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ASSESSING DANANTARA'S ALIGNMENT WITH THE SANTIAGO PRINCIPLES: INDONESIA'S SOVEREIGN WEALTH FUND LEGAL REGIME IN COMPARATIVE PERSPECTIVE

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ABSTRACT

This article looks at how well Daya Anagata Nusantara (Danantara), Indonesia's recently created sovereign wealth fund, complies with the Santiago Principles, which are international best practices for SWFs. As a transformative vehicle to manage important state-owned assets, Danantara was established by Law No. 1 of 2025 (Third Amendment to the SOE Law) and later governed by Law No. 16 of 2025 (Fourth Amendment). This raised concerns regarding its governance, transparency, and compliance with international standards. This study examines the similarities, differences, and difficulties between Danantara's institutional and legal framework and the guidelines of the Santiago Principles. It first explains the content of the Santiago Principles, their legal standing as soft law, and their ability to persuade SWF behavior around the world. After that, it describes Indonesia's SWF architecture after 2025, emphasizing Danantara's goals, organizational design, and legal framework. By comparing Danantara's governance and operations to the benchmarks of the Santiago Principle, the core analysis identifies areas of agreement (like a clear legal basis and objectives) and differences (most notably in independent oversight and transparency). To put Danantara's strategy in perspective, a comparative analysis uses insights from two well-known SWFs: Temasek (Singapore) and Norway's Government Pension Fund Global (GPFG). The article concludes that although Danantara's founding is a daring move that partially conforms to international best practices, significant advancements are required to fully implement the Santiago Principles, particularly in strengthening accountability and shielding the fund from political influence. The conclusion makes suggestions for improving Danantara's governance and contends that conforming to the Santiago Principles is essential to establishing trust, drawing in capital, and guaranteeing the fund's long-term viability.

Keywords: DANANTARA; Indonesia; Santiago Principles; Soft Law; Sovereign Wealth Fund.

INTRODUCTION

Over the past 20 years, the rise of sovereign wealth funds (SWFs) has sparked a lot of debate about how these state-controlled investment vehicles should be run and watched over. SWFs had a lot of power in global financial markets because they managed trillions of dollars in

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assets around the world.[1] At first, this growth made investor countries worried about how open, well-managed, and possibly politically motivated foreign state-controlled investments were. The Santiago Principles were made in 2008 as a set of voluntary rules to set standards that everyone could agree on and ease worries about how SWFs work.[2] These rules, officially called the "Generally Accepted Principles and Practices" (GAPP) for SWFs, stress the importance of strong legal frameworks, independent governance, openness, and only investing for economic reasons. They are not legally binding, but the international financial community agrees that they are the best practices.[3]

Indonesia has only recently started using sovereign wealth funds. Indonesia has not traditionally had a classic SWF that was funded by commodity surpluses or foreign reserves, unlike many other resource-rich countries. The government did, however, set up the Indonesia Investment Authority (INA) in 2021, which was the country's first SWF.[4] INA was created to bring in foreign investors for infrastructure and development projects in the US, not to manage excess reserves. INA's governance structure was set up to focus on professional management and following international best practices. Commentators have pointed out that INA follows the Santiago Principle's standards for independent oversight and accountability. In 2025, Indonesia took a bigger step toward reform by creating Daya Anagata Nusantara (Danantara), a new sovereign wealth fund that will manage a wide range of major state-owned enterprises (SOEs). Danantara is a strategic change in how Indonesia manages its state assets. It was first established by Law No. 1 of 2025 (the Third Amendment to the State-Owned Enterprises Law) and then significantly changed by Law No. 16 of 2025 (the Fourth Amendment, which was published on October 6, 2025). It is based in part on Singapore's Temasek Holdings. Law No. 16 of 2025 brought about important changes to institutions, such as the creation of the SOE Regulatory Agency (BP BUMN) to separate regulatory oversight from operational management. This addressed important governance issues that were found in early studies of the Danantara framework.[5]

It is very important to check how well Danantara fits with the Santiago Principles because this institutional change is happening on an unprecedented scale and in a new way. Danantara is different from other companies because it combines Indonesia's largest state-owned businesses into one super-holding structure. This structure is expected to have assets worth hundreds of billions of dollars. In this situation, putting the Santiago Principles into action is very important for two reasons. First, it is a necessary condition for the market to accept it because compliance gives host state regulators confidence that the fund is working for economic rather than geopolitical reasons, which lowers the risk of protectionist barriers.[6] Second, following these rules is a very important way to protect against failures in domestic governance. It makes sure that such a large amount of state wealth is safe from the political capture and mismanagement that have hurt other sovereign funds in the area.[7]

[1] Shai Bernstein, Josh Lerner, and Antoinette Schoar, "The Investment Strategies of Sovereign Wealth Funds," *Journal of Economic Perspectives* ٢٧, no. ٢٠١٣) ٢): p 10-12.

[2] International Working Group of Sovereign Wealth Funds, *Sovereign Wealth Funds: Generally Accepted Principles and Practices – "Santiago Principles"* (Washington, DC: IWG-SWF, ٢٠٠٨).

[3] Kenneth W. Abbott and Duncan Snidal, "Hard and Soft Law in International Governance," *International Organization* ٥٤, no. ٢٠٠٠) ٣): p. 421-456.

[4] Presidential Regulation No. 74 of 2020 concerning Indonesia Investment Authority (Government of Indonesia, 2020).

[5] Sovereign Wealth Fund (SWF): Comparison between Indonesia, Singapore and Malaysia," *Unram Law Review* ٩, no. ٢٠٢٥) ٢), Law No. ١٦ of ٢٠٢٥ concerning the Fourth Amendment to Law No. ١٩ of ٢٠٠٣ on State-Owned Enterprises (Republic of Indonesia, Official Gazette No. ١٦٢ of ٢٠٢٥).

[6] Edwin M. Truman, *Sovereign Wealth Funds: Threat or Salvation?* (Washington, DC: Peterson Institute for International Economics, ١١٥-١١٣ ,(٢٠١٠; and Gawdat Bahgat, «Sovereign Wealth Funds: An Assessment,» *Global Policy* ١, no. :(٢٠١٠) ٢ ١٦٢.

[7] Adam Dixon, *Sovereign Wealth Funds: Legitimacy, Governance, and Global Power* (Princeton: Princeton University Press, ٩٢-٨٨ ,(٢٠١٤.

The research problem examined in this article is the degree to which Indonesia's new SWF regime, represented by Danantara, conforms to the Santiago Principles' criteria for good governance and accountability. This issue is important for both domestic governance and how the world sees Danantara. Following the Santiago Principles can help Danantara gain the trust of global investors and make sure it does its job without making the same mistakes that poorly run funds have made (like the infamous 1MDB scandal in Malaysia).[8] However, due to Danantara's novelty and the substantial alterations it introduces to Indonesia's legal framework for SOEs, there exists a literature gap: limited comprehensive studies have analyzed how Danantara's legal structure aligns with international SWF standards. Sovereign Wealth Funds (SWFs) play a crucial role in global financial markets, managing substantial state assets. To ensure transparent management free from political influence, the Santiago Principles were introduced in 2008 as best practice guidelines (soft law) for SWF governance, although they are not legally binding. These principles emphasise the importance of strong legal frameworks, independent governance, and investment purposes focused purely on economic goals. While adherence to these principles can enhance investor confidence, it is not the sole factor determining the success or acceptance of a sovereign wealth fund. Many other elements contribute, such as political stability, management track record, and global market conditions.

Indonesia, with the establishment of Danantara in 2025, has adopted a new approach to managing state assets through a large holding structure that consolidates key state-owned enterprises. Although Danantara is designed to comply with the Santiago Principles, it is important to understand that adherence to these principles, while significant, is not an absolute determinant for global market acceptance. Compliance with these principles needs to be balanced with other factors, such as political stability and management transparency. Therefore, while Danantara can adopt best governance practices, this research highlights that investor acceptance also depends on additional elements beyond mere adherence to the Santiago Principles. The aim of this research is to address that deficiency by aligning Danantara's framework and regulations with the Santiago Principles, pinpointing similarities and differences, and examining the consequences for policy and practice. The study also puts Danantara in a comparative setting by looking at Temasek and Norway's GPFG, two well-known SWFs that show different ways of running a business and have, to different degrees, put the Santiago Principles into practice. This inquiry is novel due to its timing and scope: the establishment of Danantara is a recent occurrence, thus this analysis delivers a timely scholarly evaluation of its conformity with global standards, providing recommendations to guarantee that Indonesia's SWF functions at the highest levels of governance.

