

BPI Danantara as A Hybrid Entity in Indonesian Economic Law

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Abstract

Danantara, Indonesia's newly established sovereign wealth investment institution, is designed to consolidate and optimize state assets while operating with corporate efficiency. Its hybrid public–corporate character makes the governance question urgent: it must enable investment discretion without weakening public accountability, transparency, and anti-corruption safeguards. This article employs a normative juridical method using secondary legal materials, combining statutory and conceptual approaches. The study examines the principal legislation and implementing regulations establishing Danantara and situates them within doctrines on sovereign wealth fund governance, good corporate governance, and the business judgment rule. The analysis shows that the framework grants wide managerial powers and a corporate-style governance structure, yet leaves accountability vulnerabilities, including unclear public-official status of managers, discretionary oversight provisions, and exposure to political influence over business decisions. The article concludes that Danantara's legitimacy and performance depend on mandatory oversight rules, arm's-length decision-making, transparent investment audit trails for major transactions, robust conflict-of-interest controls, independent audit access, and merit-based appointments, so prudent risk-taking is protected while impunity is prevented.

Keywords: *Danantara; Sovereign Wealth Fund; Hybrid Legal Entity; Business Judgment Rule.*

A. INTRODUCTION

The Daya Anagata Nusantara Investment Management Agency (BPI Danantara), officially launched by President Prabowo Subianto on 24 February 2025, is a strategic step in strengthening Indonesia's national economic architecture. As a new entity, BPI Danantara aims to manage and optimize investments focused on developing national resources, including strategic sectors with significant potential to drive sustainable economic growth and economic independence. BPI's presence is expected to accelerate the realization of high value-added investment projects and enhance Indonesia's competitiveness in the global arena.

In addition, BPI Danantara acts as a catalyst in integrating various financial resources, both domestic and foreign, to support infrastructure development and key industrial sectors. With a structured approach based on principles of transparent and accountable governance, BPI is expected to create synergy among the government, business actors, and investors so the investments it manages can have an optimal and sustainable economic impact on the wider community. This initiative aligns with the government's vision to strengthen the national economic foundation through professional and strategic investment management.

BPI Danantara is a strategic initiative that marks a major transformation in how Indonesia manages its state investments. By integrating the functions of the Indonesia Investment Authority (INA) and consolidating state-owned enterprise assets under one large holding company, Danantara is designed to be a national investment engine that manages state assets professionally and efficiently. State-

owned enterprises (SOEs) hold huge assets, exceeding IDR 10,000 trillion. Daya Anagata Nusantara (Danantara) will manage these assets. SOEs with massive assets, such as Bank Mandiri, Bank Rakyat Indonesia (BRI), Bank Negara Indonesia (BNI), Perusahaan Listrik Negara (PLN), Pertamina, Telkom Indonesia, and MIND ID (Mining Industry Indonesia), have had their assets managed since this year. Currently, Danantara manages at least 844 SOEs, having officially become the "home" for all SOEs in Indonesia since 21 March 2025. These seven SOEs, plus INA, bring in trillions of rupiah in assets, giving Danantara a super-large asset portfolio right from the start. The initial goal is to manage around US\$900 billion in assets, equivalent to Rp14,701.5 trillion (Rp16,335/US\$1).

Legally, Law No. 1 of 2025 supports the establishment of Danantara. This law serves as the main legal foundation for restructuring state investment management, providing a clear and structured legal framework for implementing changes in state-owned investment entities. With this regulation in place, investment entities can merge systematically and transparently, thereby increasing the efficiency and effectiveness of state asset management. In addition, the law regulates the restructuring mechanism for strategic state-owned enterprises (SOEs), aiming to strengthen SOEs' position and competitiveness at the national and international levels.

The law ensures that each restructuring step follows principles of good governance and accountability while safeguarding the interests of the state and the public. This includes strict supervision of the merger and restructuring process to prevent risks that could harm state finances. This law is not only a legal basis but

also an important instrument for supporting structural reforms and sustainably strengthening the performance of state investments and strategic SOEs.

Secondly, Government Regulation No. 10 of 2025 provides legitimacy and broad operational autonomy for this entity. This Government Regulation (PP) comprehensively sets out Danantara's operational authority, leadership structure, and corporate governance, providing a clear, structured framework for the entity's management. With this regulation, Danantara has gained broad autonomy in carrying out its functions, particularly in managing the state assets under its responsibility. This includes the freedom to make strategic investment decisions, both cross-sector and cross-border, enabling Danantara to operate flexibly and respond to global market dynamics. This PP supports Danantara in strengthening its position and role as a professional and efficient state asset manager, with transparent and accountable governance. A clearly defined leadership structure also ensures effective oversight and decision-making, minimizing operational risks. This PP not only provides a strong legal foundation but also encourages Danantara to optimize its contribution to state asset management through innovative and sustainable investment strategies. BPI Danantara consolidates SOE assets under a single holding company to improve management efficiency and synergy among state-owned companies. By consolidating strategic assets into one holding entity, the government can exercise central supervision and control, enabling faster, more coordinated decision-making. Additionally, this consolidation optimizes resources, reduces functional duplication, and increases bargaining power in business negotiations and procurement (Oliveira &

Kadapakkam, 2021), ultimately strengthening SOEs' position in both national and international markets.

Forming a large holding company can also encourage more focused and innovative business transformation by leveraging each subsidiary's competitive advantages within an integrated ecosystem. The holding company can catalyze a more focused and sustainable business portfolio while increasing transparency and accountability in financial and operational reporting (Abdullah, Sijabat, Susilo, & Herusetya, 2024). This approach supports the government's goal of strengthening SOEs as pillars of an adaptive, highly competitive national economy.

