

COUNTRY: INDONESIA

SCORE: 48.4 | RANK: 21/24

Indonesia continues to update and reform laws and regulations in the ICT sector, and the result is not always positive for cloud computing. In 2012 Indonesia introduced a new regulation to complement its existing electronic commerce laws. The new regulation is positive in some areas, such as the introduction of strengthened privacy rules. However, in other areas the regulation introduces significant barriers for cloud service providers. It includes provisions requiring providers to register their services with a central authority and rules that will force some providers to establish local data centers and hire local staff.

Copyright law in Indonesia is now closely aligned with international models. However, some concerns remain regarding resources for investigating and enforcing copyright protections. The law remains uncertain regarding the exact role and liability of ISPs in relation to copyright breaches.

Indonesia has not yet developed effective laws and policies regarding interoperability, free trade, and government procurement.

Broadband penetration rates in Indonesia remain low, although the government continues to work to increase “meaningful” broadband penetration.

Overall, Indonesia’s results dropped slightly in the 2013 Scorecard, as the positive developments in privacy law were outweighed by negative results in relation to free trade. The country’s ranking fell one spot from 20th to 21st.

Note: Indonesia’s infrastructure score was adjusted by -0.75 in the 2013 Scorecard due to a calculation correction from the 2012 Scorecard.

Q INDONESIA	RESPONSE	EXPLANATORY TEXT
DATA PRIVACY		
1. Are there laws or regulations governing the collection, use, or other processing of personal information?	●	The Law on Information and Electronic Transactions 2008 contains a very brief section on privacy (Article 26). A regulation under the act (Regulation No. 82 of 2012 on the Operation of Electronic Systems and Transactions) provides more detail. Electronic Systems Providers must ensure the protection of any personal data that they process. Such protection broadly includes obtaining necessary consent and ensuring that personal data are used only in accordance with the purpose communicated to data subjects.
2. What is the scope and coverage of privacy law?	Comprehensive	Although Article 26 of the Law on Information and Electronic Transactions 2008 is very brief, it does not restrict coverage in any way.
3. Is the privacy law compatible with the Privacy Principles in the EU Data Protection Directive?	✘	The Indonesian privacy law is very limited and covers only a small proportion of the issues raised in the EU Directive.
4. Is the privacy law compatible with the Privacy Principles in the APEC Privacy Framework?	●	The Indonesian approach is not based on any international model, although the future regulations are likely to be influenced by the OECD Guidelines and perhaps the APEC Privacy Framework. (Indonesia is an active member of the APEC Data Privacy Sub-Group).
5. Is an independent private right of action available for breaches of data privacy?	Not available	A private right to privacy is not available in Indonesia.
6. Is there an effective agency (or regulator) tasked with the enforcement of privacy laws?	None	Indonesia has yet to establish a data protection regulator. While the legislation is silent on the establishment of a regulator, this may be covered in future regulations.
7. What is the nature of the privacy regulator?	Not applicable	
8. Are data controllers free from registration requirements?	✓	There are no registration requirements in Indonesian privacy law at this early stage.

