

## Suggested Steps Indonesia Could Take to Address Digital-Related Restrictions

# Indonesia Barriers to U.S. Digital Service Suppliers

Over the past several years, Indonesia has passed or proposed several key measures that severely threaten the ability of U.S. digital service suppliers to access the Indonesian market: **customs declarations obligations for digital products; digital taxation measures; mandatory registration schemes for online services providers** with threat of blocking or removal of online content; **barriers to subsea cable deployment and maintenance; data localization requirements** and other restrictions to U.S. cloud providers; and **news payment obligations for online services providers**; and more (all referenced below).

The net effect of these measures is to put U.S. digital firms at a competitive disadvantage in the Indonesian market: subjecting U.S. digital services providers to unnecessarily strict registration requirements; burdensome customs declarations for digital goods; revenue extractions for the benefit Indonesian media outlets; and restrictions on the ability of Indonesian institutions and companies to utilize U.S. cloud services or cloud-based applications. Even where not directly or immediately restricting access, the burdens and risks associated with these measures will severely diminish market access opportunities now worth well over a [billion dollars](#) in this [critical market](#) that has significant growth potential—although only 25% of the population [used the internet](#) in 2016, that number has grown to 69% in 2023.

As the U.S. engages with Indonesia to seek removal of trade impediments, several targeted changes could materially improve market access for U.S. suppliers, without requiring wholesale rewriting of legislation, by eliminating provisions that a) impose customs obligations and taxation on U.S. products and services; b) obstruct U.S. providers' access to the public cloud market; c) or excessively interfere in U.S. digital services providers' operations.

## Tangible Commitments from Indonesia to Ease Digital Trade Barriers

### Addressing existing barriers:

- **Rescind the requirements for companies to file customs declarations when they import intangible goods such as software and other digital products transmitted electronically**, as required under Regulation No. 190/PMK.04/2022.<sup>1</sup>
- Remove “**Software and other digital products transmitted electronically**” from Indonesia’s Harmonized Tariff Schedule (HTS) Chapter 99, as effectuated by the 2018 Regulation No.17/PMK.010/2018 (Regulation 17).<sup>2</sup>
- Amend Ministry of Finance Regulation No. 26/PMK.010/2022<sup>3</sup> to **decrease import tariffs applicable to technology products, consistent with Indonesia’s WTO**

<sup>1</sup> <https://assets.kpmg.com/content/dam/kpmg/id/pdf/2023/03/id-tnf-mar-23-pmk-190.pdf>.

<sup>2</sup> <http://www.jdih.kemenkeu.go.id/fullText/2018/17~PMK.010~2018Per.pdf>.

<sup>3</sup> <https://jdih.kemenkeu.go.id/api/download/04d90736-33d5-4b72-92a3-0d2b7c6bb8bd/26~PMK.010~2022Per.pdf>.

**commitments.** Under this regulation, certain information and communication technology (ICT) equipment is still subject to a 10% import duty, despite the 0% World Trade Organization (WTO) bound rate that's set pursuant to the Information Technology Agreement.

- Implement a voluntary scheme instead of the current **mandatory registration scheme for online services providers** which requires content moderation, content takedown, and enabling law enforcement access to systems and data. Per Government Regulation No. 71 of 2019<sup>4</sup> and Ministerial Regulation 5/2020<sup>5</sup>, the current scheme applies to all online services providers offering services in Indonesia including providers that are not located in Indonesia. Additionally, as non-compliance may result in products and services being blocked in Indonesia, (i) Commit to **refrain from blocking U.S. digital services providers** from operating in Indonesia under MR5/2020<sup>6</sup>; and (ii) Commit to **minimizing intrusive content takedown obligations under both MR5/2020 and the 2022 Criminal Code**, which subjects corporations to criminal law under the code.<sup>7</sup>
- **Streamline the process for deploying and operating subsea cables** serving or transiting Indonesia. The current framework restricts foreign operations first through Decree 14/2021 of the Ministry of Fisheries and Marine Affairs that limits all subsea cables in Indonesian waters to 14 prescribed routes and landing points in Manado, Kupang, Papua, and Batam.<sup>8</sup> Second, under GR 5/2021,<sup>9</sup> subsea cable permits require businesses to obtain overlapping licenses from multiple ministries. Third, the ICT Ministry requires foreign operators to take on local partners with a 5% minimum stake, subject to unreasonably stringent qualification criteria.
- **Allow U.S. cloud service providers to serve the Indonesian public services and financial sector.** This could be achieved through revisions to:
  - Regulation No. 22/23/PBI/2020,<sup>10</sup> which requires financial institutions to seek its approval before moving workloads to the public cloud;
  - Regulation No. 11/POJK.03/2022,<sup>11</sup> which requires banks to submit approvals if the data center is located offshore;

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[https://jdih.kominfo.go.id/produk\\_hukum/view/id/695/t/peraturan+pemerintah+nomor+71+tahun+2019+tanggal+10+oktober+2019](https://jdih.kominfo.go.id/produk_hukum/view/id/695/t/peraturan+pemerintah+nomor+71+tahun+2019+tanggal+10+oktober+2019).