The merger of investment and state asset management functions into a single entity poses challenges related to the principle of checks and balances, necessitating the strengthening of oversight mechanisms, independent audits, and the affirmation of a code of conduct based on transparency, accountability, and integrity (Nuriyatman, Dhyta, Rahman, & Sitompul, 2025) (Dahana, Santoso, & Prananingtyas, 2025). Danantara exists as a hybrid entity that combines public and corporate functions within a single legal framework. Publicly, Danantara carries out the state's strategic mandate: managing and developing national wealth for long-term development. However, corporately, this entity is subject to business logic and corporate law principles, including efficiency, profitability, and investment risk-taking. This duality creates a new model in Indonesian economic law, where the state acts not only as a regulator but also as an active investor. On the one hand, this approach can increase the value of state assets professionally and minimize dependence on the state budget. Balancing *public accountability*

and *corporate autonomy* is crucial for Danantara to function as *an engine of growth* without violating the constitutional principles of state asset management.

Danantara has broad authority, from managing dividends and determining capital participation to deciding on cross-sector strategic investments. This concentration of power risks weakening the *checks and balances* long central to democratic governance. In public economic law theory, oversight of state asset management is ideally divided among the executive, the legislature, and independent audit institutions such as the Supreme Audit Agency (BPK). However, when a single superholding company controlled by the President holds all investment and asset authority, the potential for *power centralization* increases. As a result, the scope for legislative and public control becomes limited.

To prevent irregularities, the legal system must establish a strong oversight framework in three main dimensions. First, independent auditors and parliament must have full access to Danantara's financial reports and investment decisions, without political restrictions as stipulated in Article 71 of the State-Owned Enterprises Law. Regular audits by both the BPK and independent auditors will ensure the integrity of reports and reduce the potential for misuse of public funds. Second, it is necessary to clarify the limits of criminal and civil liability, particularly regarding the application of *the Business Judgment Rule*, so that the protection of directors does not turn into impunity.

With a solid legal foundation and governance structure, Danantara is expected to become a driving force for investment that supports infrastructure development, strategic sector development, and increased Indonesian competitiveness in the global arena, while ensuring that state assets are managed in accordance with

sound corporate and economic principles. However, this situation is not without problems. Several fundamental issues (discourses) need deeper examination, particularly how to ensure that Danantara's governance truly aligns with the principles of good corporate and economic law, and the extent to which this institution can play a driving role in sustainable national economic growth.

The normative construction of BPI Danantara as a hybrid entity that combines public mandate and corporate autonomy remains incomplete, so the tension between the need for flexibility in investment decisions and the demands of public accountability persists. At the same time, concentrated authority and weakened checks-and-balances mechanisms have become a governance issue. Accountability gaps also arise from regulations that exclude administrators from the status of "state administrators," leaving the legal consequences for ethical, transparency, and accountability regimes uncertain. The limits of applying the *Business Judgment Rule* doctrine also need clarification so protection for good-faith business decisions does not shift into impunity. This uncertainty affects public and investor confidence in transparency and governance.

This study uses the doctrinal *legal research* method, which is research that examines law as a norm (*law in books*) with a focus on the principles and doctrines of law written in legislation and legal literature (Shukla, 2023) . The main objective of this approach is to develop a systematic, logical, and consistent understanding of the applicable law and assess its suitability for establishing and governing BPI Danantara.

This study also used a conceptual approach and a statutory approach (Hamzani, Widyastuti, Khasanah, & Rusli, 2024). The conceptual approach

examined concepts and theories related to hybrid entities in state economic law, the relationship between *state ownership* and *corporate governance*, and the principles of *checks and balances* in public asset management. This approach helped researchers understand how economic and corporate law principles interact in institutional models such as Danantara. The study used a legislative approach to analyze the legal framework underlying Danantara's establishment and operation, particularly Law No. 1 of 2025 and Government Regulation No. 10 of 2025, as well as related provisions such as Law No. 17 of 2003 on State Finance. This approach enables analysis of the structure of norms, principles, and hierarchical relationships between relevant laws and regulations.

The type of data used is secondary data, which is data sourced from primary, secondary, and tertiary legal materials (Budianto, 2020). Primary legal materials include laws and regulations, court decisions, and official state documents. Secondary legal materials include scientific literature, books, legal journals, and previous research results, all of which (legal materials) are related to state investment management and corporate governance by the state. Tertiary legal materials are in the form of legal dictionaries, legal encyclopedias, and other sources that help explain the legal terms or concepts used.

The data was analyzed using the normative qualitative analysis method (Mihas, 2022) which involves interpreting and constructing legal norms through systematic stages:

1. Legal content analysis (Antoshkina, Loshchykhin, Topchii, Shevchenko, & Hryhorchuk, 2022) to describe the meaning and scope of norms in relevant laws and regulations.

2. Legal interpretation (Kirkham & O'loughlin, 2019) which includes grammatical, systematic, and teleological interpretations to understand lawmakers' intent in the context of the national economy.

Together, these approaches provide a comprehensive picture of Danantara's position as a hybrid entity in Indonesia's economic legal system and offer normative recommendations to strengthen the legal framework for state investment management.

B. RESULTS AND DISCUSSION

The Daya Anagata Nusantara Investment Management Agency (BPI Danantara) is Indonesia's *sovereign wealth fund* (SWF). It plays a strategic role in strengthening the national economic foundation through investment management oriented toward sustainable development. To increase national economic growth to eight per cent, the main challenge is the state's ability to create a predictable and attractive investment climate supported by adequate legal certainty. Legal uncertainty must be transformed into measurable risk so it does not hinder productive investment flows. Economic growth cannot rely solely on household consumption and government spending; it needs increased investment, which can have a multiplier effect on the real sector. (Jayanti, 2025)

An additional three per cent growth in Indonesia's gross domestic product, which has exceeded US\$1.5 trillion, is estimated to require an additional investment of around US\$45 billion or the equivalent of Rp700 trillion. In a global situation marked by geopolitical uncertainty, Indonesia has a strategic position as a promising

investment destination, provided that this uncertainty can be managed as a measurable risk (Jayanti, 2025) .

