

Market access and trade barriers faced by European insurers and reinsurers in foreign jurisdictions

INDONESIA



Indonesia is moving gradually towards the liberalisation of market access for foreign (re)insurers. However, new market access regulations risk creating an uneven playing field between foreign reinsurers. Insurance Europe considers the ongoing EU-Indonesia trade negotiations an opportunity to address concerns related to current trade barriers and to support the business potential of European (re)insurers in Indonesia, in the spirit of trade and investment liberalisation.

Foreign ownership

On 17 April 2018, the Indonesian government issued Regulation GR14/2018 on Foreign Ownership of Insurance Companies. This confirmed the caps on foreign ownership of 80% for (re)insurance companies. Entities that had already exceeded the 80% foreign ownership cap at the time the Regulation came into force are not required to comply with it but are prohibited from further increasing the percentage of foreign ownership.

On 20 January 2020, Regulation 3/2020 came into force, relaxing and clarifying certain areas of the rules around capital increases for unlisted companies which had more than 80% foreign ownership at the time Regulation 14/2018 took effect. It ended the requirement for Indonesian shareholders to contribute at least 20% of any capital increase for these companies. Such companies are now allowed to maintain the current percentage of foreign ownership, although the 2020 regulations mandate that the insurer must obtain an injection of capital by means of an initial public offering (IPO) in Indonesia if an Indonesian shareholder does not participate in a capital increase. Therefore, there remains some degree of market access barrier, although relaxed.

(Re)insurance retention limits

Significant restrictions on placing reinsurance business offshore remain in Indonesia, with local compulsory cessions diminishing the possibility to diversify risk. This creates high local exposure in the event of, for example, a natural disaster.

- As of 1 January 2016, Indonesian insurers were required to place all reinsurance of motor, health, personal accident, credit, life and surety business ("simple risks") with Indonesian reinsurers. The Indonesian regulator, the Otoritas Jasa Keuangan (OJK), specified only a few limited exceptions to this restriction. However, these requirements were revised under a second amendment to Regulation No. 14/POJK 05/2025. Specifically:
 - Until December 2020, 100% of reinsurance support for simple risk coverage was required to be obtained from domestic reinsurers.
 - From 1 July 2020 to 31 December 2020, the requirement was reduced to at least 50%

Both these percentage-based requirements ceased to apply after 31 December 2020. In addition, the regulation introduced exemptions for:

- General and Takaful General Insurance Companies covering global (worldwide) insurance products and those specifically designed for multinational companies.
- Life and Takaful Life Insurance Companies for similar global or multinational insurance products, as well as new insurance products developed with the support of foreign reinsurers. These new products may obtain reinsurance from foreign reinsurers for up to four years after being reported to OJK.

- For other insurance business - “non-simple risks”, a minimum of 25% of the (re)insurance must be placed with domestic (re)insurers.
- “Non-simple risks” and exempted “simple risks” must run through a tiered declinature procedure before they can be placed with foreign (re)insurers.

Regulation POJK No. 39/2020 has gradually removed market access barriers for foreign reinsurers since the end of 2022, on the condition that the foreign reinsurer is domiciled in a country which has a bilateral agreement with Indonesia within a Free Trade Area, Common Market, Economic Union, or Monetary Union. This interpretation was clarified through OJK’s Letter No. S-87/NB.01/2023 to insurers, confirming that access barriers are lifted only for reinsurers domiciled in countries with such agreement in place – for example, with Australia, Japan, USA, EFTA, and ASEAN.

Furthermore, in 2022, OJK confirmed that the ASEAN Framework Agreement on Services (AFAS) and the Regional Comprehensive Economic Partnership (RCEP) agreements can also be treated as equivalent to a bilateral agreement as referred to in Article 27A of POJK No. 39/2020. As a result, within the region, countries like Singapore – being parties to ASEAN, AFTA, AFAS, and RCEP – have enabled many life insurance companies to place their reinsurance agreements with eligible foreign reinsurers.

