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Reconstruction of Legal Arrangements for Governance and Supervision of the Danantara Investment Management Agency in Ensuring Transparency and Preventing the Risk of State Financial Losses

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ABSTRACT

This study aims to analyze and reconstruct the legal arrangements for governance and supervision of the Daya Anagata Nusantara Investment Management Agency (Danantara) to ensure transparency and prevent the risk of state financial losses. The background of this study is based on the emergence of Danantara as a strategic instrument for state investment management that has special characteristics as a quasi-public entity, but is not yet supported by comprehensive and integrated legal regulations. The main problems studied include the unclear legal status of Danantara, the weakness of the governance system based on the principles of good corporate governance, as well as the potential for overlapping authorities due to the inefficiency of the supervisory mechanism involving multiple institutions, including the Financial Services Authority (OJK), the Supreme Audit Agency (BPK), and the Corruption Eradication Commission (KPK). By analyzing pertinent laws and regulations, legal doctrine, and pertinent ideas, this study employs a normative juridical method with a statutory and conceptual approach. The research results indicate that the current legal system still contains normative weaknesses in the form of regulatory disharmony, legal gaps in accountability, and unclear boundaries between business risks and state losses, as stipulated in Article 1, number 22 of Law Number 1 of 2004 concerning State Treasury. Therefore, legal reconstruction is needed, including strengthening the principles of good governance, a clear separation of the functions of regulator and operator, the establishment of an independent, integrated supervisory system, and the affirmation of legal accountability mechanisms.

INTRODUCTION

National economic development in developing countries like Indonesia cannot be separated from the strategic role of investment as a driving force for growth, job creation, and improving public welfare. (Suhardi, 2025) In practice, dependence on the State Budget (APBN) as the primary source of development financing faces structural limitations, both in terms of fiscal capacity, budget deficits, and state debt pressure. This condition demands innovation in financing instruments that are more flexible and sustainable. (Santoso, 2023) In a global context, the concept of the Sovereign Wealth Fund (SWF) has developed as a state wealth management mechanism aimed at optimizing public assets through long-term investment. The SWF has been adopted by various countries as a strategic instrument that functions not only as an alternative source of financing but also as a means of economic stabilization and increasing the value of state assets (Chugunov & Makohon, 2019). Thus, conceptually, it demands an adaptive and progressive legal framework to ensure good governance and protection of state finances. (Mesarah, 2025)

In Indonesia, the transformation of state asset management is realized through Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises and Government Regulation Number 10 of 2025 concerning the Organization and Governance of the Daya Anagata Nusantara Investment Management Agency (Danantara) established the Daya Anagata Nusantara Investment Management Agency (Danantara) as a strategic government policy. (Daro, 2025) Normatively, this regulation positions Danantara as the institution responsible for managing state investments, including managing SOE dividends, consolidating state assets, and optimizing national investment. This is consistent with Article 33 paragraph (3) of the Republic of Indonesia's 1945 Constitution, which states that the state controls production sectors that are essential to the state and have an impact on people's livelihoods. Therefore, the idea of governmental control over critical economic resources for the maximum prosperity of the people is embodied in the management of state assets through Danantara. (Tiarawati, 2026)

However, Danantara's characteristics as Indonesia's Sovereign Wealth Fund differ fundamentally from SWF models in other countries, such as Temasek Holdings in Singapore and Khazanah Nasional Berhad in Malaysia. This is particularly true regarding the source of funds, which come from state-owned enterprises (SOEs), rather than from surplus natural resources or foreign exchange reserves. (Maula, 2025) Furthermore, Danantara's institutional model, which acts as a super-holding for SOEs while also having a strategic role in investment management, creates ambiguity between the functions of regulator and operator. From a state administrative law perspective, this situation has the potential to create conflicts of interest and open up room for abuse of power if not clearly regulated. (Jati, 2025) In fact, the principle of the rule of law, as stipulated in Article 1 paragraph (3) of the 1945 Constitution, requires that all actions of state administrators be based on clear and accountable law.