Four fundamental aspects necessary to create a healthy investment climate include **regulatory certainty, investment transparency and accountability, managerial capabilities, and sustainable market potential**. These four aspects are key to building investor confidence while ensuring the sustainability of long-term investment. Through this role, Danantara is expected to strengthen the state's role as an investment facilitator that adapts to global dynamics and focuses on creating national economic added value. The transformation of legal uncertainty into measurable risk is ultimately expected to form the basis for a stable, transparent, and competitive investment climate at the international level, in line with Indonesia's vision of sovereign and highly competitive economic development.

Before it could build investor confidence, BPI Danantara faced problems. Public trust in the state's management of state-owned enterprises (SOEs) was the main trigger. As is well known, BPI Danantara can be understood as the centralized management of SOE assets. BPI Danantara is an investment management agency that reports directly to the President. Its establishment aims to consolidate and manage SOE assets more efficiently and productively. Second, to increase investment value and support national economic development. Third, to manage SOE dividends, investment holdings, and operational holdings. Following this concept, the current SOE Law recognizes two types of *holdings*: investment holdings and operational holdings.

The public perceives BPI Danantara's presence in two ways, each with implications and risks. The first possibility is that the SWF model implemented by BPI Danantara will positively impact SOEs. The second possibility is that many members

of the public believe that the SWF model implemented by BPI Danantara is merely a ploy by the state to misuse "state finances" that could be allocated as state capital participation in SOEs. The discourse on public trust mainly concerns transparency, accountability, and institutional governance, which are considered not to yet fully meet the standards for state asset management (Sutaryono, 2025).

There is a pessimistic view of Danantara's direction and institutional structure. Economist Wijayanto Samirin stated that investors' negative perceptions of this institution are reflected in the decline in the share prices of several SOEs that are members of the Danantara holding company. Six main issues are the source of public and investor distrust, namely the unclear orientation of the institution between profit and development functions, the risk of politicization for the interests of certain groups, the potential for nepotism and political loyalty that disregards professionalism, the weak implementation of good corporate governance principles, a weak policy and regulatory basis, and the gap between the grand narrative of economic development and the state's fiscal capacity and implementation capabilities. These six issues are considered the main factors hindering the formation of public trust in this new institution (Yasin, 2025) .

In addition, institutions such as the Center of Economic and Law Studies (CELIOS) have highlighted the issue of dual positions held by the leadership of Danantara (Yasin, 2025) . This may violate Article 23 of Law Number 39 of 2008 concerning State Ministries, which prohibits ministers from holding concurrent positions as other state officials or leaders of institutions funded by the state budget (APBN) or regional budget (APBD). This provision remains in force even though the law has been amended through Law Number 61 of 2024. This situation indicates a

potential violation of the principle of *checks and balances* in governance (Wu, Chen, & Yan, 2024) .

BPI Danantara has gradually responded to public discourse with unwavering confidence that state-owned enterprise management will be oriented toward optimal profits. As explained earlier, BPI Danantara exists to realize the nation's ideals under the Indonesian Constitution, as stipulated in Article 33. BPI Danantara has strategic authority in realizing these national ideals. BPI Danantara has strategic authority to manage dividends and capital participation in SOEs, as well as to form investment or operational holdings with the Minister of SOEs. In addition, this institution has the authority to grant or receive loans, pledge assets with the President's approval, and submit work plans and budgets to the House of Representatives. BPI Danantara also has the authority to invest directly or indirectly and to collaborate with third parties. This explanation at least provides an overview that, normatively, BPI Danantara has been established proportionally.

Supervision of Danantara is carried out by the President, who is responsible for general guidance and supervision; the Supreme Audit Agency (BPK), which oversees financial management and accountability; and the Supervisory Board, which has the authority to approve work plans and budgets, evaluate accountability reports, and approve annual financial reports with the approval of the President (A. S. Ningsih, 2022). In the event of losses, ministers, organs, or employees of Danantara cannot be held legally liable if it can be proven that they have acted in good faith, with due care, without conflict of interest, and without obtaining personal gain.

1. Strengthening the Regulatory and Supervisory Framework

Regulatory certainty is a fundamental prerequisite for Danantara's legitimacy and operational effectiveness as an SWF. In a constitutional state (*rechtsstaat*), clear, well-structured legal instruments provide an important foundation for the government to act in accordance with legal norms and the principle of legal certainty. Danantara's legal framework is established through Law No. 1 of 2025 on State-Owned Enterprises (which explicitly regulates the establishment of the Danantara Investment Management Agency) and Government Regulation No. 10 of 2025, which implements Danantara's organization and governance. Under *the Santiago Principles*, SWFs should have a robust legal framework to ensure legal integrity and support the achievement of the fund's objectives (GAPP 1) (International Forum of Sovereign Wealth Funds (IFSWF), 2008). GAPP Principle 1.1 emphasizes that the legal basis of SWFs must ensure the institution and its transactions are legally sound. In Indonesia, Law 1/2025 jo. PP 10/2025 provides the initial legal basis for Danantara, covering its definition, mandate, organizational structure, authority, and relationship with other state organs. For example, Article 1 of Government Regulation No. 10/2025 defines Danantara as an agency that carries out government tasks in the field of SOE management, and Article 2 stipulates Danantara's function to manage the dividends of Investment Holdings, Operational Holdings, and SOEs, including approving changes in SOE capital participation from dividend sources. This regulation also grants Danantara several strategic authorities, including: managing and utilizing SOE dividends, approving SOE capital restructuring, forming investment/operational holdings together with the Minister of SOEs, approving the write-off of large SOE assets or debts together with the Minister of SOEs, and guaranteeing/collateralizing SOE assets with the approval of the President and consultation with the House of

Representatives (A. S. Ningsih, Fidiyani, & Wardhani, 2024). Normatively, these regulations seek to ensure that Danantara's operations are within a clear legal framework.