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9. Are cross-border transfers free from registration requirements?	✓	There are no registration requirements in Indonesian privacy law at this early stage.
10. Is there a breach notification law?	✓	The new regulation (No. 82 of 2012 on the Operation of Electronic Systems and Transactions) includes a requirement that providers must notify data subjects in writing in the event that there is any unauthorized disclosure or processing of personal data. "Personal data" is not limited to information that by itself enables the identification of individuals and is broadly defined under the regulation as any information of individuals that is kept, stored, and protected as confidential information. It is expected that this section will be complemented by more detailed regulations at some future time.
SECURITY		
1. Is there a law or regulation that gives electronic signatures clear legal weight?	✓	Article 11 of the Law on Information and Electronic Transactions 2008 provides legal recognition for electronic signatures that meet certain requirements.
2. Are ISPs and content service providers free from mandatory filtering or censoring?	●	Articles 27 and 28 of the Law on Information and Electronic Transactions 2008 prohibit the publication and distribution of certain categories of material, including "immoral" material and material that promotes gambling. However, the detailed regulations necessary to implement these censorship requirements have not yet been developed. In practice, no comprehensive filtering currently occurs. The Pornography Law No. 44/2008 (Undang-undang No. 44/2008 ttg Pornografi) is also relevant for some content providers, and there have been recent attempts to impose restrictions on online content using this legislation.
3. Are there laws or enforceable codes containing general security requirements for digital data hosting and cloud service providers?	Limited coverage in legislation	Articles 15 and 16 of the Law on Information and Electronic Transactions 2008 include some very broad requirements relating to the organization of data systems. A regulation under the act (No. 82 of 2012) provides more detailed requirements. The new regulation introduces some unique and onerous security and registration requirements for electronic service providers (which include cloud providers). For example, Article 17 (2) requires operators to place their data centers in Indonesia. Other provisions require firms to hire local Indonesian staff when dealing with sensitive public-sector data.
4. Are there laws or enforceable codes containing specific security audit requirements for digital data hosting and cloud service providers?	Limited coverage in legislation	There are very few details available about the new audit requirements contained in the Indonesian regulation, but Article 18 appears to require providers to supply regular audit records on "all Provision of Electronic Systems activities" to a government agency. The law is very new and has not yet been tested in practice.
5. Are there security laws and regulations requiring specific certifications for technology products?	No requirements	Mandatory certification is not required in Indonesia, although individual procurement opportunities may sometimes make reference to certifications. Indonesia is not a member of the Common Criteria Recognition Agreement (CCRA) < www.commoncriteriaportal.org >.
CYBERCRIME		
1. Are cybercrime laws in place?	✓	The Law on Information and Electronic Transactions 2008 contains a number of key cybercrime provisions (Articles 29-37).
2. Are cybercrime laws consistent with the Budapest Convention on Cybercrime?	✓	The cybercrime provisions in the Law on Information and Electronic Transactions 2008 are very similar to the key provisions in the Convention on Cybercrime.
3. What access do law enforcement authorities have to encrypted data held or transmitted by data hosting providers, carriers, or other service providers?	Not stated	Currently, there are no laws on law enforcement access to encrypted data.
4. How does the law deal with extraterritorial offenses?	Limited coverage	Article 37 of the Law on Information and Electronic Transactions 2008 states: Every person shall be prohibited from performing any action that breaches the guidelines which are outlined in Articles 27 through to 36 [these are the cybercrime provisions] in the framework of international computer or electronic systems that fall under Indonesian jurisdiction.