The article begins by explaining the Santiago Principles, including how they came to be soft law and how they affect how states act. Next, it talks about the legal framework for Indonesia's sovereign wealth funds, focusing on the changes made by Law No. 1 of 2025 and the way Danantara is run. The main part of the analysis then compares Danantara to the most important Santiago Principles, pointing out where it is in compliance, where it needs to improve, and where it is having trouble putting the principles into action. A separate section offers comparisons between Singapore and Norway to help understand Indonesia's approach and learn from it. Lastly, the conclusion summarizes the results of whether Danantara's government is in line with the Santiago Principles and gives useful advice on how to improve this alignment in the future.

[8] Christopher K. Johnson and Scott Kennedy, "1MDB Corruption Scandal in Malaysia: A Study of Failings in Control and Accountability," *Public Administration and Policy* ٢٣, no. ٢٠٢٠) ١): p. 45-63.

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METHOD

This study employs a normative legal research methodology, based on the examination of laws, regulations, and authoritative directives.[9] Normative legal research is defined by its emphasis on the scrutiny of legal norms, principles, and doctrines via the methodical examination of primary and secondary legal sources.[10] It entails a doctrinal analysis of Indonesia's legislative and regulatory texts pertaining to Danantara, specifically Law No. 1 of 2025 and Law No. 16 of 2025, along with associated instruments and the content of the Santiago Principles as delineated by the International Forum of Sovereign Wealth Funds (IFSWF).

The theoretical framework of this research is based on soft law theory in international financial governance, which analyzes the impact of non-binding voluntary standards on state conduct and institutional architecture.[11] This theoretical framework is crucial for comprehending the normative influence and persuasive efficacy of the Santiago Principles, notwithstanding their non-binding legal status. The study also uses institutional governance theory, which gives researchers ways to look at how the performance and legitimacy of sovereign wealth funds are affected by things like organizational structures, accountability mechanisms, and independence arrangements.

To assess harmonization, a comparative legal analysis is employed: Danantara's features are systematically compared against Santiago Principles benchmarks and against the governance frameworks of selected international SWFs specifically Temasek (Singapore) and the Government Pension Fund Global or GPFG (Norway). The comparative method enables identification of convergences and divergences between Indonesia's legal regime and international best practices, while also contextualizing Danantara within diverse governance models that represent different approaches to sovereign wealth management.[12]

The research relies on primary legal sources (statutes, regulations, presidential decrees), international soft law instruments (Santiago Principles, IFSWF guidelines), and secondary sources including policy documents, legal memorandum, scholarly articles, and expert commentary from practitioners and academics.[13] This approach to legal materials with many layers makes sure that the academic rigor and full coverage of both formal legal provisions and practical implementation issues.

ANALYSIS AND DISCUSSION

Legal Status, Normative, and Persuasive Force of the Santiago Principles

The Santiago Principles consist of 24 voluntary guidelines issued in 2008 to promote best practices in the governance and operation of sovereign wealth funds. Formulated by the International Working Group of Sovereign Wealth Funds under the auspices of the IMF and later upheld by its successor, the IFSWF, these principles emerged amid concerns that SWFs lacked adequate transparency, accountability, and independence. They were motivated by a desire to maintain a stable global financial system and free flow of capital by addressing host countries'worries that foreign government-controlled investors might pursue political objectives or undermine markets.[14]

As a soft law instrument, the Santiago Principles do not create legally binding obligations under international law; rather, they are a form of industry self-regulation or transnational

[14]International Working Group of Sovereign Wealth Funds, *Sovereign Wealth Funds: Generally Accepted Principles and Practices – "Santiago Principles"* (Washington, DC: IWG-SWF, ٢٠٠٨).

voluntary standard.[15] Their legal status is therefore not that of a treaty or binding regulation, but their influence comes from broad endorsement and the reputation effects of compliance.[16] To date, dozens of major SWFs (accounting for the vast majority of global SWF assets) have formally signed on to the Santiago Principles by joining the IFSWF and committing to implement the principles to the extent applicable. For IFSWF members, adherence is essentially expected, though still self-monitored via periodic self-assessments and peer review rather than any external enforcement. This voluntary nature underscores the normativity of the Santiago Principles: they set norms of appropriate conduct (e.g. transparency, financial orientation, good governance) that SWFs *ought* to follow, even though a fund won't incur legal penalties per se for deviating.[17] The principles have a lot of power because they are widely accepted as the standard for good governance and legitimacy in the sovereign investment community.

The Santiago Principles have had a big impact on people, even though they are not legally binding. First, by publicly supporting the principles, sovereign fund sponsors show international markets and domestic stakeholders that the fund will run professionally and without political bias. When SWFs invest abroad, this can help investors feel more confident and stop protectionist backlash. For example, a new SWF that follows the Santiago Principles shows that it will follow the laws of the host country, invest for economic and financial reasons (not political ones), and be open about what it does. These kinds of promises can make foreign companies and regulators more open to the SWF's money. [18]

Second, the principles are a standard for internal governance: SWFs use them to build or change their own structures. The Principles cover three main areas: (1) the legal framework and goals of the fund, (2) the framework for institutions and governance (which includes independence, accountability, and operational controls), and (3) policies for investing and managing risk.[19] They enumerate concrete best practices, such as having a clear legal mandate (GAPP 1–3), separating the fund's management from day-to-day political influence (GAPP 6, 7, 9, 16), establishing robust oversight and audit mechanisms (GAPP 10, 11, 12, 22, 24), public transparency in holdings and performance (GAPP 17, 23), and avoiding insider or privileged information advantages (GAPP 15, 20). Many funds have reformed their charters or legislation to mirror these recommended practices.

Each Santiago Principle is designed to address a specific aspect of SWF governance, ensuring that funds are managed transparently, independently, and in line with economic objectives. Below is a brief explanation of each principle and its relevance to the broader governance framework:

1. Legal Framework and Objectives: SWFs should operate within a clear legal framework with well-defined investment objectives. This ensures that the fund is aligned with national economic priorities and operates in a predictable, transparent manner.
2. Independence and Accountability: The management of SWFs should be independent from political influence, with clear lines of accountability. This principle guards against political

[15]Kenneth W. Abbott and Duncan Snidal, "Hard and Soft Law in International Governance," *International Organization* ٥٤, no. ٤٥٦-٤٢١ :(٢٠٠٠) ٣; Gregory Shaffer and Mark A. Pollack, «Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance,» *Minnesota Law Review* ٢٠١٠) ٩٤): p. 706-799.

[16]Joost Pauwelyn, Ramses A. Wessel, and Jan Wouters, eds., *Informal International Lawmaking* (Oxford: Oxford University Press, ٢٠١٢), p. 35-58

[17]Christine Lagarde, "Sovereign Wealth Funds and the Santiago Principles: Where Do We Stand?" (speech, Peterson Institute for International Economics, Washington, DC, April 10, 2013).

[18]Edwin M. Truman and Anna Wong, "The Case for an International Reserve Diversification Standard," Working Paper Series WP 06-2 (Washington, DC: Peterson Institute for International Economics, 2006); Paul Rose, "Sovereign Wealth Funds: Active or Passive Investors?" *Yale Law Journal* ١١٨, no. ٢٠٠٨) ١): p. 104-109.

[19]International Working Group of Sovereign Wealth Funds, *Sovereign Wealth Funds: Generally Accepted Principles and Practices "Santiago Principles"* (Washington, DC: IWG-SWF, ٢٠٠٨).

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interference and ensures that the fund's actions are guided by economic goals rather than short-term political considerations.

3. Operational Controls: SWFs should have robust internal governance mechanisms, including oversight and audit functions, to ensure that funds are managed prudently and in accordance with established policies. This principle underlines the importance of risk management and operational efficiency in fund management.
4. PublicTransparency:SWFsshouldbetransparentintheiroperations,holdings,andperformance. By making information publicly available, SWFs build trust with stakeholders and reduce the risk of corruption or mismanagement.
5. Confidentiality and Insider Information: Funds should avoid any form of insider trading or leveraging privileged information for personal gain. This principle protects the integrity of the SWF's operations and ensures that investment decisions are based on sound financial reasoning.
6. Investment and Risk Management Policies: SWFs must have clear policies in place for investment strategies and risk management. This principle ensures that SWFs operate within established risk parameters and adhere to internationally accepted financial practices.

