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Danantara and Its Implications: A Legal Guide for State-Owned Enterprises (SOEs) and Their Subsidiaries

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The Government of Indonesia has formally established the Daya Anagata Nusantara Investment Management Agency ("**Danantara**"), a sovereign wealth management institution for State-Owned Enterprises ("**SOE** or **SOEs**"), through Law No. 1 of 2025 concerning the Third Amendment to Law No. 19 of 2003 ("**Law 19/2003**") regarding SOEs ("**SOE Law**"). Danantara was established to consolidate and manage key state assets with the aim of enhancing national economic growth and global competitiveness.

The SOE Law governs the legal framework for Danantara as part of a broader reform of SOE governance. Under the amended law, the President retains ultimate authority over the administration of SOEs, including the state assets that have been legally separated and assigned to such entities. This authority may be delegated to the Minister of State-Owned Enterprises (the "**SOE Minister**") and to Danantara in accordance with their respective mandates.

In practice, Danantara will operate with the support of two dedicated holding companies: the Operational Holding Company ("**Operational Holding**") and the Investment Holding Company ("**Investment Holding**"), both established in coordination with the SOE Minister. In terms of ownership structure, the SOE Minister retains the Series A Dwiwarna share, while Danantara manages 99% of the Series B shares in both holding companies. As the regulator, the SOE Minister is responsible for setting policy, supervising, coordinating, and ensuring the effective governance of SOEs—including authorizing strategic corporate actions such as mergers, consolidations, and spin-offs. Danantara, on the other hand, is tasked with enhancing the investment performance and operational effectiveness of SOEs, with a primary focus on maximizing dividend contributions to the state's investment portfolio.

1. What is the Government's Rationale for Establishing Danantara?

Danantara was established pursuant to the SOE Law with the objective of optimizing the management of SOEs in Indonesia to enhance their efficiency, transparency, and competitiveness in supporting national economic development. Through Danantara, it is expected that synergies among SOEs can be fostered, along with improved corporate governance, and the encouragement of innovation.

To achieve these objectives, strategic measures are required to ensure a more centralized and integrated approach to managing state ownership in SOEs. A concrete step undertaken is the transfer of the State's Series B and/or Series C shares in SOEs and their subsidiaries to Danantara, as the primary managing entity, through an in-kind capital contribution (*inbreng*) mechanism into the Operational Holding.

The SOE appointed as the Operational Holding is PT Biro Klasifikasi Indonesia (Persero) ("**PT BKI**"). The regulation governing this shares transfer is Government Regulation No. 15 of 2025 on the Increase of State Capital Participation into the Share Capital of PT Biro Klasifikasi Indonesia (Persero) for the Establishment of the Operational Holding Company.The increase in state capital in PT BKI arises from

