with the reason for the transfer.

Carrying more than IDR 100 million in cash out of Indonesia requires prior approval from Bank BI, while any person carrying IDR 100 million or more into the country must verify the funds with Indonesian Customs upon arrival. Indonesia does not engage in currency manipulation.

During the Plenary meeting of the Financial Action Task Force (FATF) in Brisbane, Australia in June 2015, FATF congratulated Indonesia for the significant progress made in addressing the strategic Anti-Money Laundering/Countering Terrorist Financing deficiencies earlier identified by the FATF and included in its action plan. Indonesia will no longer be subject to the FATF's monitoring process under its on-going global AML/CTF compliance process. It will work with the Asia/Pacific Group on Money Laundering (APG) as it continues to further strengthen its AML/CTF regime.

### **3. Expropriation and Compensation**

The GOI generally recognizes and upholds the property rights of foreign and domestic investors, and the 2007 Investment Law opened major sectors of the economy to foreign investment, while assuring investors' protection from nationalization, except where corporate crime is involved. However, Indonesia's economic nationalism continues to manifest itself through negotiations, policies, regulations, and laws that erode investor value. These include local content requirements, requirements to divest equity shares to Indonesia stakeholders, and requirements to set up manufacturing or processing facilities in Indonesia.

In 2012, the GOI issued a regulation requiring foreign-owned mining operations to divest majority equity to Indonesian shareholders within 10 years of operational startup. That regulation relies upon cost of investment incurred, rather than market value, for purposes of divestment valuation. In October 2014, with Regulation 77/2014, the Indonesian government eased the foreign ownership restrictions to 60 percent for companies that smelt domestically (40 percent divestment) and 70 percent for companies that operate underground mines (30 percent divestment). The GOI is requiring that mining contracts of work be renegotiated to alter terms in favor of the GOI, including royalty and tax rates, local content levels, domestic processing of minerals, and reduced mine areas. Some mining companies have had to reduce the size of their original mining work area without compensation.

In general, Indonesia's rising resource nationalism supports the idea that domestic interests should not have to pay prevailing market prices for domestic resources. In the oil and gas sector, the GOI is increasingly explicit in its policy that expiring production sharing contracts operated by foreign companies be transferred to domestic interests rather than extended. While there is no obligation of compensation under the production sharing contract, this policy has begun to affect the Indonesian business interests of foreign companies.

The Law on Land Acquisition Procedures for Public Interest Development passed in December 2011 sought to streamline GOI acquisition of land for much-needed infrastructure projects. The law seeks to clarify roles, reduce the time frame for each phase of the land acquisition process, deter land speculation, and curtail obstructionist litigation, while still ensuring safeguards for land-right holders. The implementing regulations, first approved in 2012, went into effect on January 1, 2015; further revisions in 2015 expanded the scope of the new provisions. Some reports indicate that the law has reduced land acquisition timelines; with no accusations of illegal GOI expropriation of land.

#### **4. Dispute Settlement**

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Indonesia's legal system is based on civil law. The court system consists of District Courts (primary courts of original jurisdiction), High Courts (courts of appeal), and the Supreme Court (the court of last resort). Indonesia also has a Constitutional Court. The Constitutional Court has the same legal standing as the Supreme Court, and its role is to review the constitutionality of legislation. Both the Supreme and Constitutional Courts have authority to conduct judicial review.

The court system often does not provide effective recourse for resolving property and contractual disputes. Cases that would be adjudicated in civil courts in other jurisdictions sometimes result in criminal charges in Indonesia. Judges are not bound by precedent and many laws are open to various interpretations.

A lack of clear land titles has plagued Indonesia for decades, although the land acquisition law enacted in December 2011 included legal mechanisms designed to resolve some past land ownership issues. Indonesia also has a poor track record on the legal enforcement of contracts and civil disputes are sometimes criminalized. Government Regulation 79 of 2010 opened the door for the GOI to remove recoverable costs from production sharing contracts. The GOI is also requiring mining companies to renegotiate their contracts of work to require higher royalties, more divestment, more local content, and domestic processing of mineral ore.

Indonesia's commercial code, grounded in colonial Dutch law, has been updated to include provisions on bankruptcy, intellectual property rights, incorporation and dissolution of businesses, banking, and capital markets. Application of the commercial code, including the bankruptcy provisions, remains uneven, in large part due to corruption and training deficits for judges, prosecutors, and defense lawyers.

Bankruptcy

The bankruptcy law is decidedly pro-creditor and the law makes no distinction between domestic and foreign creditors. As a result, foreign creditors have the same rights as all potential creditors in a bankruptcy case, as long as foreign claims are submitted in compliance with underlying regulations and procedures. Monetary judgments in Indonesia are made in local currency.

#### Investment Disputes

Judicial handling of investment disputes remains mixed. Indonesia's legal code recognizes the right of parties to apply agreed upon rules of arbitration. Some arbitration but not all is handled by Indonesia's domestic arbitration agency, the Indonesian National Arbitration Body.

Companies have resorted to ad hoc arbitrations in Indonesia using the UN Commission on International Trade Laws (UNCITRAL model law) arbitration rules. Though doing business in Indonesia remains challenging, there is not a clear pattern of investment disputes involving U.S. or other foreign investors.

#### International Arbitration

In response to a perceived increase in the number of arbitration cases submitted to the International Center for Settlement of Investment Disputes ICSID, in February 2014 Indonesia began to allow its existing Bilateral Investment Treaty agreements (BITs), numbering more than 60, to expire. The Investment Coordination Board formed an expert team to review the current generation of BITs and formulate a new modern model BIT that would more effectively protect national interests. The Indonesian model BIT is currently under legal review and should be finalized by mid-2016.

