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THE FORMATION OF DANANTARA: BETWEEN EFFICIENCY AND THE THREAT OF MORAL HAZARD FOR STATE INVESTMENTS

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Abstract: This study examines the legal risks inherent in the formation of Danantara, a state entity tasked with managing strategic SOE assets under Law No. 1/2025 and Government Regulation No. 10/2025. Employing a doctrinal legal method with a normative-prescriptive approach, it compares the regulatory frameworks of Danantara and Singapore's Temasek Holdings. The analysis reveals significant vulnerabilities, including moral hazard, concentration of unchecked authority, and exclusion from the state finance regime. These structural flaws may undermine legal accountability and public oversight. Drawing on comparative legal insights, this paper proposes reforms to strengthen institutional independence, ensure transparent asset management, and restore checks and balances in sovereign investment governance. The findings contribute to the ongoing discourse on state capitalism and the legal architecture required to support it.

Studi ini mengkaji risiko hukum yang melekat dalam pembentukan Danantara, sebuah entitas negara yang ditugaskan untuk mengelola aset BUMN strategis berdasarkan Undang-Undang No. 1 Tahun 2025 dan Peraturan Pemerintah No. 10 Tahun 2025. Dengan menggunakan metode hukum normatif dan pendekatan preskriptif, studi ini membandingkan kerangka regulasi Danantara dengan Temasek Holdings di Singapura. Analisis menunjukkan adanya kerentanan signifikan, termasuk potensi moral hazard, konsentrasi kewenangan tanpa pengawasan memadai, serta pengecualian dari rezim keuangan negara. Kelemahan struktural ini dapat melemahkan akuntabilitas hukum dan pengawasan publik. Berdasarkan wawasan perbandingan hukum, tulisan ini mengusulkan reformasi untuk memperkuat independensi institusional, memastikan pengelolaan aset yang transparan, serta memulihkan mekanisme checks and balances dalam tata kelola investasi negara. Temuan ini berkontribusi pada diskursus yang berkembang mengenai kapitalisme negara dan arsitektur hukum yang dibutuhkan untuk mendukungnya.

Keywords: *Danantara; State Investment; Good Governance; Transparency; Accountability; Moral Hazard.*

INTRODUCTION

The establishment of the Daya Anagata Nusantara Investment Management Agency ("Danantara") represents a strategic step in the restructuring and optimization of State-Owned Enterprise (SOE) management, sparking widespread academic and policy discourse (Adi, 2025; J. M. Simanjuntak & Widyadhana, 2025). On one hand, Danantara is projected as an instrument to drive more aggressive investment in infrastructure and other strategic sectors in Indonesia (J. M. Simanjuntak & Widyadhana, 2025). This initiative arose from challenges in attracting long-term financing from global financial institutions, such as foreign pension funds and insurance companies, which are often reluctant to partner directly with SOEs due to risk factors and the potential for political intervention (J. M. Simanjuntak & Widyadhana, 2025). In response, many countries have adopted models of state capitalism, using sovereign wealth funds (SWFs) to bridge public investment gaps while maintaining state control. Danantara reflects this global trend, following the examples of Temasek Holdings in Singapore and Norway's Government Pension Fund, which combine commercial investment with strategic policy goals.

This vision was realized when President Prabowo Subianto signed Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 on State-Owned Enterprises ("SOE Law") and Government Regulation Number 10 of 2025 concerning the Organization and Governance of the Daya Anagata Nusantara Investment Management Agency ("GR 10/2025") (Indonesia, 2025b, 2025a). These two regulations form the legal basis for Danantara's objectives, structure, and sustainability as a government investment institution. Following their enactment, a significant shift occurred in the SOE landscape, including changes to the definition of SOEs, the separation of regulatory and operational functions, and the mechanism for transferring assets to Danantara. Based on Article 4 of GR 10/2025, Danantara was granted the right to immediately manage dividends from investment and operational holdings, as well as dividends from strategic SOEs such as Bank Mandiri, Bank BRI, PLN, Pertamina, BNI, Telkom Indonesia, and MIND (Indonesia, 2025a).

