

REGULATORY LOOPHOLES, MORAL HAZARD, AND FINANCIAL INTEGRITY: ANALYZING ARTICLE 50A OF INDONESIA'S FINANCIAL SECTOR LAW IN THE DANANTARA PATRIOT BOND FINANCING

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Abstract

Differences in legal protection in strategic financing innovations can affect market behavior and pose problems for financial integrity. This study examines Article 50A of Law Number 4 of 2026 regarding Danantara special debt instruments, especially Patriot Bonds, through a qualitative normative policy analysis with legislative, conceptual, comparative, and regulatory policy approaches. By examining legal provisions, institutional documents, constitutional trial processes, financial sector regulations, FATF assessments, and related literature, this study finds that the combination of transaction validity, different investor protections, and restrictions on the use of transaction information can affect transaction traceability, legal deterrence, and the effectiveness of financial intelligence and law enforcement. These findings do not indicate that Patriot Bonds are illegal or money laundering-related, but indicate potential vulnerabilities if legal protection is interpreted too broadly. This research proposes conditional, goal-based, and traceable investor protection as part of accountable strategic financing governance.

1. INTRODUCTION

The success of raising large amounts of funds does not automatically indicate that a financial instrument has become a viable means of financing development. The assessment needs to be directed at how the funds are used, who supervises, and the extent to which managers can be held accountable. The problem is that financial innovation often develops faster than the rules that accompany it. It is this imbalance that can pose risks in practice. Chiu (2023) shows that the imbalance between innovation and regulatory capacity is one of the problems in financial governance. For developing countries, the problem has a broader dimension. Financial innovation can be part of a strategy to direct domestic funds towards productive activities, reduce dependence on traditional fiscal financing, and provide an alternative to banking intermediation. Indonesia is in this context. Strengthening national investment capacity requires not only the availability of funds, but also instruments that are able to adapt financing needs to the character of the strategic project to be financed. However, the ability to raise funds does not necessarily generate investor confidence. This trust is formed by the reputation of the issuing institution and by certainty about how an instrument is regulated, supervised, and accounted for. Unclear or unpredictable rules can reduce the economic benefits that were originally intended to be achieved through financing innovation. Therefore, the success of an instrument needs to be seen from the relationship between its financial capacity and the institutional environment that allows it to operate sustainably.

The establishment of the Daya Anagata Nusantara Investment Management Agency (Danantara) shows an important development in the direction of Indonesia's financing and investment policy. This institution has gained a strategic position in managing and mobilizing capital for the benefit of investment and national development. One form of financing related to this mandate is special debt instruments, including Patriot Bonds. In March 2026, PT Danantara Investment Management announced the issuance of debt instruments worth IDR 7 trillion. The issuance

consists of two series with a coupon of 2 percent and a period of five years and one day and seven years, respectively. The offering is carried out through a private and voluntary mechanism, which shows the existence of a fund-raising structure outside the conventional financing pattern (ANTARA, 2026). The presence of these instruments shows opportunities for diversification of financing sources. However, its special character also raises the need to examine more carefully the legal basis, protection mechanisms, and institutional consequences that accompany the transaction.

The basis for regulating this instrument is contained in Law Number 4 of 2026 which amends Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector. Article 50A is a decisive provision because it not only provides a basis for Danantara to issue special debt instruments, including Patriot Bonds and Red and White Bonds. This provision also requires that the issuance be carried out based on strategies, policies, and risk control that are professional, accountable, and in accordance with good business principles (Republic of Indonesia, 2026). However, the consequences of Article 50A do not stop at the issue of issuer authority. This norm also regulates the legal position of the party who buys the instrument. In other words, lawmakers not only establish a legal basis for certain financing products, but also introduce different legal treatment of transactions related to them.

The section that requires further testing is found in Article 50A paragraphs (5) to (7). Paragraph (5) provides state guarantees and protection against the purchase of special debt instruments from general criminal prosecutions, special crimes, including tax crimes, and civil lawsuits. Furthermore, paragraph (6) regulates restrictions on the use of data and information obtained from related activities, including its use for tax purposes and as evidence in trials. This protection, based on paragraph (7), is limited to transactions in the primary market (Republic of Indonesia, 2026). From an investment policy perspective, this provision can be understood as an effort to create certainty for investors and reduce legal concerns about instruments designed for strategic purposes. However, the problem changes when the protection is read in conjunction with state supervisory authority. The wider the restrictions on the use of transaction information, the greater the need to ensure that investor protection does not reduce the authority's ability to carry out its supervisory and law enforcement functions.

The relationship between these two interests has become more sensitive in the framework of anti-money laundering and the eradication of the financing of terrorism or AML/CFT. Law Number 8 of 2010 is not only aimed at maintaining the stability and integrity of the financial system, but also provides legal instruments for the tracking and recovery of assets related to criminal acts (Republic of Indonesia, 2010). The implementation of these functions requires the availability of financial information that can be accessed and used by the competent authorities. This includes the ability to identify parties who control or receive the ultimate benefit of an asset, trace the flow of funds, and reconstruct transactions that raise suspicion. These components are in line with the international AML/CFT architecture that places customer due diligence, transaction recording, transparency of beneficial ownership, financial intelligence, and foreclosure as complementary elements (FATF, 2023, 2026). Therefore, the regulation regarding investor protection also needs to be tested based on its influence on the sustainability of these functions.

In this framework, it is important to distinguish between the legality of the issuance of an instrument and the potential vulnerabilities that its legal design may pose. There is no adequate basis for concluding that the issuance of legitimate bonds is in itself money laundering. Illegal transactions and instruments issued under legal authority are two different categories of issues. Protection of legitimate transactions is still needed, but such protection can be problematic when it makes transaction information difficult for the state to reach. Data on transactions is needed for a variety of purposes, including tax audits, financial sector surveillance, intelligence analysis, and law enforcement. Therefore, what is at issue in this study is not whether a particular instrument has been used to commit financial crimes. The question is simpler, but it has broad legal consequences: when an audit is required, can the state still obtain transaction information, know who actually controls the assets, and track for possible irregularities based on legitimate authority?

