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Bond-Based Legal Immunity and the Rule of Law: A Comparative Study of Indonesia's Patriot and Merah Putih Bonds With Argentina's Treasury Bond Amnesty Scheme

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Abstrak

Penelitian ini mengkaji perlindungan hukum pada instrumen surat utang negara khusus di Indonesia melalui Patriot Bond dan Merah Putih Bond berdasarkan Pasal 50A Undang-Undang Nomor 4 Tahun 2026 tentang Perubahan atas Undang-Undang Nomor 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan, serta membandingkannya dengan rezim pengungkapan aset dan regularisasi perpajakan Argentina berdasarkan Undang-Undang Nomor 27.260 Tahun 2016. Penelitian ini menggunakan konsep statutory financial immunity sebagai kategori analitis untuk menilai apakah perlindungan investor melampaui kepastian investasi yang sah dan membatasi mekanisme pidana, perdata, perpajakan, pembuktian, atau investigasi. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, historis, dan perbandingan hukum. Bahan hukum primer, sekunder, dan tersier dianalisis melalui penafsiran sistematis, historis, konseptual, dan komparatif. Hasil penelitian menunjukkan bahwa Indonesia memberikan perlindungan hukum yang melekat langsung pada pembelian Patriot Bond dan Merah Putih Bond yang memenuhi persyaratan, sedangkan Argentina mengaitkan manfaat obligasi dengan pengungkapan aset, regularisasi fiskal, persyaratan kelayakan, dan kewajiban kepatuhan. Perbandingan menunjukkan bahwa perlindungan yang memengaruhi penuntutan, perpajakan, penggunaan data keuangan sebagai alat bukti, dan akses informasi memerlukan pembatasan yang jelas, pengamanan asal-usul dana, serta pengawasan kelembagaan yang efektif. Penelitian menyimpulkan bahwa kerangka Indonesia dapat dikategorikan sebagai model potensial bond-based statutory financial immunity apabila ketentuan operasionalnya secara kumulatif memenuhi kriteria konseptual penelitian. Perlindungan tersebut hanya dapat dibenarkan apabila terbatas, bersyarat, proporsional, berbasis risiko, serta tetap menjamin efektivitas penegakan hukum terhadap pencucian uang, tindak pidana perpajakan, dan tindak pidana ekonomi serius lainnya.

Kata Kunci : Imunitas Keuangan; Surat Utang Negara; Negara Hukum; Pencucian Uang.

Abstract

This study examines the legal protection attached to special sovereign debt instruments in Indonesia through Patriot Bonds and Merah Putih Bonds under Article 50A of Law No. 4 of 2026 amending Law No. 4 of 2023 on Financial Sector Development and Strengthening, and compares it with Argentina's asset-disclosure *and tax-regularization regime under Law No. 27,260 of 2016, including the bond-related facilities provided within that framework. The study employs statutory financial immunity as an analytical category rather than as an established statutory classification to evaluate whether exceptional investor protection extends beyond legitimate investment certainty and materially limits ordinary criminal, civil, tax, evidentiary, or investigative mechanisms. The central issue concerns the tension between investor protection and state-financing objectives, on the one hand, and the rule of law, accountability, tax transparency, and anti-money laundering enforcement, on the other. Using a normative juridical method with statutory, conceptual, historical, and comparative-law approaches, the study analyzes primary, secondary, and tertiary legal materials through systematic, historical, conceptual, and comparative interpretation. The findings show that the Indonesian framework attaches significant statutory protection directly to qualifying purchases of Patriot Bonds and Merah Putih Bonds, whereas Argentina links bond-related benefits to prior asset disclosure, fiscal regularization, eligibility requirements, and continuing compliance obligations. The comparison further demonstrates that legal protection affecting prosecution, taxation, evidentiary use of financial data, and access to information requires clear limitations, source-of-funds safeguards, and effective institutional oversight. The study concludes that the Indonesian framework may be characterized as a potential bond-based model of statutory financial immunity only where the operative legal provisions cumulatively satisfy the conceptual criteria developed in this study. Any such protection can be normatively justified only if it remains limited, conditional, proportionate, risk-based, and compatible with effective enforcement against money laundering, tax crimes, and other serious economic offences.*

Keywords: *Financial Immunity;Government Bonds; Rule of Law; Money Laundering.*

INTRODUCTION

In line with the development of modern economic law, countries around the world have increasingly utilized a wide range of financial instruments to support national development financing while maintaining fiscal stability in domestic markets.[1] One instrument that has attracted considerable attention in the contemporary economic landscape is sovereign debt or state investment debt instruments, which enable governments to raise funds from both domestic and foreign investors.[2] In the Indonesian context, the use of such financial instruments, particularly sovereign debt instruments, has increasingly gained prominence. This development is reflected in the introduction of Patriot Bonds and Merah Putih Bonds, which demonstrate the State's efforts to establish financing instruments that generate economic value while supporting the national strategic agenda. Initially, Patriot Bonds and Merah Putih Bonds were developed as instruments intended to channel funds into the formal financial system and strengthen the State's financing capacity. In practice, however, these instruments possess distinctive characteristics that have generated public debate, particularly regarding the scope of legal

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[1] Simon Gilchrist et al., "Sovereign risk and financial risk," *Journal of International Economics* 136 (Mei 2022): 103603, https://doi.org/10.1016/J.JINTECO.2022.103603.

[2] Marielle de Jong dan Laurens Swinkels, "The Capital-Protection Capacity of Emerging Markets Inflation-Linked Bonds," *The Journal of Portfolio Management* 48, no. 8 (Juli 2022): 127–38, https://doi.org/10.3905/jpm.2022.1.374.

protection afforded to investors, which is perceived as extending beyond mere transactional certainty.[3] Moreover, the investor protection framework associated with Patriot Bonds and Merah Putih Bonds has been regarded as potentially conflicting with rules concerning criminal law enforcement, tax transparency, legal evidence, and the prevention of money laundering. Against this background, Patriot Bonds and Merah Putih Bonds constitute relevant objects of legal inquiry because they directly intersect with state investment interests and the principles of the rule of law.

The phenomenon underlying this study is the emergence of a particularly strong mechanism of legal protection, or the potential creation of legal immunity, in relation to the purchase of special sovereign debt instruments such as Patriot Bonds and Merah Putih Bonds. This issue warrants examination because investor protection is fundamentally important to financial markets, as investors require certainty that the instruments they acquire are supported by a valid legal framework. In addition to protecting investors, the State is also responsible for creating a secure investment climate in which both public and private funds can be optimally mobilized to support productive sectors. In relation to investor protection under Patriot Bonds and Merah Putih Bonds, however, the protection afforded by these instruments may be interpreted too broadly, thereby generating controversy over the boundary between investment certainty and legal immunity.[4] This issue is particularly relevant from the perspective of economic criminal law, under which financial instruments cannot be viewed merely as financing mechanisms but must also be understood as potential channels through which the origin of funds may be concealed.[5] Accordingly, where legal protection afforded to investors restricts access to transaction data for taxation purposes or the use of such information as evidence in law-enforcement proceedings, the risk of misuse of these instruments may increase.[6] On this basis, this study examines whether legal protection associated with special sovereign debt instruments remains consistent with the principles of legal certainty and accountability or instead moves toward the creation of legally sanctioned immunity.

The first issue examined in this study concerns the State's effort to balance the need to provide legal protection to investors with its obligation to preserve legal accountability. From a das sein perspective, the original intention underlying the regulation of Patriot Bonds and Merah Putih Bonds is to provide legal certainty to

[3] Holger Spamann, "Indirect Investor Protection: The Investment Ecosystem and Its Legal Underpinnings," *Journal of Legal Analysis* 14, no. 1 (September 2022): 17–79, https://doi.org/10.1093/jla/laac003.

[4] Dominic Thomas-James, "Editorial: Interdicting economic crime through beneficial ownership: an international standard at last?," *Journal of Money Laundering Control* 25, no. 3 (Juni 2022): 489–92, https://doi.org/10.1108/JMLC-05-2022-150.

[5] Syahrijal Syakur, "Pertanggungjawaban Pidana oleh Pemilik Manfaat (Beneficial Owner) sebagai Pelaku Pencucian Uang dan Kejahatan Lainnya dalam Perseroan Terbatas," *AML/CFT Journal: The Journal of Anti Money Laundering and Countering the Financing Terrorism* 1, no. 1 (Desember 2022): 101–12, https://doi.org/10.59593/amlcft.2022.v1i1.28.