These principles collectively aim to foster good governance and best practices in the management of SWFs, ensuring they act in a manner that is not only legally sound but also ethically responsible. By adhering to these principles, SWFs can enhance their credibility, attract global investment, and contribute to economic stability both domestically and internationally.

In the context of Indonesia's Danantara, these principles are critical for aligning the fund with global standards and ensuring that it is perceived as trustworthy and capable of managing state assets responsibly. While adherence to these principles is voluntary, their widespread acceptance in the sovereign wealth fund community means that failure to follow them can damage an SWF's reputation and hinder its ability to attract investment.

In international practice, the Santiago Principles have achieved near-ubiquitous reference as a *de facto* standard. They are frequently cited by multilateral organizations, credit rating agencies, and academics when evaluating a sovereign fund's governance. For example, the Linaburg-Maduell Transparency Index and other assessments of SWF transparency incorporate Santiago-aligned criteria such as the publication of annual reports and disclosure of investment strategy.[20] While there is no legal enforcement, the peer pressure within the IFSWF and the broader financial community creates incentives for compliance. Funds that significantly deviate risk reputation damage or even mistrust from potential investment partners.

The Santiago Principles give sovereign wealth funds three clear benefits. First, they make it easier to get into foreign markets by giving host country regulators credible proof that investment decisions are based only on economic and financial factors, not political ones. This lowers the chance that regulators will turn down the investment. Second, they lower the cost of capital by requiring clear and strong risk management systems. This lets credit rating agencies and potential co-investors better and more accurately judge the fund's creditworthiness.[21] Third, they act as a way for institutions to protect domestic assets. The rules about accountability and independent oversight help keep the fund's capital safe from being stolen or used up for political reasons by domestic elites.[22]

[20]Carl Linaburg and Michael Maduell, "Transparency of Sovereign Wealth Funds," Sovereign Wealth Fund Institute (2008); Patrick Schena and Ali Hammoud, "From Thin to Thick: Strengthening the Santiago Principles through Disclosure, Certification and Enforcement," *Global Governance* ١٧, no. ٢٠١١) ١):p. 59-76.

[21]Sven Behrendt, *Sovereign Wealth Funds and the Santiago Principles: Where Do They Stand?* (Washington, DC: Carnegie Endowment for International Peace, ٢٠١٠)

[22]Larry Catá Backer, "Sovereign Wealth Funds as Regulatory Chameleons: The Norwegian Sovereign Wealth Funds and the Santiago Principles," *Georgetown Journal of International Law* ٤٢٧-٤٢٥ :(٢٠١٠) ٤١.

In short, the Santiago Principles have become a way for sovereign funds to be governed around the world, showing how non-binding rules can shape how states act.[23] It's clear that these principles are persuasive because countries like Indonesia that are setting up new SWFs feel like they have to explain how their fund meets these standards in order to be seen as legitimate. The next parts look at how this dynamic works in Indonesia, using the Santiago Principles to look at Danantara's legal system.

Legal Reforms in Indonesia's Sovereign Wealth Fund Framework: Law No. 16 of 2025

The legal architecture of Danantara underwent substantial transformation within months of its initial establishment. While Law No. 1 of 2025 created the foundational framework for Danantara as a state investment management agency, it retained the Ministry of State-Owned Enterprises as both regulator and shareholder, thereby creating potential conflicts of interest. Law No. 16 of 2025, enacted on October 6, 2025, introduced four substantive legal and institutional reforms directly responsive to the structural deficiencies identified in the initial framework.[24]

The most consequential reform is the creation of an independent regulatory agency, the *Badan Pengaturan BUMN* (SOE Regulatory Agency or BP BUMN), as a non-ministerial government institution reporting directly to the President. Article ٣A(٤)-(٣) of Law No. ١٦ of ٢٠٢٥ establishes this institutional innovation, effectively displacing the Ministry of State-Owned Enterprises from its former dual regulatory and shareholding role.[25] SOE Regulatory Agency assumes regulatory, supervisory, and policy-setting functions relating to state-owned enterprises (Article ٣B٣-C), while Danantara retains direct authority over portfolio management and investment decisions (Article ٣E٣-F).[26] This bifurcation of regulatory and operational functions constitutes a fundamental departure from Law No. ١ of ٢٠٢٥›s integrated ministerial structure.[27]

Second, Article 2(3) and Article 4C of Law No. 16 of 2025 make the shareholding structure clearer. The State owns 1% of the shares as Series A Dwiwarna shares (golden shares with special governance rights) through the Head of the SOE Regulatory Agency. It owns 99% of the shares as Series B shares through Danantara. Article 4C(3) says that the golden shares give certain rights, such as the right to approve extraordinary general meetings, appoint and remove directors, and see company information. This structure clears up the confusion about who owns what in Law No. 1 of 2025, where ministerial and shareholding institution roles were mixed up.[28]

Third, Article 3AB(4) and Article 3AK(4) of Law No. 16 of 2025 say that Danantara owns 100% of both the Investment Holding Company and the Operational Holding Company. This gets rid of the dual State-Badan ownership structure of Law No. 1 of 2025.[29] This consolidation simplifies the governance hierarchy and removes potential conflicts arising from co-ownership with divergent interests.

Fourth, Law No. 16 of 2025 introduces an express and legally binding prohibition on ministers and deputy ministers serving concurrently as organs of state-owned enterprises or investment

[23]Fabio assan, *The Law of Sovereign Wealth Funds* (Cheltenham: Edward Elgar Publishing, ٢٠١١), p. 78-95; Larry Catá Backer, "Sovereign Wealth Funds as Regulatory Chameleons: The Norwegian Sovereign Wealth Funds and Public Global Governance Through Private Global Investment," *Georgetown Journal of International Law* ٤١, no. ٢٠١٠) ٢): p. 425-500.

[24]Law No. 1 of 2025 concerning the Third Amendment to Law No. 19 of 2003 on State-Owned Enterprises (Republic of Indonesia, Official Gazette No. 10 of 2025); Law No. 16 of 2025 concerning the Fourth Amendment to Law No. 19 of 2003 on State-Owned Enterprises (Republic of Indonesia, Official Gazette No. 162 of 2025).

[25]Law No. 16 of 2025, Article 3A.

[26]*Ibid*., Articles 3B-3C (BP BUMN authority), Articles 3E-3F (Danantara authority)

[27]*Ibid*., Article I (provisions establishing BP BUMN as separate entity and redefining allocation of authority)

[28]Law No. 16 of 2025, Article 2; Article 4C pharagraph (1)-(3).

[29]Law No. 16 of 2025, Article 3AB pharagraph (4); Article 3AK pharagraph (4).

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management bodies, including Danantara. This provision, articulated in the explanatory note to Article 15B and implemented through the transitional provisions, represents a statutory response to governance conflicts evident in Danantara's inaugural board composition, where the sitting Minister of State-Owned Enterprises and Minister of Investment held executive positions.[30] The prohibition operates with a transitional grace period of up to two years from the relevant Constitutional Court decision.

These four reforms collectively reshape Danantara's legal and institutional architecture compared to the framework established under Law No. 1 of 2025. The comparative table above summarizes the primary modifications introduced by Law No. 16 of 2025. Whether these modifications constitute a sufficient response to governance challenges and their alignment with international standards will be examined in the following analysis of convergences and governance gaps.

Table 1. Comparative Table: Key Dimensions of Legal Evolution

Governance Dimension	Law No. 1 of 2025	Law No. 16 of 2025	Governance Impact
Regulatory Authority	Ministry of SOE (dual regulator + shareholder role)	SOE REGULATORY AGENCY (independent regulator reporting to President)	Eliminates systemic conflict of interest; enables oversight distinct from operational management
Shareholding Structure	Ambiguous split between ministerial and Badan shares	Clear 1% golden share (SOE REGULATORY AGENCY) + 99% operational shares (Danantara)	Separates oversight prerogatives from operational control; aligns with Temasek/GPFG models
Holding Company Ownership	Dual State/Badan ownership of Holdings	100% Danantara ownership of both Holdings	Removes principal-agent conflicts; enables unified strategic portfolio management
Political Insulation	General conflict-of-interest rules; ministers can hold board roles	Explicit prohibition on ministerial/deputy ministerial board service (with 2-year transition)	Statutory depoliticization; direct response to inaugural board governance concerns
Transparency & Disclosure	No statutory public reporting mandate	No change/ no statutory disclosure obligation introduced	GAP PERSISTS: Unlike Norway/Singapore, no mandatory annual reports or portfolio disclosure
Funding Policy	Discretionary profit allocation (max 30% if retained >50%)	Unchanged/discretionary allocation remains	GAP PERSISTS: No procedural safeguards or independent review mechanism
Audit Scope	Limited to "specific purposes" per DPR request	Expanded to "per statutory provisions" (ambiguous)	PARTIAL IMPROVEMENT: Broader mandate but requires clarification through regulations

Source: Law No. 16 of 2025, comparative analysis with Law No. 1 of 2025 and international SWF practice.