Although the legal framework is in place, the next challenge is to ensure that these regulations provide certainty and do not create *legal* ambiguity (A. Ningsih, Prananingtyas, Salwa, Maharani, & Wardhani, 2025). International principles emphasize the importance of separating roles: an SWF's governance structure should separate the functions of owner (the state), managing body, and management so that SWF management can operate independently, without political intervention in investment decisions (Niravita, Ningsih, Shaik Md Noor Alam, Sulistio, & Wardhani, 2026). The OECD also stipulates a clear separation between the state's ownership function and other functions (e.g., regulation) to avoid conflicts of interest and market distortions (Organization for Economic Co-operation and Development (OECD), 2024). In the context of Danantara, Law 1/2025 established *the Danantara Supervisory Board*, which consists of high-ranking government officials (including representatives of the Minister of Finance, Minister of State-Owned Enterprises, Minister of Investment, etc.) appointed by the President. On the one hand, this reflects strong state *ownership*; on the other, it can blur the separation *between* owner and manager and potentially invite political intervention in Danantara's business operations. *Santiago Principles* GAPP 16 emphasizes that the SWF governance framework and its objectives, as well as how SWF management has operational independence, need to be clearly regulated and disclosed transparently (International Forum of Sovereign Wealth Funds (IFSOF), 2008). The direct involvement of ministers in Danantara's Supervisory Board must be balanced with mechanisms that ensure an *arm's-length*

relationship and professionalism in decision-making, so that the principle of operational independence is maintained (van Thiel, 2023).

Regulatory Weaknesses and Uncertainty Risks. Several observers have highlighted articles in the Danantara regulation that actually create legal uncertainty and potential accountability issues. One critical point of focus is Article 9G of Law No. 1/2025, which **excludes BPI Danantara administrators from the category of "state administrators"**. This exclusion creates a serious dilemma because it contradicts the principles of transparency and public accountability inherent in any institution that manages state assets and wealth on a large scale. Normatively, the status of "state administrator" carries ethical, administrative, and legal obligations for officials who manage public institutions (e.g., the obligation to report assets, compliance with professional ethics, and supervision by institutions such as the Ombudsman or the Corruption Eradication Commission (KPK)). If Danantara's management is not classified as a state administrator, this effectively "privatizes" the public structure. As a consequence, Danantara could argue that it is not a state administrator and refuse to disclose its institutional performance reports and financial reports to the public. In the long term, the absence of this kind of public accountability could erode *the social contract* between the state and its citizens, *creating moral hazard, opportunities for state capture*, and the risk of structural corruption that is difficult to detect through conventional oversight mechanisms. This creates a paradox: the state forms a superholding to increase efficiency and strategic investment, but its accountability mechanisms are obscured, threatening institutional legitimacy.

PP 10/2025 on Danantara also has weaknesses in terms of supervision. Article 24 of PP 10/2025 includes a *discretionary* (non-mandatory) provision on establishing

a **Monitoring and Accountability Committee (KPA)** (Sheehy, Khan, Prananingtyas, & Sophiana Sunarso Putri, 2023). The phrase "may establish a KPA," rather than "shall establish," makes establishing this supervisory body optional rather than mandatory. As of the end of 2025, no Presidential Regulation has been issued to regulate in detail the KPA's mechanisms, duties, and authorities. This lack of implementing regulations has created *a regulatory gap* that gives Danantara's managers very broad discretion. Without adequate oversight, this broad discretion is prone to abuse for narrow interests or certain groups. The 1MDB scandal in Malaysia is often cited as a warning about the dangers of a state investment institutional design with lax oversight (Gabriel, 2018). Therefore, to ensure regulatory certainty for Danantara, the government needs to immediately close the loopholes in the regulations, for example by establishing strict KPA implementing regulations, ensuring that Danantara officials are subject to the principle of public accountability, and possibly strengthening the role of external audits.

Regulatory certainty also means Danantara must operate in accordance with universally and nationally applicable Good Corporate Governance (GCG) principles. PP 10/2025 requires Danantara to implement Investment Holding and Operational Holding in accordance with good corporate governance principles. This aligns with OECD rules and global governance standards that emphasize transparency, accountability, responsibility, independence, and fairness in managing state-owned corporations. Legal instruments must support GCG implementation; for example, obligations to report finances and performance periodically, as well as financial and management audits by independent auditors. As the manager of state assets, Danantara is explicitly supervised by the State Audit Agency (BPK), which has the authority to

audit Danantara's financial management and performance. From a corporate law enforcement perspective, the doctrine of piercing the corporate veil should be considered. Although Danantara is a separate legal entity with separate responsibilities, the law (including the Indonesian Limited Liability Company Law) opens up the possibility of "piercing the corporate veil" if the entity is misused solely as a cover for unlawful purposes, fraud, or to avoid the obligations. This means that in the event of serious irregularities (such as corruption or asset misappropriation) through the Danantara structure, this principle allows liability to extend beyond the legal entity to the individuals involved in management or control. This principle will serve as the *ultimum remedium* to ensure the Danantara regulatory framework is not misused as a shield of impunity.

The certainty of Danantara regulations will be guaranteed if the legal basis is clear and consistent (not contradictory or creating loopholes), the implementing regulations are complete (no normative *vacuum* on crucial aspects such as the supervisory mechanism), and global governance principles are translated into binding domestic regulations (Al Asy'arie, Rahmanda, & Prasetyo, 2024). Thus, Danantara can operate with strong legal legitimacy, increasing investor and partner confidence while ensuring public accountability for managing state assets.

2. Transparency and Accountability of Investment

Danantara is expected to catalyze investment, including by establishing strategic partnerships domestically and globally. *The selection* of the right *business partners* is crucial to the success of Danantara's investments, especially given that its mandate covers strategic sectors and large projects (e.g., energy cooperation with Pertamina, renewable energy infrastructure projects, capital market development

collaborations, and overseas investments such as the Hajj settlement project in Saudi Arabia (Ngui & Kok, 2025). Business partners can include institutional co-investors (e.g., sovereign wealth funds of friendly countries, global investors, international pension funds), joint venture companies for specific projects, or third-party investment managers trusted by Danantara. Under *the Santiago Principles*, SWF investment decisions, including those involving third parties, must be based solely on sound economic and financial considerations, not non-commercial or political considerations (GAPP 19 and 14) (International Forum of Sovereign Wealth Funds (IFSFW), 2008). GAPP Principle 14 emphasizes that interactions between SWFs and third parties for operational purposes must be based on objective economic considerations (International Forum of Sovereign Wealth Funds (IFSFW), 2024). In other words, Danantara must rigorously vet business partners to ensure they are credible, have strong capabilities and track records, and can add value and synergy to Danantara's investment objectives.