However, on the other hand, the formation of Danantara raises various legal issues and governance risks that could affect investment stability and credibility, both domestically and internationally. One significant issue is that state officials hold concurrent public offices, for example, serving simultaneously in ministries of investment, SOEs, and finance, which can create conflicts of interest and undermine the constitutional principle of checks and balances (Dewi & Kasanah, 2023). Furthermore, the exemption of Danantara's losses from the category of state finance and the removal of its officials' status as state administrators could reduce transparency and accountability in the management of public funds (Crawford, 2015). This exemption creates a loophole for moral hazard and complicates law enforcement efforts related to potential asset misuse (Crawford, 2015).

Moreover, the exclusion of Danantara's losses from the category of state finance violates the principles of public finance as regulated under Law Number 31 of 1999 on the Eradication of Corruption Crimes ("Anti-Corruption Law"), which may open the door to moral hazard and complicate law enforcement efforts related to potential asset misuse (Indef, 2025). From a legal-economic perspective, this lack of accountability distorts risk allocation in public asset management and weakens the incentive structure for prudent financial governance. In the absence of clear liability and oversight, systemic risk may increase, especially in the event of default potentially endangering the stability of state-owned banks that have significant exposure to Danantara's portfolio (Pellokila, Sugiharti, & Affandi, 2025).

Despite these critical legal and institutional issues, existing academic studies have not fully examined the regulatory asymmetries and governance vulnerabilities embedded in Danantara's design. Most prior analyses focus on its strategic economic function, overlooking the legal risks associated with overlapping authorities, reduced transparency, and weakened accountability structures. To address this gap, this study explores the legal problems and governance risks arising from Danantara's establishment, analyzes how its institutional structure compares with Singapore's Temasek, and examines the moral hazard potential related to weak oversight and legal immunities. This research aims to provide a comprehensive legal evaluation and propose reforms to strengthen transparency, accountability, and risk mitigation in public investment governance.

In addition, the provision of legal immunity to ministers and Danantara officials under certain conditions raises concerns regarding the absence of mechanisms for criminal accountability (Pellokila, Sugiharti, & Affandi, 2025). Ultimately, this has the potential to undermine anti-corruption efforts. With oversight being non-mandatory and entirely dependent on the President's discretion, transparency and control mechanisms over Danantara have become increasingly weakened. Therefore, stricter regulations and stronger oversight mechanisms are required to ensure that Danantara does not become an investment instrument vulnerable to abuse of power and systemic risks to the national economy.

In terms of scientific contribution, this research advances the discourse on state investment governance by identifying the potential legal asymmetries between authority and accountability in newly formed investment entities like Danantara. The novelty lies in its integrated approach combining doctrinal legal analysis, comparative institutional study, and normative-prescriptive evaluation. This study contributes to the renewal of legal thought in the field of public finance law, particularly in the areas of state asset management, investment agency regulation, and anti-corruption safeguards. It also provides forward-looking recommendations for reforming legal and institutional frameworks to prevent moral hazard, ensure transparency, and uphold democratic accountability in the future governance of public investment entities.

RESEARCH METHOD

This study employs a normative-prescriptive doctrinal legal research method with a descriptive-qualitative approach to analyze the legal structure and governance of Danantara. The choice of this method is grounded in the aim to explore regulatory issues through in-depth legal interpretation, conceptual analysis, and comparison with international models. The descriptive-qualitative approach is appropriate for examining legal texts and principles in a structured and interpretative manner, particularly where empirical data is limited and legal norms are central. Data sources include secondary materials such as laws, court decisions, academic journals, legal commentaries, and policy papers.

The study applies three methodological lenses: (1) statutory analysis, focusing on Government Regulation No. 10 of 2025 and Law No. 1 of 2025; (2) conceptual analysis, addressing moral hazard, accountability, and checks and balances; and (3) comparative analysis, contrasting Danantara with Temasek Holdings in terms of institutional design, legal accountability, and oversight mechanisms. The comparative method follows a functional legal comparison approach, limited to institutional governance, financial transparency, and state control, avoiding broader economic performance indicators. Validity is ensured through triangulation; cross-checking legal provisions with scholarly interpretations and governance practices. To ensure document validity, all legal texts, regulations, and official government records were sourced directly from primary legal databases and verified through consistency checks with official publications and institutional repositories. The comparison is conducted systematically by mapping each institution's legal foundation, operational autonomy, and accountability mechanisms within a shared analytical framework.