Indonesia's context makes this question inseparable from the development of the AML/CFT system. The FATF (2023) does recognize that Indonesia already has a fairly strong legal and institutional apparatus. However, there is still work to be done, especially related to risk-based supervision, asset recovery, and clarity of information on beneficial ownership. The next evaluation in 2026 notes progress, but not all recommendations have reached full compliance. Customer due diligence, asset confiscation, and disclosure of beneficial owner information are still issues that receive attention (FATF, 2026). In such a situation, new provisions that have the potential to limit access to transaction information need to be examined more carefully. Not because the instrument should be considered problematic from the outset, but because supervision is impossible to carry out if the required information is beyond the reach of the competent institution.

The possibility of an advantage from regulatory differences can then be read through the concept of regulatory arbitration. Marjosola (2021) explained that this condition arises when actors take advantage of differences or gaps between rules to choose forms of activities that carry a burden of compliance or lighter legal consequences. In the financial sector, this possibility is increasingly open because assets and transactions can move through various institutional structures, while supervisory authority does not always reside with one institution. Chiu (2023) also emphasizes that the effectiveness of financial innovation regulation is not sufficiently determined by the formal classification of a product. What is more decisive is the institutional ability to recognize risks that arise outside of the

regulatory categories that are already available. Problems arise when legal protections intended to guarantee legitimate financing have the potential to make it difficult for the state to obtain the information it needs. Information about transactions is still needed for the purposes of supervision, tax audits, financial intelligence analysis, and law enforcement. Therefore, the attention of this study is not directed to the assumption that certain instruments contain violations, but to the question of whether the form of protection provided still allows the state to know the details of transactions, trace the parties who own or control the assets, and recognize irregularities if there is a legal basis for conducting an audit.

This question needs to be placed in the development of Indonesia's efforts to prevent and eradicate money laundering and terrorism financing. The FATF (2023) acknowledges that Indonesia already has a strong legal and institutional foundation. However, strengthening is still needed in several areas, especially risk-based supervision, asset recovery, and the availability of accurate information on beneficial owners. A follow-up assessment in 2026 notes developments in implementation, although not all recommendations have reached full compliance levels. Customer due diligence, confiscation, and disclosure of information on beneficial ownership are still concerns (FATF, 2026). Under these conditions, any new provisions that may restrict access to or use of transaction information need to be carefully considered. This does not mean that the instrument is automatically related to financial crimes, but because effective supervision is highly dependent on the availability of information that can be obtained and used by regulatory agencies.

The concept of regulatory arbitration can be used to understand these possibilities. According to Marjosola (2021), regulatory arbitration occurs when differences or gaps between legal provisions are used to regulate an activity so that the burden of compliance or certain legal consequences can be reduced. In the financial sector, opportunities like this are increasingly open because transactions can involve various forms of institutions and channels of authority that are not always under the supervision of one institution. Chiu (2023) emphasized that it is not enough to regulate financial innovation only to determine the formal status of a product. Supervision must also be able to read the risks arising from the way the product is designed, used, and placed in a certain legal structure. Thus, the legality of an instrument still needs to be read along with its impact on the ability of state institutions to obtain information, identify risks, and carry out supervision. If Article 50A provides special treatment to a particular transaction, it needs to be assessed whether the treatment only solves financing needs or at the same time creates a space that can be used to avoid certain supervisory consequences.

Moral hazard presents a different dimension of the problem, but it is still closely related to the design of legal protection. When a party obtains a broad guarantee of legal consequences, its perception of the risks to be borne may change. The estimated reduction in the cost of a risky action can influence the decisions of investors, intermediaries, and other parties involved in the transaction. In the financial regulatory literature, this issue is related to the need to control negative selection and moral hazard through adequate supervision and regulation (Karakoyun et al., 2024). However, the existence of investor protection cannot be directly considered a weakness. Newly introduced instruments or have a strategic purpose may indeed require certain guarantees in order for investors to be willing to participate. The limit of the problem lies in whether the protection still functions as a reasonable legal certainty or has reduced the responsibility of the risk-takers. Therefore, Article 50A needs to be read with regard to the changing relationship between investment incentives, risk exposure, and legal accountability. The disclosure of transactions is not enough to be seen from the name listed as the owner of the asset. The party is not necessarily the person who controls or enjoys the economic benefits. The lack of clarity of the beneficial owner can make it difficult for authorities to trace the parties behind the transactions and assets that have the potential to be related to financial crimes (Setyastomo et al., 2024). A number of studies have also linked closed ownership structures to weak supervision and tax avoidance (Demirkol, 2024; IMF, 2024). Therefore, the main issue is whether the state still has sufficient access to know who actually controls or benefits from an asset.

This issue then took on a more concrete form in the testing of Article 50A at the Constitutional Court. Case Number 297/PUU-XXIV/2026 shows that there is an objection to the scope of protection regulated in paragraphs (5) and (6), especially related to the state's authority to obtain and use transaction data. The applicant basically distinguishes between protection for transactions that are carried out lawfully and in good faith and the possibility of using the transaction to cover up other unlawful acts. According to the applicant, protection should not hinder the investigation or prosecution of money laundering, tax violations, or the use of the proceeds of crime. Transaction data must also be used as evidence if it is relevant in uncovering a violation of the law (Constitutional Court of the Republic of Indonesia, 2026). Thus, the case shows that the issue of Article 50A is not only related to how to read a provision, but also concerns the boundary that needs to be maintained between the provision of legal certainty in strategic financing and the state's obligation to ensure that the law enforcement process can continue to run.