#### *ICSID Convention and New York Convention*

Indonesia is a Member of the International Center for Settlement of Investment Disputes (ICSID) and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. Thus, foreign arbitral awards are legally recognized and enforceable in the Indonesian courts, but, in practice, are not always enforced.

#### Duration of Dispute Resolution – Local Courts

The court system in Indonesia works slowly. International arbitration awards, when enforced, may take years from original judgment to payment.

### **5. Performance Requirements and Investment Incentives**

#### WTO/TRIMS

The Indonesian government notified the WTO of its compliance with Trade-Related Investment Measures (TRIMS) on August 26, 1998. The 2007 Investment Law states that the GOI shall provide the same treatment to both domestic and foreign investors originating from any country. The Indonesian government pursues policies to promote local manufacturing that could be inconsistent with TRIMS requirements, such as linking import approvals to investment pledges, or requiring local content targets to be met some sectors.

## Investment Incentives

The GOI offers a tax holiday scheme that exempts certain businesses from paying corporate income taxes for up to ten years under Ministry of Finance Decree No. 130/PMK.011/2011. Businesses must have operated as a legal entity in Indonesia for at least 12 months prior to the issuance of the tax holiday regulation, among other requirements. Priority is given to investment in resource extraction, resource refinement, industrial machinery, renewable resources, telecommunications equipment, or pioneer sectors. Government Regulation No. 62 of 2008 provides a tax incentive program for projects conducted in national high-priority sectors, which encompass 128 different fields. Businesses may only apply for one tax incentive: either the tax holiday or the tax incentive program. On August 27, 2015, the GOI released an updated tax holiday incentive under Ministry of Finance Decree No. 159/PMK.010/2015 in order to increase investment, especially in pioneer industries. The GOI still retains the majority of the existing tax holiday policy, with changes aimed at relaxing and simplifying the provision of facilities. The coverage of pioneer sectors was expanded to include the following industries:

- upstream metal,
- petroleum refining,
- organic basic chemicals derived from petroleum and natural gas,
- industrial machinery production,
- marine transportation,
- the processing industry when it is the major industry in a Special Economic Zone (SEZ),
- telecommunications information and communication,
- and processing based on agricultural, forestry, and fisheries products.

The updated regulation also extended the time frame for the tax holiday facility to 5 to 15 years, or up to 20 years at the discretion of the Minister of Finance.

## *Research and Development*

At present, Indonesia does not have formal regulations granting national treatment to U.S. and other foreign firms participating in Government-financed or subsidized research and development programs. The State Ministry for Research and Technology handles applications on a case-by-case basis.

## Performance Requirements

The GOI expects foreign investors to contribute to the training and development of Indonesian nationals, allowing the transfer of skills and technology required for their effective participation in the management of foreign companies. As a general rule, a company can hire foreigners only for positions that the government has deemed open to non-Indonesians. Employers must have training programs aimed at replacing foreign workers with Indonesians. If a direct investment enterprise wants to employ foreigners, the enterprise should submit an Expatriate Placement Plan to BKPM to get a Limited Stay Visa or Semi-Permanent Residence

Visa (VITAS/VBS). Expatriates are issued a Limited Stay Permit (KITAS) and a blue book, valid for two years and renewable for up to two extensions without leaving the country. The foreign worker must meet education, work experience, and Indonesian language requirements and commit to transfer knowledge to an Indonesian counterpart. Under Ministry of Manpower regulations, any expatriate who holds a work and residence permit must contribute USD 1,200 per year to a fund for local manpower training at regional manpower offices. Some U.S. firms report difficulty in renewing KITAs for their foreign executives. In 2013, the government issued new regulations on the employment of foreigners, including a regulation specific to the oil and gas sector that limits the types of positions expatriates can hold and imposes an age cap of 55 years on foreign executives. In December 2013, the Ministry of Manpower issued Regulation 12 on Procedures for Employing Foreign Manpower. The new regulation made some changes to the previous 2008 regulation, including the introduction of a new mechanism to hire temporary foreign workers and simplification of the permit process for foreigners married to Indonesians.

The mid-2015 issuance of Minister of Manpower Regulation No.16/2015 on New Foreign Worker Regulations raised concerns among foreign investors because it mandated short-term work-permits for many business travelers and established a ratio of local to foreign employees of 10:1. In October this regulation was amended to establish a new ratio of 1:1 and to abolish the need for a short-term work permit for most business travelers. However, a short-term work permit (max 6 months) is still required for activities such as making a commercial movie, conducting audits, quality control, or inspections for periods exceeding 30 days. The GOI has repeatedly discussed establishing an Indonesian language proficiency requirement for long-term expatriates in Indonesia, and some local governments have language requirements in place, though they do not appear to be enforced.