RESULT AND DISCUSSION

Legal Issues and Governance Risks Arising from the Establishment of Danantara as a State Investment Management Entity

The establishment of Danantara, which was expected to boost national investment, has not fully met governmental expectations. Instead, multiple legal and governance risks have surfaced that could adversely affect Indonesia's investment climate. According to the Center for Economic and Law Studies (CELIOS), six principal legal and governance challenges have emerged from Danantara's formation (CELIOS, 2025).

First, the issue of dual office-holding by ministers. Government Regulation Number 10 of 2025 ("GR 10/2025") grants Rosan Perkasa Roeslani the authority to serve as Chairman of the Executive Board of Danantara, while Dony Oskaria is allowed to hold two strategic positions simultaneously, as Deputy Chief Commissioner of PT Pertamina (Persero) and Chief Operating Officer (COO) of Danantara (Muhid, 2025). Additionally, GR 10/2025 also appoints Erick Thohir and Sri Mulyani as additional members of Danantara's Supervisory Board (Muhid, 2025).

The delegation of such authority to ministers contradicts the provisions on dual office-holding as stipulated in Article 23 of Law Number 39 concerning State Ministries ("State Ministries Law") (Indonesia Corruption Watch, 2025b). In essence, this article prohibits ministers from holding multiple roles, including as other state officials, commissioners or directors in state-owned or private companies, or as leaders of organizations funded by the State Budget (APBN) or Regional Budget (APBD). The quoted article reads as follows (Indonesia, 2008):

Ministers are prohibited from concurrently holding positions as:

a. *other state officials as regulated by statutory provisions;*
b. *commissioners or directors in state-owned or private companies; or*
c. *leaders of organizations funded by the State Budget (APBN) and/or Regional Budget (APBD).*

Any substantive amendment to this prohibition via a government regulation (*Peraturan Pemerintah*) is impermissible under Indonesia's legal hierarchy. Since such regulations are subordinate to statutes (*Undang-Undang*), any inconsistency must defer to the statute's higher authority; thus, the provisions of the State Ministries Law prevail over any conflicting clauses in the GR (Herman & Muin, 2018). Beyond the legal contradiction with the State Ministries Law, the practice of dual office-holding also carries risks of conflicts of interest and undermines the check-and-balance principles in governance. This policy creates a scenario where an official may function both as a regulator and an investment manager, blurring authority lines and weakening institutional accountability (Saputra, Fallah, Indranarwasti, & Kosasih, 2024).

Second, the exemption of Danantara's losses from the definition of state finances contradicts Law Number 31 of 1999 on the Eradication of Corruption ("Anti-Corruption Law") (S. D. A. Simanjuntak, 2025). Legally, this exemption is stipulated in Article 3H paragraph (2) of Law Number 1 of 2025 on State-Owned Enterprises ("SOEs Law"), which excludes Danantara's losses from being classified as state financial losses (Indonesia, 2003).

However, Article 3G of the same law clearly states that Danantara's capital originates from State Capital Participation (PMN), which includes cash funds, state-owned assets, SOE shares, and other unspecified sources (Indonesia Corruption Watch, 2025b). This inconsistency raises significant concerns: although Danantara is funded by the state, any losses it incurs are not treated as losses to the state's finances.

Such a legal contradiction creates a grey area in public fund management, including the potential use of taxpayer money without sufficient oversight (Indonesia Corruption Watch, 2025b). This further intensifies concerns about the lack of transparency and accountability in Danantara's investment management (Indonesia Corruption Watch, 2025b). Thus, this provision not only violates principles of accountability, but also opens the

door to moral hazard, where managers may undertake risky investments without facing clear legal consequences.

Third, the absence of risk mitigation regulations concerning Danantara. The lack of regulatory provisions addressing risk mitigation in Danantara's operations poses a significant risk of default, which not only threatens the financial stability of state-owned banks but also risks triggering a crisis of confidence and potential systemic impacts on the financial sector in the absence of clear protection mechanisms.

Given that Danantara manages assets sourced from major state-owned banks such as Bank Mandiri, Bank BNI, and Bank BRI, all of which have large asset bases and play strategic roles in the national economy, such unmanaged risks could have wide-reaching implications for the overall stability of the financial system.