[6] Valentina Gullo dan Pierluigi Montalbano, "Financial transparency and anomalous portfolio investment flows: A gravity analysis," *Journal of International Money and Finance* 128 (November 2022): 102704, https://doi.org/10.1016/j.jimonfin.2022.102704.

investors purchasing special sovereign debt instruments.[7] Such legal certainty is expected to enhance market confidence while strengthening the legitimacy of these instruments as mechanisms of state financing. From a das sollen perspective, however, investor protection under the regulatory framework governing Patriot Bonds and Merah Putih Bonds should not eliminate the possibility of investigations into suspected criminal offences, tax violations, or money laundering.[8] This position is reinforced by Indonesia's constitutional foundation as a state governed by the rule of law. Consequently, every policy adopted by the State, including economic policies concerning Patriot Bonds and Merah Putih Bonds, must remain guided by the principles of legality, accountability, and equality before the law. Consistent with these principles, the legal protection afforded to investors under these instruments should remain proportionate so as not to create preferential treatment that conflicts with the principle of equality before the law.[9] Accordingly, the analytical gap addressed by this study lies in determining how investor protection can operate as a guarantee of transactional certainty without transforming into a form of legal immunity capable of undermining law enforcement.

The issue concerns the position of statutory financial immunity within the framework of the rule of law. Conceptually, statutory financial immunity may be understood as financial protection directly conferred by legislation upon particular transactions or parties.[10] In its implementation, however, statutory financial immunity remains subject to defined limitations. Such immunity may, for example, be justified where it is intended to prevent the criminalization of transactions lawfully conducted in good faith. This concept is particularly relevant to the das sollen perspective, according to which every form of immunity must be strictly limited so as not to conflict with the principles of due process of law and equality before the law.[11] Nevertheless, this proposition requires further examination because previous studies on investor protection have generally focused on market certainty, the protection of investors' rights, and the stability of financial instruments.[12] By contrast, studies on money laundering have predominantly concentrated on financial institutions, suspicious transaction reporting, and the

[7] Benny Hutahayan et al., "Investment decision, legal certainty and its determinant factors: evidence from the Indonesia Stock Exchange," *Cogent Business & Management* 11, no. 1 (Desember 2024), https://doi.org/10.1080/23311975.2024.2332950.

[8] Yusup Suseno et al., "Beneficial Ownership Transparency In Law Enforcement Of Money Laundering Act Involving Corporations," *Russian Law Journal* 11, no. 5s (April 2023): 69–83, https://doi.org/10.52783/rlj.v11i5s.893.

[9] Matteo Arrigoni dan Enrico Rino Restelli, "Proportionality in the European Banking Law.Lessons from Silicon Valley Bank," *European Company and Financial Law Review* 20, no. 5–6 (Februari 2024): 936–63, https://doi.org/10.1515/ecfr-2023-0031.

[10] I Made Suwarjana, "The Immunity of the Administration of State Financial Policy and Financial Stability System in Emergency," *Yuridika* 37, no. 1 (Maret 2022): 125–52, https://doi.org/10.20473/ydk.v37i1.34595.

[11] Dimitry Vladimirovich Kochenov dan Nikos Lavranos, "Achmea versus the Rule of Law: CJEU's Dogmatic Dismissal of Investors' Rights in Backsliding Member States of the European Union," *Hague Journal on the Rule of Law* 14, no. 2–3 (Desember 2022): 195–219, https://doi.org/10.1007/s40803-021-00153-7.

[12] Luiz Ricardo Kabbach-de-Castro et al., "Investment–cash flow sensitivity and investor protection," *Journal of Business Finance & Accounting* 50, no. 7–8 (Juli 2023): 1402–38, https://doi.org/10.1111/jbfa.12645.

tracing of predicate offences.[13] Consequently, limited scholarly attention has been devoted specifically to connecting investor protection in sovereign debt instruments with the concept of statutory financial immunity. This research gap makes the present study particularly relevant, while also allowing it to broaden the scholarly discourse in economic criminal law and financial law.

The next issue concerns the relationship between investor protection, tax transparency, and anti-money laundering standards. From a das sein perspective, special sovereign debt instruments such as Patriot Bonds and Merah Putih Bonds may be utilized to attract funds into the national financial system.[14] These instruments are also expected to encourage the flow of funds into the formal financial system, thereby strengthening the State's financing capacity and expanding the investment base. From a das sollen perspective, however, the investor protection framework should ensure that funds entering the financial system remain traceable whenever legitimate risk indicators are present.[15] This requirement is reinforced by anti-money laundering standards, which emphasize a risk-based approach, customer identification and due diligence, suspicious transaction reporting, and inter-agency cooperation in relation to incoming financial flows.[16] Furthermore, the principle of tax transparency requires that financial information not be absolutely shielded from legitimate fiscal compliance purposes. [17] In this respect, the investor protection mechanisms associated with Patriot Bonds and Merah Putih Bonds may potentially conflict with these principles. The apparent tension between these principles and the protection afforded under the two instruments reveals a research gap concerning the absence of a regulatory model capable of balancing legal protection for investors with the requirements of law enforcement, tax examination, and the prevention of money laundering.

The novelty of this study lies in developing statutory financial immunity as an analytical category to assess whether statutory protection attached to particular financial instruments extends beyond ordinary investor protection and materially limits the operation of general legal enforcement.[18] Unlike general legal immunity, safe harbour, amnesty, confidentiality or data-use restrictions, and conventional investor protection, statutory financial immunity is understood here as a regime requiring five cumulative elements: an express statutory basis, a specific nexus to a financial transaction or instrument, an exceptional legal advantage for qualifying

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[13] Emmanuel Hayble-Gomes, "The use of predictive modeling to identify relevant features for suspicious activity reporting," *Journal of Money Laundering Control* 26, no. 4 (Juni 2023): 806–30, https://doi.org/10.1108/JMLC-02-2022-0034.

[14] Layna Mosley dan B Peter Rosendorff, "Government Choices of Debt Instruments," *International Studies Quarterly* 67, no. 2 (Juni 2023), https://doi.org/10.1093/isq/sqad030.

[15] Marissa E. A. A. M. Ooms, "Risk-based due diligence reporting in global mineral supply chains and the rule through transparency," *The Theory and Practice of Legislation* 10, no. 1 (Januari 2022): 48–66, https://doi.org/10.1080/20508840.2022.2033943.

[16] Howard Chitimira dan Sharon Munedzi, "Overview international best practices on customer due diligence and related anti-money laundering measures," *Journal of Money Laundering Control* 26, no. 7 (Desember 2023): 53–62, https://doi.org/10.1108/JMLC-07-2022-0102.

[17] Isnaini Isnaini, Joni Emirzon, dan Ridwan Ridwan, "Automatic exchange of financial information from the perspective of tax fairness and transparency," *JPPI (Jurnal Penelitian Pendidikan Indonesia)* 10, no. 4 (November 2024): 480–90, https://doi.org/10.29210/020243291.

[18] Juan Passadore dan Yu Xu, "Illiquidity in sovereign debt markets," *Journal of International Economics* 137 (Juli 2022): 103618, https://doi.org/10.1016/j.jinteco.2022.103618.

investors, a material restriction on otherwise applicable criminal, civil, tax, evidentiary, or investigative consequences, and sufficient normative breadth to alter the ordinary relationship between investors and the enforcement system. Accordingly, the concept does not encompass mere confidentiality guarantees, tax incentives, procedural safeguards, or conditional safe harbours.[19] This framework is applied to Patriot Bonds and Merah Putih Bonds to determine whether their statutory protections constitute transaction-based protection or extend into source-of-funds protection, while the comparison with Argentina distinguishes Indonesia's potentially bond-based model from an amnesty-linked bond regime. By integrating rule-of-law, economic criminal law, taxation, investor protection, and anti-money laundering perspectives, the study provides a more precise framework for evaluating when legitimate investor protection may develop into exceptional statutory financial immunity.