Transparency, Accountability and Commerciality. International principles require SWFs to maintain transparency in investment partnerships. *The Santiago Principles* GAPP 18, for example, recommend that SWF investment policies (including investment and partner selection criteria) be clearly stated in line with established risk tolerance and strategy, and that this information be disclosed publicly (International Forum of Sovereign Wealth Funds (IFSFW), 2008). In Danantara's context, transparency in partner selection means documenting and making the criteria and process for selecting business partners auditable to prevent collusion or conflicts of interest. This is crucial because Danantara will manage large state-owned assets vulnerable to political influence or pressure from certain groups. Therefore, every

decision Danantara makes to engage partners must be justifiable from a business perspective (with a clear *business case*) and explainable to stakeholders (the government, the House of Representatives, the public). *The OECD Guidelines* on government investment also emphasize that investment decisions by entities such as SWFs should **be based purely on commercial principles** (business merit) and not used for narrow political agendas (International Forum of Sovereign Wealth Funds (IFSOF), 2024). The OECD has even issued a declaration for countries receiving SWF investments to be non-discriminatory, in line with the SWF's commitment to invest professionally without non-commercial motives. Thus, Danantara also needs to show that its business partnerships aim to deliver the best risk-adjusted returns for the country's financial interests, rather than political interests. This obligation aligns with Danantara managers' fiduciary duty.

Fiduciary Duty and Conflict of Interest Management. *The doctrine of fiduciary duty* states that managers (directors, investment managers) must act loyally in the best interests of the parties they represent – in this case, the interests of Danantara as the custodian of state assets for present and future generations. Sovereign wealth funds are generally regarded as commercial investors that have *a fiduciary duty* to maximize risk-adjusted returns in accordance with their mandate, and to preserve them for the welfare of future generations (Organisation for Economic Co-operation and Development (OECD), 2024). This fiduciary obligation requires Danantara decision-makers to avoid conflicts of interest when selecting partners. For example, if Danantara intends to partner with a domestic private entity, it must ensure managers' political proximity or personal interests do not influence the decision. Danantara must disclose and manage any potential conflicts in accordance with GCG principles.

Internal mechanisms such as Danantara's investment committee must verify that each business partner is selected through a fair process and based on objective criteria (the partner's financial health, technical experience, technology offered, etc.). In addition, the *arm's length* principle must apply to contracts with partners: business agreements must be made on reasonable terms, as if between independent parties. Fiduciary duty also means that Danantara, as the controlling shareholder in certain SOEs, must ensure that transactions between SOEs in its portfolio and private partners do not harm SOEs (no self-dealing or tunneling that harms state assets).

Domestic regulations need to support these efforts. Law 1/2025 requires Danantara to consult its work plans and holding budgets with the House of Representatives, which implicitly gives the legislature a supervisory role over investment plans and possibly the strategic partners involved. In addition, Government Regulation No. 10/2025 allows Danantara to take out loans or pledge assets with the approval of the President and consultation with the DPR (kumparanBISNIS, 2025). The involvement of high state institutions in approving major corporate actions can serve as a check and balance, ensuring Danantara does not act recklessly in strategic partnerships or transactions. However, such oversight must be carried out professionally, without hindering business flexibility. This is where *the business judgment rule is relevant: Danantara's decision-makers should have* sufficient business discretion as long as they act in good faith, with adequate information, and within the company's interests.

The business judgment rule (BJR) protects directors and company managers from personal liability for good-faith business decisions made with due care, even if the outcome is a loss (Jatna & Razak, 2025) (Dahana et al., 2025). In Indonesian

company law, this concept is recognized as protection for directors who have fulfilled their obligations and GCG principles in making decisions, so that even if the company suffers losses, it does not automatically result in personal liability as long as there are no elements of breach of duty or gross negligence (Dharsana & Supriyanto, 2023). For Danantara, the application of BJR means management can make strategic decisions, including selecting business partners deemed most beneficial for the company based on reasonable business considerations, without fear of criminalization or lawsuits, provided the process aligns with good governance. This matters because investment always involves risk; management must dare to partner in innovative projects (e.g., investment in the digital or new energy sectors) without being overshadowed by excessive fear, as long as it conducts a thorough risk assessment. BJR does not protect decisions made with malicious intent, conflicts of interest, or serious negligence (Masnun, Muh Ali, Prasetio, Dicky Eko, Konara, 2026). Therefore, BJR and *fiduciary duty* go hand in hand: partner-selection decisions made with loyalty to Danantara's interests, supported by adequate business analysis, and free of conflicts of interest should be legally respected as valid business judgments. Conversely, if it is later revealed that partner selection was based on collusion or bribery, BJR protection is void, and law enforcement can take action (including using the concept of *piercing the veil* to uncover the individuals behind the corporation if necessary) (Yiu, 2025).

SWFs often collaborate to form investment consortiums or joint *platforms*. For example, Danantara has expressed its intention to join the IFSWF and possibly launch new *co-investment platforms* (Ngui & Kok, 2025). This opens up opportunities to partner with other SWFs or international institutional investors. *Benchmarking* against world-class SWF practices can provide guidance: many SWFs select partners based

on specific *expertise* (e.g., green technology, digital infrastructure), access to global investment opportunities, or additional capital. The key to selecting the right partner is *alignment of interests*. Danantara needs to ensure its partners share a similar long-term vision, such as a commitment to sustainable investment (in line with Danantara's ESG principles) and a willingness to respect Danantara's governance. In global corporate governance, when large institutional investors collaborate, they typically agree on joint project governance standards, proportional voting rights, dispute resolution mechanisms, and a clear exit strategy. Establishing these elements at the start of the collaboration will reduce the potential for future conflict.

