



INDONESIA
INVESTMENT CLIMATE STATEMENT
2015

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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. This report focuses on challenges foreign investors face rather than the range of investment opportunities.

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 continues to investigate and prosecute high-profile corruption cases, a recent case involving the National Police has led some to question the Commission's future influence. 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 with 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. Some of the restricted sectors include: telecommunications, pharmaceuticals, e-commerce, film and creative industries, and construction. Of note, the energy and mining sector 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 as soon as they allow. 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 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. For many companies, Indonesia's investment grade rating, growing middle class, and young population make the country an attractive destination for long term investment.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

While Indonesia's GDP growth slowed to just over 5 percent in 2014, Indonesia's 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, and corruption continued to be significant concerns for foreign investors. U.S. firms have expressed hope that better coordination under Indonesia's new 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

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>

Laws/Regulations of Foreign Direct Investment

Foreign Direct Investment in Indonesia is regulated by Law 25/2007 (The Investment Law). Under the law, any form of Foreign Direct Investment 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 List. The Negative List aims to consolidate FDI restrictions in certain sectors from numerous decrees and regulations to create greater certainty for foreign and domestic investors.

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 (112th) among the world's 122 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 exportation of raw minerals went into effect in January 2014. The 2009 mining law devolved mining license issuing authority 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, injecting confusion and more uncertainty into the natural resources sector.

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. Indonesia's 15-year, USD 1 trillion Master Plan for Acceleration and Economic Development (MP3EI), launched in 2011, remains active but has received less public attention since the new Administration took office. Through August 2014, 383 projects valued at USD 69.4 billion have been launched under the MP3EI

Limits on Foreign Control

Restrictions on FDI are, for the most part, outlined in presidential decree 39/2014, commonly referred to as the Negative List. The Negative List aims to consolidate FDI restrictions from numerous decrees and regulations 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 & gas services, e-commerce, telecommunication network services, 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 List is useful only as a starting point, as additional licenses and permits are required by individual ministries. Foreign capital investment, through the stock market, is not governed by the Negative List. 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.

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.

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 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.

Investment Trends

Not applicable/information not available.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	107 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2014	114 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	87 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 3,580	data.worldbank.org/indicator/NY.GNP.PCAP.CD

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) or USD 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>.

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 (USD 8,700) 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 selling 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.

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.

The Financial Action Task Force (FATF) upgraded Indonesia to the Improved Compliance-Ongoing Monitoring or gray list at the February 2015 plenary meeting, though Indonesia remains a State Of Concern. The GOI is working towards the goal of an International Cooperation Review Group (ICRG) process exit this June.

3. Expropriation and Compensation

The GOI generally recognizes and upholds 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 rising economic nationalism has manifested 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. The law has neither led to significantly reduced land acquisition timelines nor resulted in accusations of 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 contract sanctity. 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 early 2014, Indonesia began to terminate its Bilateral Investment Treaty agreements (BITs) by allowing more than 60 outstanding agreements to expire. Indonesia is developing its own model Bilateral Investment Treaty (BIT) but has not yet announced when it would be finalized. The

United States does not have a BIT with Indonesia. On-going international arbitration cases involving Indonesia may have played a role in Indonesia's decision to abrogate its BITs.

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. The 2012 ICSID arbitration case of British firm Churchill Mining vs. Indonesia is on-going as of April 2015.

Duration of Dispute Resolution

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 and local content requirements in some sectors.

Investment Incentives

The GOI offers a tax holiday scheme to exempt 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.

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 manpower-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 KITASs for their foreign executives. In 2013, the government issued new regulations on the employment of foreigners, including an age cap of 55 years on foreign executives for oil and gas firms. In December 2013, the Ministry of Manpower and Transmigration 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.