A constitutional application to Article 50A cannot be treated as evidence that Patriot Bonds have been used for money laundering. An assessment of alleged criminal acts must be distinguished from an assessment of potential weaknesses in a regulatory design. On that basis, this study does not consider Patriot Bonds to be an inherently problematic instrument, but rather examines whether its legal protection can limit access to financial information, taxation, beneficial ownership, asset tracking, and law enforcement processes. This issue is also related to the

credibility of Danantara and the legitimacy of the state financing system more broadly. Indonesia's progress in the AML/CFT framework, as noted by the FATF, is still accompanied by the need to strengthen the aspects of customer due diligence, transparency of beneficial ownership, and asset recovery (FATF, 2023, 2026). Although financial innovation, regulatory arbitrage, AML/CFT, and beneficial ownership have been extensively researched, the linkages of the four in strategic financing that obtain direct protection through legislation are still relatively understudied. Article 50A brings together these issues because the protection of buyers of debt instruments has the potential to affect the access, use, and proof of transaction information. This study examines the construction of legal protection for buyers of special debt instruments and Danantara, its suitability with applicable supervisory and financial integrity mechanisms, and its possible impact on regulatory loopholes, risk-taking incentives, and regulatory arbitrage.

This study is further directed at the need to maintain a balance between strategic financing objectives and state supervisory capacity. Four main issues are the focus of the research: the form of legal protection established by Article 50A; its compatibility with AML/CFT frameworks, taxation, financial intelligence, beneficial ownership, and asset recovery; the potential for the emergence of moral hazard or regulatory arbitrage; as well as the necessary forms of legal and institutional safeguards. Thus, Article 50A is not only read as a written norm, but also assessed based on its potential consequences for the governance and credibility of the national financial system. This study sees investor protection as part of the supervisory issue, not a stand-alone issue. Investors do need legal certainty, but this certainty must still be accompanied by space for the state to examine transactions, trace assets, and deal with alleged violations. From this point, the research is directed at how financing rules can attract capital without reducing the transparency and function of financial supervision.

2. LITERATURE REVIEW

The discussion of Article 50A of Law Number 4 of 2026 needs to be placed in a framework that connects financial innovation with the legal way to provide protection and regulate the behavior of market participants. In this framework, regulatory arbitrage, moral hazard, and financial integrity are part of the intersecting issues. Investor choices can be influenced by the forms of protection available, while the effectiveness of supervision depends on the availability of access to relevant information. Therefore, changes in regulatory design can have broader consequences than just the relationship between investors and the instruments they purchase. On the basis of this thought, this study first looks at the development of financial innovations and their different legal treatments, before linking them to investor protection and the ability of the financial system to maintain its integrity.

2.1 Financial Innovation, Regulatory Loopholes, and Regulatory Arbitrage

Regulatory issues do not always arise because an activity does not have rules. The problem can arise when instruments that economically perform similar functions are placed in different legal categories. As a result, new financial products may face reporting obligations, compliance demands, or a level of supervision that is not the same as previously known instruments. These differences in treatment can ultimately create loopholes in the regulation. In other words, legal loopholes can arise from an imbalance in the application of rules to activities that are essentially adjacent to each economic character. The form of transactions chosen by market participants can be influenced by the legal consequences inherent in each structure. Commercial profits are indeed a consideration, but they are not the only one. The burden of compliance, reporting obligations, potential legal liability, and the level of protection available can also influence the decision. From an economic point of view, structures that require lighter compliance can provide their own attraction (Marjosola, 2021; Minto et al., 2021). However, the choice of a certain structure does not necessarily indicate a violation of the law. The issue of regulatory arbitrage is more appropriate when the legal form of a transaction is used to obtain more favorable regulatory treatment, while the substance of its economic activity is basically still comparable to other transactions.

Consideration of a transaction structure cannot be separated from the accompanying regulatory consequences. Marjosola (2021) shows that market participants also take into account the benefits and legal burdens when determining the form of transactions. Minto et al. (2021) add that regulatory differences can form market responses that are not always recognizable only through compliance checks. Thus, the fulfillment of administrative provisions is not enough to understand all the consequences of a transaction. A formal structure that is in accordance with the rules can still cause problems if the way it is regulated makes transactions less open or makes it difficult for authorities to obtain information and carry out supervision. The ambiguity of legal classifications is not in itself the main problem. What needs more attention is the consequences when these uncertainties result in more favorable treatment for certain instruments or institutions. Meanwhile, activities with similar economic characteristics can remain under the demands of stricter transparency and supervision. Such differences point to problems in the balance of regulatory design. Thus, the issue at hand is not only how to place new financial products in legal categories, but also whether those categories result in proportionate treatment of comparable economic activities.

Similarity in economic activities does not automatically require that every financial instrument be subject to the same rules. Chiu (2023) assesses that the application of the principle of "same activities, same risks, same rules" still needs to look at the reasons behind the formation of a regulation, including the institutional structure and limits of the authority of the authoritarian. Therefore, the assessment of financial innovation does not stop at the function

or type of activity. It is also necessary to see how the rules provide protection, regulate information disclosure, establish supervisory authority, and impose liability on the parties involved. From all these aspects, it can be seen whether the difference in treatment is indeed born from the need for regulations that can be accounted for or actually creates inequality in its application.

This conceptual framework is relevant to read Article 50A of Law No. 4 of 2026 as the legal basis for the issuance of special debt instruments and *Danantara*, including Patriot Bonds and Red and White Bonds. This provision does not stop at granting debt issuance authority, but also contains special legal treatment in the form of protection against certain criminal and civil proceedings as well as restrictions on the use of data or information related to transactions (Republic of Indonesia, 2026). This condition raises academic questions about whether transactions that are economically similar to other debt financing obtain equal legal consequences, especially in terms of transparency, supervision, and accountability.

However, regulatory loopholes, regulatory arbitration, and violations of the law must be placed as three different concepts. Regulatory loopholes point to the emptiness, ambiguity, or imbalance of regulation that allows the emergence of certain regulatory advantages. Regulatory arbitrage refers to the act of placing or structuring transactions consciously to take advantage of differences between legal regimes. As for new law violations, it can be said to occur if there are actions that are contrary to the prohibitions or obligations set by positive law. Therefore, the existence of loopholes does not automatically prove that the loophole has been exploited, just as the use of a favorable legal structure also does not automatically indicate the occurrence of financial crimes.