In short, Law No. 16 of 2025 is a responsive legislative iteration that significantly reduces the differences in governance between the Danantara and Santiago Principles standards and international best practices. The institutional separation of the SOE REGULATORY AGENCY from Danantara, the golden share architecture that allows oversight without interfering with operations, the consolidation of holding company ownership, and the clear ban on ministers holding two offices at the same time all work together to make institutions more independent and lower the risk of politicization. These changes show that Indonesia is serious about fixing

[30] Law No. 16 of 2025, Explanation of Article 15B; Presidential Decree No. 30 of 2025 (Danantara inaugural board composition under Law No. 1 of 2025).

governance problems that were pointed out in early studies. They also show a regulatory approach that puts institutional learning and ongoing improvement first.

Convergences and Gaps: Danantara's Alignment with the Santiago Principles

The Santiago Principles, which are officially called the Generally Accepted Principles and Practices for Sovereign Wealth Funds, are a groundbreaking soft law tool that aims to set global standards for how state-controlled investment entities should be run. The International Working Group of Sovereign Wealth Funds (which later became the International Forum of Sovereign Wealth Funds or IFSWF) published these 24 principles in 2008. They cover basic governance issues like legal clarity, institutional independence, operational transparency, accountability mechanisms, and a focus on economic and financial goals instead of political ones.[31] The Santiago Principles are not legally binding, but most major sovereign funds agree with them. Credit rating agencies, multilateral institutions, and scholars often use them as the de facto standard for judging the quality of SWF governance.[32] The question of whether and to what extent Danantara meets these international standards is important for both Indonesia›s credibility as an institution and its ability to gain the trust of its own people and attract foreign investment.

When compared to the Santiago Principles, Danantara shows that it follows many international best practices in many areas, but it also has some big gaps that could lead to governance problems. GAPP 1 says that "the legal framework for the SWF should be sound and support its effective operation and the achievement of its stated objective(s)." GAPP 2 says that "the policy purpose of the SWF should be clearly defined and publicly disclosed."[33] Danantara demonstrates substantial alignment with these principles. Law No. ١ of ٢٠٢٥ establishes Danantara›s legal personality, articulates a defined objective to optimize state asset value and support development, and explicitly prohibits purely political or short-term investment motives.[34] This statutory foundation provides the legal certainty that the Principles require and offers transparency regarding Danantara›s mandate to both domestic stakeholders and foreign investors. Additionally, the law›s incorporation of the business judgment rule aligns with GAPP ١٩, which provides that «*the SWF should not seek or take advantage of privileged information or inappropriate influence by the broader government in competing with private entities*."[35] The clarification that state capital invested in Danantara constitutes the fund›s separate property, not public finance, further supports GAPP ١٦›s emphasis on «*clear and publicly disclosed policies, rules, procedures, or arrangements*" for operational autonomy in investment management.[36]

However, governance independence that is the focus of GAPP 6 and 9, which represent the foundational architecture of the Santiago framework, exhibited substantial divergence from international standards under Law No. 1 of 2025, though Law No. 16 of 2025 introduces critical improvements. GAPP 6 specifies that "*the operational management of the SWF should be independent from the management of the fiscal and monetary policies of the owner*," while GAPP

[31]International Working Group of Sovereign Wealth Funds, *Sovereign Wealth Funds: Generally Accepted Principles and Practices -- "Santiago Principles"* (Washington, DC: IWG-SWF, ٢٠٠٨), p. 3-8.

[32]Fabio Bassan, *The Law of Sovereign Wealth Funds* (Cheltenham: Edward Elgar Publishing, ٩٥-٧٨ ,(٢٠١١; Patrick Schena and Ali Hammoud, «From Thin to Thick: Strengthening the Santiago Principles through Disclosure, Certification and Enforcement,» *Global Governance* ١٧, no. ٢٠١١) ١): p. 59-76.

[33]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 1 and 2.

[34]Law No. 1 of 2025 concerning the Third Amendment to Law No. 19 of 2003 on State-Owned Enterprises (Republic of Indonesia, Official Gazette No. 10 of 2025), Articles 1-4.

[35]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 19; Law No. 1 of 2025, Article 9 paragraph (2) (business judgment rule provision).

[36]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 16; Law No. 1 of 2025, Article 9 (separation of state capital from public finance).

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9 states that "*the operational management of the SWF should implement the SWF's strategies in an independent manner and in accordance with clearly defined responsibilities*."[37] Danantara›s governance structure as initially designed under Law No. ١ of ٢٠٢٥ and implemented through Presidential Decree No. ٣٠ of ٢٠٢٥ created legal vulnerabilities to political influence. The President retained discretionary authority to appoint and remove all board members without statutory qualification criteria, parliamentary confirmation, or transparent selection processes. More problematically, the inaugural board included serving ministers as the SOE Minister as Supervisory Board Chairman and the Investment Minister as Chief Executive Officer, creating simultaneously held positions that blurred the operational boundary between government and fund that GAPP 6 and 9 demand.[38] This structural arrangement violated the principle of independence through institutional distance; comparative SWF governance models universally restrict political actors from operational management roles precisely to prevent such conflicts of interest.[39]

Law No. 16 of 2025 materially strengthens Danantara's alignment with these independence principles. The establishment of SOE REGULATORY AGENCY as an independent regulatory institution (Article 3A(3)-(4)) effectively separates the regulatory function from operational management, partially remedying the dual-role conflict that violated GAPP 6's requirement of separation between sovereign wealth management and fiscal/monetary policy management.[40] The explicit prohibition on ministers and deputy ministers serving concurrently as organs of state-owned enterprises directly addresses the political capture risk identified above and strengthens compliance with GAPP ٩›s requirement that «*the operational management of the SWF should implement the SWF's strategies in an independent manner*."[41] The restructured shareholding through a ٪١ golden share (held by SOE REGULATORY AGENCY) and ٪٩٩ operational shares (held by Danantara) under Article ٣)٢) and Article ٤C clarifies the separation between oversight and operational authority, providing a structural safeguard for independence.[42] These changes make the difference between Danantara›s architecture and the independence expectations of GAPP ٦ and ٩ much smaller. However, there are still vulnerabilities: the president›s power to appoint people still doesn›t have any legal standards for who can be appointed or how they should be chosen, which means that politically motivated appointments can still happen even though the minister says they can›t. Because of this incompleteness, the law now keeps politics and operations separate, but it hasn›t fully professionalized the appointment process itself, as GAPP ٧ says it should. GAPP ٧ says that «the owner should set the objectives of the SWF and appoint the members of its governing body(ies) in accordance with clearly defined procedures.»[43]

The audit and oversight architecture similarly reveals gaps, though Law No. 16 of 2025 introduces improvements. GAPP 10 stipulates "*the internal governance framework should ensure that there is adequate operational independence in the management of the SWF to*

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[37]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 6, 9.

[38]Presidential Decree No. 30 of 2025 concerning the Appointment of Danantara Board Members (Republic of Indonesia, 2025), Attachment; Law No. 1 of 2025, Articles 3N-3P (board appointment provisions).

[39]Paripurna P. Sugarda, Florencia Irena Gunawan, and Alfatika Aunuriella Dini, "Sovereign Wealth Fund Development in Indonesia: Lessons Learned from Norway and Singapore," *Yustisia Jurnal Hukum* ١٣, no. ٢٠٢٤) ١), at p. 102-105; Ruth V. Aguilera, Javier Capapé, and Javier Santiso, "Sovereign Wealth Funds: A Strategic Governance View," *Academy of Management Perspectives* ٣٠, no. ٢٠١٦) ١): p. 5-23, at p. 12-15.

[40]Law No. 16 of 2025 concerning the Fourth Amendment to Law No. 19 of 2003 on State-Owned Enterprises (Republic of Indonesia, Official Gazette No. 162 of 2025), Article 3A ayat (3)-(4); Articles 3B-3C (BP BUMN authority); International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 6

[41]Law No. 16 of 2025, Explanation of Article 15B; International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 9.