the transfer of all Series B and/or Series C shares owned by the Republic of Indonesia in the following SOEs: Pertamina, PLN, MIND ID, BRI, BNI, Mandiri, PT Bank Tabungan Negara (Persero) Tbk, Telkom, PT Aviasi Indonesia (Persero), PT Perkebunan Nusantara III (Persero), PT Kereta Api Indonesia (Persero), PT Industri Kereta Api (Persero), PT Pos Indonesia (Persero), PT Garuda Indonesia (Persero), PT Pelabuhan Indonesia (Persero), PT ASDP Indonesia Ferry (Persero), PT Pelayaran Nasional Indonesia (Persero), PT Danareksa (Persero), PT Bio Farma (Persero), PT Jasa Marga (Persero) Tbk, PT Semen Indonesia (Persero) Tbk, PT Krakatau Steel (Persero) Tbk, PT Len Industri (Persero), PT Varuna Tirta Prakasya (Persero), PT Hutama Karya (Persero), PT Waskita Karya (Persero) Tbk, PT Adhi Karya (Persero) Tbk, PT Wijaya Karya (Persero) Tbk, PT Pembangunan Perumahan (Persero) Tbk, PT Brantas Abipraya (Persero), PT Bahana Pembinaan Usaha Indonesia (Persero), PT Dana Tabungan dan Asuransi Pegawai Negeri (Persero), PT Reasuransi Indonesia Utama (Persero), PT Asuransi Sosial Angkatan Bersenjata Republik Indonesia (Persero), PT Pupuk Indonesia (Persero), PT Rajawali Nusantara Indonesia (Persero), PT Agrinas Jaladri Nusantara (Persero), PT Agrinas Pangan Nusantara (Persero), PT Agrinas Palma Nusantara (Persero), PT Amarta Karya (Persero), PT Boma Bisma Indra (Persero), PT Dok dan Perkapalan Kodja Bahari (Persero), PT Dok dan Perkapalan Surabaya (Persero), PT Industri Telekomunikasi Indonesia (Persero), PT PDI Pulau Batam (Persero), PT Primissima (Persero), PT Produksi Film Negara (Persero), PT Semen Kupang (Persero), PT Industri Kapal Indonesia (Persero), PT Rekayasa Industri, PT Perkebunan Nusantara I, and PT Perkebunan Nusantara IV.

2. What is Danantara and what is its legal status?

Danantara is a legal entity incorporated under Indonesian law and wholly owned by the Government of Indonesia. It was established with the principal purpose of enhancing and optimizing investment management. As part of broader efforts to improve the governance of SOEs. the President has delegated a portion of his authority to Danantara. Pursuant to Article 3E of the SOE Law, Danantara was established to improve and optimize both the investment and operational performance of SOEs, as well as other state-owned resources. As an entity directly accountable to the President, Danantara is expected to play a pivotal role in managing state assets and investments in a more efficient and transparent manner.

In addition, to ensure optimal dividend contributions in support of state investment management, the SOE Minister is authorized—subject to the President's approval—to appoint representatives to Danantara, as well as to the Investment Holding and Operational Holding. This governance structure is intended to strengthen oversight and coordination among Danantara, the Government, and the SOEs, and to ensure the effective realization of national financial objectives. Through this framework, the management of SOEs is expected to become more streamlined, transparent, and capable of contributing meaningfully to Indonesia's economic development.

3. What is the organizational structure of Danantara?

Pursuant to Government Regulation No. 10 of 2025 concerning the Organization and Governance of the Daya Anagata Nusantara Investment Management Agency, Danantara's organizational structure consists of two primary bodies: the Supervisory Board and the the Executive Body. The Supervisory Board is responsible for overseeing the implementation of Danantara's functions as carried out by the Executive Body. It comprises of a Chair, Vice Chair, representatives from relevant ministries, and other state officials appointed by the President. Its key responsibilities include approving work plans and budgets, evaluating performance, receiving reports, determining remuneration, and proposing changes to capital structure. The Supervisory Board also holds the authority to suspend members of the Executive Body.

The Executive Body, composed of professionals, is responsible for managing day-to-day operations, formulating and executing policies, and overseeing Danantara's budget, human resources, and organizational structure. It also manages committees to ensure the agency's governance aligns with international best practices. Members of the Executive Body are appointed and dismissed by the President, who also establishes an Advisory Board to provide strategic input to the Executive Body.

4. What are the main functions and duties of Danantara?

Pursuant to Article 3F of the SOE Law, Danantara, as an entity accountable to the President, is mandated to manage SOEs and is granted the authority to:

a. manage dividends received from the Investment Holding, Operational Holding, and SOEs;
b. approve any increase and/or decrease in equity participation in SOEs derived from dividend management;
c. jointly with the Minister of SOEs, establish the Investment Holding and Operational Holding;
d. jointly with the Minister of SOEs, approve the write-off and/or write-down of SOE assets as proposed by the Investment Holding or Operational Holding;
e. provide loans, receive loans, and pledge assets with the approval of the President; and
f. ratify and consult with the relevant parliamentary body overseeing SOEs on the business plans and budgets of the Investment Holding and Operational Holding.