In this study, the term regulatory loophole is used as an analytical tool to assess the possibility of differences in the level of transparency, supervision, and liability exposure in transactions that have comparable economic functions. The differentiation of protection in Article 50A does not necessarily indicate that the provision is invalid. What needs to be tested is the reason and the limits of the protection: whether it is reasonable when compared to the character and risk of the regulated transaction. Special protection can be justified as long as it is accompanied by effective supervision. When the legal benefits received by an instrument are not adequately controlled, regulatory imbalances begin to form. In strategic financing involving state support, the measure of success is also not enough to be seen in the ability to raise funds. The regulatory structure can influence investor behavior, the ease of tracking transactions, and the extent to which authorities obtain the information needed to carry out supervision. Therefore, Article 50A needs to be seen in terms of the relationship between three interests: the need for capital mobilization, certainty and protection for investors, and the state's ability to maintain the integrity of the financial system.

2.2 Investor Protection, Moral Hazard, and Financial Integrity

Investors usually assess more than just the level of profit that may be obtained. The clarity of the legal status of the instrument, the rights available, the obligations that must be met, and the consequences of the risks taken also determine the decision to place funds. In financing involving the state, these considerations are closer to the level of trust in the issuer and the seriousness of the government in fulfilling its obligations. Therefore, the rules regarding the position of creditors, the use of rights, and law enforcement mechanisms also affect how financing relationships are formed and carried out (Manov, 2021; Hinrichsen et al., 2026). However, legal protection has functional limits that need to be considered. Guarantees for the exercise of contractual rights are not the same as protection that can reduce consequences when investment decisions contain risks. This difference then opens up the discussion of moral hazard. When the burden of a decision is not entirely on the party making the decision, the incentive to act prudently can be weakened because the risk is perceived to be less than the actual situation.

Pernell and Jung (2024) show that government protection can affect the economic calculations of perpetrators, especially in assessing the possible losses that must be incurred in the event of failure or violation. In other words, protection not only functions as an instrument of legal certainty, but also forms an incentive structure. The more limited the consequences that perpetrators are expected to receive, the more likely it is that the protection will affect their courage to take risks. This issue is relevant when reading Article 50A, because protection for buyers of special debt instruments does not stop at the contractual relationship between investors and issuers. The provision also includes protection from certain criminal and civil charges as well as restrictions on the use of data or information related to transactions (Republic of Indonesia, 2026). Therefore, these provisions need to be tested from a broader perspective, especially regarding their impact on the ability of authorities to conduct examinations, carry out supervision, and respond to alleged irregularities.

At this point, the concept of financial integrity becomes relevant. It is not enough for a financial system with integrity to be built solely through the recognition that a transaction is legal under the law. The system must also allow the authorized institution to know the parties involved, identify the true beneficial owners, assess the customer's risk, and trace the flow of funds if needed. All of these functions depend on the availability of reliable information. In the anti-money laundering framework, the process of recognizing and understanding customers is a key element in the implementation of effective due diligence (Gaviyau & Sibindi, 2023; Sultan, 2023).

The FATF standard affirms the need for beneficial ownership transparency, customer due diligence, financial intelligence, risk-based supervision, and asset recovery as part of an effective AML/CFT system (FATF, 2023, 2026). For Indonesia, this framework is even more relevant after gaining full FATF membership status in 2023. As such,

the effectiveness of the AML/CFT regime cannot be assessed solely on the basis of regulatory completeness. The assessment should also include the ability of the competent authority to acquire, review, use, and exchange the information necessary to identify risks and act on them. In this framework, the main issue of Article 50A is not whether investors deserve legal protection. Protection of legitimate transactions conducted in good faith is still necessary. What needs to be examined is the limits of the protection itself, especially if its application has the potential to impede the access of the authorities to relevant information. Investor protection cannot be confused with immunity from supervision, as the two have different institutional functions and consequences.

This consideration also needs to be linked to Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering. In this regime, the handling of money laundering crimes does not require the prior determination of the original criminal act as an absolute prerequisite. In addition, electronic information and documents are recognized as evidence that can be used in the money laundering legal process (Republic of Indonesia, 2010). Therefore, restrictions on the use of transaction information can cause wider problems if they are not formulated with clear boundaries regarding the purpose, scope, and institutions bound by them. However, such special protections cannot be used as evidence that money laundering has occurred. Instruments that obtain a special legal basis are not automatically illegal, just as transactions protected by law do not automatically indicate a criminal act. The focus of the analysis is on possible weaknesses in regulatory design, especially if investor protection reduces the ability of financial institutions, tax authorities, financial intelligence, or law enforcement officials to conduct due diligence, trace assets, analyze transactions, or conduct legitimate investigations.

The link between legal protection, moral hazard, and financial integrity thus takes place through a gradual mechanism. Financial innovation results in a new financing structure, while the law determines the level of protection and supervision inherent in the structure. The arrangement then influences the perception of risk and the behavior of the parties. If protection is not balanced with adequate transparency and supervision, it is possible to emerge strategies to take advantage of regulatory differences or reduce the deterrence of supervisory mechanisms. These conditions indicate the potential for regulatory arbitrage and moral hazard, rather than the conclusion that the instrument has been used for financial crimes. Therefore, regulatory loopholes, regulatory arbitration, and moral hazard must be distinguished from violations of the law. Regulatory loopholes are related to weaknesses or ambiguities in regulation. Regulatory arbitration refers to the strategic use of differences between legal regimes. Meanwhile, moral hazard is related to behavioral changes due to reduced risks that must be borne by the perpetrator. These three cannot be equated with criminal acts, because violations of the law still require evidence of actions that are contrary to the provisions of applicable law.

