



Dear Minister Rudiantara, Chairman Wimboh and Governor Agus,

We are writing you today as we understand that your ministries/agencies are working with approximately 30 other government agencies to review Government Regulation 82 of 2012 (GR82). We commend these efforts and look forward to engaging with your government during the upcoming public consultation process on this regulation. We are also encouraged that the U.S.-Indonesia Trade and Investment Framework Agreement (TIFA) discussions held in Washington earlier this month identified the data localization requirement of GR82 as one of the priority issues in the bilateral commercial relationship. It is our hope that the issue can be resolved in a manner that is consistent with global norms and promotes investment and innovation.

We believe that the requirement to locate data centers and disaster recovery centers in Indonesia, Article 17.2 of GR82, and repeated in POJK No. 69 of 2016, POJK No. 38 of 2016, MCIT No. 20 of 2016, MCIT Circular Letter No. 3/2016, Circular 17/52/DKSP, PBI 18/40/2016, PBI 19/8/2017, and draft regulations on e-commerce and over-the-top services (OTT)—is not in Indonesia's best interests, and therefore we strongly advise that it be removed.

Digital technologies are essential drivers of economic growth in Indonesia, and have the potential to contribute as much as \$150 billion to the economy by 2025,<sup>1</sup> if the Indonesian government creates a supportive and conducive regulatory environment. Requiring data centers and disaster recovery centers to be placed in Indonesia would interrupt data flows, thereby severely limiting Indonesia's economic development.

Based on our discussions with various Indonesian stakeholders and further supported by research such as the recent report by the Information Technology and Innovation Foundation<sup>2</sup>, we believe the cost of data localization outweighs any perceived benefits. For example, the data localization requirement would:

- Restrict Indonesian businesses' and consumers' access to digital and e-commerce networks, causing fewer opportunities, less choice, less service and significantly higher cost and hampering efforts to develop Indonesia into Southeast Asia's biggest digital economy by 2020.
- Increase cyber security risks by creating multiple entry points in global platforms.
- Limit Indonesian businesses' and consumers' access to online resources and innovative services.
- Undermine the competitiveness of leading Indonesian and global businesses by imposing limits on the ability to utilize big data.
- Raise costs significantly – for example, Brazil's proposed data localization policies would have increased prices by 54 percent for cloud-computing services.<sup>3</sup>
- Encourage others to retaliate leading to the fragmentation of the Internet and greatly limiting Indonesian startups from expanding regionally and globally.
- Lead to lost trade and investment opportunities and reduced competitiveness. Studies clearly show that data localization requirements are a deterrent to investment. A 2016 report by Fifth Era shows that 67 percent of investors surveyed are uncomfortable investing in internet businesses that are legally obligated to store user data on servers located in the same country where users are located and/or build their own data centers locally in each country of operations. This concern is most

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<sup>1</sup> <http://www.mckinsey.com/~media/McKinsey%20Offices/Indonesia/PDFs/Unlocking-Indonesias-digital-opportunity.ashx>

<sup>2</sup> <https://itif.org/publications/2017/05/01/cross-border-data-flows-where-are-barriers-and-what-do-they-cost>

<sup>3</sup> <http://www.leviathansecurity.com/blog/quantifying-the-cost-of-forced-localization>

prevalent in countries that have discussed data localization, namely India (81 percent) and Indonesia (82 percent).<sup>4</sup>

According to the European Center for International Political Economy, if data localization requirements are implemented across all sectors of the economy, Indonesia will lose 0.7 percent of GDP, see a 2.3 percent reduction in domestic investment, suffer a 1.7 percent decrease in exports, and experience consumer welfare losses of USD 3.7 billion through higher prices and displaced domestic demand.<sup>5</sup>

Furthermore, data localization requirements and similar mandates are contrary to global norms, as seen in the APEC Leaders Statement adopting the APEC Cross Border Privacy Principles<sup>6</sup>, the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data<sup>7</sup> and the Trans-Pacific Partnership (TPP) Agreement<sup>8</sup>.

By removing these barriers and taking a more liberalized approach, Indonesia will facilitate increased job creation and economic growth. A recent study by the U.S. Chamber of Commerce demonstrates that a more open, competitive marketplace for data flows would create 1.74 million Indonesian jobs, USD 1.42 billion in government revenue, USD 6.48 billion in new investments, and a USD 29.38 billion contribution to GDP.<sup>9</sup>

We recognize the Indonesian government's interest in maintaining reliable access to company and financial data for legitimate regulatory, audit, and investigative purposes. The U.S. private sector is willing to continue to engage constructively in finding a solution that meets the government's needs as well as those of businesses and consumers. Furthermore, governments around the world are already developing data sharing systems that would allow regulators to access data held in other countries, like the International Association of Insurance Supervisors (IAIS)'s multilateral memorandum of understanding (MMoU). Sixty-one insurance supervisors, including those of Singapore, Malaysia, Hong Kong, Australia and India currently utilize this network to share information. Restrictions on cross-border data transfers could prevent regulators and auditors in other countries from accessing information about businesses operating in Indonesia, undermining regulatory cooperation and creating compliance challenges for multinational companies.

Thank you for your attention and for considering this input. The U.S. private sector stands ready to serve as a resource in the continued discussions around GR82.

Sincerely,



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cc: His Excellency Budi Bowoleksono, Ambassador of Indonesia to the United States  
The Honorable Joseph R. Donovan, Jr., United States Ambassador to Indonesia

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<sup>5</sup> [http://www.ecipe.org/app/uploads/2014/12/OCC32014\\_1.pdf](http://www.ecipe.org/app/uploads/2014/12/OCC32014_1.pdf)

<sup>6</sup> [http://www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011\\_aelm](http://www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011_aelm)

<sup>7</sup> <http://www.oecd.org/sti/ieconomy/oecdguidelinesontheprivacyandtransborderflowsofpersonaldata.htm>

<sup>8</sup> [https://www.usasean.org/system/files/downloads/joint\\_summary\\_of\\_tpp.pdf](https://www.usasean.org/system/files/downloads/joint_summary_of_tpp.pdf)

<sup>9</sup> [https://www.uschamber.com/sites/default/files/022925\\_ict\\_reportflyer\\_indonesia2.pdf](https://www.uschamber.com/sites/default/files/022925_ict_reportflyer_indonesia2.pdf)