

DSN-MUI Fatwa 166/2026 and Legal Certainty in Sharia Bullion Business

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Abstract

Purpose – Purpose – This article examines the legal authority, contract consequences, and ownership safeguards of DSN-MUI Fatwa No. 166/DSN-MUI/II/2026 within Indonesia's regulated Sharia bullion business.

Method – To answer this research, it is used Normative-juridical research combines statute, conceptual, and doctrinal/fatwa approaches. Identified provisions are interpreted textually and systematically, compared at clause level, and traced to legal consequences and proposed evidence requirements.

Result – The analysis distinguishes the fatwa's normative authority from regulatory incorporation and contractual effects. It constructs five layers of legal certainty: regulatory basis, Sharia normative basis, contract architecture, operational safeguards, and the intended certainty of rights and obligations. Digital records support qabdh hukmi only when they document complete ownership of existing gold. Loan-based savings, investment capital, undivided ownership, and allocated custody require different safeguards. Fatwa permission and regulatory implementation are assessed separately.

Implication –A proposed normative audit framework links contracts, ownership, custody, gold reconciliation, and risk disclosure to identifiable evidence. It is an academic construction, not an official audit standard or proof of institutional compliance.

Keywords : DSN-MUI fatwa; Gold Audit; Legal Certainty; Multi-Contract; Sharia bullion



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INTRODUCTION

Sharia bullion business brings gold into financial intermediation through savings, financing, trading, and custody. These activities use the same physical commodity but create different legal relationships: a customer may be a lender, an investor, a purchaser, a co-owner, or a depositor. Legal certainty therefore depends on identifying the rights created by each contract rather

than treating every recorded gold balance as ownership of gold held in custody.

The *das sein* is an institutional sequence. Article 132 of Law No. 4 of 2023 provides for bullion business; OJK Regulation No. 17 of 2024 (POJK 17/2024) specifies its activities and prudential requirements; and OJK records the launch of Pegadaian and Bank Syariah Indonesia bullion services on 26 February 2025 (Republic of Indonesia, 2023; Otoritas Jasa Keuangan, 2024, 2025). DSN-MUI subsequently adopted Fatwa No. 166/DSN-MUI/II/2026 on Kegiatan Usaha Bulion Berdasarkan Prinsip Syariah on 11 February 2026, hereafter Fatwa 166/2026 (DSN-MUI, 2026). This chronology establishes a regulated policy setting; it does not, by itself, demonstrate compliant implementation.

The *das sollen* is that the contract, object, ownership status, delivery, use of gold, and allocation of loss must be ascertainable. Qur'an 4:29 connects lawful exchange with mutual consent, while Qur'an 2:282 supports documentation of financial obligations. The gold-exchange hadith in Sahih Muslim, no. 1587, supplies the doctrinal background to the ribawi debate reproduced in the fatwa. These principles require precise legal classification: consent to a *qardh* is different from consent to custody or profit-sharing. International gold standards are comparative doctrinal material, whose legal status and differences from DSN-MUI rules must also be identified (AAOIFI & World Gold Council, 2016).



Sequence of legal and institutional events

Sources: Republic of Indonesia (2023), Article 132; Otoritas Jasa Keuangan (2024), promulgation and Article 46; Otoritas Jasa Keuangan (2025), press release dated 26 February; DSN-MUI (2026), closing section. The figure is the authors' chronological synthesis.

Figure 1. Regulatory and institutional chronology of Indonesian Sharia bullion business

Table 1. *Das Sein Das Sollen* and the Legal Gap

Dimension	<i>Das Sein</i>	<i>Das Sollen</i>	Legal gap
Authority	Regulation refers to authorised Sharia rulings; the fatwa supplies contract conditions.	Identify the route by which a norm affects regulated institutions and contracts.	Normative authority is easily confused with direct statutory force.
Contract	Four bullion activities create different rights over gold.	Distinguish debt, investment, sale, and custody.	A gold balance alone does not identify the customer's legal entitlement.
Ownership	The fatwa recognises physical or constructive possession and <i>musya'</i> transactions.	Existing gold, determinable rights, and effective control must correspond.	Recording, ownership, and possession require separate legal tests.
Oversight	Prudential regulation, contract conditions, and institutional supervision operate together.	Evidence should connect each requirement to an accountable actor.	An academic safeguard must not be presented as an official requirement.

Source: authors' analysis of POJK 17/2024 and Fatwa 166/2026. The gaps are interpretive problems addressed by this study, not findings from institutional fieldwork.