This study has theoretical, practical, and regulatory significance. Theoretically, it enriches the discourse on economic criminal law by introducing an analysis of statutory financial immunity in sovereign debt instruments. Practically, the study may provide recommendations for legislators, financial regulators, tax authorities, and law enforcement agencies in designing proportionate investor protection. From a regulatory perspective, it proposes the need for a risk-based safeguards model to ensure that investor protection does not restrict legitimate access for law enforcement, tax transparency, and anti-money laundering purposes. Nevertheless, this study is subject to limitations because it employs a normative juridical method based on primary, secondary, and tertiary legal materials. Its geographical scope is also limited to Indonesia as the principal object of analysis and Argentina as the comparative jurisdiction. Furthermore, the study does not empirically measure its effects on investor behavior, actual bond purchases, or the effectiveness of supervision in practice, as its primary focus remains on legal norms and regulatory design.

Based on the background described above, this study addresses the following research questions:

1. How do Indonesia and Argentina regulate statutory financial immunity in sovereign debt instruments that provide legal protection for investors?
2. How should statutory financial immunity in state investment bonds be ideally regulated to ensure that investor protection remains consistent with the principles of the rule of law, tax transparency, and anti-money laundering in Indonesia?

RESEARCH METHOD

This study employs a normative juridical research method because the analysis focuses on the construction, consistency, and implications of legal norms

[19] Maximiliano Lauletta dan Felipe Montano Campos, "Is the forgiveness of a tax amnesty divine? Evidence from Argentina," *International Tax and Public Finance* 31, no. 5 (Oktober 2024): 1229–48, https://doi.org/10.1007/s10797-023-09799-5; Patricia Gil et al., "Toward an understanding of tax amnesty take-up: Evidence from a natural field experiment," *Journal of Public Economics* 239 (November 2024): 105245, https://doi.org/10.1016/J.JPUBECO.2024.105245.

governing statutory financial immunity in sovereign debt instruments.[20] This method is appropriate because the issues examined concern legal principles, regulatory design, investor protection, and the limits of state-created financial privileges rather than the empirical behavior of investors.[21] The primary object of analysis is the legal framework governing investor protection under Patriot Bonds and Merah Putih Bonds in Indonesia and its compatibility with the rule of law, tax transparency, and anti-money laundering principles. The study applies statutory, conceptual, historical, and comparative-law approaches. The statutory approach examines primary legal provisions relating to sovereign debt instruments, financial regulation, taxation, money laundering, and investor protection, while the conceptual approach analyzes statutory financial immunity and distinguishes it from legal immunity, safe harbour, amnesty, confidentiality or data-use restrictions, and ordinary investor protection. The historical approach traces the development of state policies that use investment instruments, fiscal facilities, tax amnesty arrangements, and sovereign financing mechanisms to attract funds into the financial system. The comparative-law approach compares Indonesia with Argentina through four stages: identifying the primary legal basis and legal status of the relevant instruments; examining the conditions and beneficiaries of the protection granted; comparing the scope and legal effects of such protection, including criminal, civil, tax, evidentiary, and data-use consequences; and evaluating the safeguards and limitations imposed to preserve transparency, accountability, anti-money laundering enforcement, and the rule of law. The comparison is therefore based on functional criteria rather than merely formal similarities between the two legal systems, allowing the study to distinguish Indonesia's potentially bond-based protection model from Argentina's amnesty-linked bond regime and to assess whether the protection afforded remains within the legitimate boundaries of investment certainty or develops into disproportionate statutory financial immunity.

The data used in this study consist of secondary data comprising primary, secondary, and tertiary legal materials. The primary legal materials are identified specifically for each jurisdiction. In Indonesia, the study principally examines Law No. 4 of 2026 amending Law No. 4 of 2023 on Financial Sector Development and Strengthening, effective from 17 June 2026, particularly Article I point 72 inserting Article 50A(1)–(7), which regulates the legal status of Patriot Bonds and Merah Putih Bonds, the legality of their purchase, the scope of criminal and civil protection, restrictions on the use of transaction data for taxation and judicial evidence, and the limitation of such protection to primary-market transactions, together with the relevant State-Owned Enterprises legislation and implementing regulations governing Danantara. In Argentina, the analysis relies primarily on Law No. 27,260, effective from 23 July 2016, particularly Articles 42, 46, and 81–88, as well as Decree No. 895/2016, AFIP General Resolution No. 3919/2016, and Joint Resolution No. 3-

[20] Antony Antony, Lu Sudirman, dan Ampuan Situmeang, "Legal Research Methodology as a Critical Epistemological Framework for Legal Argumentation and Legal Development," *Barelang Journal of Legal Studies* 4, no. 1 (2026): 21–49, https://doi.org/10.37253/barjoules.v4i1.12379.

[21] Hari Sutra Disemadi, "Lensa Penelitian Hukum: Esai Deskriptif tentang Metodologi Penelitian Hukum," *Journal of Judicial Review* 24, no. 2 (2022): 289–304, https://doi.org/10.37253/jjr.v 24i2.7280.

E/2016, which regulate bond-linked tax benefits, legal releases, disclosure and confidentiality obligations, exclusions, continuing anti-money laundering requirements, and the issuance and subscription of the relevant government bonds. These primary materials were obtained from official Indonesian legal databases and Argentina's InfoLEG, Argentina.gob.ar, and Boletín Oficial, while secondary and tertiary legal materials include books, journal articles, institutional reports, legal doctrines, dictionaries, encyclopedias, and regulatory indexes. The materials were collected through literature review by identifying, classifying, and assessing their relevance to the research questions and were analyzed qualitatively through grammatical, systematic, conceptual, historical, teleological, and comparative legal interpretation.[22]

RESULTS AND DISCUSSION

Regulation of Statutory Financial Immunity in Sovereign Debt Instruments Providing Legal Protection for Investors in Indonesia and Argentina

The regulation of statutory financial immunity in sovereign debt instruments reflects the intersection of financial law, fiscal policy, investor protection, and public-law enforcement.[23] In this study, statutory financial immunity is employed as an analytical category referring to exceptional statutory protection attached to a specific financial transaction or instrument that may materially affect otherwise applicable criminal, civil, tax, evidentiary, or investigative consequences. Indonesia and Argentina are selected for comparison not because their regulatory regimes are formally identical, but because both jurisdictions connect state financial instruments with legal or fiscal facilities designed to mobilize funds into the formal financial system. The comparison is therefore functional rather than formal, examining how each jurisdiction balances capital mobilization and investor incentives against transparency, accountability, and law-enforcement interests.[24] To ensure analytical consistency, the comparison applies eight fixed dimensions: legal trigger, investor eligibility, disclosure requirements, tax treatment, source-of-funds scrutiny, access to and use of financial data, criminal-law exclusions or limitations, and institutional oversight and safeguards.[25] These dimensions provide a consistent basis for determining whether the respective regimes merely protect

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[22] David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–78, http://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601/3191.

[23] Rio Erismen Armen, Engku Rabiah Adawiah Engku Ali, dan Gemala Dewi, "Enabling beneficial right for sovereign ṣukūk issuance in Indonesia: challenges and analysis," *International Journal of Law and Management* 65, no. 6 (Oktober 2023): 701–19, https://doi.org/10.1108/IJLMA-12-2022-0270.

[24] Adrianus Jeffri Shandietrysno, Zahry Vandawati Chumaida, dan Bambang Sugeng Ariadi Subagyono, "Legal Protection For Investors of Government Bonds Whose Clauses Do Not Have A Maturity Period," *Nagari Law Review* 7, no. 1 (Agustus 2023): 14–28, https://doi.org/10.25077/nalrev.v.7.i.1.p.14-28.2023.

[25] Chen Yu, "Towards a three-tiered ombuds system for investment dispute prevention: principles and challenges," *Asia Pacific Law Review* 30, no. 2 (Juli 2022): 401–23, https://doi.org/10.1080/10192557.2022.2073710.

lawful financial transactions or extend further by insulating investors, transactions, or funds from generally applicable legal scrutiny.

In Indonesia, the primary legal basis governing Patriot Bonds and Merah Putih Bonds is Law No. 4 of 2026 amending Law No. 4 of 2023 on Financial Sector Development and Strengthening, particularly Article I point 72 inserting Article 50A. Article 50A(1) authorizes the Daya Anagata Nusantara Investment Management Agency (Danantara) to issue debt instruments, while Article 50A(2)(b) expressly classifies Patriot Bonds and Merah Putih Bonds as special debt instruments.[26] In terms of the legal trigger, Article 50A(4) recognizes the purchase of these instruments as a lawful transaction within the national financial system, while Article 50A(7) limits the protections under paragraphs (5) and (6) to transactions conducted in the primary market. Regarding eligibility, Article 50A(9) expressly includes investors who previously participated in tax-amnesty and voluntary-disclosure programmes.[27] These provisions indicate that the Indonesian framework is principally transaction-based because the relevant statutory consequences are attached directly to participation in designated financial instruments rather than to a new and separate asset-disclosure or fiscal-regularization process.