To date, Bank Indonesia, the Financial Services Authority (OJK), and the Indonesia Deposit Insurance Corporation (LPS) have not issued any specific regulations addressing the potential financial risks arising from the management of SOE bank assets by Danantara. Saleh emphasizes that one of the most pressing unregulated risks is the possibility of default, particularly if Danantara is unable to meet its obligations to creditors.

In a worst-case scenario, liquidity or solvency issues within Danantara could directly affect the financial soundness of state-owned banks. This, in turn, may endanger the broader stability of the national financial system. Without a comprehensive regulatory framework, Danantara's position within the financial ecosystem may become a latent source of risk that could undermine Indonesia's economic resilience.

Fourth, the removal of Danantara's officials and employees from the classification of state administrators contradicts the principles of transparency, accountability, and public oversight as stipulated in Article 2 of Law Number 28 of 1999 on the State Administration that is Clean and Free from Corruption, Collusion, and Nepotism (Shabrina, 2025).

Legally, this law emphasizes that officials who hold strategic functions in state administration must be classified as state administrators, thereby subject to rules ensuring public accountability and the prevention of corruption. The exemption of Danantara's leadership and staff from this category undermines mechanisms that promote ethical governance, allowing them to operate outside the norms of integrity, transparency, and anti-corruption compliance that should guide the management of public investment.

Nevertheless, Article 3X paragraph (1) of the State-Owned Enterprises Law (UU BUMN) explicitly states that the organs and employees of Danantara do not qualify as state administrators (Indonesia, 2003). This exclusion creates a legal loophole that significantly reduces oversight of Danantara officials, despite their strategic role in managing state finances and SOE assets. By removing them from the category of state administrators, the standard mechanisms of public accountability no longer apply.

The consequences of this policy are far-reaching. Danantara officials are not required to disclose their assets through the State Officials' Wealth Report (LHKPN), are not subject to the code of ethics applicable to state administrators, and fall outside the oversight of key legal institutions, including the Corruption Eradication Commission (KPK), the Attorney General's Office, and the Audit Board of Indonesia (BPK). This condition opens the door to potential abuse of authority, as officials entrusted with the management of significant public funds and state assets are exempt from the public accountability mechanisms typically in place. Such regulatory gaps undermine anti-corruption efforts and erode transparency in the management of public assets. When oversight structures are selectively applied, it becomes increasingly difficult to enforce standards of integrity and public service accountability within strategic investment institutions like Danantara (Kurniawati & Liany, 2025).

Fifth, the absence of a strong legal basis for the oversight of Danantara. The establishment of a Supervisory Committee within Danantara's governance structure is not mandatory, but merely optional, and lacks clear parameters regarding its composition, authority, duties, and functions. This regulatory ambiguity raises concerns over the effectiveness of supervisory mechanisms, particularly in ensuring transparency and accountability in the management of state assets.

The revision of the SOE Law fails to provide a robust legal foundation for oversight of Danantara by relevant state institutions such as the Corruption Eradication Commission (KPK), Attorney General's Office, Audit Board of Indonesia (BPK), Finance and Development Supervisory Agency (BPKP), and the Financial Transaction Reports and Analysis Center (PPATK) (Indonesia Corruption Watch, 2025b). As a result, the supervisory roles of these institutions with respect to Danantara remain unclear and weakened, potentially undermining the overall governance framework for state investments.

Conversely, existing regulations grant full authority to the President without establishing any binding independent oversight mechanisms. Article 24 of Government Regulation No. 10 of 2025 explicitly states that the formation of the Oversight and Accountability Committee is entirely at the discretion of the President (Indonesia, 2025a). This dependency on presidential decisions regarding the establishment or absence of oversight bodies over Danantara introduces significant uncertainty in ensuring transparency and accountability (Fachruddin & Harsono, 2023). The President holds unilateral authority to establish or dissolve the supervisory committee at will, which may ultimately open the door to executive power consolidation without effective checks and balances. This undermines both the independence and effectiveness of oversight mechanisms, especially over Danantara, which manages large-scale public investments and state assets. In the absence of institutional safeguards, governance risks may escalate, potentially compromising the integrity of Indonesia's financial and investment landscape.