The urgency of implementing good corporate governance in Danantara's management of public funds is becoming increasingly important, given the large scale of the funds managed and their impact on the national economy. The principles of transparency, accountability, responsibility, independence, and fairness must be the primary foundation for all state investment management activities. The provisions of Law Number 17 of 2003 concerning State Finances, especially Article 3 paragraph (1), which emphasizes that state finances must be managed in an orderly manner, in accordance with laws and regulations, efficiently, economically, effectively, transparently, and responsibly, are also closely related to these normative principles. The lack of thorough legislation pertaining to the application of GCG principles within Danantara's legal framework has the potential to create legal uncertainty and undermine public legitimacy and investor confidence in the institution. (Gaol, 2025)

On the other hand, the current legal regulations still exhibit various weaknesses, particularly regarding the boundaries of authority between Danantara and the Ministry of State-Owned Enterprises, as well as the oversight mechanism involving various institutions such as the Corruption Eradication Commission, the Supreme Audit Agency, and the Financial Services Authority, as stipulated in Government Regulation Number 10 of 2025. This fragmented oversight has the potential to lead to overlapping authority and ineffective oversight, thus failing to ensure optimal prevention of irregularities.

Furthermore, the lack of an integrated and independent oversight system creates legal loopholes in risk management, including the risk of state financial losses (Chugunov &

Makohon, 2019). It is crucial considering that, from a state financial law perspective, any losses arising from the management of state investments must be legally accountable, as stipulated in Article 1, number 22 of Law Number 1 of 2004 concerning the State Treasury, which defines state losses as a real and definite shortage of money, securities, and goods resulting from unlawful acts. (Ardiyan, 2025)

The urgency of implementing good corporate governance in Danantara's management of public funds is becoming increasingly important, given the large scale of the funds managed and their impact on the national economy. The principles of transparency, accountability, responsibility, independence, and fairness must be the primary foundation for all state investment management activities. The provisions of Law Number 17 of 2003 concerning State Finances, especially Article 3 paragraph (1), which emphasizes that state finances must be managed in an orderly manner, in accordance with laws and regulations, efficiently, economically, effectively, transparently, and responsibly, are also closely related to these normative principles. Governance, as a pattern of rule and practice of governing, fundamentally determines how governments make decisions, manage resources, and deliver services for the welfare of citizens, making it a critical factor for a country's progress. The lack of thorough legislation pertaining to the application of GCG principles within Danantara's legal framework has the potential to create legal uncertainty and undermine public legitimacy and investor confidence in the institution. Although Danantara has begun implementing governance reforms, including policies limiting non-productive activities and restricting the involvement of directors' families in business matters, these measures have yet to be formally embedded in a comprehensive legal framework.

The consolidation of state-owned enterprise assets into a single entity like Danantara also has the potential to create economic domination that could result in unfair business competition and monopolistic practices, which goes against the tenets of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Furthermore, the gap between normative regulations and implementation indicates a legal vacuum and disharmony of norms in the governance and oversight of Danantara. Therefore, a comprehensive and systematic reconstruction of legal regulations is needed to strengthen governance and independent oversight mechanisms, as well as clarify legal accountability in the management of state investments. This research is significant within the framework of national legal reform because it not only contributes to the development of state investment law theory but also provides practical recommendations for improving Danantara regulations to ensure transparency, accountability, and sustainable protection of state finances.