[42]Law No. 16 of 2025, Article 2 pharagraph(3) and Article 4C pharagraph (1)-(3)

[43]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 7; comparison of Law No. 16 of 2025, Articles 3N-3P (unchanged presidential appointment authority) with international best practices.

implement its strategies and with clear lines of accountability," while GAPP 12 requires that "*the SWF's operations should be audited annually in accordance with recognized international or national auditing standards*."[44] Danantara›s audit framework, by contrast, has evolved but remains circumscribed. Article ١٠ of Law No. ١ of ٢٠٢٥ limited BPK audit authority to use of «state funds» with vague carve-outs for «regular corporate matters» left undefined, effectively excluding comprehensive audit of Danantara›s investment decisions, risk management implementation, and operational controls, precisely the areas where external audit provides governance assurance that GAPP ١٢ envisions.[45] Law No. ١٦ of ٢٠٢٥ expands BPK›s mandate under Article ٢)٧١), which now authorizes the Supreme Audit Board to "*conduct examinations of SOE in accordance with statutory provisions*" , removing the restrictive "specific purpose" limitation of the earlier law.[46] This expansion is significant and moves Indonesia closer to GAPP ١٢ compliance, but the statutory language remains ambiguous: it does not explicitly clarify whether BPK authority extends to comprehensive operational and performance audits or remains limited to financial legality review. Putting regulations into place would make things more certain and make this audit framework more in line with GAPP ١٢›s call for «regular independent audits» that include governance, risk, and controls assessment that follows «recognized international or national auditing standards.»

Another big problem is that there are no legal requirements for transparency. GAPP 17 says that "relevant financial information about the SWF should be made public," and GAPP 23 says that "the SWF should make public its general approach to funding, withdrawal, and spending operations."[47] Danantara is not legally required to publish annual reports, list its portfolio holdings, or explain its investment strategies. In contrast, leading SWFs require detailed public reporting. For example, Norway›s Government Pension Fund Global, which is governed by the Government Pension Fund Act, requires detailed annual and semi-annual reports that cover portfolio composition, performance attribution, risk exposure, and ethical investment implementation. Singapore›s Temasek, on the other hand, is not required by law to disclose information about private companies but has voluntarily published comprehensive annual reviews since ٢٠٠٤ that go far beyond minimum transparency standards.[48] Law No. ١٦ of 2025 does not introduce new transparency provisions; this gap therefore persists unchanged. Indonesia's failure to codify transparency obligations leaves Danantara without the mandatory public disclosure framework that GAPP 17 and 23 envision, and that international investors and domestic stakeholders increasingly expect.[49]

The Santiago Principles' emphasis on responsible investment practices finds limited reflection in Danantara's legal regime. GAPP 22 states that "*the SWF should have a risk management framework that identifies, assesses, and manages the risks of its operations*."[50] Neither Law No. 1 nor Law No. 16 of 2025 mandates publication of a risk management policy or statement of risk appetite that could be transparently reviewed. Similarly, Danantara has not articulated ethical investment guidelines or responsible investment commitments comparable to those institutionalized in leading SWFs globally. Law No. 16 of 2025 does authorize Danantara to establish ESG policy guidelines (Article 3F(2)(h)(9)), providing a legal basis

[44]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 10 and 12

[45]Law No. 1 of 2025, Article 10 pharagraph(2); analysis of audit scope limitations relative to GAPP 12 requirements.

[46]Law No. 16 of 2025, Article 71 pharagraph (2).

[47]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 17 and 23.

[48]Norges Bank Investment Management, *Government Pension Fund Global Annual Report 2021* (Oslo: NBIM, ,(٢٠٢١ ٢٥-١٨; Temasek Holdings, *Temasek Review 2022 Highlights* (Singapore: Temasek, ٢٠-١٥ ,(٢٠٢٢; Victor Shih, «Tools of Survival: Sovereign Wealth Funds in Singapore and China,» *Geopolitics* ١٤, no. ٣٤٤-٣٢٨ :(٢٠٠٩) ٢, at ٣٣٥-٣٣٢.

[49]Carl Linaburg and Michael Maduell, "Transparency of Sovereign Wealth Funds," Sovereign Wealth Fund Institute (2008); Patrick Schena and Ali Hammoud, "From Thin to Thick," 59-76.

[50]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 22.

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for responsible investment frameworks consistent with evolving interpretations of GAPP 22, but this authorization is permissive rather than mandatory.[51] This gap is important because Indonesia is vulnerable to climate risks and environmental, social, and governance factors are becoming more important in global capital markets. Adding sustainability considerations to SWF governance serves both normative alignment with the principles and practical portfolio performance goals.[52]

Another big gap is that there isn't a written funding policy. The Santiago Principles don't say how to withdraw money, but GAPP 23 suggests that "funding, withdrawal, and spending operations" for SWFs should be based on publicly available rules instead of just the executive's choice.[53] Article ٣H of both Law No. ١ of ٢٠٢٥ and Law No. ١٦ of ٢٠٢٥ (which have not changed) gives the government the power to distribute up to ٪٣٠ of accumulated profits when retained earnings exceed ٪٥٠ of capital. However, there are no procedural safeguards in place, such as independent actuarial validation, parliamentary approval, or mandatory public disclosure of withdrawal rationale.[54] On the other hand, top SWFs use clear, rule-based withdrawal systems. Norway's "fiscal rule," which was passed in 2001 and updated in 2017, says that the government can only spend 3–4% of the fund's value each year on things like oil revenues. This is about the same as the fund's long-term real return. This limit is set by law and must be confirmed by parliament, which gives people a reason to follow it. Singapore's Net Investment Returns Contribution (NIRC) framework similarly requires Ministry of Finance review and Council of Presidential Advisors consultation prior to government spending authorizations, with public budget disclosure mandated.[55] These procedural approaches serve to protect internationalization equity while maintaining democratic accountability, objectives implicit in the Santiago Principles' broader framework. Law No. 16 of 2025 does not introduce new funding or withdrawal policy provisions; this gap therefore persists unchanged. Danantara's discretionary framework risks enabling excessive withdrawals that could deplete the fund's capital base and undermine its long-term wealth accumulation objective, a governance failure that the Santiago Principles implicitly discourage.[56]

From the standpoint of legal reform and institutional enhancement, these convergences and discrepancies indicate particular avenues for aligning Danantara more closely with the Santiago Principles. First, depoliticizing governance through statutory professionalization: requiring that board members possess specified qualifications (e.g., minimum experience in investment management or corporate governance) consistent with GAPP 7's provision for "clearly defined procedures" in appointing governing body members, prohibiting the simultaneous holding of ministerial and fund management positions (now accomplished by Law No. 16 of 2025), and introducing transparent nomination processes with fixed terms to insulate appointees from arbitrary removal.[57] Second, requiring full public disclosure: making it a legal requirement

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[51]Law No. 16 of 2025, Article 3F pharagraph (2) alphabet h number 9.

[52]Samar Velayutham and Rasidah Hasan, "Sovereign Wealth Funds and Corporate Social Responsibility: A Comparison of Norway's Government Pension Fund Global and Abu Dhabi Fund for Development," *Public Administration and Policy* ٢٤, no. ١٥١-١٣٩ :(٢٠٢١) ٢, at ١٤٥-١٤٢; Mahmoud M. El-Sholkamy and Mohammad Habibur Rahman, *Harnessing Sovereign Wealth Funds in Emerging Economies toward Sustainable Development* (Cambridge: Cambridge University Press, ,(٢٠٢٢ ٩٥-٨٥.

[53]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 23.

[54]Law No. 16 of 2025, Article 3H (unchanged from Law No. 1 of 2025)

[55]Legislative Council Secretariat, *FACT SHEET: Government Pension Fund of Norway* (Hong Kong: Legislative Council Secretariat, ٧-٣ ,(٢٠١٤; Iara Machado E Silva and Helena Karla de Medeiros Costa, «A Comparison between the Norwegian Government Pension Fund and the Brazilian Pre-Salt Social Fund,» *Energy Policy* ٢٠١٩) ١٢٩): p. 161-167, at p. 163-164; comparison with Singapore's NIRC framework.

[56]Tristan Nguyen, "Addressing the Political Economy of Sovereign Wealth Fund Spending," *Development Economics Review* ١٤, no. ٢٠١٩) ٣): p. 201-220, at p. 210-215.