Assessing the accuracy of Danantara's partner selection requires a multidimensional review: commercial (financial profits and economic benefits), strategic (support for Indonesia's development agenda), governance (partners' integrity and transparency), and **legal compliance**. By combining international principles and legal doctrines such as fiduciary duty and *the business judgment rule*, Danantara can formulate accountable internal guidelines for selecting partners. Ultimately, every strategic alliance Danantara builds will strengthen its portfolio sustainably without compromising good governance principles.

3. Managerial Capabilities

Organizational Structure and Key Positions. Danantara's managerial capabilities are crucial to its success in managing this massive investment portfolio. Law No. 1/2025 and Government Regulation No. 10/2025 regulate Danantara's organizational structure, which includes *a Supervisory Board, a Managing Board, and an Advisory Board*. The Supervisory Board consists of high-level government officials representing shareholders (the state) and is chaired/supervised by a figure appointed

by the President. Meanwhile, the Managing Board oversees Danantara's daily management and operations, with members serving a 5-year term and eligible for one reappointment by the President. The Managing Board must form at least three committees: **the Investment Committee, the Risk Management Committee, and the Operational Portfolio Committee**, reflecting the adoption of GCG practices in risk management and investment decision-making. The Advisory Board provides input and advice, and the President appoints and dismisses members at their discretion. Regulations indicate that a Presidential Regulation related to this Advisory Board will be issued, although as of the end of March 2025, these regulations have not yet been issued (Putri, Yusuf, & Ramadhan, 2025).

In the latest development, Danantara has recruited key personnel from diverse professional backgrounds, including foreign experts as part of the management team. This recruitment of global talent shows a serious commitment to building a team with international expertise, not limited to Indonesian executives alone. This step is commendable because modern SWF management requires expertise across fields, from investment portfolio management and financial risk analysis to corporate governance, international business law, and an understanding of **strategic sectors (infrastructure, technology, energy, etc.)**. *The OECD Guidelines* (2024) emphasize that entities that own/manage state assets must have adequate **capacity and competence** to carry out their duties effectively. Similarly, the Board of Directors/Supervisory Board of SOEs or public investment entities must consist of individuals with the integrity and competence required to provide strategic direction, conduct risk oversight, and monitor management objectively. To achieve this, the process of nominating and appointing board members must be structured and **free**

from undue political intervention (Organisation for Economic Co-operation and Development (OECD), 2015) .

The challenge of *political appointees* versus professionalism. The composition of Danantara's Supervisory Board, which includes government officials (Minister of Finance, Minister of State-Owned Enterprises, Head of BKPM, etc.), implies the presence of *political appointees*. The advantage of this is that it ensures coordination between government policy and Danantara's strategy. Still, this reduces management independence and raises the risk that political interests may be placed above business considerations. Governance literature warns that **direct involvement of political elites in state investment governance can increase governance risks**, which can, in turn, **hamper the investment climate**. In other words, global investors may be hesitant if SWF management is too politically influenced. Therefore, although ministers formally sit on the Supervisory Board, it is important to ensure their role is one of policy guidance and general oversight, rather than interference in specific investment decisions. The Executive Board and its committees, composed of investment professionals, should handle day-to-day investment decisions (Siagian, 2025).

Global corporate governance principles encourage **board independence and professionalism**. One best practice is to include competent independent/non-executive board members to strengthen oversight objectivity. In the context of Danantara, the Advisory Board can be optimized to fill this role – for example, by appointing international investment experts, representatives of other stakeholders, or figures of integrity who are not affiliated with political interests, so that they can provide independent views to management. However, its effectiveness depends on regulations

that clarify the Advisory Board's duties and authority and ensure its voice is heard in Danantara's strategy.

Good Governance Culture and Management Ethics. Building managerial capabilities cannot be separated from building a good governance culture within Danantara. *Santiago Principles* GAPP 13 states that professional and ethical standards must be clearly defined and known by all SWF management bodies (International Working Group of Sovereign Wealth Funds, 2008). Danantara needs to establish a *code of conduct* for its directors and employees that includes obligations to maintain confidentiality, prohibitions on insider trading or misuse of information, prevention of bribery and gratuities, and rules on conflicts of interest. *Fiduciary duty* requires managers to act as trustees for the nation's wealth. In corporate law doctrine, directors are considered to occupy a fiduciary position in managing the company. They must act with standards of care (duty of care) and loyalty (duty of loyalty) (Dharsana & Supriyanto, 2023).

To support this, the management remuneration system must be carefully designed. Not classifying Danantara's management as state administrators (as criticized earlier) may give Danantara the flexibility to offer competitive remuneration packages that attract world-class professionals (as civil service salary regulations do not bind them). This could improve managerial capabilities from a quantitative perspective (attracting superior human resources). However, the absence of state administrator status should not compromise integrity. Therefore, compensatory measures are needed: for example, implementing internal *compliance* standards equivalent to those of public companies, even though Danantara is not a public company. Danantara must conduct internal and independent external audits. The State

Audit Agency (BPK), as the state auditor, should also routinely conduct performance audits to ensure Danantara managers work effectively and efficiently.

The Business Judgment Rule Principle in Risk Management. Managerial capabilities also reflect the ability to make the right investment decisions. In the fund management industry, *hindsight bias* often arises – investment failures in the future are judged as if they were management errors, when in fact they were inherent risks. *The business judgment rule* provides legal protection, giving management the courage to make innovative decisions as long as the process is careful. This encourages *entrepreneurial spirit* in SWF management. Danantara can learn from leading SWFs such as Norges Bank Investment Management (manager of *the Norwegian Government Pension Fund Global*), renowned for professional portfolio management and the active application of modern governance principles. NBIM, for example, has developed a strong program for engagement on Environmental, Social, and Governance (ESG) issues in investee companies. Danantara's managerial capabilities will be assessed not only on its ability to select assets, but also on how it **oversees these investments after capital investment**. Will Danantara only be a passive investor, or will it actively ensure that the SOEs in its portfolio improve their performance and governance? Global trends show that SWFs are becoming increasingly *focused on corporate governance*, even though many were initially passive. For example, several SWFs now use their voting rights to encourage positive change in their investee companies (Ungureanu, 2014).