With the passage of the defense law in October 2012 and subsequent implementing regulations in October 2014, the GOI established a policy that imposes offset requirements for procurements from foreign defense suppliers. Current laws authorize Indonesian end users to procure defense articles from foreign suppliers if those articles cannot be produced within Indonesia, subject to Indonesian local content and offset policy requirements. On that basis, U.S. defense equipment suppliers are still competing for contracts with local partners. The 2014 implementing regulations still require substantial clarification regarding how offsets and local content are determined, and the GOI has not yet completed production of an official English-language translation. According to the legislation and subsequent implementing regulations, an initial 35 percent of any foreign defense procurement or contract must include local content, and this 35 percent local content threshold will increase by 10 percent every five years following the 2014 release of the implementing regulations until a local content requirement of 85 percent is achieved. The law also requires a variety of offsets such as counter-trade agreements, transfer of technology agreements, or a variety of other mechanisms, all of which are negotiated on a per-transaction basis. The implementing regulations also refer to a "multiplier factor" that can be applied to increase a given offset valuation depending on "the impact on the development of the national economy." Decisions regarding multiplier values, authorized local content, and other key aspects of the new law are in the hands of the Defense Industry Policy Committee (KKIP), an entity comprising GOI interagency representatives and defense industry leadership. KKIP leadership indicates that they still determine multiplier values on a case-by-case basis, but have said that once they conclude an industry-wide gap analysis study they will publish a standardized

multiplier value schedule. According to GOI officials, rules for offsets and local content apply to major new acquisitions only, and do not apply to routine or recurring procurements such as those required for maintenance and sustainment.

#### Data Storage

The Indonesian government issued Government Regulation 82 in 2012, which requires certain “public service providers” to establish data storage and disaster recovery centers on Indonesian soil. The government continues to contemplate whether to implement data localization requirements, and, if so, how broadly to apply the definition of “public service providers” under Regulation 82/2012, but it is possible that data localization rules will affect financial and other service delivery companies. Officials have stated publicly that the government will amend Regulation 82/2012 or otherwise ease data localization requirements, but has not yet taken action.

### **6. Protection of Property Rights**

#### Real Property

The Basic Agrarian Law of 1960, the predominant body of law governing land rights, recognizes the right of private ownership. Indonesia's 1945 Constitution states that all natural resources are owned by the GOI for the benefit of the people. This principle was augmented by the passage of a land acquisition bill in December 2011 that enshrined the concept of eminent domain and established mechanisms for fair market value compensation and appeals. The National Land Agency registers property under Regulation No. 24 of 1997, though the Ministry of Forestry administers all ‘forest land’. Registration is sometimes complicated by local government requirements and claims as a result of decentralization. Registration is also not conclusive evidence of ownership, but rather strong evidence of such. Government Regulation (PP) No. 103 of 2015 on house ownership by foreigners domiciled in Indonesia allows foreigners to have a property in Indonesia with the status of a “right to use” for a maximum of 30 years, with extensions available for up to 50 additional years. Indonesia ranks 131st on the World Bank's Ease of Registering Property ranking.

#### Intellectual Property Rights

Indonesia is currently on the Special 301 priority watch list for intellectual property rights (IPR) protection. Indonesia's failure to effectively protect intellectual property and enforce IPR laws has resulted in high levels of physical and online piracy. The International Intellectual Property Alliance estimates that 86 percent of business software is unlicensed, while retail piracy rates are likely even higher. Harco Glodok, Indonesia's largest trade center for consumer electronics and related goods, and online marketplace Bukalapak.com are included on the Notorious Markets list in 2016.

Indonesia's intellectual property laws provide a solid foundation for enforcement efforts. In September 2014 Parliament amended Indonesia's 2002 Copyright Law. Changes to the law include extending copyright protection for most works to lifetime plus 70 years for individuals or 50 years for copyrights held by legal entities, strengthening the role of collective management organizations to streamline royalty collections, including for foreign copyrights through bilateral or multilateral agreement, criminalizing illegal upload or download of copyrighted material for commercial use, and creating landlord liability for “deliberately and

knowingly" allowing the sale or duplication of copyright infringing material. In July 2015 the Directorate General for Intellectual Property (DGIP) and Ministry of Communications and Information Technology (Kominfo) jointly released implementing regulations under the Copyright Law to provide for rights holders to report websites that offer IP-infringing products and sets forth procedures for blocking IP-infringing sites. In August 2015, Indonesia's Creative Economy Agency launched an anti-piracy task force with film and music industry stakeholders. The task force will work with the police, DGIP, and others to eradicate physical and digital piracy, and to educate Indonesian consumers on the importance of intellectual property rights. Draft amendments to Indonesia's Trademark and Patent laws are under deliberation at the parliament and expected to pass this year. Currently, a standard trademark application process can take up to 24 months, and trademark holders report that claiming well-known mark status can be difficult. Patent applications can take up to 48 months.

Despite adequate intellectual property laws, enforcement remains limited. The Directorate General for Intellectual Property (DGIP) reported limited seizures in 2015, although BPOM, Indonesia's food and drug administration, reported the seizure of more than USD 5 million in counterfeit medicine during the year. After the President publicly called for better IP enforcement in May 2015, the Indonesian police led a limited number of raids primarily targeted at retail outlets and markets, including at Harco Glodok market. Trademark, Patent, and Copyright legislation requires a rights-holder complaint for investigations, and DGIP and BPOM investigators lack the authority to make arrests so must rely on police cooperation for any enforcement action. In 2012, the Supreme Court ruled that Customs may obtain rights for temporary injunctions to suspected counterfeit shipments at the border. However, Customs still cannot exercise ex officio powers, as intended in the 2006 amended customs law. The Indonesian Government is responsible for the storage and destruction of seized counterfeit goods, although rights-holders have contributed to the cost of destroying IP-infringing goods in the past. For additional information about treaty obligations and points of contact at local IP offices please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

#### *Resources for Rights Holders*

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

For a list of local lawyers, see: <http://jakarta.usembassy.gov/us-service/attorneys.html>

AmCham Indonesia: <http://www.amcham.or.id/>

## **7. Transparency of the Regulatory System**

Indonesia continues to bring its legal, regulatory, and accounting systems into compliance with international norms, but progress is slow. Recent successes include passage of a comprehensive anti-money laundering law in late 2010 and a land acquisition law in December 2011. Although Indonesia continues to move forward with regulatory system reforms, these efforts have not yet created a level playing field for foreign investors, nor does the current regulatory system establish clear and transparent rules for all actors. Certain laws and policies, including the Negative List, establish sectors that are either fully off-limits to foreign investors or are subject to substantive conditions.