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[https://jdih.komdigi.go.id/produk\\_hukum/view/id/759/t/peraturan+menteri+komunikasi+dan+informatika+nomor+5+tahun+2020](https://jdih.komdigi.go.id/produk_hukum/view/id/759/t/peraturan+menteri+komunikasi+dan+informatika+nomor+5+tahun+2020).

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[https://jdih.komdigi.go.id/produk\\_hukum/view/id/759/t/peraturan+menteri+komunikasi+dan+informatika+nomor+5+tahun+2020](https://jdih.komdigi.go.id/produk_hukum/view/id/759/t/peraturan+menteri+komunikasi+dan+informatika+nomor+5+tahun+2020).

<sup>7</sup> <https://the-world-is-watching.org/wp-content/uploads/2023/02/2023-Indonesia-Penal-Code.pdf>.

<sup>8</sup> <https://setkab.go.id/en/govt-issues-regulation-on-submarine-pipelines-cable-systems>.

<sup>9</sup> <https://peraturan.bpk.go.id/Details/161835/pp-no-5-tahun-2021>.

<sup>10</sup> [https://www.bi.go.id/id/publikasi/peraturan/Documents/PBI\\_222320.pdf](https://www.bi.go.id/id/publikasi/peraturan/Documents/PBI_222320.pdf).

<sup>11</sup> <https://ojk.go.id/en/regulasi/Documents/Pages/Implementation-of-Information-Technology-by-Commercial-Banks/OJK%20Regulation%2011%202022%20concerning%20Implementation%20of%20Information%20Technology%20by%20Commercial%20Banks.pdf>.

- Regulation No. 38/POJK.03/2016,<sup>12</sup> which requires commercial banks planning to operate an electronic system outside Indonesia to seek approval from the OJK 3 months before the arrangement starts; and
- Regulation No. 9/POJK.03/2016,<sup>13</sup> which only allows commercial banks to outsource “support work” (such as activities that are low risk, do not require high banking competency and skills qualification, and do not directly relate to operational decision-making).
- Ensure that U.S. companies are able to **get credit for the value they generate to news publishers through traffic and other partnerships as part of the mandatory remuneration scheme** enacted through Presidential Regulation No. 32 of 2024 on Publisher Rights.<sup>14</sup> Currently, the oversight of these forced payments is assigned a body comprising members of the press itself, reflecting a conflict of interest that must also be addressed. Implementing regulations should refrain from forcing U.S. online services providers to directly pay Indonesian media companies, and focus on supporting mutually-beneficial mechanisms to improve the digital distribution of news.
- **Allow U.S. companies to sell goods that are valued less than \$100 to Indonesian customers through online marketplaces**, which is currently prohibited under Regulation No. 31/2023. Additionally, **permit U.S. companies to directly retail products through electronic services**, which is currently prohibited for many goods under Government Regulation No. 80/2019.<sup>15</sup> Commitments to **allow e-commerce companies to transfer personal data offshore**, which is currently prohibited unless otherwise approved by the Ministry of Trade under the same regulation.
- Rescind **local content requirements for telecommunications products**—including smartphones—that are currently set at 40% under Regulation No. 16/M-IND/PER/2/2011, and further reinforced by Presidential Regulation No. 12 of 2021. These local content requirements undermine U.S. companies’ operations, delaying the introduction of new products and costing U.S. firms’ vast sums in lost sales.
  - **Commit to refrain from any further expansion of local content requirements to other industries**, with a specific commitment to not apply such obligations to goods related to IT services.
- Eliminate redundant testing and certification by **formally accepting ISO as a substitute to domestic local standards for telecommunications and computing equipment** (SNI), including through the adoption of a Mutual Recognition Agreement (MRA) between Indonesia’s National Accreditation Commission (KAN) and the International Accreditation Forum (IAF).

<sup>12</sup> <https://ojk.go.id/en/regulasi/Documents/Pages/Implementation-of-Information-Technology-by-Commercial-Banks/OJK%20Regulation%2011%202022%20concerning%20Implementation%20of%20Information%20Technology%20by%20Commercial%20Banks.pdf>.

<sup>13</sup> <https://www.globallegalinsights.com/practice-areas/banking-and-finance-laws-and-regulations/indonesia/>.

<sup>14</sup> <https://setkab.go.id/en/govt-issues-regulation-on-publisher-rights/>.

<sup>15</sup> <https://www.bakermckenzie.com/en-/media/files/insight/publications/2019/12/ma-taxtrad--indonesia-now-has-a-specific-e-commerce-regulation-dece-2019.pdf>.



### **Addressing proposed barriers:**

- Commit to **refrain from imposing customs duties on electronic transmissions permanently**, as World Trade Organization members have committed for over 30 years through the e-commerce moratorium and dozens of other countries have incorporated into bilateral free trade agreements.
- Commit to cease the **expansion of data localization mandates** included in the planned revision of the Government Regulation No. 71/2019, which industry reports is expected to include five broadly defined categories of data: civil registration, immigration, health, financial, and ‘other’ data yet-to-be-determined by the relevant ministry or institution, which grants broad authority to later decide the sets of data required to be stored in Indonesia.

### **Additional References**

See CCIA comments on Indonesia in its [submission for USTR’s 2025 National Trade Estimate](#) report. Several of the laws discussed above were cited as barriers to U.S. exports in USTR’s 2025 edition of the [report](#).