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INTELLECTUAL PROPERTY RIGHTS		
1. Is the country a member of the TRIPS Agreement?	✓	Indonesia became a member of the TRIPS Agreement in 1995. As a developing nation, it was given a longer period to achieve compliance and has been working toward this goal.
2. Have IP laws been enacted to implement TRIPS?	⦿	Indonesia has implemented many of the key provisions in the TRIPS Agreement. There are some concerns about the effective enforcement of TRIPS in practice, as criminal prosecutions are rare and often face significant delays.
3. Is the country party to the WIPO Copyright Treaty?	✓	Indonesia signed the WIPO Copyright Treaty in 1996 and ratified it in 1997. It entered into force in Indonesia in March 2002.
4. Have laws implementing the WIPO Copyright Treaty been enacted?	⦿	Indonesia has implemented many of the key provisions of the WIPO Copyright Treaty, however, there are gaps in the coverage of technical protection measures (TPMs).
5. Are civil sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	✓	Under the Copyright Law 2002: Article 1(5): Publication shall mean the reading, broadcasting, exhibition, sale, distribution or dissemination of a Work, by utilizing whatever means including the Internet, or by any manner so that such Work is capable of being read, heard or seen by any other person. Article 2(1): Copyright shall mean the exclusive right of an Author or a Copyright Holder to publish or reproduce his/her work, which emerges automatically after the creation of the work without prejudice to restrictions pursuant to the prevailing laws and regulations. Article 56 sets out the relevant civil remedies.
6. Are criminal sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	✓	Article 72(1) of the Copyright Law 2002 states: Any person who deliberately and without right conducts any acts as referred to in Article 2 paragraph (1) or Article 49 paragraphs (1) and (2) shall be sentenced to imprisonment of at least 1 (one) month and/or a fine or imprisonment of at most 7 (seven) years and/or a fine.
7. Are there laws governing ISP liability for content that infringes copyright?	✗	There are no specific laws on ISP liability.
8. Is there a basis for ISPs to be held liable for content that infringes copyright found on their sites or systems?	Undecided	This issue has not been tested in the courts in Indonesia as far as we are aware. The law is not specific on the issue of ISP liability, and in order to liability to attach, the court would need to be convinced that the role of the ISP involved reproduction or publication of the copyright work.
9. What sanctions are available for ISP liability for copyright infringing content found on their site or system?	Not applicable	There is no specific provision under the Copyright Law 2002.
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	✗	There is no specific provision under the Copyright Law 2002 for an ISP to take down infringing content upon notification by the right holder.
11. Are ISPs required to inform subscribers upon receiving a notification that the subscriber is using the ISP's service to distribute content that infringes copyright?	✗	There are no notification requirements in place.
12. Is there clear legal protection against misappropriation of cloud computing services, including effective enforcement?	Comprehensive protection	There are no specific protections available for cloud computing services, but a combination of copyright law protections and the new cybercrime provisions in Indonesia will protect cloud services in most circumstances.
SUPPORT FOR INDUSTRY-LED STANDARDS & INTERNATIONAL HARMONIZATION OF RULES		
1. Are there laws, regulations or policies that establish a standards-setting framework for interoperability and portability of data?	✓	Several presidential decrees in Indonesia have established a standards setting framework led by the National Standardization Agency of Indonesia (BSN) <www.bsn.or.id>. They do not include specific coverage of interoperability and data portability issues, but they do establish a generic best practice approach to standard setting, with a strong focus on meeting international standards. Note that most Indonesian standards are not relevant to the ICT field.
2. Is there a regulatory body responsible for standards development for the country?	✓	The BSN has management and regulatory responsibility for standards in Indonesia. The BSN is a non-ministerial government institution.
3. Are e-commerce laws in place?	✓	The Law on Information and Electronic Transactions 2008 is an omnibus act that includes general e-commerce provisions, along with more specific provisions on privacy, cybercrime, and content issues.

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4. What international instruments are the e-commerce laws based on?	UN Convention on E-Contracting	Key provisions are based on the UN Convention on Electronic Contracting.
5. Is the downloading of applications or digital data from foreign cloud service providers free from tariff or other trade barriers?	✓	To date, the government has not imposed any tariffs or other trade barriers on the downloading of software or applications from foreign sources. VAT and import duty will be imposed, however, on the physical transfer of software in CD-ROM or other tangible formats.
6. Are international standards favored over domestic standards?	✓	Indonesia prioritizes compliance with international standards.
7. Does the government participate in international standards-setting process?	✓	Indonesia participates in relevant ISO and IEC standard-setting processes and is a full member of the ISO.
PROMOTING FREE TRADE		
1. Are any laws or policies in place that implement technology neutrality in government?	ⓘ	Indonesia has introduced a brief technology neutrality requirement in Regulation No. 82 of 2012. However, this new law has not yet been the subject of detailed analysis or implementation.
2. Are cloud computing services able to operate free from laws or policies that mandate the use of certain products (including, but not limited to, types of software), services, standards, or technologies?	ⓘ	Regulation No. 82 of 2012 appears to introduce onerous requirements that are likely to act as barriers to many cloud service providers. For example, providers will have to register with a government agency and comply with requirements to establish data centers in Indonesia. There is also a requirement to provide source code (or to place source code in escrow) for certain types of applications in Indonesia. The full impact of these new policies is difficult to assess at this early stage.
3. Are cloud computing services able to operate free from laws or policies that establish preferences for certain products (including, but not limited to, types of software), services, standards, or technologies?	ⓘ	Some ministerial advice has been circulated to government agencies encouraging the adoption of open source products. It appears this may have had the potential to establish a preference for certain products since mid-2009, although the impact is unclear.
4. Are cloud computing services able to operate free from laws that discriminate based on the nationality of the vendor, developer, or service provider?	✗	There are some instances where government procurement includes a preference for domestic suppliers. In 2012, Indonesia became an observer to the WTO plurilateral Agreement on Government Procurement. In addition, Regulation No. 82 of 2012 imposes requirements for providers to establish data centers in Indonesia and hire Indonesian staff for some roles. The impact of these rules is not yet clear.
ICT READINESS, BROADBAND DEPLOYMENT		
1. Is there a national broadband plan?	<ul style="list-style-type: none"> By 2014, increase broadband connections to 8% of households and to 30% of the population 	<p>In 2011 the Indonesian Ministry of Economic Affairs released the Masterplan for Acceleration and Expansion of Indonesia Economic Development 2011-2025 (MP3EI) www.ekon.go.id/media/filemanager/2011/05/27/p/d/pdf_mp3ei.pdf, which integrates the development of the National Broadband Network (NBN) for the period 2011-2015. MP3EI has a number of targets, including:</p> <ul style="list-style-type: none"> By 2014, 8% of all households to be connected to broadband, providing 30% of the population with broadband access <p>In 2011, a working group of Indonesian government and private industry ICT leaders agreed on the goal to bring “meaningful” broadband access — affordable, usable, and empowering — from under 3% to a tenfold increase of 30% within three years (Jakarta Declaration for Meaningful Broadband <www.digitaldivide.org/wp-content/uploads/2011/04/Broadband_declaration_final_version__english_signed1.pdf>).</p>
2. Are there laws or policies that regulate the establishment of different service levels for data transmission based on the nature of data transmitted?	No regulation and limited public debate	Issues of net neutrality have not yet been the subject of significant consideration in Indonesia.