The distinctive feature of Indonesia's framework lies in the cumulative legal consequences attached to the purchase of these special debt instruments. Article 50A(5) extends protection to qualifying transactions against general criminal prosecution, special criminal prosecution including tax offences, and civil claims, while Article 50A(6) restricts the use of transaction-related data and information as a basis for tax assessment or as legal evidence before a court. These protections therefore extend beyond conventional investor protection, which ordinarily concerns transactional validity, disclosure, fraud prevention, and the protection of contractual or proprietary rights.[28] Nevertheless, the existence of statutory protection does not, by itself, establish the presence of statutory financial immunity. The relevant question is whether the cumulative protection creates an exceptional legal advantage that materially restricts otherwise applicable enforcement mechanisms.[29] On this basis, the Indonesian framework is more appropriately examined as a potential bond-based model of statutory financial immunity, in which

[26] Dwi Elok Indriastuty dan Nur Hidayatul Fithri, "Promotion of Sustainable Social Bonds Base on Indonesia's Constitutional Perspective," *Jurnal Penelitian Hukum De Jure* 24, no. 3 (November 2024): 265–78, https://doi.org/10.30641/dejure.2024.V24.265-278.

[27] Muhammad Ammar Havizh, "Perlindungan Hukum Investor Dalam Perdagangan Waran Terstruktur di Indonesia Berdasarkan Perspektif Hukum Pasar Modal," *Jurist-Diction* 5, no. 2 (Maret 2022): 643–62, https://doi.org/10.20473/jd.v5i2.34900.

[28] Marsinta Simanjuntak, "Disgorgement Fund untuk mewujudkan Corrective Justice sebagai upaya perlindungan hukum kepada investor di pasar modal," *Jurnal Penelitian Hukum De Jure* 23, no. 4 (Desember 2023): 473–82, https://doi.org/10.30641/dejure.2023.V23.473-482.

[29] Lise Smit, Claire Bright, dan Stuart Neely, "Muddying the Waters: The Concept of a 'Safe Harbour' in Understanding Human Rights Due Diligence," *Business and Human Rights Journal* 8, no. 1 (Februari 2023): 1–17, https://doi.org/10.1017/bhj.2022.40.

the classification depends on the scope, intensity, limitations, and practical legal effects of the statutory protection.[30]

A critical issue within the Indonesian model concerns the distinction between transactional legality and source-of-funds legality. Recognition of the purchase of Patriot Bonds and Merah Putih Bonds as lawful transactions does not necessarily establish that the funds used for such purchases originated from lawful activities.[31] This distinction is particularly important from the perspective of economic criminal law because money laundering may involve transactions that are formally lawful while concealing assets derived from predicate offences.[32] Accordingly, the relevant source-of-funds scrutiny should not be displaced merely by the statutory recognition of the investment transaction. The regulatory framework must therefore preserve a clear distinction between protection against the criminalization of a legitimate transaction and protection that could prevent competent authorities from examining the origin of the invested funds. Without such a distinction, transaction-based legal certainty may inadvertently develop into protection for assets whose underlying legal status remains questionable.

The Indonesian framework also raises significant questions concerning access to and use of financial data. Financial confidentiality is generally justified as a means of protecting investor privacy and maintaining confidence in the financial system.[33] However, confidentiality and restrictions on data use should remain distinct from immunity from legal scrutiny because financial information may be necessary for tax administration, criminal investigation, and anti-money laundering enforcement.[34] In this context, Article 50A(6) is particularly significant because it restricts the use of transaction-related data as a basis for tax assessment and judicial evidence. Such restrictions may affect the ability of competent authorities to establish links between financial transactions, tax obligations, and potential predicate offences.[35] Consequently, the legitimacy of data protection under the Indonesian regime should be assessed according to whether it operates as

[30] Go Lisanawati, "Unravelling Legal Issues Related to Financial Transactions in Money Laundering," *AML/CFT Journal: The Journal of Anti Money Laundering and Countering the Financing of Terrorism* 1, no. 2 (Juni 2023): 183–204, https://doi.org/10.59593/amlcft.2023.v1i2.59.

[31] Aulia Arif Nasution et al., "Penyidikan Tindak Pidana Pencucian Uang Sebagai Alat Untuk Mencari 'Beneficial Owner' Dalam Perkara Asal Kepabeanan Dan Cukai," *Neoclassical Legal Review: Journal of Law and Contemporary Issues* 2, no. 1 (April 2023): 36–41, https://doi.org/10.32734/nlr.v2i1.11476.

[32] Raffaella Barone, Donato Masciandaro, dan Friedrich Schneider, "Corruption and money laundering: You scratch my back, i'll scratch yours," *Metroeconomica* 73, no. 1 (Februari 2022): 318–42, https://doi.org/10.1111/meca.12365.

[33] Fithriatus Shalihah dan Roos Niza Mohd Shariff, "Identifying Barriers To Data Protection And Investor Privacy in Equity Crowdfunding," *UUM Journal of Legal Studies* 13, no. 2 (2022): 215–42, https://doi.org/10.32890/uumjls2022.13.2.9.

[34] Ririn Puspita Dewi dan Diana Wiyanti, "Perlindungan Hukum Nasabah atas Peretasan Data Pribadi ditinjau dari Undang Undang," *Jurnal Riset Ilmu Hukum* 4, no. 2 (Desember 2024): 95–100, https://doi.org/10.29313/jrih.v4i2.5193.

[35] Risanto Risanto dan Arief Hakim P. Lubis, "Novum and Unrevealed Data in Tax Disputes In Indonesia: A Legal Certainty Perspective," *Journal of Tax Law and Policy* 1, no. 2 (September 2022): 17–28, https://doi.org/10.56282/jtlp.v1i2.95.

proportionate confidentiality or produces a broader enforcement-limiting effect that contributes to the characterization of the regime as statutory financial immunity.

Argentina provides a functionally comparable but doctrinally distinct model through its 2016 voluntary asset-disclosure and tax-regularization regime under Law No. 27,260. The regime enabled eligible taxpayers to disclose previously undeclared domestic and foreign assets and obtain specified fiscal and legal benefits.[36] Unlike Indonesia, the Argentine legal trigger was not the mere purchase of a sovereign bond but participation in a broader statutory process of asset disclosure and regularization. Within this framework, Article 42 of Law No. 27,260 provided specific fiscal treatment for funds invested in designated government bonds, making bond subscription one of the mechanisms through which eligible participants could obtain relief from the special tax. Sovereign bonds therefore did not independently generate legal immunity but operated within an existing regularization framework. Argentina is consequently more accurately characterized as an amnesty-linked bond protection regime, in which bond-related benefits derive from compliance with a prior disclosure and regularization process.

The eligibility and disclosure dimensions further distinguish the Argentine model from Indonesia. Argentina's regime was designed to bring previously undeclared domestic and offshore assets within the formal tax system and therefore required participants to disclose qualifying assets before receiving the statutory benefits.[37] Legal facilities were thus conditioned not simply upon the acquisition of sovereign bonds but upon prior participation in the regularization process and compliance with prescribed eligibility requirements. By contrast, the Indonesian framework places the purchase of special debt instruments at the center of the relevant statutory protection and does not establish an equivalent comprehensive asset-disclosure process as a prerequisite for obtaining the protections under Article 50A.[38] This difference is fundamental to the functional comparison: Argentina places disclosure at the entry point of protection, whereas Indonesia places the qualifying financial transaction at the entry point. The distinction has direct implications for transparency, source-of-funds scrutiny, and the relationship between investor protection and financial-law enforcement.

Argentina's framework also demonstrates a closer connection between tax treatment, legal benefits, and continuing regulatory obligations.[39] Participants could

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[36] Christian Koch dan Cornelius Müller, "Tax amnesties and the insurance effect: An experimental study," *Journal of Behavioral and Experimental Economics* 108 (Februari 2024): 102130, https://doi.org/10.1016/j.socec.2023.102130.