Decentralization has introduced another layer of bureaucracy for firms to navigate, resulting in costly red tape. Ineffective management, resistance from vested interests, and corruption are among the challenges faced by the GOI in launching bureaucratic reform. U.S. businesses cite regulatory and transparency problems as ongoing factors hindering operations. Government ministries and agencies, including the Indonesian Parliament, continue to publish many proposed laws and regulations in draft form for public comment; however, not all draft laws and regulations are made available in public fora. Laws and regulations are often vague and require substantial interpretation by the implementers, leading to business uncertainty and rent-seeking opportunities.

Regulatory consultation in Indonesia is inconsistent, at best, despite the existence of Law 10/2004 on the Formulation of Regulations, article 53 of which states that the community is entitled to provide oral or written input into draft laws and regulations, and Law 12/2010 which further expands this right.

## **8. Efficient Capital Markets and Portfolio Investment**

The Indonesia Stock Exchange (IDX) index has 528 listed companies and reached capitalization as high as (USD 358.23 billion) in May. There were 16 initial public offerings in 2015. Foreigners conducted more than half of total IDX stock trades in the last month of 2015 (67 percent in December 2015). In 2011, the IDX launched the Indonesian Sharia Stock Index (ISSI), its first index of sharia-compliant companies, primarily to attract greater investment from Middle East companies and investors. As of 2015 the ISSI is composed of 318 stocks listed on IDX's Jakarta Composite Index.

Government treasury bonds are the most liquid bonds offered by the GOI. Treasury bills are less liquid due to their small issue size. Liquidity in BI-issued Sertifikat Bank Indonesia (SBI) is also limited due to the three-month required holding period. The GOI also issues sukuk (Islamic treasury notes) treasury bills as part of efforts to diversify Islamic debt instruments and increase their liquidity. Indonesia's sovereign debt as of May 2016 was graded as BB+ by Standard and Poor, BBB- by Fitch Ratings and baa3 by Moody's.

The Financial Services Supervisory Authority (OJK) assumed BI's supervisory role over commercial banks as of January 1, 2014 and began overseeing the capital markets and non-banking institutions on January 1, 2013, replacing the Capital Market and Financial Institution Supervisory Board.

Foreigners have good access to the Indonesian securities market and are a major source (38 percent of government securities) of portfolio investment. Indonesia respects IMF Article VIII by refraining from restrictions on payments and transfers for current international transactions. Foreign ownership of Indonesian companies may be limited in certain industries as determined by the Negative Investment List.

### **Money and Banking System, Hostile Takeovers**

Although there is some concern regarding the operations of the many small and medium family-owned banks, the banking system is generally considered sound, with banks enjoying some of the widest interest rate margins in the region. As of September 2015 the ten largest banks have IDR 3,884 trillion (USD 285.5 billion) in total assets. Loans grew 10.1 percent in 2015

(12 percent in 2014). Gross non-performing loans in October 2015 stood at 2.67 percent, up from 2.34 percent a year earlier.

Foreigners may purchase up to 99 percent of the total shares of a domestic bank through private placement or on the stock exchange, but purchases of 25 percent or more require BI approval. Foreign banks may establish branches if the foreign bank is ranked in the top 200 global banks by assets. To establish a representative office, the foreign bank must be ranked in the top 300 global banks by assets. A special operating license is required from BI in order to establish a foreign branch.

BI has limited bank ownership to no more than 40 percent by any single shareholder, applicable to foreign and domestic shareholders, thus requiring foreign bank branches to become subsidiaries. An exception was granted in 2015 for foreign banks buying two small banks and merging them together.

On September 8, 2015 OJK eased rules for foreigners opening a bank account in Indonesia. Foreigners can open a bank account with a balance between USD 2,000-50,000 with just their passport. For accounts greater than USD 50,000, they will need to show a supporting document such as a reference letter from a bank in the foreigner's country of origin, a local domicile address, a spousal identity document, copies of a contract for a local residence, and/or credit/debit statements.

## **9. Competition from State-Owned Enterprises**

Indonesia had 119 central government State-Owned Enterprises (SOEs) as of November 2015, 26 of which contributed more than 90 percent of total SOE profit. Twenty are listed on the Indonesian stock exchange and 14 are special purpose entities under the SOE ministry with one under the Ministry of Finance (the Indonesian Infrastructure Guarantee Fund). The government has announced plans to merge existing SOEs into 85 companies. Information regarding the SOEs can be found at the SOE Ministry website (<http://www.bumn.go.id/>) (Indonesian only). There are also an unknown number of SOEs owned by regional or local governments. SOEs are present in almost all sectors/industries including banking (finance), tourism (travel), agriculture, forestry, mining, construction, fishing, energy, and telecommunications (information and communications). In 2014 (the most recent data available), SOE profits fell by 3.5 percent YOY to IDR 148.6 trillion (USD 11.4 billion) compared to 2013. As of the end of 2014, SOEs employ around 781,760 people and contribute an estimated 40 percent of the country's gross domestic product. As of December 30, 2014, the 20 listed state-owned companies had a market capitalization amounting to IDR 1,381 trillion or 26.41 percent of the total capitalization of shares listed on the Stock Exchange. Indonesian SOE R&D spending varies by sector.