[57]Melissa Kirleis, "Legal Constraints on Government Investment: Lessons from Comparative SWF Governance," *Yale Journal of International Law* ٣٨, no. ٤٤٥-٤٠٥ :(٢٠١٣) ٢, at ٤٤٢-٤٣٥.

to publish annual reports that include information about financial performance, portfolio holdings, risk metrics, investment strategy, and governance arrangements. The reports should be published on a schedule that is in line with international standards, as GAPP ١٧ and ٢٣ suggest.[58] Third, expanding audit scope: clarifying BPK›s mandate to encompass full operational and performance audits consistent with GAPP ١٢›s requirement for «*regular independent audits*" that "*provide assurance on governance arrangements and internal controls*," and potentially requiring supplementary external commercial audit by international firms.[59] Fourth, institutionalizing ethical investment frameworks: establishing a legislative or regulatory basis for responsible investment principles, ESG integration, and exclusion criteria consistent with GAPP 22's risk management requirement, subject to review by an independent ethics advisory council.[60] Fifth, adopting a procedural funding policy: replacing discretionary government allocations with a transparent, rule-based withdrawal framework analogous to Norway's fiscal rule, subject to parliamentary approval and public reporting consistent with GAPP 23's call for publicly disclosed "*funding, withdrawal, and spending operations*."[61]

These reforms would not represent a departure from Indonesia's policy autonomy or constitutional principles; rather, they reflect the accumulated experience of sovereign fund governance globally, demonstrating how institutional design can reconcile state ownership with fiduciary responsibility, political accountability with managerial independence, and long-term wealth accumulation with contemporary democratic expectations.[62] Law No. 16 of 2025 already lays the groundwork for these kinds of changes. Implementing rules and board governance policies can make many of these changes official without needing to change the law. For instance, Danantara's board could choose to adopt full transparency policies that make annual performance and portfolio data available in line with GAPP 17. Article 3F could set out ESG policy frameworks and require their publication in line with GAPP 22. Ministerial directives could set out board qualification standards in line with GAPP 7. Alternatively, specific changes to the law could make these practices required by law, which would make them more durable and legally certain.[63]

The functional imperative for reform is clear: absent alignment with Santiago Principles benchmarks regarding transparency, procedural funding, and professionalized appointments, Danantara risks perpetuating the governance vulnerabilities, politicized management, opacity, and weak accountability that have historically constrained Indonesian state enterprises from achieving their developmental potential and attracting the international co-investment necessary to fulfill their mandates.[64] Law No. ١٦ of ٢٠٢٥›s institutional reforms address one category of risk (political interference in operations through SOE REGULATORY AGENCY separation and ministerial prohibition) but leave unaddressed another category (opacity and weak fiscal discipline through absent transparency mandates and discretionary withdrawal policies). Full

[58]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 17 and 23

[59]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 12; Gordon L. Clark, Adam D. Dixon, and Ashby H.B. Monk, *Sovereign Wealth Funds: Legitimacy, Governance, and Global Power* (Princeton: Princeton University Press, ١٣٥-١١٢ ,(٢٠١٣.

[60]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 22; Velayutham and Hasan, "Sovereign Wealth Funds and Corporate Social Responsibility," p. 142-145.

[61]International Working Group of Sovereign Wealth Funds, *Santiago Principles*, GAPP 23; Carsten Hefeker and Christos Tsoukis, "Institutional Features, Electoral Systems and the Political Economy of Fiscal Discipline," *Journal of Macroeconomics* ٢٠١٣) ٣٧): p. 166-180, at p. 172-176

[62]Gordon L. Clark, Adam D. Dixon, and Ashby H.B. Monk, *Sovereign Wealth Funds*, p. 185-210; Larry Catá Backer, "Sovereign Wealth Funds as Regulatory Chameleons: The Norwegian Sovereign Wealth Funds and Public Global Governance Through Private Global Investment," *Georgetown Journal of International Law* ٤١, no. ٥٠٠-٤٢٥ :(٢٠١٠) ٢.

[63]Melissa Kirleis, "Legal Constraints on Government Investment," p. 435-442; analysis of implementing regulation pathways under Indonesian administrative law framework.

[64]Ruth V. Aguilera, Javier Capapé, and Javier Santiso, "Sovereign Wealth Funds," 18-20; Christopher K. Johnson and Scott Kennedy, "1MDB Corruption Scandal in Malaysia: A Study of Failings in Control and Accountability," *Public Administration and Policy* ٢٣, no. ٢٠٢٠) ١): p. 45-63.

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harmonization with the Santiago Principles therefore requires continued legislative and regulatory attention to close remaining gaps identified in this analysis.

Comparative Insights: Temasek and Norway's GPFG

Comparative legal analysis of established sovereign wealth funds offers crucial insights for assessing Danantara's institutional design and identifying reform imperatives. This part looks at two important models: Singapore's Temasek Holdings and Norway's Government Pension Fund Global (GPFG). Their legal frameworks, governance structures, and accountability systems are different but useful ways to manage sovereign wealth. Both funds have maintained long-term performance and institutional credibility while managing the conflict between state ownership and operational independence, a challenge that is directly applicable to Indonesia's SWF regime after 2025.[65]

Temasek Holdings, a company based in Singapore, was founded in 1974 and has a unique legal structure that allows for business independence while still being accountable to the constitution. Temasek is a private limited company that is exempt from the Singapore Companies Act. It is owned entirely by the Ministry of Finance, but it runs its own business with a lot of freedom. The most important legal change is that the Singapore Constitution designates Temasek as a Fifth Schedule company. This means that it is protected by certain constitutional safeguards without the government having to control it every day. The Singapore government doesn't get involved in Temasek's investment choices or portfolio management under this system. This separation is made stronger by internal governance rules that limit ministers' ability to take part in board discussions. However, constitutional oversight is still in place for issues of systemic importance. For example, corporate actions that involve withdrawing past reserves or appointing or firing Board Directors need presidential approval. This makes sure that decisions that could hurt national financial stability are checked.[66]

This constitutional framework establishes a dual accountability system. Temasek is a business that is run by a professional Board of Directors who are chosen based on their knowledge and are rewarded based on how well they do their jobs. Legally, it is still responsible to the state because of certain constitutional triggers and the fact that the President appoints an Auditor-General to do mandatory audits and report the results to both the President and Parliament. Temasek has gone above and beyond what is required by law for private companies to be open and honest. Since 2004, they have published detailed annual reviews that show how their portfolio is doing, their financial statements, and their strategic priorities. This system of voluntary disclosure has helped keep investors' trust and the public's trust in Temasek, even though the company doesn't have to follow the same rules as other companies.[67]

The legal framework also deals with the long-standing problem of political capture. Critics of Singapore's early sovereign wealth management said that the ruling People's Action Party (PAP) and state-linked companies were too closely linked. Over time, legal and governance changes made these connections less common by making certain conflicts of interest illegal, requiring board independence, and making the process of hiring senior management more open. Ministers can be on advisory boards, but they can't make operational decisions. This is a clear rule that isn't in Danantara's current design.[68]

[65]Paripurna P. Sugarda, Florencia Irena Gunawan, and Alfatika Aunuriella Dini, "Sovereign Wealth Fund Development in Indonesia: Lessons Learned from Norway and Singapore," *Yustisia Jurnal Hukum* ١٣, no. ٢٠٢٤) ١):, at p. 90-92.

[66]Jiayan Paiva-Silva, "Understanding the Singaporean Approach to State Ownership: 'Commercially Viable Strategic Alignment' in Historical Perspective," *Structural Change and Economic Dynamics* ٢٠٢٢) ٦١): p. 48-50

[67]Temasek Holdings, *Temasek Review 2022 Highlights* (Singapore: Temasek, ٢٠-١٥ ,(٢٠٢٢; Victor Shih, «Tools of Survival: Sovereign Wealth Funds in Singapore and China,» *Geopolitics* ١٤, no. ٢٠٠٩) ٢): p. 332-335.

[68]Paiva-Silva, "Understanding the Singaporean Approach to State Ownership," 50-52; S. Ching Yuen Luk and P. W. Preston, *Singapore after Lee Kuan Yew* (London: Routledge, ٢٠٢٠), p. 78-92.