[37] Annette Alstadsæter et al., "Tax evasion and tax avoidance," *Journal of Public Economics* 206 (Februari 2022): 104587, https://doi.org/10.1016/j.jpubeco.2021.104587.

[38] Caroline Henckels, "Justifying the Protection of Legitimate Expectations in International Investment Law: Legal Certainty and Arbitrary Conduct," *ICSID Review - Foreign Investment Law Journal* 38, no. 2 (September 2023): 347–58, https://doi.org/10.1093/icsidreview/siac027.

[39] Rosnazida Razali, Ida Suriya Ismail, dan Nadiah Abd Hamid, "Tax Voluntary Disclosure and Tax Amnesty: A Systematic Literature Review," *IPN Journal of Research and Practice in Public Sector Accounting and Management* 15, no. 1 (Juni 2025): 99–116, https://doi.org/10.58458/ipnj.v15.01.05.0114.

obtain fiscal relief and specified releases after complying with the asset-regularization requirements, thereby creating an exchange between disclosure and legal facilities.[40] Importantly, however, the statutory benefits were not unlimited. Law No. 27,260 contained exclusions from eligibility and preserved obligations and institutional powers associated with the prevention of money laundering and terrorist financing. The Argentine model therefore did not treat disclosure or bond investment as an absolute barrier to all forms of financial-law enforcement. Instead, the legal benefits operated within a framework that continued to recognize source-of-funds scrutiny, information-sharing obligations, and competent-authority oversight. This structure demonstrates that amnesty-linked protection may coexist with transparency and enforcement safeguards where the scope of the legal facilities and their exceptions are expressly defined.

Viewed from the perspective of investor protection, both jurisdictions employ legal facilities to enhance confidence and encourage funds to enter or remain within the formal financial system, but the legal pathways differ substantially. Indonesia attaches statutory protection directly to qualifying purchases of Patriot Bonds and Merah Putih Bonds, thereby emphasizing certainty surrounding participation in designated state financial instruments.[41] Argentina, by contrast, connected investment opportunities in sovereign bonds with a broader process through which holders of previously undeclared assets could regularize their legal and fiscal position.[42] The central difference therefore concerns the starting point of protection: Indonesia begins with the financial transaction, whereas Argentina begins with disclosure and regularization. This distinction is consequential because a transaction-based model requires particularly strong safeguards to ensure that legal certainty for investors does not eliminate appropriate scrutiny concerning the origin, ownership, or prior legal status of the funds invested.

From a rule-of-law perspective, both models present different forms of legal risk. In Indonesia, the central issue is whether statutory protection connected to special debt instruments remains proportionate or becomes sufficiently broad to interfere with equality before the law and the ordinary application of criminal, civil, and tax rules.[43] In Argentina, the principal concern associated with tax amnesty is different: repeated or overly generous regularization programmes may weaken tax morale and create expectations that previous non-compliance can subsequently be

[40] Siti Nuryanah dan Gunawan Gunawan, "Tax amnesty and taxpayers' noncompliant behaviour: evidence from Indonesia," *Cogent Business & Management* 9, no. 1 (Desember 2022), https://doi.org/10.1080/23311975.2022.2111844.

[41] Rr. Utji Sri Wulan Wuryandari, Agus Surono, dan Supaphorn Akkapin, "Challenges For Capital Market Investors Post Effectiveness UU No.4 Of 2023 Concernng Development and Strengthening The Financial Sector In Indonesia," *Journal Evidence Of Law* 3, no. 3 (Desember 2024): 601–13, https://doi.org/10.59066/jel.v3i3.971.

[42] Thomas Luke Spreen dan Ed Gerrish, "Taxes and tax-exempt bonds: A literature review," *Journal of Economic Surveys* 36, no. 4 (September 2022): 767–808, https://doi.org/10.1111/joes.12464.

[43] Made Sinta Syaharani Sujana, "Analysis of Legal Protection of Investors in Capital Markets: Perspective of Law No. 8 of 1995, Law No. 21 of 2011, and Law No. 11 Year 2020," *Jurnal Hukum Prasada* 11, no. 2 (Oktober 2024): 99–103, https://doi.org/10.22225/jhp.11.2.2024.99-103.

resolved through preferential legal facilities.[44] Nevertheless, Argentina's use of eligibility rules, mandatory disclosure, and statutory exclusions demonstrates the importance of conditioning exceptional legal benefits upon identifiable compliance requirements.[45] For Indonesia, the comparative lesson is therefore not to reproduce an amnesty mechanism, but to ensure that any exceptional investor protection remains clearly defined, proportionate, and subject to express exceptions where overriding law-enforcement interests are involved.

The anti-money laundering dimension further demonstrates why statutory investor protection must remain embedded within an effective supervisory framework. Sovereign debt instruments are legitimate mechanisms of state financing, but any financial instrument capable of receiving significant capital may also present vulnerabilities where customer identification, beneficial-ownership verification, transaction monitoring, and source-of-funds controls are inadequate.[46] Indonesia should therefore ensure that participation in Patriot Bonds and Merah Putih Bonds remains compatible with customer due diligence, suspicious transaction reporting, and access to relevant information by competent authorities. Argentina's model similarly illustrates that asset regularization should not terminate the application of anti-money laundering obligations or information-sharing mechanisms.[47] The functional comparison consequently supports a clear principle: statutory financial protection should regulate legitimate legal consequences without creating a supervisory vacuum. Where protection substantially prevents risk-based supervision or financial-crime investigation, it may create a structural vulnerability within the financial system.[48]

The distinction is equally significant from the perspective of tax transparency and governmental access to financial information. In Argentina, asset disclosure enabled the State to obtain information concerning assets that had previously remained outside the formal tax system, thereby creating the possibility of broadening the tax base and improving future compliance. Indonesia adopts a different approach because Article 50A(6) restricts the use of information arising from protected transactions as a basis for tax assessment or judicial evidence.[49]

[44] Gustavo Canavire-Bacarreza et al., "When do tax amnesties work?," *Journal of Economic Behavior & Organization* 207 (Maret 2023): 350–75, https://doi.org/10.1016/j.jebo.2022.12.018.

[45] I Nyoman Darmayasa et al., "Accountants' perspective on tax amnesty enhances tax compliance dimensions in extended slippery slope framework," *Cogent Business & Management* 11, no. 1 (Desember 2024), https://doi.org/10.1080/23311975.2024.2358161.

[46] Henry Ogbeide et al., "The anti-money laundering risk assessment: A probabilistic approach," *Journal of Business Research* 162 (Juli 2023): 113820, https://doi.org/10.1016/j.jbusres.2023.113820.

[47] Sarah Godar et al., "The long way to tax transparency: lessons from the early publishers of country-by-country reports," *International Tax and Public Finance* 31, no. 2 (April 2024): 593–634, https://doi.org/10.1007/s10797-023-09818-5.

[48] Iwan Putra et al., "The Influence Of Internal Audit, Risk Management, Whistleblowing System And Big Data Analytics On The Financial Crime Behavior Prevention," *Cogent Economics & Finance* 10, no. 1 (Desember 2022), https://doi.org/10.1080/23322039.2022.2148363.

[49] Sugiharso Safuan, Muzafar Shah Habibullah, dan Eric Alexander Sugandi, "Eradicating tax evasion in Indonesia through financial sector development," *Cogent Economics & Finance* 10, no. 1 (Desember 2022), https://doi.org/10.1080/23322039.2022.2114167.

While such protection may increase investor confidence, an excessively broad interpretation could restrict the State's access to information that would otherwise be legally relevant for fiscal or law-enforcement purposes.[50] It may also create differential treatment between investors benefiting from the special statutory regime and taxpayers or investors operating under ordinary legal rules.[51] The Indonesian framework should therefore maintain a proportionate distinction between legitimate transactional protection and restrictions that could undermine fiscal transparency or the effective application of generally applicable tax obligations.