Indonesia is not a party to the WTO's Government Procurement Agreement. Private enterprises can compete with SOEs under the same terms and conditions with respect to access to markets, credit, and other business operations. However, many sectors report that, in reality, SOEs receive strong preference for GOI projects. SOEs purchase some goods and services from private sector and foreign firms. SOEs publish an annual report and are audited by the Supreme Audit Agency (BPK), the Financial and Development Supervisory Agency (BPKP), and external and internal auditors.

## OECD Guidelines on Corporate Governance of SOEs

State Owned Enterprises (SOEs) in Indonesia generally do not adhere to the OECD Guidelines on Corporate Governance for SOEs. Indonesian SOEs adopt a two-tier Board structure with a Board of Commissioners (similar to an American company's board of directors) and a Board of Directors (similar to an American company's executive management team). Depending on the type of SOE, either the President or the Minister of SOEs has the right to make appointments and to dismiss members of either the Board of Commissioners or Board of Directors. With such control, board member appointments are subject to government interference. Hence, it is not uncommon for SOEs to have ministers, high-ranking bureaucrats, military generals, or members of political parties, either retired or still active, sitting as Board members. Some SOEs suffer from poor management, which has led to several cases of graft and corruption against former Commissioners and Directors.

## Sovereign Wealth Funds

Indonesia does not operate a traditional sovereign wealth fund, but several SOEs invest in the domestic market. On December 21, 2015 the Finance Ministry authorized one of those SOEs, PT Sarana Multi Infrastruktur (SMI) to manage the assets of the Pusat Investasi Pemerintah (PIP), or Government Investment Center (which had previously been seen as a potential sovereign wealth fund). SMI can use the funds for direct investment in infrastructure financing, the placement of funds in the form of government securities, Bank Indonesia Certificates, and/or other financial instruments in accordance with the provisions of laws. Indonesia does not participate in the IMF's Working Group on Sovereign Wealth Funds.

## 10. Responsible Business Conduct

In general Indonesian businesses do not have awareness of the broad concept of responsible business conduct (RBC) as a comprehensive management paradigm. Indonesian companies tend to focus on corporate social responsibility (CSR) programs offering community and economic development, and educational projects and programs. This is at least in part caused by the fact that such projects are often required in the environmental impact permits ("Amdal") of resource extraction companies, which undergo a good deal of domestic and international scrutiny of their operations. Because a large proportion of resource extraction activity occurs in remote and rural areas where government services are limited or absent, these companies face very high community expectations to provide such services themselves. Despite significant investments – especially by large multinational firms – in CSR projects, there is limited general awareness of those projects, even among government regulators and officials.

The government does not have an overarching strategy to encourage or enforce responsible business conduct, but regulates each area through the relevant laws (environment, labor, corruption, etc.). These laws, as with all laws in Indonesia, are not always enforced evenly. The National Commission on Human Rights announced plans to create a National Action Plan on Business and Human Rights in Indonesia, which they say will incorporate the UN Guiding Principles on Business and Human Rights. The Commission reports that numerous companies violate human rights principles, most regularly in agrarian conflicts.

The Financial Services Authority (OJK) regulates corporate governance issues, but the regulations and enforcement are not yet up to international standards for shareholder protection.

#### OECD Guidelines On Corporate Governance Of SOEs

Indonesia is not an adherent to the OECD Guidelines for Multinational Enterprises and does not make efforts to encourage adherence to those guidelines or to the United Nations Guiding Principles on Business and Human Rights. The government does not encourage adherence to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas or any other supply chain management due diligence guidance.

Indonesia does participate in the Extractive Industries Transparency Initiative (EITI). Indonesia was suspended by the EITI Board in February 2015 due to a missed deadline for its first EITI Report, but the suspension was lifted following publication of its 2012-2013 EITI Report in November 2015. The EITI Board declared Indonesia EITI compliant on October 15, 2014.

### **11. Political Violence**

As in other democracies, politically motivated demonstrations occasionally occur throughout Indonesia, but are not a major ongoing concern for most foreign investors.

Fighting terrorism remains a top priority for the Indonesian government, and President Jokowi Widodo has demonstrated a continued strong commitment to combating terrorism. Since the 2009 bombings of two international hotels in Jakarta, Indonesian police and security forces have disrupted a number of terrorist cells, including some affiliated with Jemaah Islamiyah (JI), a U.S. government-designated terrorist organization that carried out several bombings at various times since 2000. In response to terrorist threats and attacks, Indonesia has effectively pursued counterterrorism efforts through legislation and law enforcement. The January 14, 2016 terrorist attack in central Jakarta demonstrated that though the Indonesian government's sustained counterterrorism campaign has significantly degraded the operational capabilities of violent extremist organizations in Indonesia, these groups continue to demonstrate a willingness and ability to carry out attacks with little or no warning (though operational capabilities remain weak). There is also concern about Indonesians traveling to Syria or Iraq as foreign terrorist fighters; several hundred Indonesians are estimated to have traveled to the Middle East to join violent groups operating there. The primary target of terrorists remains local government and law enforcement entities, especially the police, though ISIL-affiliated Indonesians have increasingly called for targeting U.S. and Western-affiliated interests as well.

Foreign investors in Papua face certain unique challenges. Indonesian security forces occasionally conduct operations against the Free Papua Movement, a small armed separatist group that is most active in the Central Highlands region. Low-intensity communal, tribal, and political conflict also exists in Papua and has caused deaths and injuries. Anti-government protests have resulted in deaths and injuries, and violence has been committed against employees and contractors of a U.S. company there.