While several of these agreements already cover major markets, the absence of a similar arrangement between the EU and Indonesia risks disadvantaging EU reinsurers and limiting fair competition in Indonesia’s insurance market.

Data

- Offshore data centre

Under the regulation POJK No.38/2020, insurance companies in Indonesia are now allowed to operate offshore data centres and disaster recovery centres, but only after approval by the OJK that they fulfil a number of requirements.

However, the OJK still has the authority, subject to conditions, to revoke the approval and order an insurance company to move the offshore data centre and disaster recovery centre back to Indonesia.

- Use of personal data

POJK No.38/2020 does not clarify whether the personal data of the insurance company’s customers and policyholders regulated under Clause 50 of POJK No.69/2016 (citizenship information) can be stored in an offshore data centre and a disaster data centre. This topic requires further guidance from the OJK, as it creates legal uncertainty.

The European (re)insurance industry therefore calls on the OJK to eliminate the threat that the approval to operate offshore data and disaster recovery centres may be revoked and to clearly state that personal data can be stored in such centres.

Tax treatment of paid claims for life insurance companies

Over the past few years, there have been significant concerns regarding recent developments in the area of taxation. In 2018, the Indonesian tax authority reinterpreted the 2009 Ministry of Finance regulation¹ with the intention of denying the tax deduction of paid claims for all domestic and foreign life insurers. This is contrary to commonly accepted practices and has had a significant negative impact on European insurers in Indonesia.

Under the new interpretation, those insurers not accepting the Indonesian tax assessment would have been allowed to file an objection and, if rejected, could appeal to the Tax Court. However, insurers would be subject to potentially 50% penalties at the objection level and 100% penalties in the event of losing their case at the Tax Court.

Subsequently, the Indonesian life insurance industry, with the support of various trade associations including Insurance Europe, challenged this interpretation. As a result, the Tax Office issued Circular Letter SE-08/2019, which enables life insurers to claim tax deductions for the paid claims provided they follow the prescribed treatment. Insurance Europe welcomes this positive development.

Investments

Insurance companies are mandated by regulations to place a minimum 30% of total investment for Indonesian state securities. This requirement may conflict with the internal risk and investment policies of international insurance groups.

¹ Art. 14 (3) [No. 81/PMK.03/2009](#)

Customs duties on imports of intangible goods

The Ministry of Finance introduced Regulation No. 190/PMK.04/2022 ("PMK 190"), which imposes new customs obligations on the imports of intangible goods, including digital tools, knowledge and content that is transmitted electronically. These customs formalities for electronic transmissions would be unprecedented, and they create uncertainties and potential costs, as well as hinder the development of Indonesia's economy. This is even more worrisome as clarity on the coverage of intangible goods, the timeline, and procedure of its implementation. Such customs formalities do not align with global practices and norms, impose added burdens on users of all kinds of digital services, and could be a first step towards imposing customs duties on electronic transmissions.

Recommendations and preferred outcome

In addition to encouraging progress in the ongoing EU-Indonesia trade negotiations, **Insurance Europe and the Reinsurance Advisory Board (RAB) support the removal of all market access barriers for foreign (re)insurers. In particular, the new regulation that removes** retention limits should be applied to all foreign (re)insurers to allow domestic insurers to choose from a diverse range of competitive, globally diversified reinsurers for risk mitigations.

Insurance Europe is the European insurance and reinsurance federation. Through its 39 member bodies — the national insurance associations — it represents insurance and reinsurance undertakings active in Europe and advocates for policies and conditions that support the sector in delivering value to individuals, businesses, and the broader economy.

Insurance Europe's Reinsurance Advisory Board (RAB) is a specialist representative body for the European reinsurance industry. It is represented at chairman and chief executive officer (CEO) level by the seven largest European reinsurance firms: Gen Re, Hannover Re, Lloyd's, Munich Re, PartnerRe, SCOR and Swiss Re, with Insurance Europe providing the secretariat.