Thus, Article 50A needs to be seen not only as a basis for protection for investors, but as a regulation that has the potential to shape market behavior, determine the space for supervisory institutions, affect access to transaction information, and ultimately determine the extent to which the state is able to maintain the integrity of the financial system.

3. RESEARCH METHODOLOGY

This study uses normative policy analysis with a qualitative approach to examine the construction of regulations in Article 50A of Law Number 4 of 2026 related to financing through Patriot Bond Danantara. The attention of the research does not stop at what is explicitly stated in the norms, but is also directed at the consequences that may arise from the imposition of different legal treatment of the instrument. In this context, legal protection for investors is placed in a broader relationship with the issue of regulatory arbitrage, moral hazard, and the integrity of the Indonesian financial system. The qualitative approach was chosen because the issues studied are related to the interpretation of norms, the relationship between provisions, the division of institutional authority, and the implications of inadequate governance if only analyzed through statistical cause-and-effect relationships.

The research analysis framework is built through four complementary approaches, namely legislative, conceptual, comparative, and regulatory policy approaches. The legislative approach is the basis for first understanding the legal position of Patriot Bond. Article 50A is examined based on its formulation, scope, and legal consequences, especially regarding investor protection, the use of transaction data, the transfer of special debt instruments, and the limits of protection provided for transactions in the primary market. This reading is not carried out separately from other regulations. The provisions in Law Number 4 of 2026 are linked to Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes to see the possibility of a common point and tension between the interests of investment protection and the need to maintain financial integrity.

The issue is then read through a conceptual approach. Regulatory loopholes, regulatory arbitrage, moral hazard, investor protection, and financial integrity are used as concepts to help explain how a particular arrangement can shape certain incentives for the parties involved. The use of these concepts is not intended to provide a pre-judgment that different legal treatment is unlawful. The point of concern lies precisely in the possibility of the emergence of conditions that allow some parties to gain regulatory benefits due to differences in treatment, compliance costs, access to information, or oversight space. In this way, research can distinguish between the existence of loopholes in regulatory design and the evidence of a violation of the law.

The comparative approach was used to obtain a broader perspective on the design of the regulation. Comparisons were made against a number of legal and policy frameworks in Indonesia and at the international level that have relevance to legal protection, information management, prevention and eradication of money laundering and terrorism financing, and state investment governance. At the national level, the Voluntary Disclosure Program (PPS) is used as one of the comparative materials because it provides an example of information protection provided for a specific purpose, but still maintains the function of the competent institution in dealing with serious crimes. The use of PPS in this study is limited to the architectural aspects of information protection and institutional access. The PPS is not placed as an instrument that is institutionally or legally equivalent to the Patriot Bond.

To look at the problem from the perspective of financial system integrity, the study used the Financial Action Task Force (FATF) standard along with mutual evaluation and follow-up assessment documents for Indonesia. In this study, the FATF is used as a reference to see whether the analyzed regulation still provides sufficient space for the authority to carry out the AML/CFT function. Some aspects of concern include customer due diligence, beneficial ownership transparency, use of financial intelligence, risk-based supervision, and asset recovery. The framework is not used to conclude that there is a link between Patriot Bond and money laundering. Instead, the focus is on the possible influence of information protection and restrictions in Article 50A on the authority's ability to obtain information, recognize transaction patterns, conduct tracing, and carry out supervision.

To look at the governance side, this study uses the Santiago Principles as a comparative framework. The principles cover a number of aspects, such as legal basis, institutional structure, transparency, accountability, risk management, and professionalism in the management of state investment institutions. Its use is comparative, not as a provision that directly binds Danantara. Through the comparator, the study assesses whether the institutional design in strategic financing involving the state has a sufficient governance foundation to support transparency, accountability, and risk management. With this position, this principle serves as an instrument of institutional evaluation, not as a basis for testing the legal validity of the Patriot Bond.

Research sources are selected purposively based on their usefulness to the problem to be answered. The main considerations include the direct relevance, authority of the source, suitability with the development of time, and the ability of the material to strengthen the analysis. Therefore, the selection of documents is not based on the number of references, but on the extent to which each source can explain the legal, policy, and institutional developments that are the object of the study. The main materials cover the period 2021–2026, which is considered adequate to trace the development of the Voluntary Disclosure Program, the establishment and financing activities of Danantara, the birth of Article 50A, the constitutional testing process for these provisions, and the development of the FATF's assessment of Indonesia's AML/CFT system. However, the deadline is not applied absolutely. Older sources are still used if they have a fundamental position and are still relevant, such as Law Number 8 of 2010 and the Santiago Principles.

The academic foundation of this research is mainly built from peer-reviewed articles published throughout 2021–2026. The literature explored includes financial innovation, regulatory arbitrage, moral hazard, investor protection, customer due diligence, beneficial ownership, AML/CFT, government debt, and government investment governance. The year of publication is used as a consideration to maintain the relevance of the study, but it is not used as a limit that removes previous works. Classical literature is still needed as long as it still offers an analytical concept or framework that is able to explain the problems studied.

The evidentiary power mainly rests on primary sources and institutional documents. Therefore, laws and regulations, implementing regulations, Constitutional Court documents, KSEI records, official government publications, FATF reports, FATF assessment results, and state investment governance documents are placed as the main references. Media reports are only used to complement certain contexts, for example when an explanation is needed regarding the development of Danantara financing activities or public statements that are not yet available in official documents. With this position, news functions as contextual material, not as a foothold to establish a legal position or draw normative conclusions.

The relevance of the source is judged by its contribution to the needs of the research analysis. The material used must be related to Article 50A or the Patriot Bond, explain the AML/CFT regulation, taxation, beneficial ownership, and financial intelligence in Indonesia, or help explain the issues of regulatory arbitrage, moral hazard, financial integrity, and investor protection. Sources that contain comparative standards regarding state investment and government-backed financing are also retained if they can enrich institutional evaluation. On the other hand, material that does not have an analytical relationship to the research question is excluded, even if it comes from a relatively recent publication. On the other hand, sources that are repetitive, do not have adequate authority, are not relevant to the research question, or do not provide material that can be used in legal and conceptual analysis are excluded from the primary source of the research.