Therefore, Danantara's management team must have expertise in two dimensions: **(1) investment/financial expertise** – able to assess project feasibility, develop innovative funding structures, and manage market and credit risks; **(2)**

transformational expertise – able to work with SOE management to increase the value creation and governance of these SOEs. This second capability distinguishes SWFs such as Danantara from passive mutual funds. Danantara is not only a financial investor but also an agent of change for SOEs.

Danantara must build its managerial capabilities through a combination of the right structure (filling positions with competent people, establishing supporting committees), *a governance culture* (integrity, transparency, internal accountability), and *regulatory support* (sufficient business discretion, accompanied by strict ex-post supervision). By following OECD guidelines and global best practices, Danantara can build a world-class management team capable of fulfilling its fiduciary duty to manage the people's wealth optimally. This, in turn, will enhance Danantara's credibility with international investors and the domestic public.

C. CONCLUSION

BPI Danantara is a hybrid entity that combines the public mandate of managing state assets with an economic law approach, so its success depends on balancing corporate authority with public accountability. The basic legal framework is in place, but gaps remain, including unclear accountability, the risk of centralized authority, and the need for a more rigorous operational oversight mechanism to prevent political intervention and moral hazard. Researchers recommend that the Minister of State-Owned Enterprises strengthen the design of effective oversight and *checks and balances*, emphasize the arm's-length principle, and separate the roles of policy directors and investment decision-makers. Transparency and audits should be mandatory for every business decision made, and SOE partnership governance should

be tightened through *due diligence* and accountable selection criteria. The recruitment and oversight processes should be meritocratic and independent.

REFERENCES

- Abdullah, E. H., Sijabat, R., Susilo, W. H., & Herusetya, A. (2024). Associated the Bani Problems and Perspective of Strengthening to Pursue the Formulation of Strategic Management Business Model Holding Company in Indonesia. *Journal of Ecohumanism*, 3(6), 52–68. Scopus. <https://doi.org/10.62754/joe.v3i6.3890>.
- Al Asy'arie, M. A. H., Rahmanda, B., & Prasetyo, K. A. (2024). Transfer Of Intellectual Property Right As A Company Asset In Bankruptcy In Indonesia. *Diponegoro Law Review*, 9(1), 53–69. Scopus. <https://doi.org/10.14710/dilrev.9.1.2024.53-69>.
- Antoshkina, V. K., Loshchykhin, O., Topchii, O., Shevchenko, D., & Hryhorchuk, M. V. (2022). Legislative Basics of Legal Interpretation. *International Journal for the Semiotics of Law*, 35(5), 1655–1669. Scopus. <https://doi.org/10.1007/s11196-022-09916-3>.
- Budianto, A. (2020). Legal research methodology reposition in research on social science. *International Journal of Criminology and Sociology*, 20(9), 1339–1346. Scopus. <https://doi.org/10.6000/1929-4409.2020.09.154>.

- Dahana, T. N., Santoso, B., & Prananingtyas, P. (2025). The Responsibility of Limited Liability Company Organs in Group Company (Holding) of State-Owned Enterprises. *SASI*, 31(3), 231–245. <https://doi.org/10.47268/sasi.v31i3.3010>.
- Dharsana, I. M. P., & Supriyanto, B. (2023). Application of the Business Judgment Rule in Indonesian Companies. *Journal of Public Administration, Finance & Law*, 27(1), 102–114.
- Hamzani, A. I., Widyastuti, T. V., Khasanah, N., & Rusli, M. H. M. (2024). Implementation approach in legal research. *International Journal of Advances in Applied Sciences*, 13(2), 380–388. Scopus. <https://doi.org/10.11591/ijaas.v13.i2.pp380-388>.
- Haryati, S., Nugroho, P., & Rachmawati, D. (2024). Analisis Kekaburan Norma Hukum dan Risiko Maladministrasi BPI Danantara. *Jurnal Inovasi Hukum*, 6(2), 115–133.
- International Forum of Sovereign Wealth Funds (IFSWF). (2008). *Santiago Principles: Generally Accepted Principles and Practices (GAPP) for Sovereign Wealth Funds*. IFSWF.
- International Forum of Sovereign Wealth Funds (IFSWF). (2024). *Annual Report 2024*. IFSWF Publications.
- International Working Group of Sovereign Wealth Funds. (2008). *Sovereign wealth funds: Generally accepted principles and practices (“Santiago Principles”)*. International Working Group of Sovereign Wealth Funds. Retrieved from

International Working Group of Sovereign Wealth Funds website:
https://ifswf.org/sites/default/files/santiagoprinciples_0_0.pdf.

Jatna, R. N., & Razak, M. U. B. A. (2025). Strengthening the Business Judgment Rule in Indonesia: Lessons from Malaysia. *Journal of Sustainable Development and Regulatory Issues*, 3(3), 568–589. Scopus.
<https://doi.org/10.53955/jsderi.v3i3.157>.

Jayanti, H. D. (2025, May 23). Tantangan Danantara dalam mengubah ketidakpastian hukum jadi risiko terukur. *Hukumonline*. Retrieved from
<https://www.hukumonline.com/berita/a/tantangan-danantara-dalam-mengubah-ketidakpastian-hukum-jadi-risiko-terukur-lt683008cac772f/>.

Kirkham, R., & O'loughlin, E. A. (2019). A content analysis of judicial decision-making. In *Routledge Handbook of Socio-Legal Theory and Methods* (pp. 329–341). Scopus. <https://doi.org/10.4324/9780429952814-24>.

kumparanBISNIS. (2025, March 3). PP Danantara terbit, berikut tugas dan kewenangannya. *Kumparan*. Retrieved from
<https://kumparan.com/kumparanbisnis/pp-danantara-terbit-berikut-tugas-dan-kewenangannya-24bgLFxYlzM>.