Sixth, the design of Danantara's investment model, which prioritizes short-term profitability, carries the risk of exacerbating social inequality (Indonesia Corruption Watch, 2025b). An excessive focus on economic efficiency and short-term returns may marginalize investments in socially critical sectors, leading to a widening socio-economic gap. In practice, investment allocations tend to favor high-return, capital-intensive sectors such as large-scale industries and established markets, while sectors requiring sustained long-term support—like education, healthcare, and the informal economy, are often overlooked due to their perceived lower profitability. This results in unequal distribution of economic benefits, favoring a select group and neglecting broader public interests, particularly among vulnerable communities (Prabowo, Maski, & Santoso, 2023). Such imbalances threaten the social objectives of state investment and risk alienating key segments of society from the benefits of national development.

Comparison between the Structures of Danantara and Temasek

The establishment of Danantara as a superholding under Indonesia's state-owned enterprises (BUMN) cannot be separated from the example of a superholding company in a neighboring country whose performance has been proven, namely, Temasek, the Singaporean state investment company that has operated for nearly five decades. Both entities share a common goal: to manage and optimize state assets in order to increase efficiency and economic value. However, there are fundamental differences in their formation. Although Danantara regards Temasek as its inspiration, it maintains its own distinct approach in organizational structure, government relations, governance, and investment decision-making mechanisms (Cesaria, 2025). These differences impact several issues addressed in this article, namely independence, transparency, and effectiveness.

Table 1

Comparative Governance Framework: Danantara vs. Temasek Holdings

GOVERNANCE PARAMETER	DANANTARA (INDONESIA)	TEMASEK HOLDINGS (SINGAPORE)
LEGAL BASIS & STATUS	Sui generis State Legal Entity, formed by SOE Law. Ambiguously subject to public and private law.	Private Limited Company subject to the Singapore Companies Act. Shares are held by the Minister for Finance.
RELATIONSHIP WITH GOVERNMENT	Direct and hierarchical. Accountable to the President. Active ministers serve on the Supervisory and Executive Boards.	Arm's-length relationship. Government acts as a shareholder, not a manager. No active government officials on the board.

BOARD COMPOSITION & INDEPENDENCE	Supervisory and Executive Boards are filled by active Ministers and politicians, creating conflicts of interest and a lack of independence.	Board is dominated by independent members from the private sector and international professionals. Clear separation of Chairman and CEO roles.
POLITICAL INSULATION MECHANISM	None. Appointments and dismissals are under the President's authority. The Oversight Committee is optional and discretionary.	"Second Key" Mechanism: The President has veto power over board/CEO appointments and the use of past reserves, serving as a constitutional safeguard.
TRANSPARENCY & REPORTING	No clear legal obligation for detailed public reporting. Risk of exemption from the Public Information Disclosure Law.	Voluntarily publishes a comprehensive annual Temasek Review, despite being exempt from public reporting as a private company.
ACCOUNTABILITY FOR LOSSES	Losses are explicitly excluded from state losses. Officials have legal immunity, unless unlawful personal gain is proven.	Operates on commercial principles. Investment losses are assessed based on market performance and accountability to the shareholder (Minister for Finance).

Source: (Adi, 2025; Chen, 2016; Hearny & Li, 2011; Indonesia, 2025b, 2025a; Sim et al., 2024)

The table above clearly shows that although Danantara claims to emulate Temasek, it fails to adopt the most crucial governance elements that are key to Temasek's success: political insulation and board independence (Chen, 2016). Temasek was established with the explicit purpose of creating a "political shield" to separate business decisions from government intervention. This was achieved by structuring it as a private company operating on purely commercial principles, where the government acts only as a passive shareholder, not as an active manager or supervisor (Sim et al., 2024)

The most prominent feature of the Temasek model that is entirely absent in Danantara is the "Second Key" mechanism. Under the Singapore Constitution, the President, as the non-executive head of state, holds a "second key" that grants them the authority to veto government decisions related to the appointment or dismissal of Temasek's board of directors and CEO, as well as any attempt to draw on past fiscal reserves (Sim et al., 2024). This mechanism serves as a constitutional fortress against the potential misuse of the SWF by the incumbent government for short-term political purposes. In contrast, Danantara's structure places all authority for appointment, dismissal, and oversight in the hands of the President as the chief executive, without any independent balancing mechanism (Indonesia, 2025a).