Based on this process, research data is basically in the form of documentary materials. The materials analyzed include laws and regulations, constitutional law decision or process documents, records of regulators and related institutions, government publications, reports of international institutions, state investment governance documents, and scientific articles. Each indirect source is considered to have the same position. The weight of its use is determined

by paying attention to the legal status, authority of the issuing institution, the relevance of the substance, and the relationship of the source to the conceptual framework of the research. Laws and regulations are used to determine legal constructions, while academic literature and institutional documents are used to help read the theoretical, policy, and institutional consequences of the construction. Article 50A needs to be read together with the entire Patriot Bond arrangement, not only in terms of investor rights and protection. The analysis also includes the limits of these protections as well as the responsibility of the institution in the issuance and management of instruments. To see the legal consequences more fully, this provision is linked to AML/CFT, financial intelligence, tax compliance, beneficial ownership, and asset recovery. This linkage shows whether the protection provided is still in line with the needs of supervision in the financial system.

The study then highlights the regulatory loopholes that may have formed, including their impact on the parties' incentives, compliance obligations, access to information, and the implementation of supervision. However, the existence of potential regulatory weaknesses is not equated with the proof of criminal acts. Article 50A and the Patriot Bond are not used as a basis for alleging money laundering. The focus is on the possible impact of overly broad formulations or applications on transparency, transaction traceability, access to regulatory agencies, and the implementation of law enforcement. The three benchmarks used in the study are also not treated as a uniform comparatorial device. The PPS has the function of showing how specific information protection can be designed in the Indonesian legal system without eliminating the authority of institutions under certain conditions. The FATF is used to assess aspects of AML/CFT and financial integrity, especially with regard to the system's ability to maintain transparency, identify, access information, and carry out risk-based supervision. Meanwhile, the Santiago Principles are placed in the realm of state investment governance. The separation of functions is important so that comparisons do not result in equalization between instruments that have different legal basiss, objectives, and institutional positions.

The entire process is then directed to the formation of a conceptual framework for research. Financial innovation and strategic financing are understood as a form of regulation that under certain conditions can be accompanied by different legal treatments. Differences in regulatory design can put parties in different positions, both in terms of liabilities, compliance costs, access to information, and liability. These consequences are important to examine because they can affect the emergence of regulatory arbitrage and moral hazards, as well as have implications for financial integrity. To anticipate these risks, investor protection needs to go hand in hand with AML/CFT mechanisms, beneficial ownership transparency, the use of financial intelligence, asset recovery, and institutional supervision. Thus, financial innovation is not seen as something that automatically causes problems. The attention of the research is directed to the adequacy of rules and the accompanying supervision, especially in keeping strategic financing needs in line with investor protection and financial system integrity

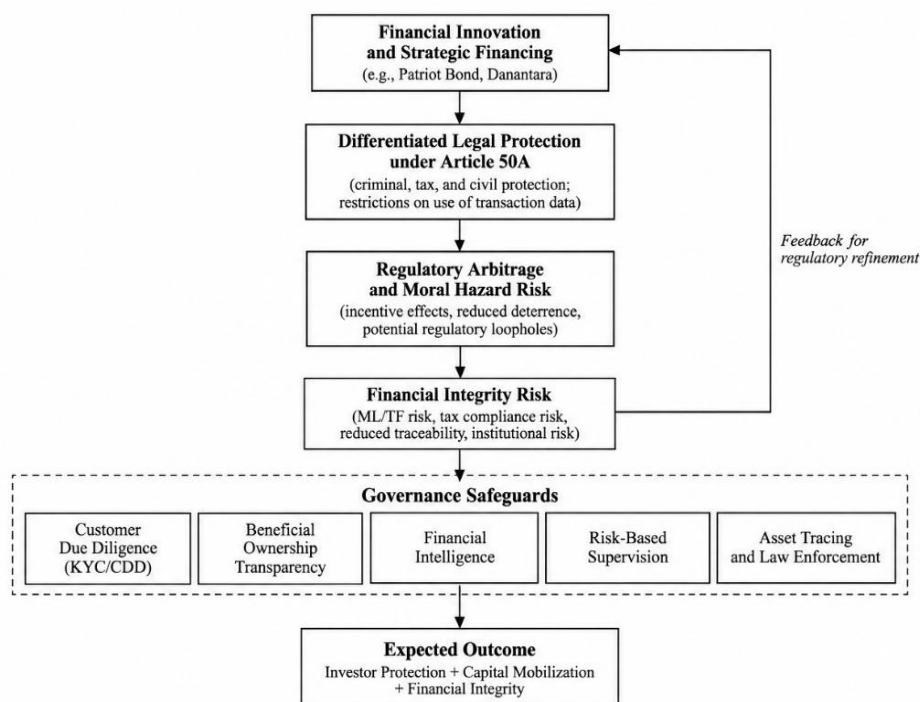


Figure 1. Conceptual Model of the Study
Source: Authors (2026)

4. RESULT AND DISCUSSION

4.1 Result

What needs to be noted from Article 50A is not only Danantara's authority to issue special debt instruments, including Patriot Bonds and Red and White Bonds. This provision also has consequences for transactions made, especially through the provision of protection to buyers and arrangements regarding data related to the transaction. The consequences become relevant when transaction information is required by the authority for the purposes of taxation, fund flow tracking, compliance checks, or law enforcement. Restrictions on the use of such information may ultimately affect the space available for authorized institutions to conduct supervision.