In performing these duties, Danantara collaborates with the Investment Holding and the Operational Holding, both of which are SOEs wholly owned by the State and Danantara. The Investment Holding is responsible for managing dividends and/or optimizing SOE assets, while the Operational Holding is responsible for overseeing the business operations of SOEs and related commercial activities.

Under the SOE Law, the Investment and Operational Holdings may be newly established or designated from among existing SOEs. In cases where existing SOEs are designated, their shareholding structure must be adjusted to allocate 1% of Series A Dwiwarna shares to the State, and 99% of Series B shares to Danantara.

As stipulated in Article 3A of the SOE Law, the President essentially holds the authority to manage SOEs, including ownership of state assets separated into SOEs. However, this authority in relation to the separated state assets may be delegated to the Ministry of SOEs as the holder of Series A Dwiwarna shares, and to Danantara as the holder of Series B shares in the Investment and Operational Holdings. Accordingly, governance authority is shared among the President, the Ministry of SOEs, the Ministry of Finance, and Danantara.

5. What is the difference between the establishment of Danantara and previous SOE holding formations carried out by the government?

The formation of SOE holding structures (known as *holdingisasi*) was primarily aimed at consolidating and enhancing the operational efficiency of SOEs within specific sectors. This process typically involved grouping SOEs under a single parent company to align management practices and support national development goals.

In contrast, while Danantara shares conceptual similarities with the *holdingisasi* initiative, it operates on a significantly broader scale. Danantara is a superholding entity that consolidates SOEs across multiple sectors under one centralized structure. It is mandated to manage strategic state assets and investments that fall outside the scope of the State Budget (*Anggaran Pendapatan dan Belanja Negara*–APBN). Accordingly, Danantara is designed to optimize the potential of state assets that were previously fragmented across various ministries and SOEs, enhance Indonesia's economic position, and attract foreign investment.

6. How are the duties and authorities divided among the President, Danantara, the Ministry of Finance, and the Ministry of SOE?

SOE Law regulates the division of authority in the management of SOEs. The President holds the authority to approve the placement of representatives from the Minister of SOEs in Danantara, the Investment Holding, and the Operational Holding. The President also appoints the members of Danantara's Supervisory and Executive Boards. Furthermore, the President has the authority over SOE privatization and the appointment of the Boards of Directors and Commissioners, along with other responsibilities as stipulated in the SOE Law.

The Ministry of SOEs with the President's approval, is responsible for formulating SOE policies and governance standards, overseeing corporate restructuring, and conducting audits of SOEs. The Minister of SOEs is also granted special authority to make strategic decisions, including in the areas of

accounting, investment, and operations, as outlined under Article 3C of the SOE Law. The Ministry of Finance plays a role in the SOE rescue and privatization committee and coordinates with the Minister of SOEs in assigning special mandates to SOEs, in addition to other functions as provided in the SOE Law.

Danantara, as an entity accountable to the President, is responsible for managing dividends, capital participation, SOE-related loans, and supports the formation of the Investment Holding and Operational Holding entities, which manage SOE assets and investments. This division of authority is aimed at improving the efficiency and contribution of SOEs to the national economy, as further outlined in Article 3F of the SOE Law.

7. What distinguishes Danantara from institutions such as Temasek in Singapore and Khazanah in Malaysia?

The establishment of Danantara as a superholding entity in Indonesia represents a strategic initiative to consolidate state assets under a centralized management structure. While similar in function to entities like Temasek and GIC in Singapore and Khazanah in Malaysia—each widely regarded as successful models of state asset management—Danantara has distinct characteristics reflecting Indonesia's national policies and priorities.