### **12. Corruption**

President Jokowi was elected in 2014 on a strong good-governance platform. However, corruption remains a serious problem according to some U.S. companies, preventing increased FDI. Although the government has issued detailed directions on combating corruption in targeted ministries and agencies, there has not been a concerted government-led effort to encourage or require companies to establish internal codes of conduct, or effective internal controls, ethics, and compliance programs to detect and prevent bribery of public officials.

Indonesia's ranking in Transparency International's Corruption Perceptions Index in 2015 is 88 out of 167 countries, an improvement from 2014's ranking of 107. Corruption remains pervasive despite laws to combat it. The Corruption Eradication Commission (KPK) remains one of the most trusted institutions in Indonesian public life despite attempts by its opponents to limit its mandate. The legislature is considering the passage of a bill that would weaken the KPK's ability to conduct its work, but President Jokowi has opposed the measure. The KPK is authorized to conduct investigations, indictments, and prosecutions in corruption cases that involve law enforcement officers, government executives, or other parties connected to corrupt acts committed by law enforcement officers or government executives; have attracted the "attention and the dismay" of the general public; and/or involve a loss to the State of at least 1 billion Rupiah (approximately \$76,000). Corruption cases are also handled by the Indonesian National Police and Attorney General's Office, neither of which have the same organizational capacity to investigate or prosecute corruption cases. Giving or accepting a bribe is a criminal act, with possible fines ranging from USD 3,850 to USD 77,000 and imprisonment up to a maximum of 20 years or life imprisonment, depending on the severity of the charge.

#### *UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Indonesia ratified the UN Convention against Corruption in September 2006. Indonesia has not yet acceded to the OECD Anti-Bribery Convention, but attends meetings of the OECD Anti-Corruption Working Group. In 2014 Indonesia chaired the Open Government Partnership, a multilateral platform to promote transparency, empower citizens, fight corruption, and strengthen governance. Several civil society organizations function as vocal and competent corruption watchdogs, including Transparency International Indonesia and Indonesia Corruption Watch.

#### *Resources to Report Corruption*

Komisi Pemberantasan Korupsi (Anti-Corruption Commission)

Jln. HR Rasuna Said Kav. C1 Kuningan

Jakarta Selatan 12920

informasi@kpk.go.id

Indonesia Corruption Watch

Jl. Kalibata Timur IV/D No. 6 Jakarta Selatan 12740 | Tel: +6221.7901885 +6221.7994015 | Fax: +6221.7994005 | Email: [info@antikorupsi.org](mailto:info@antikorupsi.org)

### **13. Bilateral Investment Agreements**

Indonesia has signed investment agreements with 65 countries, including: Algeria, Argentina, Australia, Bangladesh, Belgium, Bulgaria, Cambodia, Chile, Croatia, Cuba, Czech Republic,

Denmark, Egypt, Finland, France, Germany, Guyana,, Hungary, India, Iran, Italy, Jamaica, Jordan, Kyrgyzstan, Laos, Libya, Malaysia, Mauritius, Mongolia, Morocco, Mozambique, Netherland, North Korea, Norway, Pakistan, People's Republic of China, Peru, Philippines, Poland, Qatar, Romania, Saudi Arabia, Singapore, Serbia, Slovak Republic, South Korea, Spain, Sri Lanka, Sudan, Suriname, Syria, Sweden, Switzerland, Tajikistan, Thailand, The Netherlands, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom, Uzbekistan, Vietnam, Yemen, and Zimbabwe. Indonesia does not have a bilateral investment treaty with the United States.

In 2014 Indonesia began to abrogate its existing BITs by allowing the agreements to expire. In 2015 14 BITs expired, including with Bulgaria, Cambodia, China, Egypt, France, Hungary, Italy, Lao PDR, Malaysia, Netherlands, Romania, Slovakia, Turkey, and Viet Nam. A new model BIT is currently being developed and should be concluded by mid-2016.

Under the ASEAN Free Trade Agreement, duties on imports from ASEAN countries generally range from 0 percent to 5 percent, except for products specified on exclusion lists. Indonesia also provides preferential market access to Australia, China, Japan, Korea, India, Pakistan, and New Zealand under regional ASEAN agreements and to Japan under a bilateral agreement. In accordance with the ASEAN-China FTA, in August 2012 Indonesia increased the number of goods from China receiving duty-free access to 10,012 tariff lines. Indonesia is currently negotiating bilateral agreements with Iran, India, Australia, New Zealand, South Korea, and European Free Trade Association, studying potential FTAs with Chile, Turkey, Tunisia, Mexico, South Africa, and Egypt. The ASEAN Economic Community arrangement came into effect on January 1, 2016, and is expected to reduce barriers for goods, services and some skilled employees across ASEAN. Indonesia is also participating in negotiations for the Regional Comprehensive Economic Partnership (RCEP), which includes the 10 ASEAN Member States and 6 additional countries (Australia, China, India, Japan, Korea and New Zealand). RCEP negotiations began in 2014.

#### Bilateral Taxation Treaties

The United States and Indonesia signed the Convention between the Government of the Republic of Indonesia and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of the Fiscal Evasion with Respect to Taxes on Income in Jakarta on July 11, 1988. This was amended with a Protocol, signed in Jakarta on July 24, 1996. There is no double taxation of personal income.

#### **14. Foreign Trade Zones/Free Ports/Trade Facilitation**

The GOI offers incentives to over 1,500 foreign and domestic industrial companies that operate in bonded zones throughout Indonesia. The largest bonded zone is the free trade zone island of Batam, located just south of Singapore. Neighboring Bintan Island and Karimun Island also enjoy free trade zone areas. Investors in bonded zones are not required to apply for additional implementation licenses (location, construction, and nuisance act permits and land titles), and foreign companies are allowed 100 percent ownership. These companies do not pay import duty, income tax, VAT, and sales tax on imported capital goods, equipment, and raw materials until the portion of production destined for the domestic market is "exported" to Indonesia, in which case fees are owed only on that portion. Companies

operating in bonded zones may lend machinery and equipment to subcontractors located outside of the bonded zone for a maximum two-year period.