METHOD

Using primary, secondary, and tertiary legal materials as the foundation for analysis to address the legal issues examined, this study employed a normative juridical research approach, which is legal research that focuses on the examination of applicable positive legal norms. The legal approach and the conceptual approach are two of the methods employed in this study. The Republic of Indonesia's 1945 Constitution, particularly Article 1 paragraph (3) and Article 33 paragraph (3), Law Number 17 of 2003 concerning State Finance, Law Number 1 of 2004 concerning State Treasury, and Law Number 19 of 2003 concerning State-Owned Enterprises, as most recently amended by Law Number 1 of 2025, are among the pertinent regulations that

are examined in order to implement the statutory approach, Government Regulation Number 10 of 2025 concerning the Organization and Governance of the Daya Anagata Nusantara Investment Management Agency, and other related regulations related to the governance and supervision of state finances. Meanwhile, a conceptual approach is used by examining the doctrines, theories, and legal concepts that have developed in legal science, such as the concept of good corporate governance, the theory of legal responsibility, and the principles of state financial management, to build comprehensive legal arguments in analyzing problems related to the reconstruction of legal arrangements for governance and supervision of the Danantara Investment Management Agency in ensuring transparency and preventing the risk of state financial losses.

RESULTS AND DISCUSSION

Legal Governance of the Danantara Investment Management Agency in the Indonesian Legal System

As stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the legal governance of the Daya Anagata Nusantara Investment Management Agency (Danantara) in the Indonesian legal system is inextricably linked to the constitutional framework that places the state as the holder of power over production sectors that are significant to the state and control the livelihoods of the people. The provision provides constitutional legitimacy for the state to manage strategic assets and wealth through specific institutional instruments, including the establishment of Danantara as a state investment management agency. In this context, Danantara's governance is not merely administrative or corporate in nature, but also has a public dimension that is closely related to the principle of the rule of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution, which requires that all actions in the management of state assets must be based on clear, transparent, and accountable laws. (Aviana, 2025)

Normatively, the legal basis for the establishment and regulation of Danantara is regulated in Government Regulation Number 10 of 2025 on the Daya Anagata Nusantara Investment Management Agency's Organization and Governance and Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises. Under these laws, specifically through provisions governing the investment management agency, Danantara is authorized to manage SOE dividends, consolidate state assets, and carry out national strategic investment functions. Furthermore, Article 1, number 23 of the amendment to the SOE Law defines the Investment Management Agency as an agency that carries out government duties in the area of SOE investment management, demonstrating Danantara's role as an extension of the state in managing state assets. Further provisions in Government Regulation Number 10 of 2025 also emphasize the obligation to prepare an annual performance report audited by an independent auditor as a form of implementation of the principles of transparency and accountability. (Manek, 2025)

Danantara's legal position within the Indonesian legal system exhibits a unique and complex character, as it sits at the intersection of public and private entities, thus categorizing it as a quasi-public entity. On the one hand, Danantara performs a public function as a manager of state assets sourced from state-owned enterprises (SOEs), but on the other hand, it also operates with business mechanisms similar to those of a corporation. This situation has legal

implications for the applicable regulatory regime, whether it is fully subject to public law or partially to private law. From a state administrative law perspective, this position has the potential to create ambiguity in authority and responsibility, particularly in the event of investment losses. Therefore, clarity of norms is required to avoid a legal vacuum and legal uncertainty. (Defilania, 2025)

In terms of governance, Danantara's management should adhere to the principles of Transparency, accountability, responsibility, independence, and justice are all components of good corporate governance (GCG). These principles not only constitute good business practice standards, but also have a normative basis in Article 3 paragraph (1) of Law Number 17 of 2003 concerning State Finance states that state financial management must be carried out in an orderly fashion, in compliance with laws and regulations, efficiently, economically, effectively, transparently, and responsibly. Additionally, their applicability to State Treasury Law Number 1 of 2004 also indicates that all management of state assets must be within a framework of public accountability. However, explicit regulations regarding the implementation of GCG principles within Danantara's legal framework have not yet been comprehensively regulated, potentially creating weaknesses in governance practices. (Rusyda, 2025)