Norway's GPFG, on the other hand, is a good example of a system of legislative supremacy and multi-layered democratic accountability. The Government Pension Fund Act made GPFG official in 1990. Its legal structure gives power to four separate institutions: the Norwegian Parliament (Storting), the Ministry of Finance, the Executive Board of Norges Bank (the central bank), and Norges Bank Investment Management (NBIM). Each level has its own set of tasks that don't overlap. For example, Parliament sets the overall policy and approves strategic parameters (like the equity allocation, which is currently 70%). The Ministry issues a detailed Management Mandate that outlines investment guidelines, risk limits, and ethical criteria. The Norges Bank Executive Board makes sure that these rules are followed, and NBIM handles day-to-day portfolio management.[69]

This tiered structure puts the idea of institutional separation into practice with legal accuracy. The Government Pension Fund Act makes it clear that politicians can't get involved in individual investment decisions, but it also requires transparency and parliamentary oversight of overall performance. NBIM is required by law to publish full annual and semi-annual reports that include information about portfolio holdings, performance attribution, risk exposure, and operational costs. These disclosure requirements are written down in the Management Mandate and can be enforced by ministerial order. Additionally, GPFG's ethical investment framework is established by law: Parliament sets ethical standards, an independent Council on Ethics looks into possible violations, and NBIM follows Council advice when it comes to exclusions and divestment. This process makes sure that ethical limits are based on democratic debate and not on the president's choice.[70]

Norway's system is also different because of how it handles fund withdrawals. The "fiscal rule," which was put in place in 2001 and changed in 2017, says that the government can only spend 3% to 4% of GPFG's value each year on petroleum revenues. This is about the fund's long-term real return. This rule is not a constitutional restriction; instead, it is a political commitment that is included in budget legislation and must be reaffirmed by Parliament every year. This design shows that the decision was made to keep democratic flexibility while also giving people a reason to follow the rules. If the fiscal rule is broken, there would be a lot of attention from both parliament and the public, which would act as a soft legal limit backed up by rules about transparency. The rule has held up through several changes in government, showing that procedural transparency can take the place of strict legal requirements in keeping fiscal discipline.[71]

Temasek and GPFG are both examples of legal ways to balance sovereign wealth management with democratic accountability, but they do so in very different ways. Temasek depends on constitutional reserve powers (the president's ability to veto important decisions) as well as voluntary transparency and professional governance standards. On the other hand, GPFG builds accountability into its system by giving the law the most power, requiring public disclosure, and having oversight from multiple institutions. Even though these two models are different, they both have the same basic legal obligations: (1) a clear legal separation between the state as owner and the fund as investor; (2) professional, merit-based governance that is not affected by routine political interference; (3) an independent audit that must be done by

[69]Norges Bank Investment Management, *Government Pension Fund Global Annual Report 2021* (Oslo: NBIM, ٢٠٢١), ١٨-٢٥; Legislative Council Secretariat, *FACT SHEET: Government Pension Fund of Norway* (Hong Kong: Legislative Council Secretariat, ٢٠١٤), p. 3-7.

[70]Samar Velayutham and Rasidah Hasan, "Sovereign Wealth Funds and Corporate Social Responsibility: A Comparison of Norway's Government Pension Fund Global and Abu Dhabi Fund for Development," *Public Administration and Policy* ٢٤, no. ٢ (٢٠٢١): p. 142-145.

[71]Iara Machado E Silva and Helena Karla de Medeiros Costa, "A Comparison between the Norwegian Government Pension Fund and the Brazilian Pre-Salt Social Fund," *Energy Policy* ١٢٩ (٢٠١٩): p. 163-164

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organizations that are not part of fund management; and (4) full public reporting of financial performance, portfolio composition, and governance practices.

When applied to Indonesia, these comparative insights reveal significant shortcomings in Danantara's existing legal framework. Law No. 16 of 2025 is a big step toward these comparative standards. The creation of the SOE REGULATORY AGENCY as a separate regulatory body is similar to how Singapore's constitution separates the Ministry of Finance's ownership role from Temasek's management role, and how Norway's tiered governance structure separates Parliament's policy-making power from NBIM's operational execution.[72] The golden share architecture (1% SOE REGULATORY AGENCY regulatory oversight, 99% Danantara operational shares) parallels Singapore's constitutional reserve powers, wherein the President retains veto authority over critical corporate actions while refraining from day-to-day management interference.[73] The explicit prohibition on ministerial dual office-holding eliminates the category of political capture that Singapore addressed through evolving governance norms restricting ministers from board roles in state-linked corporations.[74]

However, Indonesia has not yet adopted the procedural safeguards characteristic of Norway's legislative supremacy model. GPFG's mandatory parliamentary review of strategic parameters, codified transparency obligations, and independent Council on Ethics have no statutory equivalent in Danantara's framework as amended by Law No. 16 of 2025.[75] Similarly, while Singapore's Temasek voluntarily publishes comprehensive annual reviews detailing portfolio composition and financial performance, Danantara faces no statutory obligation to do so, and Law No. 16 of 2025 does not introduce disclosure mandates.[76] The absence of a codified funding policy framework analogous to Norway's fiscal rule or Singapore's NIRC mechanism persists, with Article 3H of Law No. 16 of 2025 retaining the discretionary allocation language of Law No. 1 of 2025.[77]

The absence of a codified funding policy represents another legal gap. Neither Temasek's Net Investment Returns Contribution (NIRC) framework nor Norway's fiscal rule is replicated in Danantara's governing legislation. Law No. 1 of 2025 grants the government discretion to allocate up to 30% of Danantara's accumulated profits when retained earnings exceed 50% of capital but imposes no procedural safeguards and no independent actuarial validation, no parliamentary approval requirement, no mandatory public disclosure of withdrawal rationale. This stands in stark contrast to Singapore's NIRC regime, which mandates Ministry of Finance review, Council of Presidential Advisors consultation, and public budget disclosure, or

[72] Law No. 16 of 2025 concerning the Fourth Amendment to Law No. 19 of 2003 on State-Owned Enterprises (Republic of Indonesia, Official Gazette No. 162 of 2025), Articles 3A(3)-(4), 3B-3C; Constitution of the Republic of Singapore, Fifth Schedule (Temasek constitutional framework); Government Pension Fund Act (Norway), Sections 1-8 (GPFG tiered governance structure)

[73] Law No. 16 of 2025, Article 2 paragraph (3); Article 4C paragraph (1)-(3) (golden share prerogatives); Constitution of the Republic of Singapore, Article 22B (presidential reserve powers); Jiayan Paiva-Silva, "Understanding the Singaporean Approach to State Ownership: Commercially Viable Strategic Alignment in Historical Perspective," *Structural Change and Economic Dynamics* ٢٠٢٢) ٦١): p. 48-50.

[74] S. Ching Yuen Luk and P. W. Preston, *Singapore after Lee Kuan Yew* (London: Routledge, ٩٢-٧٨ ,(٢٠٢٠ (evolution of governance norms restricting ministerial board roles)

[75] Government Pension Fund Act (Norway), Sections 1-8 (parliamentary approval of strategic parameters); Norges Bank Investment Management, *Government Pension Fund Global Annual Report 2021* (Oslo: NBIM, ٢٥-١٨ ,(٢٠٢١ (mandatory transparency obligations); Samar Velayutham and Rasidah Hasan, «Sovereign Wealth Funds and Corporate Social Responsibility: A Comparison of Norway›s Government Pension Fund Global and Abu Dhabi Fund for Development,» *Public Administration and Policy* ٢٤, no. ١٥١-١٣٩ :(٢٠٢١) ٢, at ١٤٥-١٤٢ (Council on Ethics mandate)

[76] Temasek Holdings, *Temasek Review 2022 Highlights* (Singapore: Temasek, ٢٠-١٥ ,(٢٠٢٢ (voluntary comprehensive annual reviews since ٢٠٠٤); Victor Shih, «Tools of Survival: Sovereign Wealth Funds in Singapore and China,» *Geopolitics* ١٤, no. ٢٠٠٩) ٢): p. 332-335

[77] Law No. 16 of 2025, Article 3H; Iara Machado E Silva and Helena Karla de Medeiros Costa, "A Comparison between the Norwegian Government Pension Fund and the Brazilian Pre-Salt Social Fund," *Energy Policy* ٢٠١٩) ١٢٩): p. 163-164.