Ministry of Finance Regulation No. 147/2011 stipulates that the delivery of products outside of bonded zones into the domestic market is set at a maximum of 25 percent (down from 50 percent) of export realization value of the previous year. If a bonded zone company exceeds the 25 percent limitation, its domestic quota for the next year will be reduced. The new regulation also restricts subcontract work and requires bonded zones less than 10,000 square meters in size to relocate to industrial estates.

As stipulated by the 2007 Investment Law, the Indonesian Legislature (DPR) passed regulations on special economic zones (SEZ) in 2009. The government has created eight special economic zones so far, although development at the SEZ sites remains limited. The SEZs are in Tanjung Lesung, Banten, Sei Manke, North Sumatera, Palu, Central Sulawesi, Bitung, North Sulawesi, Mandalika, West Nusa Tenggara, Morotai, North Maluku, Tanjung Api Api, South Sumatera, and Maloy Batuta in Kalimantan. In March 2016, the government released Presidential Regulation 8/2016 that will change the status of Batam Free Trade Zone to an SEZ during 2016 in an effort to boost foreign and domestic investment. The government contends that the change will provide further investment incentives in Batam, including tax holidays and deductions, accelerated amortization, and other benefits in addition to the incentives currently offered in the free trade zone. The Batam SEZ will continue to be operated by the Batam Industrial Free Trade Zone Authority, the agency that operates the existing free trade zone. Presidential Regulation 8/2016 does not affect the status of the neighboring FTZs on Bintan and Karimun islands.

In an effort to improve logistics and reduce costs the government designated 11 companies bonded logistics centers in March 2016. Companies that utilize these multifunctional logistics warehouses will enjoy tax incentives such as deferred import duties and taxes, VAT exemptions, and other benefits. The government intends to designate up to 50 bonded logistics centers throughout Indonesia by the end of 2017.

## 15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2014	\$811,500	2014	\$888,500	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data:

					BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2014	\$-1,275	2014	\$13,536	<a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	2014	1,180	<a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Total inbound stock of FDI as % host GDP	2014	N/A	N/A	N/A	N/A

\*Bank of Indonesia

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data						
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)						
Inward Direct Investment				Outward Direct Investment		
Total Inward	230,439	100%	Total Outward	N/A	100%	
Singapore	53,367	23%				
Netherlands	45,731	20%				
Japan	25,983	11%				
Mauritius	15,746	7%				
United Kingdom	10,641	5%				
"0" reflects amounts rounded to +/- USD 500,000.						

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	15,285	100%	All Countries	2,871	100%	All Countries	12,413	100%

United States	3,276	21%	Singapore	1,080	38%	United States	3,208	26%
China (PR Mainland)	1,501	10%	China (PR Mainland)	746	26%	Netherlands	1,101	9%
Singapore	1,358	9%	China (PR Hong Kong)	343	12%	Luxembourg	876	7%
Netherlands	1,101	7%	Cayman Islands	338	12%	China (PR Mainland)	756	6%
Luxembourg	876	6%	United States	69	2%	Singapore	278	2%

Source: IMF Coordinated Portfolio Investment Survey

## Section 5 - Government

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

Civil law system based on the Roman-Dutch model and influenced by customary law

### International organization participation:

ADB, APEC, ARF, ASEAN, BIS, CD, CICA (observer), CP, D-8, EAS, EITI (candidate country), FAO, G-11, G-15, G-20, G-77, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IDB, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM (observer), IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, MONUSCO, NAM, OECD (Enhanced Engagement, OIC, OPCW, PIF (partner), UN, UNAMID, UNCTAD, UNESCO, UNIDO, UNIFIL, UNISFA, UNMIL, UNMISS, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

While the importation of capital is relatively uninhibited, foreign investment must be approved. Similarly, foreign currency can be transferred essentially free of control although minor reporting requirements do exist.

Importantly, repatriation of capital, other than resulting from the sale of existing shares to Indonesians, is prohibited for the period the investor enjoys any tax holiday.