A normative analysis of existing regulations indicates potential disharmony between the various laws and regulations governing Danantara, particularly between the State-Owned Enterprises Law, the State Finance Law, and regulations related to state financial oversight. This disharmony is evident in the unclear division of authority between Danantara and the Ministry of State-Owned Enterprises as regulator, as well as the unclear boundaries between investment management and oversight functions. Furthermore, the provisions in Government Regulation No. 10 of 2025, which involve various supervisory institutions such as the Corruption Eradication Commission (KPK), the Supreme Audit Agency (BPK), and the Financial Services Authority (OJK), have the potential to create overlapping authority, which could reduce oversight effectiveness. This situation indicates that the existing legal system is not yet fully capable of creating integrated and consistent governance. (Suwantara, 2025)

It can be concluded that the legal regulation of Danantara's governance within the Indonesian legal system still faces various normative weaknesses, including legal gaps, unclear norms, and regulatory disharmony. Although a sufficiently strong legal basis exists through Law Number 1 of 2025 and Government Regulation Number 10 of 2025, these regulations do not comprehensively address aspects of governance and oversight in detail, particularly regarding the separation of functions, the application of GCG principles, and legal accountability mechanisms. Therefore, a more systematic and integrated reconstruction of the legal regulations is needed to ensure that Danantara's management is transparent, accountable, and in accordance with the principles of the rule of law, while also protecting state finances from potential risks of loss.

Weaknesses in Supervision and Risk of State Financial Losses in Danantara Management

The supervisory system for the Danantara Investment Management Agency (BPK) normatively involves several state institutions, namely the Corruption Eradication Commission (KPK), the Supreme Audit Agency (BPK), and the Financial Services Authority (OJK), as stipulated in Government Regulation Number 10 of 2025, which requires periodic reporting

and audits of state investment management. Furthermore, supervision is also based on Law Number 17 of 2003 concerning State Finance and Law Number 1 of 2004 concerning State Treasury, which emphasize the importance of accountability in state financial management. However, empirically, this multi-institutional oversight model creates complex coordination and the absence of a single authority with full control to ensure effective oversight. In practice, this situation often leads to delays in action, overlapping audits, and a weak supervisory system that is preventive rather than repressive.

The primary issue in Danantara's supervision lies in the overlapping authority between supervisory institutions, which has the potential to give rise to institutional conflict. The Corruption Eradication Commission (KPK) is tasked with preventing and prosecuting corruption, the Supreme Audit Agency (BPK) is authorized to audit state financial management and accountability under Article 23E of the 1945 Constitution, and the Financial Services Authority (OJK) has supervisory authority in the financial services sector. However, in the context of Danantara, which combines investment, state asset management, and corporate activities, the boundaries of authority between these institutions are blurred. Empirically, this situation has the potential to create sectoral egos and weak coordination, resulting in ineffective oversight. Furthermore, the lack of an integrated, technology- and data-based oversight system also increases the opportunity for oversight gaps that could be exploited for irregularities.

Another significant weakness is the potential conflict of interest arising from Danantara's position as a regulator and operator. In practice, the government, as both shareholder and regulator through the Ministry of State-Owned Enterprises, also has an interest in Danantara's investment performance, potentially impacting its independent oversight. This situation is often empirically evident in SOE management, where political intervention or vested interests can influence business decision-making. Furthermore, the existing oversight system tends to be ex post facto, or implemented after problems arise, making it ineffective in preventing irregularities from occurring. This indicates that supervision of Danantara has not yet adopted the principle of risk-based supervision, which should be the standard for large-scale investment management.

From a risk perspective, Danantara's management of large sums of money poses the potential for significant state financial losses. These risks include mismanagement in investment decision-making, moral hazard due to weak oversight, corrupt practices in project management, and investment failure due to inadequate risk analysis. From a legal perspective, According to Law Number 1 of 2004 about the State Treasury, Article 1, number 22, state losses are defined as a real and definite shortfall of funds, securities, or items brought about by illegal conduct, whether intentional or negligent. However, in the investment context, losses are not always caused by unlawful acts but can also occur due to business risks. This raises serious legal issues regarding whether investment losses can be categorized as state losses, and the boundary between reasonable business risks and unlawful acts.