Based on the eight comparative dimensions, Indonesia and Argentina demonstrate functionally comparable objectives but materially different legal architectures. Indonesia may be understood as a potential bond-based statutory financial immunity model because the relevant protections are triggered directly by participation in designated special sovereign debt instruments and extend into criminal, civil, tax, and evidentiary consequences. Argentina is more accurately characterized as an amnesty-linked bond protection model because the bond-related benefit operates within a broader system of prior disclosure, fiscal regularization, statutory eligibility, and continuing compliance obligations. Indonesia provides strong transaction-based legal certainty but requires clearer safeguards concerning source-of-funds scrutiny, access to relevant information, criminal-law exceptions, and institutional oversight. Argentina provides greater initial transparency through mandatory disclosure but retains the potential moral-hazard concerns inherent in tax-amnesty programmes. The comparative analysis therefore demonstrates that exceptional statutory protection can remain compatible with legitimate state-financing objectives only where it is accompanied by proportionate limitations, transparency requirements, effective anti-money laundering supervision, and continued access to information by competent authorities, thereby preventing investor protection from developing into immunity for unlawful funds or conduct.

Ideal Regulation of Statutory Financial Immunity in State Investment Bonds to Ensure Investor Protection Remains Consistent with the Rule of Law, Tax Transparency, and Anti-Money Laundering Principles in Indonesia

To establish an ideal regulatory framework, statutory financial immunity in state investment bonds must be founded on the understanding that investor protection and law enforcement are not mutually exclusive interests. On the one hand, investor protection is necessary to provide legal certainty for the purchase of sovereign debt instruments, particularly where such instruments are designed to

[50] Pieter Lagerwaard dan Marieke de Goede, "In trust we share: The politics of financial intelligence sharing," *Economy and Society* 52, no. 2 (April 2023): 202–26, https://doi.org/10.1080/03085147.2023.2175451.

[51] Muhammad Arsalan Khan dan Heru Tjaraka, "Tax justice and understanding: MSME compliance with Tax Regulation No. 55/2022 in Surabaya, Indonesia," *Cogent Business & Management* 11, no. 1 (Desember 2024), https://doi.org/10.1080/23311975.2024.2396042.

support strategic national financing.[52] On the other hand, the legal certainty afforded to investors must not be construed as absolute immunity from legal obligations.[53] Moreover, the rule of law requires that any facilities granted to investors remain subject to the principles of legality, accountability, and equality before the law.[54] Accordingly, statutory financial immunity should be formulated as conditional protection rather than as an exemption from legal liability. Such protection should therefore apply only to investors who acquire the instruments through lawful mechanisms, use funds whose legitimacy can be substantiated, and comply with applicable legal and regulatory requirements. Under this framework, state investment bonds may remain attractive to investors without becoming a safe haven for problematic funds.

One essential measure for preventing public controversy surrounding the regulation of Patriot Bonds and Merah Putih Bonds is to establish clear limitations on the scope of legal immunity. The regulatory framework governing these instruments should expressly state that investor protection applies only to bond purchases conducted lawfully and in accordance with prescribed procedures.[55] Such protection must not be interpreted as prohibiting the state from conducting inquiries, investigations, tax audits, or prosecutions where indications of criminal conduct exist. An overly broad formulation could create the perception that investors enjoy a superior legal position compared with other citizens. This would be inconsistent with the principle of the rule of law, which requires all legal subjects to be treated equally before the law.[56] Accordingly, immunity clauses governing Patriot Bonds and Merah Putih Bonds should contain clear normative limitations excluding corruption, money laundering, tax crimes, fraud, environmental crimes, and other serious economic offences from their scope.[57] Through such limitations, investor protection would continue to function as a guarantee of transactional legal certainty rather than as a shield against legal accountability.

As a de lege ferenda proposition, the future regulatory framework should expressly distinguish between the legality of a bond transaction and the legality of the source of funds used to finance it. A purchase of state investment bonds may constitute a lawful transaction when conducted through an officially authorized

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[52] Fajar Sugianto dan Shintaro Tokuyama, "Beyond Administrative Sanctions: Reforming Insider Trading Regulation to Strengthen Investor Protection in Indonesia," *Jurnal Media Hukum* 32, no. 2 (Oktober 2025): 210–28, https://doi.org/10.18196/jmh.v32i2.26257.

[53] Prabhash Ranjan, "Investor-state dispute settlement and tax matters: limitations on state's sovereign right to tax," *Asia Pacific Law Review* 31, no. 1 (Januari 2023): 219–34, https://doi.org/10.1080/10192557.2022.2102588.

[54] Rofingi Rofingi, Umi Rozah, dan Adifyan Rahmat Asga, "Problems of Law Enforcement in Realizing The Principle of Equality Before The Law in Indonesia," *LAW REFORM* 18, no. 2 (Agustus 2022): 222–37, https://doi.org/10.14710/lr.v18i2.47477.

[55] Natalie L Reid dan Romain Zamour, "State Responsibility and Corruption in the Context of Investor-State Disputes," *ICSID Review - Foreign Investment Law Journal* 37, no. 1–2 (Agustus 2022): 272–88, https://doi.org/10.1093/icsidreview/siab050.

[56] Salomo Jitmau, Sokhib Naim, dan Muh Akhdharisa SJ, "Implementation of the Principle of Equality Before the Law in the Dynamics of Indonesian Law," *JUSTISI* 11, no. 2 (April 2025): 441–55, https://doi.org/10.33506/js.v11i2.4088.

[57] Belen Olmos Giupponi dan Hong-Lin Yu, "Analysing Obstacles and Challenges in Fighting Corruption in Cases of Illegal Investments," *Laws* 11, no. 4 (Juli 2022): 59, https://doi.org/10.3390/laws11040059.

mechanism; however, such transactional legality should not be interpreted as establishing the lawful origin of the underlying funds. This distinction is particularly important in the context of money laundering, where formally legitimate transactions may be used to conceal assets derived from unlawful activities.[58] Accordingly, future regulation should expressly preserve the authority of competent state institutions to examine the source of funds notwithstanding the statutory recognition of the bond purchase as lawful.[59] Such scrutiny should be conducted on the basis of objective and risk-based indicators, including relevant anti-money laundering standards, in order to prevent arbitrary or disproportionate state intervention.[60] This proposed safeguard would maintain legal certainty for bona fide investors while ensuring that statutory investor protection does not shield illicit funds or prevent legal accountability where the source of funds is unlawful or otherwise legally problematic.

Another essential component is the application of customer due diligence to every investor purchasing state investment bonds. This mechanism is intended to identify the investor, assess their economic profile, determine the source of funds and purpose of the transaction, and evaluate whether the value of the investment is consistent with the investor's financial capacity. Customer due diligence constitutes an integral element of sound financial governance and should therefore not be regarded as an impediment to investment.[61] On the contrary, state-issued bonds are likely to command greater confidence where they operate under clear and credible compliance standards. Nevertheless, conventional customer due diligence may have limitations when dealing with high-risk investors. In such circumstances, more comprehensive enhanced due diligence is necessary to identify and mitigate risks effectively. High-risk investors may include politically exposed persons, parties engaging in unusual transactions, individuals or entities operating in high-risk sectors, or parties with complex ownership structures.[62] Through this mechanism, investor protection would no longer be granted indiscriminately but would instead be calibrated according to an objectively assessable risk profile.

The obligation to report suspicious transactions by institutions involved in the issuance, distribution, payment, and registration of state investment bonds is also essential. Financial institutions, capital market intermediaries, custodians, and

[58] Anang Riyan Ramadianto dan Bayu Akbar Wicaksono, "Countering The Crimes of Money Laundering and Terrorism Financing in Indonesia Digital Banking: A Legal Approach Perspectives," *Indonesian Journal of Counter Terrorism and National Security* 2, no. 2 (Juli 2023), https://doi.org/10.15294/ijctns.v2i2.66841.

[59] Efendi Lod Simanjutak dan Anatoliy Kostruba, "Application of Universal Jurisdiction Principles to Cross-Country Money Laundering," *LAW REFORM* 19, no. 1 (April 2023): 40–60, https://doi.org/10.14710/lr.v19i1.48966.

[60] Lars Haffke, "Biases in risk assessments under EU anti-money laundering law – evidence of the better-than-average effect from Germany," *Journal of Money Laundering Control* 26, no. 4 (Mei 2023): 751–66, https://doi.org/10.1108/JMLC-03-2022-0045.