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. Currently, U.S. defense equipment suppliers are still competing for contracts with local partners on the basis of an exception in the law that indicates that purchases may be made from non-state owned enterprise (SOE) sources if not readily available on the local market. The 2014 implementing regulations did little to clarify how offsets would be applied. According to the legislation and subsequent implementing regulations, an initial 35 percent of any foreign defense procurement or contract must be offset through local content, counter-trade agreements, transfer of technology agreements, or a variety of other mechanisms. The offset amount must increase by 10 percent every five years until a maximum of 85 percent of a contract or procurement value is reached. 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, further increasing issues with transparency and predictability of how the regulations will be applied.

Data Storage

The Indonesian government issued Government Regulation 82 in 2012 requiring certain “public service providers” to establish data storage and disaster recovery centers on Indonesian soil. The government continues to contemplate 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.

6. Right to Private Ownership and Establishment

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.

To establish a business, one must: obtain the standard form of the company deed; arrange for a notary electronically; obtain clearance for the Indonesian company’s name at the Ministry of Law and Human Rights; notarize company documents; obtain a certificate of company domicile from the local municipality; pay the State Treasury for the non-tax state revenue fees for legal services; apply to the Ministry of Law and Human Rights for approval of the deed of establishment; apply at the one stop service for the permanent business trading license and company registration certificate; register with the Ministry of Manpower; apply for the workers’ social security and health program; and, obtain a taxpayer registration number and a value added tax (VAT) collector number. The process takes an average of 52 days.

7. 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. Foreigners are not allowed to own land in Indonesia, but can acquire the rights to use, sell, lease, and mortgage land through an Indonesian entity. Indonesia ranks 117th 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, remains on the Notorious Markets list in 2015.

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, strengthens 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. Draft amendments to Indonesia's Trademark and Patent laws are on the 2015 legislative calendar and are scheduled to be submitted to Parliament 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 2014, although BPOM, Indonesia's food and drug administration, reported the seizure of more than USD 7 million in counterfeit medicine during the year. Trademark 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.

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/>

8. 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, both of which could have positive implications for foreign investment. 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.

Bureaucratic reforms have slowed, and decentralization has introduced another layer of bureaucracy for firms to navigate, resulting in costly red tape. Ineffective management 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. In short, investors remain interested but wary, as Indonesia is not currently making the longer-term regulatory changes to generate greater domestic or foreign investment.

9. Efficient Capital Markets and Portfolio Investment

The Indonesia Stock Exchange (IDX) index closed at 5226.9 on December 30, 2014, up 24 percent for the calendar year. In 2014, IDX had 503 listed companies and reached capitalization as high as (USD 512.82 billion) in May. There were 23 initial public offerings in 2014. Foreigners conducted more than half of total IDX stock trades in the last quarter of 2014 (65 percent in Q4 2014). 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 2014 the ISSI is composed of 313 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 issued its first sukuk treasury bills as part of efforts to diversify Islamic debt instruments and increase their liquidity. Indonesia's sovereign debt is currently graded as BBB- by Fitch Ratings and baa3 grade 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 (33 percent in government securities) of portfolio investment. Foreign ownership of Indonesian companies may be limited in certain industries as determined by the Negative 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. The ten largest banks, with IDR 3,361 trillion for December 2014 (USD 272.6 billion) in total assets or 65.2 percent of the total, dominate the banking sector. Loans grew 12 percent as of December 31, 2014, (vis-à-vis 21.4 percent in 2013) while gross non-performing loans stood at 2.1 percent, up from 1.7 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. 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, and requiring foreign bank branches to become subsidiaries.

10. Competition from State-Owned Enterprises

Indonesia had 119 SOEs at the end of 2014, 26 of which contributed more than 90 percent of the 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). 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 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, there are 20 state-owned companies with 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.

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 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.

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 and 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 member 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.

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.

Sovereign Wealth Funds

The GOI established the Pusat Investasi Pemerintah (PIP) to act as a special purpose investment entity and eventually as a sovereign wealth fund. To date, it has limited its investments to the domestic market in strategic sectors with the goal of stimulating national economic growth. PIP can invest in a variety of asset classes such as equity, debt, infrastructure, and direct investments. PIP is in addition to other GOI SOEs that invest in domestic markets such as PT Sarana Multi Infrastruktur, PT Indonesia Infrastructure Guarantee Facility, and Indonesia Infrastructure Finance.