Another equally important issue concerns legal accountability for the losses incurred. Under current conditions, there are no clear regulations regarding who is legally responsible for losses incurred in Danantara's investment management—whether the directors, commissioners, or the state as the capital owner. This ambiguity has the potential to create moral hazard, as investment managers lack certainty regarding the legal consequences of their decisions. Furthermore, if every investment loss were categorized as a state loss, this could

actually hinder business decision-making due to concerns about the criminalization of policy. Therefore, clear legal boundaries are needed between administrative, civil, and criminal liability in the management of state investments (Blikhar, 2022; Corne, 2023).

Furthermore, the consolidation of state-owned enterprise assets into a single entity like Danantara also creates the potential for monopoly and economic domination, which can lead to market distortions. Control of strategic assets across multiple sectors by a single entity potentially violates the principles of fair business competition in accordance with Law Number 5 of 1999, which prohibits monopolistic practices and unfair business rivalry. Empirically, one company's dominance of the industry can prevent other business actors from entering the market, reduce economic efficiency, and create dependency on a single entity. In this context, the absence of specific regulations to anticipate the potential for monopoly by Danantara indicates a legal loophole that needs to be addressed immediately. Thus, the various weaknesses in supervision and potential risks indicate that Danantara's management faces complex and multidimensional legal challenges, necessitating comprehensive and integrated legal system reform.

Reconstruction of the Legal Arrangements for Governance and Supervision of Danantara from the Perspective of National Legal Reform

The reconstruction of the legal arrangements for governance and supervision of the Danantara Investment Management Agency must be based on a strong theoretical foundation, namely the theories of legal accountability, the rule of law, and good corporate governance (GCG). Every action in managing state finances must adhere to the principles of legality, transparency, and accountability from the standpoint of the rule of law, as stated in Article 1 paragraph (3) of the Republic of Indonesia's 1945 Constitution. Therefore, legal reconstruction must be directed at strengthening norms that explicitly require the application of the principles of transparency, accountability, and independent oversight in every aspect of Danantara's management. Concrete actions that need to be taken include revising Law Number 1 of 2025 and Government Regulation Number 10 of 2025 to include norms that explicitly regulate GCG-based governance standards, including mandatory public disclosure, technology-based real-time reporting, and the obligation of periodic independent audits that are not only administrative but also substantive.

In terms of governance, legal reform must emphasize a clear separation between the functions of regulator and operator to avoid conflicts of interest. The government, through the Ministry of State-Owned Enterprises, should be firmly positioned as the regulator, while Danantara serves as a professional and independent investment operator. Concrete actions include establishing new legal norms prohibiting direct government intervention in Danantara's business decisions, except within strategic policy boundaries established through transparent mechanisms. Furthermore, governance standardization, based on international practices such as those of Temasek Holdings and Khazanah Nasional Berhad, is necessary. It involves adopting an independent board of directors, predominantly drawn from non-political professionals, and strengthening the role of the audit committee and risk committee as part of the internal governance system.

Oversight reform should focus on establishing an integrated oversight system based on institutional independence. Concrete actions include establishing a dedicated independent

oversight body for Danantara, reporting directly to the President and the House of Representatives (DPR), with coordinating authority over the Corruption Eradication Commission (KPK), the Supreme Audit Agency (BPK), and the Financial Services Authority (OJK). Furthermore, a multi-layered oversight system encompassing internal oversight (internal audit), external oversight (BPK and independent auditors), and public oversight through an information disclosure mechanism is necessary. This strengthened oversight system must also be supported by the use of digital technology, such as an integrated financial monitoring system, which allows for real-time monitoring of fund flows and investment performance, thereby preventing any irregularities early on.