[61] Ony Thoyib Hadi Wijaya, Kirana Salsabilla Citra Wijaya, dan Yohanes Jentanu Nelson, "Penerapan KYC Melalui CDD dan EDD Dalam Upaya Pencegahan dan Pemberantasan Money Laundering dan Terorisme Pada Pengguna Jasa Keuangan," *E-Bisnis : Jurnal Ilmiah Ekonomi dan Bisnis* 17, no. 1 (Juli 2024): 217–25, https://doi.org/10.51903/e-bisnis.v17i1.1861.

[62] Anang Riyan Ramadianto et al., "Can Indonesia's Digital Banks Combat PEPs and Financial Crimes?," *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 6, no. 2 (Juli 2025): 53–62, https://doi.org/10.18196/ijclc.v6i2.26038.

other parties dealing directly with investors must remain subject to applicable anti-money laundering obligations. In this regard, a transaction should not be regarded as suspicious merely because of its substantial value. Rather, the reporting framework should focus on transactions that are inconsistent with the investor's economic profile and therefore warrant reporting to the competent authority.[63] Suspicious transaction reporting should not be viewed as the criminalization of investors, but as an early-detection mechanism designed to identify potential misuse of the financial system. Such a mechanism enables the state to distinguish bona fide investors from those seeking to exploit sovereign investment instruments to conceal illicit funds. Consequently, state investment bonds can acquire greater credibility as transparent and accountable investment instruments. An ideal framework must therefore ensure that investor protection does not eliminate reporting obligations under the anti-money laundering regime.[64]

Limited, controlled, and legally authorized access to investor data must also be incorporated into the regulatory framework. Investor confidentiality should remain protected because trust and the protection of personal information constitute important foundations of financial markets.[65] Nevertheless, such confidentiality should not be absolute where the information is required for tax examinations, money laundering prevention, or the evidentiary process in economic crime cases. Access should therefore be restricted to legally competent authorities, including tax authorities, the Indonesian Financial Transaction Reports and Analysis Centre (PPATK), the Financial Services Authority (OJK), investigators, public prosecutors, and courts.[66] As a safeguard, such access should be exercised through formal requests, authorization by competent officials, or judicial orders, as appropriate. This arrangement would preserve the balance between protecting investor confidentiality and enabling the state to perform legitimate law-enforcement functions. Accordingly, investor data would neither be freely accessible nor completely insulated from lawful investigative and judicial processes.

Investor protection must also be aligned with the principle of tax transparency. Although the state may provide incentives to investors, such incentives must not eliminate the fundamental obligation to comply with applicable tax laws. At the same time, the mere purchase of state investment bonds should not automatically trigger mass tax audits, as such a policy could undermine investor

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[63] Mario Menz, "It is best to say nothing at all – suspicious activity reporting in the financial services sector," *Journal of Financial Crime* 31, no. 2 (Maret 2024): 302–10, https://doi.org/10.1108/JFC-04-2023-0090.

[64] Muh Afdal Yanuar, "Discrepancy Between the Object of Reporting Obligation for Banks Under Anti Money Laundering Law and That Which Must Be Kept Confidential Under Anti-Tipping Off Provisions," *AML/CFT Journal The Journal of Anti Money Laundering and Countering the Financing of Terrorism* 2, no. 1 (Desember 2023): 45–57, https://doi.org/10.59593/amlcft.2023.v2i1.73.

[65] Glória Teixeira, Maria Filipa Pinho, dan Hugo Teixeira, "Access to Financial Information for Tax Purposes and Proportionality – Balancing Public Interest with the Protection of Privacy," *Finanse i Prawo Finansowe* 3, no. 39 (September 2023): 7–14, https://doi.org/10.18778/2391-6478.3.39.01.

[66] David McNulty, Andrea Miglionico, dan Alistair Milne, "Data Access Technologies and the 'New Governance' Techniques of Financial Regulation," *Journal of Financial Regulation* 9, no. 2 (Oktober 2023): 225–48, https://doi.org/10.1093/jfr/fjad008.

confidence.[67] Nevertheless, purchase data should remain available for legitimate use where there is a material discrepancy between an investor's declared assets, income, and investment value.[68] In this sense, tax-related protection should be limited to ensuring that the purchase of the instrument does not automatically generate a tax dispute, rather than constituting an absolute prohibition against tax examinations. Such a formulation would provide a fairer balance by protecting compliant investors while preserving the state's authority to address serious tax violations. It would also prevent state investment bonds from being perceived as a form of disguised tax amnesty.[69]

The regulatory framework should further include an explicit exception clause for serious criminal offences. Such a clause should stipulate that investor protection does not apply where there are strong indications of corruption, money laundering, terrorism financing, tax crimes, fraud, or other serious economic offences. This exception is essential to ensure that financial immunity does not conflict with the principle of legality or the state's obligation to enforce the law.[70] From the perspective of economic criminal law, the state should not establish instruments that indirectly obstruct the tracing and recovery of proceeds of crime. Accordingly, the exception clause also communicates a fundamental principle that state protection extends only to bona fide investors. Investors who use state investment bonds to conceal illicit funds should not be permitted to invoke the formal legality of their purchases as a defence against legal accountability.[71] The application of such a model would therefore preserve investor protection within a proportionate framework of legal certainty.

In addition, inter-agency supervision should be strengthened. State investment bonds intersect with several areas of law, including public finance law, capital market law, taxation law, economic criminal law, and anti-money laundering law.[72] Onsequently, supervision cannot be effectively exercised by a single institution. Coordination is therefore required among the Ministry of Finance, OJK,

[67] Eko Suwardi dan Arfah Habib Saragih, "The effect of tax risk on audit report delay: Empirical evidence from Indonesia," *Cogent Business & Management* 10, no. 1 (Desember 2023), https://doi.org/10.1080/23311975.2023.2192315.

[68] Giancarlo Ferrara, Valeria Bucci, dan Arianna Campagna, "Audit, presumptive taxation and efficiency: An integrated approach for tax compliance analysis," *Economic Systems* 47, no. 3 (September 2023): 101099, https://doi.org/10.1016/j.ecosys.2023.101099.

[69] Agnes Aurora Ngelo et al., "Corporate Tax Avoidance and Investment Efficiency: Evidence from the Enforcement of Tax Amnesty in Indonesia," *Economies* 10, no. 10 (Oktober 2022): 251, https://doi.org/10.3390/economies10100251.

[70] Anna Sakellaraki, "EU Asset Recovery and Confiscation Regime – Quo Vadis ? A First Assessment of the Commission's Proposal to Further Harmonise the EU Asset Recovery and Confiscation Laws. A Step in the Right Direction?," *New Journal of European Criminal Law* 13, no. 4 (Desember 2022): 478–501, https://doi.org/10.1177/20322844221139577; Sulvia Triana Hapsari, Abdul Madjid, dan Nurini Aprilianda, "Confiscation Of Assets In Economic Crime," *Audito Comparative Law Journal (ACLJ)* 3, no. 2 (September 2022): 31–43, https://doi.org/10.22219/aclj.v3i2.22185.

[71] Michael Levi, "Lawyers as money laundering enablers? An evolving and contentious relationship," *Global Crime* 23, no. 2 (April 2022): 126–47, https://doi.org/10.1080/17440572.2022.2089122.

[72] Isaac Ofoeda, Elikplimi Agbloyor, dan Joshua Yindenaba Abor, "Financial sector development, anti-money laundering regulations and economic growth," *International Journal of Emerging Markets* 19, no. 1 (Januari 2024): 191–210, https://doi.org/10.1108/IJOEM-12-2021-1823.

PPATK, tax authorities, law enforcement agencies, and state audit institutions. Such inter-agency coordination is necessary to ensure that the issuance, distribution, purchase, use of proceeds, and risk mitigation of state investment bonds are conducted in an accountable manner.[73] At the same time, institutional coordination must continue to respect personal data protection, market confidentiality, and the principle of proportionality.[74] Effective cross-agency supervision would therefore not only enhance confidence among investors and market participants but also protect the integrity of Indonesia's national financial system.

Independent audits and periodic reporting should likewise constitute essential elements of the regulatory framework. Audits are necessary to ensure that state investment bonds are issued and managed in accordance with professional, accountable, and risk-based standards. Such audits should also assess whether investor compliance mechanisms are implemented consistently.[75] In addition to compliance assessment, public reporting may provide aggregate information without disclosing the identities of individual investors, including information concerning the volume of bond issuances, the amount of funds raised, the use of proceeds, general risk profiles, and the risk-mitigation measures undertaken. Aggregate transparency enables the public to assess whether the instruments are being managed consistently with the law. It may also prevent declining public legitimacy arising from perceptions that state investment bonds constitute a closed financial space reserved for major capital holders.[76] Accordingly, independent audits and periodic reporting can serve as mechanisms for maintaining an appropriate balance between investor confidentiality and public accountability.