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3. Base Indicators		
3.1. Population (2011)	242,325,638	In 2011, the population of Indonesia increased by 1%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >]
3.2. Urban Population (%) (2011)	51%	[United Nations, Department of Economic and Social Affairs, Population Division (2012). World Urbanization Prospects: The 2011 Revision, < esa.un.org/unup/CD-ROM/Urban-Rural-Population.htm >]
3.3. Number of Households (2011)	60,532,000	In 2011, the number of households in Indonesia increased by 3%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >]
3.4. Population Density (people per square km) (2010)	132	[World Bank, Data Catalog, Indicators, Population Density (2012) < data.worldbank.org/indicator/EN.POP.DNST >]
3.5. Per Capita GDP (US\$ 2011)	\$3,495	In 2011, the per capita GDP for Indonesia increased by 6.5% to US\$3,495. [World Bank, Data Catalog, Indicators: GDP per capita, current US\$ (2012) < data.worldbank.org/indicator/NY.GDP.PCAP.CD > and GDP growth, annual % (2012) < data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG >]
3.6. Public Cloud Services Market Value (2011) (Billions of US\$)	0.02	Gartner has calculated the value of the public cloud services market in Indonesia in 2011 to be US\$0.02 billion. This is a 100% increase from 2010 and ranks Indonesia 20 (out of 20 countries) in the forecast. Gartner has projected the five-year compound annual growth rate (CAGR) to 2016 to be 32%, and this ranks Indonesia 2 (out of 20 countries) for growth in the value of the market for public cloud services to 2016. [Gartner, Forecast Overview: Public Cloud Services, Worldwide, 2011-2016 (August 2012 Update) < www.gartner.com/id=2126916 >]
3.7. Personal Computers (% of households) (2011)	12%	In 2011, 12% of households in Indonesia had personal computers. This is a 11.1% increase since 2010 and ranks Indonesia 124 out of 182 countries surveyed. The growth from 2010 is below the five-year compound annual growth rate (CAGR) from 2006 to 2011 of 22.4%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx >] Note: In some jurisdictions this is an estimate, and subsequent editions of the ITU ICT Indicators Database may update this indicator for prior years.
4. ICT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2011) (Score is out of 10)	3.19	Indonesia's ITU ICT Development Index (IDI) for 2011 is 3.19 (out of 10), resulting in a rank of 95 (out of 161 economies). The 2011 IDI for Indonesia has increased by 6%, and the IDI ranking has improved by two places from a rank of 97 since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) < www.itu.int/ITU-D/ict/publications/idi/2012 >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
4.2. World Economic Forum Networked Readiness Index (NRI) (2012) (Score is out of 7)	4.38	Indonesia has a Networked Readiness Index (NRI) score of 4.38 (out of 7), resulting in a rank of 46 (out of 142 economies) and a rank of 1 (out of 34) in the lower-middle income grouping of economies. The 2012 NRI for Indonesia has increased by 11.7% and improved from a rank of 53 since 2011. [World Economic Forum, Global Information Technology Report (2012) < www.networkedreadiness.com/gitr >]
4.3. International Connectivity Score (2011) (Score is out of 10)	2.01	Indonesia has a Connectivity Score of 2.01 (out of 10), resulting in a rank of 18 (out of 25) in the resource-driven grouping of countries/economies. [Nokia Siemens, Connectivity Scorecard (2011) < www.connectivityscorecard.org >]
4.4. IT Industry Competitiveness Index (2011) (Score is out of 100)	24.80	Indonesia has an IT Industry Competitiveness Index Score of 24.8 (out of 100), resulting in a rank of 57 (out of 66 countries/economies included in the index). The 2011 index score is an 8.8% increase on the 2009 score. Indonesia has moved up the ranking by two places since 2009. [Business Software Alliance (BSA) / Economist Intelligence Unit (EIU), IT Industry Competitiveness Index (2011) < globalindex11.bsa.org >]