11. Corporate Social Responsibility

While international organizations like the OECD and UN envision corporate social responsibility (CSR) as a comprehensive management paradigm that includes concepts like human rights, employee relations, environment and science, bribery and corruption, consumer interests, and taxation, understanding of CSR in Indonesia tends to focus on 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 much 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.

OECD Guidelines for Multinational Enterprises

Indonesia is not an adherent to the OECD Guidelines for Multinational Enterprises.

12. 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. In 2014, the Attorney General’s Office handled nearly 50 terrorism related cases. 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. Although U.S. and Western-affiliated interests remain potential targets of terrorists, the focus of terrorists is increasingly on attacks against local governments and law enforcement entities, especially the

police. 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.

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.

13. Corruption

President Jokowi was elected in 2014 on a strong good-governance 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 2014 is 107 out of 175 countries. Corruption remains pervasive despite laws to combat it. The independence and authority of the Corruption Eradication Commission (KPK) has been called into question following its announcement and subsequent deferral of its investigation into a candidate for National Police Chief. The KPK's purview in corruption cases is typically limited to law enforcement and other public officials, cases that exceed USD 100,000 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 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

Jln. HR Rasuna Said Kav. C1 Kuningan
Jakarta Selatan 12920
informasi@kpk.go.id

14. Bilateral Investment Agreements

Indonesia has signed investment agreements with 60 countries, including: Algeria, Argentina, Australia, Bangladesh, Belgium, Bulgaria, Cambodia, Chile, Croatia, Cuba, Czech Republic, Denmark, Egypt, Finland, France, Germany, Hungary, India, Iran, Italy, Jamaica, Jordan, Kyrgyzstan, Laos, Malaysia, Mauritius, Mongolia, Morocco, Mozambique, North Korea, Norway, Pakistan, People's Republic of China, Peru, Philippines, Poland, Qatar, Romania, Saudi Arabia, Singapore, Slovak Republic, South Korea, Spain, Sri Lanka, Sudan, Suriname, Syria, Sweden, Switzerland, 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.

Since 2014, Indonesia began to abrogate its existing BITs, by allowing the agreements to expire. An updated Indonesian model BIT has been in development for some time, which the government could use in the future to renegotiate expiring agreements or negotiate new BITs.

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 will come 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).

Bilateral Taxation Treaties

Non double income taxation between the United States and Indonesia is granted in accordance with 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, signed at Jakarta July 11, 1988, and its amending Protocol, signed at Jakarta July 24, 1996.

15. OPIC and Other Investment Insurance Programs

In 2010, the Overseas Private Investment Corporation (OPIC) updated its 1967 investment support agreement between the United States and Indonesia by adding OPIC products such as direct loans, coinsurance, and reinsurance to the means of OPIC support which U.S. companies may use to invest in Indonesia.

Indonesia has joined the Multilateral Investment Guarantee Agency (MIGA). MIGA, a part of the World Bank Group, is an investment guarantee agency to insure investors and lenders against

losses relating to currency transfer restrictions, expropriation, war and civil disturbance, and breach of contract.

16. Labor

The Indonesian labor market is generally open and flexible, although there are significant restrictions on the use of contract workers. Recent significant increases in the minimum wage for many provinces have made unskilled and semi-skilled labor more costly including a 44 percent increase in Jakarta in 2012.. Increases in the 2014 minimum wage were less dramatic, with a relatively modest 12.5 percent gain in the bellwether Jakarta area. Unions staged largely peaceful protests across Indonesia in December 2014 claiming that the wage increases are insufficient to offset the recent rise in fuel prices caused by the Jokowi administration's partial removal of fuel subsidies. While restrictions on the use of contract workers remain in place, continued labor protests focusing on this issue suggest that government enforcement continues to be lax. Unemployment has been declining in recent years and in 2014 was 5.9 percent. Unemployment tends to be higher than the national average among young people.