### Treaty and non-treaty withholding tax rates

Indonesia has signed **74 agreements (69 DTC and 5 TIEA agreements)** providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Algeria	DTC	28 Apr 1995	8 Dec 2000	Unreviewed	No	
Armenia	DTC	12 Oct 2005	not yet in force	Unreviewed	No	
Australia	DTC	22 Apr 1992	14 Dec 1992	Yes	No	
Austria	DTC	24 Jul 1986	1 Oct 1988	No	No	
Bangladesh	DTC	19 Jun 2003	11 Jul 2006	Unreviewed	No	
Belgium	DTC	16 Sep 1997	7 Nov 2001	Yes	No	
Bermuda	TIEA	22 Jun 2011	not yet in force	Yes	Yes	
Brunei Darussalam	DTC	27 Feb 2000	14 Aug 2002	No	No	
Bulgaria	DTC	11 Jan 1991	25 May 1992	Unreviewed	No	
Canada	DTC	16 Jan 1979	23 Dec 1980	Yes	No	
China	DTC	7 Nov 2001	25 Aug 2003	Yes	No	
Chinese Taipei	DTC	1 Mar 1995	1 Dec 1995	Unreviewed	No	
Croatia	DTC	15 Feb 2002	16 Mar 2012	Unreviewed	No	
Czech Republic	DTC	4 Oct 1994	26 Jan 1996	Yes	No	
Denmark	DTC	28 Dec 1985	29 Apr 1986	Yes	No	
Egypt	DTC	13 May 1998	26 Feb 2002	Unreviewed	No	
Finland	DTC	15 Oct 1987	26 Jan 1989	Yes	No	
France	DTC	14 Sep 1979	13 Mar 1981	Yes	No	
Germany	DTC	30 Oct 1990	28 Dec 1991	No	No	
Guernsey	TIEA	27 Apr 2011	not yet in force	Yes	Yes	
Hong Kong, China	DTC	23 Mar 2010	28 Mar 2012	Yes	Yes	
Hungary	DTC	19 Oct 1989	4 Feb 1993	Yes	No	
India	DTC	7 Aug 1987	19 Dec 1987	Yes	No	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
India	DTC	27 Jul 2012	not yet in force	Yes	Yes	
Iran	DTC	30 Apr 2004	1 Jan 2011	Unreviewed	No	
Isle of Man	TIEA	22 Jun 2011	not yet in force	Yes	Yes	
Italy	DTC	18 Feb 1990	2 Sep 1995	Yes	No	
Japan	DTC	3 Mar 1982	31 Dec 1982	Yes	No	
Jersey	TIEA	27 Apr 2011	not yet in force	Yes	Yes	
Jordan	DTC	12 Nov 1996	22 Dec 1998	Unreviewed	No	
Korea, Democratic People's Republic of	DTC	11 Jul 2002	25 Mar 2004	Unreviewed	No	
Korea, Republic of	DTC	10 Nov 1988	3 May 1989	Yes	No	
Kuwait	DTC	23 Apr 1997	1 Jan 1998	Unreviewed	No	
Luxembourg	DTC	14 Jan 1993	10 Mar 1994	No	No	
Malaysia	DTC	12 Sep 1991	11 Aug 1992	No	No	
Mexico	DTC	6 Sep 2002	28 Oct 2004	Yes	No	
Mongolia	DTC	2 Jul 1996	1 Jan 2001	Unreviewed	No	
Morocco	DTC	8 Jun 2008	10 Apr 2012	Unreviewed	No	
Myanmar	DTC	1 Apr 2003	not yet in force	Unreviewed	No	
Netherlands	DTC	29 Jan 2002	31 Dec 2003	Yes	No	
New Zealand	DTC	25 Mar 1987	23 Jun 1988	Yes	No	
Norway	DTC	19 Jul 1988	16 May 1990	Yes	No	
Pakistan	DTC	7 Oct 1990	28 Feb 1991	Unreviewed	No	
Papua New Guinea	DTC	12 Mar 2010	not yet in force	Unreviewed	No	
Philippines	DTC	18 Jun 1981	20 May 1982	Yes	No	
Poland	DTC	6 Oct 1992	25 Aug 1993	Yes	No	
Portugal	DTC	9 Jul 2003	11 May 2007	Yes	No	
Qatar	DTC	30 Apr 2006	19 Sep 2007	Yes	No	
Romania	DTC	3 Jul 1996	13 Jan 1999	Unreviewed	No	
Russian Federation	DTC	12 Mar 1999	17 Dec 2002	Yes	No	
San Marino	TIEA	25 Sep 2013	not yet in force	Yes	Yes	
Serbia	DTC	28 Feb 2011	not yet in force	Unreviewed	Yes	
Seychelles	DTC	27 Sep 1999	20 Apr 2000	Yes	No	
Singapore	DTC	8 May 1990	25 Jan 1991	No	No	
Slovakia	DTC	12 Oct 2000	30 Jan 2001	Yes	No	
South Africa	DTC	15 Jul 1997	23 Nov 1998	Yes	No	
Spain	DTC	30 May 1995	20 Dec 1999	Yes	No	
Sri Lanka	DTC	3 Feb 1993	21 Jun 1994	Unreviewed	No	
Sudan	DTC	10 Feb 1998	1 Jan 2001	Unreviewed	No	
Suriname	DTC	14 Oct 2003	not yet in force	Unreviewed	No	
Sweden	DTC	28 Feb 1989	27 Sep 1989	Yes	No	
Switzerland	DTC	29 Aug 1988	24 Oct 1989	No	No	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Syrian Arab Republic	DTC	27 Jun 1997	1 Jan 1999	Unreviewed	No	
Tajikistan	DTC	28 Oct 2003	not yet in force	Unreviewed	No	
Thailand	DTC	15 Jun 2001	23 Oct 2003	Unreviewed	No	
Tunisia	DTC	13 May 1992	12 Apr 1993	Unreviewed	No	
Turkey	DTC	25 Feb 1997	6 Mar 2000	Yes	No	
Ukraine	DTC	10 Apr 1996	9 Nov 1998	Unreviewed	No	
United Arab Emirates	DTC	30 Nov 1995	8 Nov 1996	No	No	
United Kingdom	DTC	5 Apr 1993	14 Apr 1994	Yes	No	
United States	DTC	11 Jul 1988	30 Jan 1990	Yes	No	
Uzbekistan	DTC	28 Aug 1996	11 Nov 1998	Unreviewed	No	
Venezuela	DTC	27 Feb 1997	18 Dec 2000	Unreviewed	No	
Viet nam	DTC	22 Dec 1997	10 Feb 1999	Unreviewed	No	

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions</a> <a href="#">UN Sanctions</a> / <a href="#">US Sanctions</a> / <a href="#">EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International)</a> <a href="#">Control of corruption (WGI)</a> <a href="#">Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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