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5. Internet Users and International Bandwidth		
5.1. Internet Users (2011)	43,618,615	[calculated from 8.3.1. and 8.5.2.]
5.2. Internet Users as % of Population (2011)	18%	In 2011, 18% of the population in Indonesia used the Internet, resulting in a ranking of 138 out of 199 countries surveyed. This is a 64.8% increase since 2010. The growth from 2010 is above the five-year CAGR from 2006 to 2011 of 30.5%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (December 2012) < www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx >] Note: There may be some variations as to how countries calculate this. Some countries base this upon all or part of the population, such as between 16 and 72 years of age. Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
5.3. International Internet Bandwidth (bits per second per Internet user) (2011)	7,196	Indonesia's International Internet Bandwidth (per Internet user) has decreased by 28% since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) < www.itu.int/ITU-D/ict/publications/idi/2012 >]
5.4. International Internet Bandwidth (2011) (total gigabits per second [Gbps] per country)	314	Indonesia has increased its International Internet Bandwidth by 20% since 2010 to 314 Gbps and is ranked 37 out of 188 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 146.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >]
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (2011)	2,736,379	Indonesia has increased the number of fixed broadband subscribers by 20% since 2010, to 2,736,379, and is ranked 29 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 69.7%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
6.2. Fixed Broadband Subscriptions as % of Households (2011)	5%	[calculated from 8.3.3. and 8.6.1.] Note: This may be skewed by business usage in some countries (refer to OECD comments about this).
6.3. Fixed Broadband Subscriptions as % of Population (2011)	1%	Indonesia has increased its fixed broadband subscriptions (as a share of the population) by 19% since 2010, which is below the five-year CAGR from 2006 to 2011 of 67.9%. This ranks Indonesia 29 out of 187 countries surveyed. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (July 2011) < www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx >]
6.4. Fixed Broadband Subscriptions as % of Internet Users (2011)	6%	[calculated from 8.5.1 and 8.6.1]
7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (2011)	249,805,619	In 2011, Indonesia increased the number of mobile cellular subscriptions by 18.2% and is ranked 5 out of 195 countries surveyed. The number of subscriptions account for 103% of the population. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >] Note: This figure may be inflated due to multiple subscriptions per head of population but excludes dedicated mobile broadband devices (such as 3G data cards and tablets).

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7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2011)	22%	<p>Indonesia has increased the number of active mobile broadband subscriptions (as a share of the population) by 19% since 2010. This ranks Indonesia 50 out of 144 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p> <p>Note: This refers to the sum of standard mobile broadband and dedicated mobile broadband subscriptions to the public Internet. It covers actual subscribers, not potential subscribers, even though the latter may have broadband-enabled handsets.</p> <p>Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.</p>
7.3. Number of Active Mobile Broadband Subscriptions (2011)	53,786,371	<p>In 2011, Indonesia has increased the number of active mobile broadband subscriptions by 20% and is ranked 50 out of 145 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p>