This picture can be seen from the interconnection of paragraphs (5), (6), and (7). The protection in paragraph (5) covers general and special criminal cases, taxation, and civil lawsuits. Paragraph (6) then regulates restrictions on the use of data or information obtained from transaction-related activities, including for the purposes of taxation and proof in trials. The protection applies to transactions in the primary market as affirmed in paragraph (7). If the three provisions are placed in a series, Article 50A gives the buyer a relatively strong legal position. At the same time, the question arises as to how investors' need for legal certainty can proceed without reducing the authority's access to information necessary for supervision.

Up to this point, the provision cannot be used to conclude that the Patriot Bond has become a means of criminal acts or money laundering. The problem that can be studied lies precisely in the potential impact of its regulation. Broad protection can deal with the need for transparency and traceability of transactions required in the financial supervision system. The impact is not yet certain because it depends heavily on the interpretation of Article 50A, its application in practice, and the way in which the authorized institution carries out its supervisory functions. The ultimate consequences cannot be separated from how the norm is interpreted, applied, and monitored through a supervisory mechanism by the authoritative institution. The main elements identified in this examination are presented in the following table.

Table 1. Mapping of Article 50A Regulation and Financial Integrity Implications

Relevant provision	Regulatory function	Potential regulatory implication	Governance safeguard
Article 50A(1)–(3)	Authorizes Danantara to issue debt and requires strategy, management policy, and risk controls	Expands strategic financing capacity while creating governance responsibilities	Clear issuance policy, risk management, internal controls, and accountability
Article 50A(4)	Recognizes purchase of special debt as a valid transaction in the national financial system	Establishes legal certainty for investors	Clear definition of the protected transaction and applicable conditions
Article 50A(5)	Provides protection from specified criminal and civil proceedings	May reduce perceived legal exposure and potentially alter risk incentives	Limit protection to lawful, good-faith investment activity and clearly define its scope
Article 50A(6)	Restricts use of transaction-related data for taxation and as legal evidence	May create tension with information accessibility, financial intelligence, and enforcement	Distinguish purpose-specific information protection from exclusion of lawful financial intelligence or enforcement
Article 50A(7)	Limits the protection to primary-market transactions	Reduces the regulatory perimeter of the special protection	Clear distinction between primary- and secondary-market activities
Article 50A(8)	Permits transfer or pledging of the special debt	Extends economic effects beyond the initial purchase	Maintain ownership, beneficial-ownership, and transaction records throughout the instrument's life

Source: Authors (2026), based on the Republic of Indonesia (2026).

From the mapping in the table, it can be seen that the source of the problem is not Danantara's authority in issuing special debt instruments. What needs attention is precisely the protection pattern established by Article 50A. The provisions regarding the validity of transactions, protection from certain lawsuits, and restrictions on the use of information are indeed regulated in different parts. However, their application does not take place separately. When the three work together, the legal consequences can go beyond the purpose of each provision.

The context of its implementation can be seen from Danantara's ongoing financing activities. Several long-term debt instruments issued by Danantara Investment Management are recorded through KSEI. In 2026, the issuance amounts to IDR 7 trillion and is divided into two series with a private offering mechanism. The two series have a fixed coupon of 2%, while the repayment periods are five years and seven years, respectively. This fact shows that Danantara's strategic financing has entered the operational stage, no longer limited to a policy draft (KSEI, 2026; ANTARA, 2026).

In the framework of financial integrity, the next issue relates to the relationship between Article 50A and Indonesia's AML/CFT regime. Law No. 8 of 2010 provides an instrument for the state to handle suspicious transactions, postpone transactions suspected of being of criminal origin, and use electronic information and documents in the process of tracing money laundering (Republic of Indonesia, 2010). Therefore, the restrictions on

the use of information in Article 50A need to be viewed more carefully. The legally valid transaction status does not necessarily eliminate the relevance of the information when it is needed for the purposes of financial intelligence, tax audit, asset tracking, or investigation processes.

The scope of Article 50A protection is also still the object of debate in the constitutional test. The application to paragraphs (5) and (6) among others, raises the question of the possibility of reducing the state's authority to investigate alleged violations and use transaction information as part of the legal process. In Case No. 297/PUU-XXIV/2026, the issue that arises is the boundary between protection for legally made investments and restrictions on the state's authority to deal with alleged money laundering, tax violations, or other unlawful acts (Constitutional Court of the Republic of Indonesia, 2026).

This study does not place Patriot Bonds as illegal instruments. Nor is there any basis for concluding that its investors are involved in money laundering. The attention of the research is directed to the institutional consequences that may arise from the provision of such special protections. The problem lies in whether protection for buyers can proceed without reducing access to information, the effectiveness of supervision, and the ability of the state to conduct searches if indications of violations are found.

Article 50A ultimately shows a form of financing innovation accompanied by special legal treatment. Such an arrangement can affect the incentives of the parties, open up the possibility of regulatory arbitration, or complicate the transaction tracking process. However, this possibility cannot be ascertained from the existence of the norm alone. The assessment depends on how the provision is interpreted, implemented, and supervised. It is at this point that the quality of the implementing arrangement and the coordination between authorities are decisive, especially so that the protection of strategic financing does not develop into a reduction in the function of financial integrity.

4.2 Discussion

The special protections in Article 50A can be understood as part of efforts to provide certainty for strategic financing. However, these assurances have limits that need to be examined. When a transaction receives different treatment from other instruments, the difference can change the economic considerations of the parties, including in assessing compliance costs, disclosure obligations, legal risks, and the possibility of audits. Marjosola (2021) and Minto et al. (2021) show that the characteristics of this kind of regulation can influence the decision of market participants in choosing a transaction structure.

In this framework, regulatory arbitrage is not synonymous with unlawful action. Market participants may choose instruments that are legally legal because they offer more favorable regulatory consequences. These choices become relevant when differences in treatment change the way investors calculate their risks and obligations. Article 50A shows the intersection between financing innovation and legal policy choices: the broader the protections provided, the more likely the perception of compliance costs, liabilities and audit risks to change. Therefore, the main concern is not on alleged infringements by certain investors, but on whether the design of the norm creates incentives that are not offset by supervision with an equal level of power.