1) Danantara:

- Danantara is established to enhance and optimize investment activities and the operational management of SOEs, along with other state funding sources.
- Its distinctiveness lies in its strong domestic focus, prioritizing national economic empowerment and development, unlike Temasek, which emphasizes globally diversified investments; Khazanah, which aims for long-term national wealth creation and economic development; and GIC, which focuses on managing Singapore's foreign reserves to ensure long-term macroeconomic stability through global investments.
- Danantara operates under the direct oversight of the President and the Ministry SOE, with a strategic mandate to foster synergy among SOEs and maximize the value of state assets to boost national economic growth and public welfare.

2) Temasek:

- Temasek is a government-owned investment company that operates independently, with no direct government intervention in its investment decisions.
- Despite its autonomy, Singapore's President exercises constitutional oversight to safeguard national reserves, including rights over financial disclosures and board appointments.
- Its investment philosophy is rooted in long-term shareholder value creation through a globally diversified portfolio.

3) GIC Singapore:

- GIC is a Sovereign Wealth Fund ("**SWF**") tasked with managing Singapore's foreign exchange reserves to maintain long-term economic stability.
- Unlike Temasek, GIC does not engage in corporate governance or business operations, focusing solely on global investments across asset classes such as equities, bonds, and real estate.
- It operates fully independently from the government, though it remains accountable for safeguarding the nation's reserves.

4) Khazanah:

- Khazanah functions as Malaysia's SWF, primarily aimed at long-term national wealth creation and contributing to Malaysia's economic development.
- While maintaining a strong domestic orientation, Khazanah also undertakes international investments to balance commercial goals with strategic national interests.
- It is supervised by the Board of Directors chaired by the Prime Minister of Malaysia.

8. Based on publicly available information, Danantara will consolidate SOE assets. How is this addressed under the SOE Law?

The SOE Law does not explicitly regulate the consolidation of SOE assets under Danantara. However, it does provide for the establishment of SOEs tasked with asset management. The formation of an asset management SOE is an initiative that must be proposed by the Minister of SOE to the President,

accompanied by a comprehensive study assessing the necessity and potential benefits of such a body. This type of SOE may be granted broad authority, including the management of SOE assets, financial and business restructuring, and the revitalization of underperforming state-owned companies. Additionally, the asset management SOE would be responsible for handling non-performing assets, productive state-owned assets, and even assets originating from third parties. The Central Government may support this entity through various mechanisms, including capital injections (in cash or in-kind capital contribution), the purchase of securities, or the provision of guarantees.

9. If SOE assets are consolidated under Danantara, what is the legal status of the SOEs being consolidated?

In relation to this, SOE Law has modified the definition of SOEs since the 2003 amendment. Article 1, Paragraph 1 of Law No. 19 of 2003 defines an SOE as a business entity where all or the majority of its capital is owned by the state through direct participation derived from separated state assets. In contrast, according to the definition in the current SOE Law, an SOE is a business entity that meets at least one of the following criteria: (a) all or the majority of its capital is owned by the Republic of Indonesia through direct participation, or (b) the Republic of Indonesia holds special rights over the entity. This expansion of the definition means that subsidiary companies of SOEs, which previously lost their status as SOEs, can regain this status if the state retains special rights over these subsidiaries.

10. What are the significant changes in the SOE Law regarding directors, commissioners, and structural officials in SOEs?

The first significant change is the clarification that members of the board of directors and the board of commissioners of SOEs are not considered state officials (Article 9G of the SOE Law). The explanation to Article 9G specifies that the fact that members of the boards of SOEs are not classified as state officials does not mean that their status as state officials will be lost. Thus, it can be interpreted that if an individual was not a state official from the outset, their status as a state official does not apply when serving as a director or commissioner of an SOE. Conversely, if an individual was previously a state official, their status as such remains, even when serving in an SOE.