The difference in philosophy is also evident in terms of transparency. Although as a private company Temasek is not legally required to publish its financial reports in detail, it

voluntarily publishes the Temasek Review annually (Sim et al., 2024). This report presents comprehensive information on portfolio performance, investment strategy, and governance practices (Temasek, 2025). This practice is a proactive effort to build public and market trust. In contrast, Danantara's legal framework creates the potential for opacity by exempting it from the state finance regime and the status of state administrator, which may hinder public access to information (Princes & Silalahi, 2025).

Expanding the comparison, a look at Norway's Government Pension Fund Global (GPFG) further highlights Danantara's governance deficit. The Norwegian model has an even clearer separation of roles, where the Parliament (Stortinget) sets the general mandate, the Ministry of Finance establishes the strategy and benchmarks, and Norges Bank Investment Management (NBIM), as part of the independent central bank, carries out operational management. NBIM is also subject to very strict ethical guidelines that prohibit investment in certain companies, a normative control mechanism that Danantara lacks. Thus, when compared to global gold standards, Danantara's governance model is not just below Temasek's but is an anomaly, highly concentrated in executive power and with minimal independent accountability mechanisms.

Potential Moral Hazard and Its Relation to Accountability in Danantara

After examining how Danantara operates structurally and its chain of command, a new issue arises when delving deeper into the significant responsibility Danantara bears to ensure the optimal and professional management of state-owned enterprise (SOE) investments. Despite the investment concept of Danantara not yet being transparently or comprehensively published, one of the greatest challenges facing Danantara is the potential for moral hazard, particularly due to the practice of holding multiple positions at the leadership level. Government Regulation No. 10/2025 regulates Danantara's organizational structure, including the positions of CEO and Supervisory Board as key organs (Adi, 2025). According to a press release, Danantara revealed that its CEO will be Rosan Roeslani (who concurrently serves as Indonesia's Minister of Investment), and the Supervisory Board will be chaired by Erick Thohir (who also concurrently serves as Mibnister of State-Owned Enterprises) (Puspadini, 2025a). This phenomenon may generate conflicts of interest that undermine transparency, accountability, and the effectiveness of investment decision-making. In contrast, Temasek in Singapore employs an independent governance system free from direct political intervention, whereas Danantara's organizational structure remains vulnerable to pressures from political and economic actors at the national level (Hearny & Li, 2011).

In the context of managing state investments, moral hazard occurs when individuals with access to strategic information and power within the organization make high-risk decisions without considering long-term impacts, especially if personal or political interests are involved. A key risk of multiple concurrent positions is the potential for conflicts of

interest, where officials holding two or more strategic roles within Danantara and related institutions (such as government bodies or companies connected to Danantara's investments) may prioritize personal or group interests over the national interest, which should be Danantara's primary objective (Hearny & Li, 2011; Rowell & Connelly, 2012).

With concentrated power in the hands of a few, the oversight mechanism over Danantara's investment decisions becomes weaker. Without a strict system of checks and balances, decisions detrimental to the state can be made without clear consequences (Indonesia Corruption Watch, 2025a). In Temasek's case, an independent board of directors is fully responsible for investment performance without political interference, and every major decision is audited transparently and evaluated against objective business standards (Munawwar, n.d.). Meanwhile, if Danantara lacks firm and independent evaluation mechanisms, especially given that its investment concept remains unclear, investment failures could occur without adequate accountability.

Several superholding models like Danantara have firmly addressed the challenges of moral hazard by implementing effective governance strategies, particularly in terms of accountability. An interesting case comes from Malaysia's superholding, Khazanah Nasional, which was implicated in the 1Malaysia Development Berhad (1MDB) scandal. The case involved reckless use of state investment funds without transparency, amounting to billions of USD. Eventually, the Malaysian Finance Minister demanded Khazanah to repay debts, revealing that over USD 3.5 billion was embezzled from 1MDB into personal accounts of high-ranking officials, including former Prime Minister Najib Razak (Zreik, Marzuki, & Iqbal, 2023).