Post-purchase supervision should also be expressly regulated. Investor protection should not end once a purchase transaction has been declared lawful. The state must continue to ensure that the funds raised are used in accordance with the purposes for which the bonds were issued and that the management of state investment does not give rise to irregularities.[77] Post-purchase supervision is also necessary to identify unusual subsequent transaction patterns, such as suspicious transfers of ownership, the use of intermediaries, or multilayered transactions. Such supervision is not intended to interfere with legitimate investor rights but to ensure that the instruments remain within a transparent and properly supervised financial system. This mechanism may be implemented through electronic record-keeping, mandatory reporting of changes in ownership, and monitoring of secondary-market

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[73] Mila Gasco-Hernandez, J. Ramon Gil-Garcia, dan Luis F. Luna-Reyes, "Unpacking the role of technology, leadership, governance and collaborative capacities in inter-agency collaborations," *Government Information Quarterly* 39, no. 3 (Juli 2022): 101710, https://doi.org/10.1016/J.GIQ.2022.101710.

[74] T. Tony Ke dan K. Sudhir, "Privacy Rights and Data Security: GDPR and Personal Data Markets," *Management Science* 69, no. 8 (Agustus 2022): 4389–4412, https://doi.org/10.1287/mnsc.2022.4614.

[75] Dan Honig, Ranjit Lall, dan Bradley C. Parks, "When Does Transparency Improve Institutional Performance? Evidence from 20,000 Projects in 183 Countries," *American Journal of Political Science* 67, no. 4 (Oktober 2023): 1096–1116, https://doi.org/10.1111/ajps.12698.

[76] Ben Cormier, "Democracy, public debt transparency, and sovereign creditworthiness," *Governance* 36, no. 1 (Januari 2023): 209–31, https://doi.org/10.1111/gove.12668.

[77] Federico Lupo-Pasini, "Sustainable Finance and Sovereign Debt: The Illusion to Govern by Contract," *Journal of International Economic Law* 25, no. 4 (Desember 2022): 680–98, https://doi.org/10.1093/jiel/jgac047.

transactions where the instruments are subsequently traded.[78] Through this model, state investment bonds would remain secure and subject to appropriate oversight throughout their entire legal and transactional life cycle.

Furthermore, as a de lege ferenda safeguard, the principle of proportionality should govern supervisory and law-enforcement measures while distinguishing among different levels of state intervention. Routine risk-based AML controls, including customer due diligence, beneficial-ownership verification, transaction monitoring, and suspicious-transaction reporting, should operate as preventive measures based on the customer's or transaction's assessed risk and should not require prior evidence of criminal wrongdoing.[79] By contrast, more intrusive measures should be subject to higher and legally defined thresholds: targeted access to additional financial information should be justified by documented risk indicators or transaction anomalies; tax-related preliminary examinations should proceed where information or circumstances indicate a suspected tax offence in accordance with the applicable tax-procedure framework; and formal criminal investigation, suspect designation, coercive measures, or prosecution should be undertaken only when the evidentiary requirements prescribed by criminal procedural law are satisfied. This graduated approach prevents concerns regarding money laundering or taxation from becoming a general justification for intrusive examination of all investors. It also recognizes that proportionality does not restrict competent authorities from escalating supervisory action where objective indicators, preliminary evidence, or legally sufficient evidence justify a more intrusive response. Accordingly, the future regulatory framework should specify the legal threshold applicable to each level of intervention, the circumstances in which investor data may be accessed, and the conditions under which statutory protection may be limited or cease to apply. Such differentiation would protect bona fide investors from arbitrary or unpredictable enforcement while preserving the State's capacity to investigate and prosecute serious financial misconduct in accordance with legally established evidentiary standards.

Accordingly, the ideal regulation of statutory financial immunity in Indonesian state investment bonds should be constructed as a risk-based protection model. This model would provide legal certainty to bona fide investors while preserving the state's authority to take action against funds derived from criminal offences or serious tax violations. Investor protection should therefore be limited to the legality of lawful transactions and should not extend to the elimination of legal responsibility concerning the origin of funds. An ideal regulatory framework should consequently incorporate clearly defined limitations on immunity, due diligence, suspicious transaction reporting, restricted access to data, tax transparency, exceptions for serious criminal offences, inter-agency supervision, independent audits, and post-purchase monitoring. Through such a design, state investment bonds can remain attractive financing instruments without weakening the rule of

[78] Pavlo Tertychnyi et al., "Time-aware and interpretable predictive monitoring system for Anti-Money Laundering," *Machine Learning with Applications* 8 (Juni 2022): 100306, https://doi.org/10.1016/J.MLWA.2022.100306.

[79] Alexandros A. Papantoniou, "Regtech: steering the regulatory spaceship in the right direction?," *Journal of Banking and Financial Technology* 6, no. 1 (Juni 2022): 1–16, https://doi.org/10.1007/s42786-022-00038-9.

law. Moreover, this framework would ensure that economic policy remains consistent with the objectives of anti-money laundering enforcement and tax compliance. Ultimately, statutory financial immunity can only be justified where it operates as a proportionate instrument of investment protection rather than as a mechanism for creating legal immunity for non-transparent funds.

CONCLUSION

This study concludes that statutory protection associated with sovereign debt instruments reflects a complex relationship between investor protection, state financing interests, and the rule of law. In the Indonesian context, the legal framework governing Patriot Bonds and Merah Putih Bonds attaches significant protection to the purchase of these special debt instruments, including consequences relating to criminal, civil, tax, and evidentiary matters. However, the Indonesian regime should not be characterized categorically as bond-based statutory financial immunity merely because such protections exist. Rather, it may be characterized as a potential bond-based model of statutory financial immunity only to the extent that the operative legal provisions cumulatively satisfy the conceptual elements identified in this study, namely an express statutory basis, a specific financial nexus, an exceptional legal advantage, a material limitation on otherwise applicable enforcement mechanisms, and sufficient normative breadth to alter the ordinary relationship between investors and the legal enforcement system. In contrast, Argentina is more appropriately understood as an amnesty-linked bond protection regime, because the relevant legal benefits operate within a broader framework of asset disclosure, fiscal regularization, statutory eligibility, and continuing compliance obligations. Accordingly, in response to the first research question, Indonesia and Argentina both recognize exceptional forms of legal protection associated with state financial instruments, but differ substantially in their legal triggers, disclosure requirements, tax treatment, source-of-funds scrutiny, data access, criminal-law limitations, and institutional safeguards. These findings indicate that investor protection remains legally justifiable only insofar as it preserves accountability, proportionality, and equality before the law.

In response to the second research question, the study proposes, de lege ferenda, that any future Indonesian framework capable of producing statutory financial immunity should be limited, conditional, proportionate, and risk-based. Protection should attach only to lawful transactions conducted in good faith and should not be interpreted as insulating unlawful sources of funds, predicate offences, or other underlying misconduct from legal scrutiny. Future regulation should therefore distinguish clearly between transactional legality and source-of-funds legality; preserve routine risk-based AML controls such as customer due diligence, beneficial-ownership verification, transaction monitoring, and suspicious-transaction reporting; and establish legally defined thresholds for more intrusive measures such as targeted data access, tax examinations, criminal investigations, coercive measures, and prosecutions. The framework should also provide express exceptions for serious offences, including corruption, money laundering, tax crimes, fraud, and terrorist financing, while ensuring effective coordination among tax authorities, PPATK, OJK, and law-enforcement institutions. Independent audits, proportionate transparency mechanisms, aggregate public reporting, and post-purchase supervision should further be incorporated to strengthen accountability. Future empirical research should examine the effects of these instruments on investor behaviour, tax compliance, supervisory effectiveness, and perceptions of legal fairness. On this basis, statutory financial immunity should be understood not as an inherent consequence of investor protection, but as a conditional analytical classification whose legitimacy depends on clear statutory authority, proportionate limitations, effective oversight, and continued compatibility with the rule of law, fiscal transparency, and the integrity of the financial system.

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