Norway's fiscal rule, which subjects any deviation to parliamentary deliberation and media scrutiny.[78]

While the Santiago Principles are formally non-binding soft law instruments, the practice of established funds demonstrates that they possess a reputation binding force that creates incentives equivalent to legal obligations.[79]Norway's GPFG puts this force into action by putting the principles directly into national law, turning voluntary norms into strict legal requirements that Parliament must enforce. On the other hand, Singapore's Temasek follows these rules by being open about its business and following strict rules for corporate governance. This helps it keep its top credit rating and reputation as a reliable global investor.[80]

For Danantara, fully putting the Santiago Principles into action has two strategic benefits that are very important for its early years. First, it gives Danantara immediate institutional legitimacy, which sets it apart from state-owned enterprises that are run like traditional businesses and tells international partners that it is a professional investment company.This legitimacy is necessary to get foreign investors to put money into Indonesia's big infrastructure projects. Second, the Principles serve as an internal commitment tool that makes it harder for the board to give in to political pressure from within the country.[81] Danantara can better fight back against requests for politically motivated investments or excessive dividend withdrawals that would go against its long-term mandate by tying its operational independence and transparency standards to a framework that is known around the world.

From the point of view of legal reform, Indonesia could make Danantara's framework stronger by using some of the rules from these other models. First, making board appointments professional by law: requiring certain qualifications (like a minimum number of years in investment management, finance, or corporate governance), clear nomination processes, and set terms to protect appointees from being fired at random. Second, full operational and performance audits should be required of BPK, and international firms should also be required to do external commercial audits. Third, binding transparency obligations: making it a law to publish annual reports (financial statements, portfolio composition, risk metrics, governance structure) and setting deadlines for when these reports must be made public. Fourth, a procedural funding policy: rules for withdrawals that are similar to Norway's fiscal rule or Singapore's NIRC framework, with requirements for independent review and public disclosure. Fifth, ethical investment rules: creating a legal or regulatory framework for responsible investment, ESG integration, and exclusion criteria that an independent advisory council can review.[82]

Table 2. Comparative Legal Framework Analysis Temasek, GPFG, and Danantara

Legal Dimension	Temasek Holdings (Singapore)	Government Pension Fund Global (Norway)	Danantara (Indonesia)
Constitutive Legal Basis	Singapore Companies Act; Fifth Schedule designation under Constitution	Government Pension Fund Act; Central Bank Act; Management Mandate issued by Ministry of Finance	Law no 16 of 2025 (Fourth Amendment to SOE Law)

[78]*Ibid.*

[79]Chris Brummer, *Soft Law and the Global Financial System: Rule Making in the 21st Century* (Cambridge: Cambridge University Press, ١٤٥-١٤٠ ,(٢٠١٢.

[80]Jiayan Paiva-Silva, "Understanding the Singaporean Approach to State Ownership: 'Commercially Viable Strategic Alignment' in Historical Perspective," *Structural Change and Economic Dynamics* ٥٨-٤٣ :(٢٠٢٢) ٦١.

[81]I.J. MacNeil, "Adaptation and Convergence in Corporate Governance: The Case of Sovereign Wealth Funds," *Journal of Corporate Law Studies* ١٠, no. ١٥٩-١٥٣ :(٢٠١٠) ١.

[82]Mahmoud M. El-Sholkamy and Mohammad Habibur Rahman, *Harnessing Sovereign Wealth Funds in Emerging Economies toward Sustainable Development* (Cambridge: Cambridge University Press, ٩٥-٨٥ ,(٢٠٢٢.

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Institutional Classification	Exempt private limited company; state-owned investment vehicle	Statutory savings fund managed by central bank unit (NBIM)	State-owned investment management agency (Badan Pengelola Investasi)
Separation of Ownership and Management	Constitutional provision: government non-involvement in investment decisions except reserve withdrawals and director appointments	Legislative mandate: four-tier separation (Parliament → Ministry → Central Bank Board → NBIM)	Partial: Law establishes separate legal personality but allows ministerial dual office-holding
Board Appointment Process	Merit-based professional appointments; Presidential approval for constitutional roles	NBIM CEO appointed by Norges Bank Executive Board; transparent process subject to parliamentary oversight	Presidential discretion without statutory qualification criteria or parliamentary confirmation
Statutory Independence Safeguards	Fifth Schedule constitutional restrictions on governmental interference; voluntary governance codes	Explicit statutory prohibition on political interference in individual investment decisions	Business judgment rule protects decision-makers but no explicit anti-interference provisions
Audit and Oversight	Mandatory audit by Auditor-General appointed by President; reports to President and Parliament	Comprehensive audit by Supreme Audit Institution; parliamentary scrutiny through National Budget reports	BPK audit limited to "use of state funds"; unclear scope; no external commercial audit requirement
Transparency and Public Disclosure	Voluntary annual Temasek Review (detailed financial s, portfolio, strategy) since 2004; exceeds statutory requirements	Mandatory comprehensive annual and semi-annual reports (portfolio holdings, performance, risk, costs); legislatively required	No statutory public reporting obligation; limited disclosure in early operations
Ethical Investment Framework	ESG integration; net-zero commitment by 2050; voluntary responsible investment policies	Legislatively mandated ethical guidelines; independent Council on Ethics; exclusion lists published	No codified ethical investment framework or ESG mandate
Funding/Withdrawal Policy	Net Investment Returns Contribution (NIRC): Government may use up to 50% of expected long-term returns; requires MOF review, Council of Presidential Advisors consultation, public budget disclosure	Fiscal rule: Annual spending limited to 3-4% of fund value (expected real return); legislative commitment with transparency enforcement	Government may allocate up to 30% of accumulated profits when retained earnings exceed 50% of capital; no procedural safeguards or public disclosure mandate
Parliamentary Oversight	Limited; constitutional oversight via President; financial reports provided to Parliament	Extensive; Parliament sets policy, reviews performance semi-annually, debates withdrawals	Minimal; direct reporting to President; no formal parliamentary review mechanism
Legal Enforcement Mechanisms	Constitutional review (reserve powers); judicial review of corporate actions; reputational accountability through disclosure	Ministerial directive enforcement; parliamentary budget control; public scrutiny via mandatory transparency	Administrative review by BPK (limited scope); Constitutional Court review of enabling legislation

Source: Synthesized from Sugarda, Gunawan, and Dini (2024); Constitution of Singapore; Government Pension Fund Act (Norway); Law No. 1 of 2025 (Indonesia).[83]

In summary, the comparative legal analysis shows that Danantara's framework sets up formal legal structures and sets general goals, but it doesn't have the institutional specifics, procedural protections, and transparency requirements that are typical of the best SWF models. Singapore's constitutional reserve powers and Norway's legislative supremacy provide divergent yet synergistic methodologies for harmonizing state ownership with managerial autonomy, which Indonesia could emulate through focused legislative and regulatory reforms. Without these kinds of changes, Indonesia's state-owned businesses will continue to have problems with governance, such as politicized management, lack of transparency, and weak accountability. Strengthening Danantara's legal framework to conform to comparative best practices is not merely an aesthetic goal for institutions; it is a necessary condition for maintaining investor confidence, democratic legitimacy, and long-term fund performance.[84]

CONCLUSION

This article evaluates Danantara's legal framework in relation to the Santiago Principles, assessing the reforms introduced by Law No. 1 of 2025 and Law No. 16 of 2025. While the initial framework under Law No. 1 of 2025 presented certain governance weaknesses, especially concerning institutional independence, Law No. 16 of 2025 introduced significant reforms, particularly the creation of the SOE Regulatory Agency to separate oversight from operations and measures to clarify shareholding and improve audit authority. These changes have improved alignment with several Santiago Principles, notably in areas such as legal clarity, business judgment protection, and the separation of ownership and management. However, key gaps remain in transparency, funding rules, and board appointments, which still rely on discretionary processes that could introduce risks of opacity, fiscal discretion, and politicized decisions.

In terms of alignment with the Santiago Principles, Danantara demonstrates compliance with GAPP 1 (legal foundation), GAPP 6 and GAPP 9 (independence from political influence), and GAPP 16 (clear investment rules). However, GAPP 7 (merit-based board appointments), GAPP 17 and GAPP 23 (mandatory public disclosure), and GAPP 23 (procedural funding rules) show partial compliance or remain unaddressed. Specifically, the absence of mandatory transparency requirements and the lack of codified funding and withdrawal procedures leave Danantara vulnerable to governance challenges. To fully align with international best practices, Danantara should implement mandatory reporting, establish rule-based funding mechanisms, professionalize the board appointment process, and broaden audit and ethical oversight. These reforms are feasible within Indonesia's constitutional framework and would significantly enhance Danantara's credibility, attract international co-investment, and help fulfil its developmental objectives.

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[84]Ruth V. Aguilera, Javier Capapé, and Javier Santiso, "Sovereign Wealth Funds: A Strategic Governance View," *Academy of Management Perspectives* ٣٠, no. ٢٣-٥ :(٢٠١٦) ١, at ٢٠-١٨.

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