As a corrective measure, Khazanah reformed its governance system in 2018 to prevent similar occurrences. The reforms included separating the roles of the government as capital owner and management as executor of investments, implementing a more stringent and competency-based executive selection process, and limiting political interference in investment decisions (International Forum of Sovereign Wealth Funds [IFSWF], 2019).

Turning to Indonesia, the government can also reflect on its own troubled history of managing large-scale funds like Danantara. Cases such as Jiwasraya, Taspen, and Asabri have exposed systemic issues in large government projects, primarily the lack of effective internal and external oversight. The corruption cases in Jiwasraya, Asabri, and Taspen reveal poor investment management, minimal transparency, and lack of accountability, which resulted in significant state losses. Jiwasraya was involved in manipulating stock trading to artificially inflate prices, as uncovered by the Audit Board of Indonesia (BPK) in 2015, eventually reporting a negative equity of IDR 27.24 trillion in 2019 (Puspadini, 2025b). A similar case occurred at Asabri, where manipulated stock prices and misallocated investment funds created a distorted impression of strong financial performance, resulting in state losses totaling approximately IDR 22.78 trillion (BPK, 2021). Meanwhile, Taspen faced a fictitious

investment scandal involving approximately IDR 1 trillion, where funds were placed in companies that returned only partial amounts, indicating insider benefit and poor governance (KPK, 2025).

These three cases demonstrate that non-transparent management of state investment funds is highly vulnerable to corruption and abuse of power. With the new BUMN Law assigning Danantara to manage large-scale state-owned assets, including both liquid and non-liquid assets, the potential for fund misuse increases accordingly. The larger the funds managed, the greater the risk of corruption, especially if not balanced with a transparent and accountable governance system. This aligns with Lord Acton's famous statement: "Power tends to corrupt, and absolute power corrupts absolutely." Therefore, lessons learned from past cases must serve as the main foundation for designing strict oversight mechanisms for Danantara to ensure effective supervision and prevent the recurrence of similar investment scandals in the future.

Main Findings and Legal Impliactions

Through a normative-comparative legal analysis of Danantara as Indonesia's new state superholding, this study advances the discourse on governance of public investment. Moving beyond descriptive mapping of SOE structures, it emphasizes legal and governance vulnerabilities arising from centralized investment authority devoid of sufficient oversight.

From an *administrative law* perspective, Danantara's institutional design under Law No. 1 of 2025 permits dual state roles, exempts it from state audit regimes, and curtails public accountability, posing risks to the principle of checks and balances in governance (Sanusi & Hadinatha, 2017). These structural weaknesses compromise administrative oversight and transparency as established in constitutional jurisprudence.

Applying agency theory, the delegation of wide-ranging investment powers to Danantara without comparable monitoring mechanisms generates a classic *moral hazard* situation: agents (Danantara management) may prioritize their own interests over the principal (public/state) due to asymmetrical information and minimal incentives to align with public welfare objectives (Wardoyo et al., 2021). This misalignment is exacerbated as Danantara operates outside conventional state financial frameworks.

In comparison, sovereign investment institutions such as Temasek and Khazanah have implemented governance reforms post-2018, separating ownership and management functions, enforcing competency-based leadership selection, and reducing political influence in investment decisions, establishing stronger institutional safeguards than Danantara currently offers.

To close the identified legal and governance gaps, this study advocates for a dual-track reform strategy: (1) *normative*: amending the SOE Law and its implementing regulations to reaffirm consistency with Law No. 17 of 2003 on State Finance and Law No. 15 of 2006

regarding BPK audit authority; (2) *constitutional*: embedding Danantara explicitly within state finance mechanisms under Article 23 of the 1945 Constitution without sacrificing operational flexibility—thus enhancing democratic oversight and public trust.

CONCLUSION

As Indonesia's first state investment entity with extensive asset management authority, Danantara is subject to serious legal risks, especially those pertaining to governance, moral hazard, and political intervention, according to the analysis that has been presented. In order to guarantee impartial, responsible decision-making, Temasek and Khazanah's lessons emphasize the necessity of structural independence, a distinct division of responsibilities between management and government, and stringent prohibitions on holding two offices. By providing a normative-comparative framework that can direct regulatory reform and striving to strike a balance between efficiency, transparency, and accountability in future policy-making, this study advances the legal development of state investment governance. [*W*]

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