Masnun, Muh Ali, Prasetyo, Dicky Eko, Konara, T. (2026). Financial Reconstruction of State-Owned Enterprises in Indonesia as Special State Finances: Public or Private Law? *Jurnal Hukum Bisnis Bonum Commune*, 9(1), 44–62.
<https://doi.org/https://doi.org/10.30996/jhbbc.v9i1.132464>.

- Mihas, P. (2022). Qualitative research methods: Approaches to qualitative data analysis. In *International Encyclopedia of Education: Fourth Edition* (pp. 302–313). Scopus. <https://doi.org/10.1016/B978-0-12-818630-5.11029-2>.
- Ngui, Y., & Kok, X. (2025). Indonesia's Danantara to deploy \$10 billion in first three months, targets ESG sectors. *Reuters*. Retrieved from <https://www.reuters.com>.
- Ningsih, A., Prananingtyas, P., Salwa, A., Maharani, F., & Wardhani, H. (2025). Jurisdiction in Financial Crime: A Legal Analysis of the Investigative Authority of Indonesia's Financial Services Authority in Money Laundering Cases. *Jambura Law Review*, 7(2), 468–492. Scopus. <https://doi.org/10.33756/jlr.v7i2.27147>.
- Ningsih, A. S. (2022). Business Competition Supervisory Institution: A Comparison between Indonesia and Thailand. *Jurnal Hukum Novelty*, 13(2), 253–265. Scopus. <https://doi.org/10.26555/novelty.v13i2.a20631>.
- Ningsih, A. S. (2025). Creditor Of Fiduciary Facing Bankruptcy, What Should They Do? *Diponegoro Law Review*, 10(1), 29–41. Scopus. <https://doi.org/10.14710/dilrev.10.1.2025.29-41>.
- Ningsih, A. S., Fidiyani, R., & Wardhani, H. P. (2024). Mortgage Rights For The Sharia Banking Murābahah Contract: Its Position And Application. *Justicia Islamica*, 21(2), 423–446. Scopus. <https://doi.org/10.21154/justicia.v21i2.9626>.

- Niravita, A., Ningsih, A. S., Shaik Md Noor Alam, H. B., Sulistio, F., & Wardhani, H. P. (2026). Legal Harmonization and Implementation Challenges of the ASEAN Agreement on Electronic Commerce: A Comparative Study of Indonesia and Malaysia. *International Law Discourse in Southeast Asia*, 5(1), 179–208. Scopus. <https://doi.org/10.15294/ildisea.v5i1.40788>.
- Nuriyatman, E., Dhyta, N. B., Rahman, R. A., & Sitompul, M. G. (2025). Legal Aspects of State Asset Management: International Perspectives on Implementing State-Owned Property Law. *Journal of Law and Legal Reform*, 6(2), 315–342. Scopus. <https://doi.org/10.15294/jllr.v6i2.19296>.
- Oliveira, M., & Kadapakkam, P.-R. (2021). Effects of customer horizontal merger on supplier capital structure decisions. *International Review of Finance*, 21(4), 1464–1491. Scopus. <https://doi.org/10.1111/irfi.12337>.
- Organisation for Economic Co-operation and Development (OECD). (2015). *OECD Guidelines on Corporate Governance of State-Owned Enterprises*. OECD Publishing.
- Organisation for Economic Co-operation and Development (OECD). (2024). *OECD Guidelines on Corporate Governance of State-Owned Enterprises (2024 Edition)*. OECD Publishing.
- Putri, A., Yusuf, M. I., & Ramadhan, F. (2025, April 3). Introduction of Indonesia sovereign wealth fund – Danantara. Retrieved from Mondaq website:

<https://www.mondaq.com/wealth-asset-management/1604606/introduction-of-indonesia-sovereign-wealth-fund-danantara>.

Sheehy, B., Khan, H. Z., Prananingtyas, P., & Sophiana Sunarso Putri, P. (2023). Shifting from Soft to Hard Law: Motivating Compliance When Enacting Mandatory Corporate Social Responsibility. *European Business Organization Law Review*, 24(4), 693–719. Scopus. <https://doi.org/10.1007/s40804-023-00284-4>.

Shukla, G. (2023). Doctrinal legal research: A library-based research. In *Social Research Methodology and Publishing Results: A Guide to Non-Native English Speakers* (pp. 226–239). Scopus. <https://doi.org/10.4018/978-1-6684-6859-3.ch015>.

Siagian, N. M. (2025, February 27). Mencegah ke(tidak)bijakan pengawasan Danantara. Retrieved from Hukumonline.com website: <https://www.hukumonline.com/berita/a/mencegah-ketidakbijakan-pengawasan-danantara-lt67c0a61f7ca8b/>.

Sutaryono, P. (2025, February 27). Danantara dan Manajemen Risiko. *Kompas.id*. Retrieved from <https://www.kompas.id/artikel/danantara-dan-manajemen-risiko>.

Ungureanu, M. C. (2014, August 7). The corporate governance of sovereign wealth funds. Retrieved from Harvard Law School Forum on Corporate Governance

website: <https://corpgov.law.harvard.edu/2014/08/07/the-corporate-governance-of-sovereign-wealth-funds/>.

van Thiel, S. (2023). Management at arm's length: Executive agencies and public bodies. In *Public Management and Governance: Fourth Edition* (pp. 222–231). Scopus. <https://doi.org/10.4324/9781003282839-20>.

Wu, Y., Chen, W., & Yan, H. (2024). The accountability system for operation and investment and audit quality of state-owned enterprises. *International Review of Financial Analysis*, 96. Scopus. <https://doi.org/10.1016/j.irfa.2024.103680>.

Yasin, M. (2025, March 24). Danantara dan Santiago Principles. Retrieved from Hukumonline website: <https://www.hukumonline.com/stories/article/lt67e092b0ef4be/danantara-dan-santiago-principles/>.

Yiu, P. T. F. (2025). Piercing the corporate veil post-Prest. *Law and Financial Markets Review*. Scopus. <https://doi.org/10.1080/17521440.2024.2410501>.