Legal protection can influence economic decisions long before a risk actually occurs. When the perpetrator knows that a certain consequence has been mitigated or limited by law, the calculation of the risk to be taken may change. Pernell and Jung (2024) found that expectations of government protection may be related to a tendency to take higher risks. This does not mean that such protection automatically encourages violations. What is worth noting is the change in incentives: certain risks may be seen as more tolerable because the expected consequences are no longer the same. In reading Article 50A, the question becomes relevant if the protection provided ultimately reduces the deterrence of the law beyond the original purpose of its formation.

There is another issue that is no less important, namely how information remains available to the authorities. AML/CFT supervision relies on information that allows a transaction to be recognized, verified, and traced. Identity data, beneficial ownership, transaction history, risk profile, and financial intelligence information are all part of this need (Gaviyau & Sibindi, 2023; Sultan, 2023; FATF, 2023, 2026). A legitimate transaction does not lose its supervisory value just because no violations were found at the time of the transaction. The information it leaves behind may still be needed for tax audits, asset tracing, investigations, or financial intelligence analysis.

In relation to Article 50A, this needs to be distinguished from the protections inherent in transactions in the primary market. Protection at the time of purchase determines the transactions that fall within the scope of the special provisions. However, the status of the transaction when purchased does not in itself determine how the activities that arise thereafter should be treated. Where there is a legitimate legal basis, the examination of beneficial owners, due diligence, or tracing of the transfer of funds still has a reason to be carried out. The limit of protection ultimately needs to be read together with the need to maintain the ability of the authority to obtain information and carry out its supervisory functions. Therefore, the main issue is not the legality of the investment at an early stage, but whether the information from the transaction can still be accessed and used for legitimate institutional purposes.

PPS can provide an illustration of forms of protection that are limited by purpose. This program certainly cannot be equated with the Patriot Bond. The PPS is intended to encourage the disclosure of tax assets or information that have not been previously reported, while the Patriot Bond is a strategic financing instrument. Although different, the PPS shows that protection for information does not have to be provided absolutely. Certain information does

receive protection from tax and criminal consequences, but this protection does not eliminate the state's authority to act if it is found to be linked to serious crimes, including money laundering (Republic of Indonesia, 2021).

Thus, the lessons that can be learned from the PPS are not the application of the same model to the Patriot Bond. The comparison is more appropriately used to show that legal protection can be conditionally formulated and still linked to its original purpose. When a situation is outside the policy objective underlying the provision of protection, the authority of the authority should not be closed. This is where the relevance of the PPS to the discussion of Article 50A lies.

The Santiago Principle then helps to test the issue from a governance perspective. This framework is not used to determine the legality of Danantara, but to assess the institutional quality in managing state investment activities. Transparency, accountability, risk management, certainty of legal basis, and professionalism of decision-making are elements that are directly related to the credibility of state-supported financing (International Working Group of the State Wealth Fund, 2008; Barbary et al., 2023). Investors may need protection, but the protection itself will lose credibility if it is not accompanied by institutions that are able to account for decisions and control their risks.

Investor protection is not enough to measure the extent to which the rules are able to provide certainty of transactions. In it, there must still be room for KYC/CDD, beneficial ownership checks, transaction recording, risk-based supervision, the use of financial intelligence, asset tracking, and law enforcement. These mechanisms are not an obstacle to investment, but a safeguard so that legal protection does not turn into immunity. Therefore, protection needs to be limited to transactions that have a clear legal basis and purpose. These limits must also allow financial activities to be traced back if there are legitimate reasons for the audit. In this way, legal certainty can still be provided without eliminating institutional control. In the context of the Patriot Bond, the success of raising funds and the high level of investor participation are not enough to demonstrate the sustainability of the instrument. The assessment also depends on the quality of recording, supervision, risk control, and accountability. If these aspects are reduced in order to speed up financing, the risk may not be immediately apparent in the issuance results, but may emerge later as a burden on the financial system.

Thus, investor protection and financial integrity do not need to be placed as two conflicting interests. Both can work if the protection is formulated in a clear, limited, and supervisable manner. Patriot Bonds therefore need to be assessed not only by the validity of their instruments, but also by whether their overall legal and institutional framework still guarantees transparency, traceability of transactions, accountability, and law enforcement capacity. Without such a balance, rules designed to support strategic financing can open up room for regulatory arbitrage and moral hazard.

5. CONCLUSION

Based on the results of the analysis, Article 50A of Law Number 4 of 2026 provides a form of legal protection whose scope does not stop at the relationship between Danantara as an issuer and an investor as a buyer. Provisions regarding transaction legalization, limitation of legal claims, and the use of information can affect the way the market assesses risks and the authority of institutions to conduct supervision. In certain situations, this kind of construction can create space for regulatory arbitrage and moral hazard. However, these findings cannot be drawn into the conclusion that Patriot Bonds violate the law or that its investors are involved in money laundering. What is of concern is the potential risks inherent in the choice of legal design.

Investor protection does not need to be ruled out, but it should have testable limits. Rights and certainty for investors should not hinder transaction checks, tracing of the origin of funds, identification of beneficial owners, or the exchange of information required by the authorities. KYC/CDD, transaction logging, financial intelligence, risk-based supervision, asset tracking, and law enforcement remain integral parts of the system. An instrument can be formally legalized, but that does not guarantee that its regulation meets the demands of financial integrity if access to information and accountability become more limited.

With these considerations in mind, the achievements of Patriot Bonds should not only be read through the amount of funds raised or the positive response of investors. An equally decisive aspect is whether the legal framework is able to maintain transparency, traceability of transactions, and supervision after the instrument is in operation. Implementing regulations need to clarify the line between protection for legitimate transactions and protections that can be interpreted as the elimination of legal liability. Strategic financing involving the state will have a stronger basis of legitimacy if investor certainty is provided without closing the gap for supervision and law enforcement.

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