Indonesian labor is relatively low cost by world standards, but lack of adequate skills training and complicated labor laws combine to make Indonesia's competitiveness lag behind other Asian competitors. Investors frequently cite high severance payments to dismissed employees, restrictions on outsourcing and contract workers, and limitations on expatriate workers as significant obstacles to new investment in Indonesia. Employers also note that the skill base provided by the education system is lower than that of neighboring countries, and successive Labor Ministers have listed improved vocational training as a top priority. Labor contracts are relatively straightforward to negotiate but are subject to renegotiation, despite the existence of written agreements. Local courts often side with citizens in labor disputes, contracts notwithstanding. On the other hand, some foreign investors view Indonesia's labor regulatory framework, respect for freedom of association, and the right to unionize as an advantage to investing in the country. [The GOI established in 2006 a new Labor Court as part of a broader labor dispute resolution system. U.S. companies expressed disappointment in the GOI's lack of mediation between labor groups and industry during 2012 minimum wage discussions]. Expert local human resources advice is essential for American companies doing business in Indonesia, even those only opening representative offices. Labor Minister Hanif Dhakiri announced in 2015 that he would like to make proficiency in the Indonesian language a requirement for expatriate employment, but it is not clear how or whether this will be implemented.

Minimum wages vary throughout the country as provincial governors set an annual minimum wage floor and district heads have the authority to set a higher rate. Indonesia's highly fractured and historically weak labor movement has gained strength in recent years, evidenced by significant increases in the minimum wage. Labor unions are independent of the government. The law, with some restrictions, protects the rights of workers to join independent unions, conduct legal strikes, and bargain collectively. Indonesia has ratified all eight of the core ILO conventions underpinning internationally accepted labor norms. The Ministry of Labor maintains an inspectorate to monitor labor norms, but enforcement is stronger in the formal than in the informal sector. In January 2014, Indonesia launched a national insurance plan. In October 2011, the Indonesian government passed a revised Social Security Law which took effect in January 2014 in which all formal sector workers must participate. Subject to a wage

ceiling, employers' must contribute an amount equal to 4 percent of workers' salaries to this plan. Further, Indonesia is working toward establishing a national agency to support workers in the event of work accident, death, retirement, or old age.

A proposed revision to Indonesia's 2003 labor law may establish more stringent restrictions on outsourcing, currently used by many firms to circumvent some formal-sector job benefits.

17. 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. At least 20 areas have submitted applications for SEZ status, but to date only two have been created -- Sei Mangke in North Sumatra and Tanjung Lesung in Banten. The new Administration has announced it will create 10 more zones by 2019 as a part of its economic growth strategy.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2013	908,300	2013	868,345	www.worldbank.org/en/country
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)	2013	1,060	2013	12,777	http://www.bea.gov/international/factsheet/factsheet.cfm?Area=613
Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	2013	-55	http://www.bea.gov/international/factsheet/factsheet.cfm?Area=613
Total inbound stock of FDI as % host GDP	2013	2.0%	N/A	N/A	

*Bank of Indonesia

Table 3: Sources and Destination of FDI

Indonesia has two main sources for FDI statistics: BKPM, which issues permanent business licenses to domestic and foreign investors, and BI, which records international capital flows as part of balance of payments statistics. BKPM records FDI figures based on issued business licenses. Since licenses for oil and gas, mining, banking, non-bank financial institutions, insurance and leasing are issued by other government bodies, these sectors are not covered under the BKPM statistics. BKPM is expected to increase the sectorial coverage gradually while BI statistics cover all sectors.

BKPM categorizes all investments made into a foreign capital investment company as FDI, even if it is a joint venture with a local partner. This practice tends to inflate BKPM's FDI figures, which may additionally include equity contributions from domestic partners and investments financed from domestic sources. BI instead follows the standard FDI categorization of equity investment, retained earnings and other capital inflows.

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

19. Contact for More Information

Phil Nervig
 First Secretary and Economic Officer
 U.S. Embassy Jakarta
 +62-21-3435-9000