In terms of legal accountability, the reconstruction must provide clarity regarding the subjects and forms of responsibility in Danantara's management. Concrete action is needed to formulate norms that clearly differentiate between administrative, civil, and criminal liability. Directors and commissioners must be held civilly liable for losses resulting from negligence or mismanagement, while criminal liability is only imposed if there is an element of unlawful conduct, such as corruption or abuse of authority. Furthermore, it is necessary to clarify the limits on investment losses that can be categorized as state losses, as stipulated in Article 1, number 22 of Law Number 1 of 2004 concerning the State Treasury, so that not all business losses are automatically criminalized. It is crucial to strike a balance between protecting state finances and the freedom to make rational business decisions.

The legal reconstruction must also include the establishment of broader public accountability mechanisms, including the obligation to report regularly to the House of Representatives (DPR) and the public. Concrete actions that can be taken include requiring Danantara to submit performance reports and financial reports openly and accessible to the public, as well as involving public participation in oversight through a legally protected whistleblowing system mechanism. Furthermore, harmonization of the State-Owned Enterprises Law, the State Finance Law, and the State Treasury Law is necessary to eliminate the disharmonious norms that have created gaps in oversight. This harmonization can be achieved through legislative revisions or the creation of specific legislation comprehensively governing sovereign wealth funds in Indonesia.

The reconstruction of the legal arrangements for Danantara's governance and supervision aims not only to address existing normative weaknesses but also to build a modern, adaptive, and integrated state investment legal system. The implications of this reconstruction for national legal reform are significant, as it will encourage the creation of a transparent, accountable, and corruption-free investment management system. Furthermore, strengthening this legal system will also increase global investor confidence and strengthen Indonesia's position in the international economic landscape. Therefore, the reconstruction model proposed in this study represents a significant contribution to the development of national law, particularly in the areas of state finance law and strategic investment.

CONCLUSION

Based on the discussion, it can be concluded that the legal arrangements for governance and supervision of the Danantara Investment Management Agency within the Indonesian legal system are still inadequate to ensure transparency and prevent the risk of state financial losses. Although it has a legal basis through Law Number 1 of 2025 and Government Regulation

Number 10 of 2025, normative weaknesses remain, including unclear legal standing regarding Danantara as a quasi-public entity, disharmony of regulations with the state financial legal regime, and suboptimal implementation of Good Corporate Governance principles. Furthermore, the supervisory system involving various institutions such as the Corruption Eradication Commission (KPK), the Supreme Audit Agency (BPK), and the Financial Services Authority (OJK) has not been effectively integrated and still has the potential to lead to overlapping authorities and weak preventive oversight. This situation is exacerbated by the lack of clarity regarding legal accountability for investment losses, creating legal uncertainty between business risks and state losses as referred to in Article 1, number 22 of Law Number 1 of 2004 concerning the State Treasury. Therefore, this situation demonstrates the urgent need to reconstruct legal regulations that are more comprehensive, systematic, and adaptive to the dynamics of state investment management. In this regard, it is recommended that the government and lawmakers immediately reconstruct the regulations governing Danantara, emphasizing strengthening the principles of transparency, accountability, and independence in governance and oversight. Specifically, revisions to Law No. 1 of 2025 and Government Regulation No. 10 of 2025 are necessary to emphasize the separation of regulatory and operator functions, establish an independent, integrated oversight system, and establish a clear and proportional legal accountability mechanism for administrative, civil, and criminal matters. Furthermore, harmonization with the State Finance Law, the State Treasury Law, and the Business Competition Law is necessary to avoid disharmony in norms and legal loopholes. Strengthening the multi-layered audit system, technology-based transparency, and public involvement in oversight are also strategic steps to prevent potential irregularities. Therefore, this comprehensive legal reform is expected to create a state investment management system with integrity, professionalism, and sustainability, and support national legal reform in facing global economic challenges.

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