For context, Article 2 of Law No. 28 of 1999 concerning State Organizers Clean from Corruption, Collusion, and Nepotism, which was partially repealed by Law No. 30 of 2002 on the Corruption Eradication Commission ("**State Organizers Law**"), stated that directors, commissioners, and other structural officials of SOEs were considered state officials. However, Article 94A of the SOE Law stipulates that regulations governing SOEs remain in effect as long as they do not conflict with the SOE Law. Therefore, it can be argued that Article 2 of the State Organizers Law no longer applies to SOEs. This argument could lead to further discussion on whether the SOE Law can override provisions from the State Organizers Law (which are at the same legal level) based on the principle of *lex specialis derogat legi generali* (the specific law overrides the general law)?

Although the SOE Law excludes SOE managers from being categorized as state officials, it is important to note that individuals holding other positions that meet the qualifications of a state official remain subject to the obligations defined in the State Organizers Law and relevant laws and regulations.

Regarding Law No. 31 of 1999 on the Eradication of Corruption Crimes, as amended by Law No. 30 of 2001 and partially repealed by Law No. 30 of 2002 on the Corruption Eradication Commission ("**Corruption Eradication Law**"), it should be noted that Article 2(1) and Article 3 of the Corruption Eradication Law state that the subject of corruption crimes includes "any person" who (i) unlawfully enriches themselves, others, or a corporation to the detriment of state finances or the national economy; (ii) misuses authority, opportunities, or means available to them due to their position to the detriment of state finances or the national economy. Given this, Article 9G of the SOE Law does not apply if the members of the board of directors and board of commissioners of SOEs engage in the elements of corruption as outlined in these articles.

The SOE Law also expands the provisions regarding the prohibition of dual office-holding, as set out in Minister of SOE Regulation No. PER-3/MBU/03/2023 on SOE Governance and Human Resources. This new provision prohibits members of the board of directors of SOEs from holding dual positions in the boards of commissioners, supervisory boards, subsidiaries of SOEs, and political positions such as party officials or legislative candidates. Additionally, there is a reinforced prohibition against dual office-

holding that could lead to conflicts of interest. Previously, Law No. 19/2003 only restricted dual office-holding in SOEs, regional-owned enterprises, private companies, and structural and functional positions in government agencies.

11. The SOE Law states that the profits and losses of SOEs belong to the SOE and are not considered profits or losses of the state. Does this align with other regulations currently in effect?

Article 4B of the SOE Law states that the profits or losses experienced by SOEs belong to the SOE itself and are not considered profits or losses of the state. This is emphasized by the explanation in Article 4B, which affirms that the capital and assets of SOEs are owned by the SOE, including the profits or losses arising from the management of assets and operational activities.

According to Article 1, paragraph 22 of Law No. 1 of 2004 on State Treasury, as amended by Government Regulation in Lieu of Law No. 1 of 2020, the term "state loss" is defined as a deficiency of money, securities, or goods caused by unlawful actions, either intentionally or negligently. Article 10 of Law No. 15 of 2006 on the Audit Board of Indonesia (*Badan Pemeriksa Keuangan* – "**BPK**") states that in the event of a state loss, the BPK has the authority to determine the amount of the loss and the party responsible for compensating the loss according to the BPK's decision.

However, based on Article 94A of the SOE Law, with the enactment of this law, provisions related to the state treasury, including regulations concerning state losses experienced by SOEs, no longer apply.

When considering Articles 2 (1) and 3 of the Corruption Eradication Law as discussed in point 10 above, even if members of the Board of Directors and Board of Commissioners of SOEs are not considered to have harmed the state's finances, but instead harmed the country's economy, it can be argued that the actions of those directors and commissioners may still meet the criteria of corruption offenses.

12. How much time is given to SOEs to make adjustments to comply with the provisions outlined in the SOE Law after the law is enacted?

According to Article 94 of the SOE Law, all SOEs are required to adjust the provisions outlined in the law no later than one year after the law is promulgated. This one-year period provides SOEs with the opportunity to make various changes to their articles of association, standard operating procedures, and other necessary adjustments to ensure compliance with the provisions of the SOE Law.

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