The analytical gap concerns the connection between legal authority, contract consequences, and evidence of ownership across the four bullion activities. It cannot be framed as an absence of research on Fatwa 166/2026: (Salam & Baidhowi, 2026) already examine digital ownership under the same fatwa. The present article addresses a narrower complementary question: how identified fatwa clauses and POJK provisions can be read together without conflating a loan claim with proprietary ownership or an author-proposed safeguard with a binding norm.

The article answers three research questions. RQ1: through which normative and regulatory mechanisms does Fatwa 166/2026 affect legal certainty? RQ2: what rights and liabilities follow from the contracts governing savings, financing, trading, and custody, including constructive possession and undivided ownership? RQ3: what evidence can a proposed normative audit framework use to examine those rights and liabilities? The contribution is a

five-layer legal certainty architecture constructed by the authors. Its novelty lies in a traceable provision–interpretation–consequence–evidence connection across the four activities, rather than a claim that the fatwa alone guarantees compliance or customer protection.



Source: authors' conceptual construction from the clause-level analysis. Operational safeguards and intended legal outcomes are proposed; the figure is not an official regulatory framework.

Figure 2. The authors' five-layer legal certainty architecture

Related Literature and the Analytical Position

Related literature can be mapped into four main streams. The first stream discusses gold as a Muslim investment object. (Risman et al., 2024) emphasise the Islamic perspective in assessing gold-based investment, while (Rizal et al., 2026) show that gold investment behaviour among Muslim generational cohorts is shaped by economic, behavioural, and religious considerations. These studies are important for demonstrating the relevance of gold in contemporary Muslim finance, yet their focus is still investment behaviour rather than the legal architecture of institutional bullion.

The second stream discusses digital gold and adoption behaviour. (Luthfi and Hati, 2025) examine Sharia digital-gold investment intention among Muslim youth in Jabodetabek, while (Wicaksono and Soetjipto, 2025) explore public perceptions of digital gold as Islamic investment. Other studies on digital-gold platforms show that trust, literacy, perceived risk, legal protection, and technology influence adoption (Gurbaxani et al., 2023; Hamdan et al., 2025; Soi et al., 2023; Suprapdi & Mujib, 2023). However, much of this literature remains within behavioural, consumer-protection, perceptual, or technological analysis and does not reconstruct the legal relationship between digital balances, physical gold, ownership, custody, and auditability.

Research on fatwa authority shows that religious legitimacy and legal enforceability need not arise through the same mechanism. (Menchik, 2022) examines the organisational and political production of fatwa authority, while (Mustofa & Hasanudin, 2022) discuss textual authorisation and (Nasrudin et al, 2025) analyse its transformation within Indonesia's legal system. Hidayati et al. (2023) locate financial digitalisation within DSN-MUI's epistemological development. Together, these studies justify separating the authority to state a Sharia rule from the state's incorporation of that rule and the obligations accepted in an institutional contract.

Ownership scholarship also moves beyond adoption. (Yahaya, 2023) relates constructive possession of gold to *takhliyyah*, *tamkin*, and customary practice, while (Haq, 2025) examines possession and the right to dispose of digital gold. (Salam & Baidhowi, 2026) offer a conditional account of ownership under Fatwa 166/2026. (Kaleluni et al., 2026) similarly link digital-gold legality to underlying assets, custodian transparency and effective delivery. In contrast, (Avisya et al., 2025) argue that access and control constraints can weaken complete ownership. These positions are assessed through the legal design of the particular product: the existence of physical gold is necessary for a proprietary gold claim, but does not alone establish that the customer can exercise ownership rights. These studies are not treated as empirical proof about all licensed bullion institutions.

(Rosele et al., 2022) distinguish the Sharia recognition of an asset's value from the assessment of its legal characteristics. Applied here, recognising digital value does not establish title to underlying gold. (Atiyah et al., 2024) examine the legitimacy of automated contracts; the relevant implication is limited to the continued need to assess legal conditions when execution is mediated by technology. This article does not evaluate cryptocurrencies or blockchain systems.

Three studies provide complementary benchmarks for analytical discipline. (Ghafran & Yasmin, 2020) construct an Islamic ethical governance framework and compare it with practice in UK Muslim charities, finding a gap between individual ethical commitments and institutional arrangements. (Hidayah et al., 2021) use a longitudinal financial-institution case to show how ethical identity changes under regulatory and market pressures. (Mergaliyev et al., 2021) translate normative objectives into explicit disclosure indicators and caution that disclosed information is not identical to lived performance. The lesson for this doctrinal study is to identify the norm, the implementation mechanism, and the evidentiary limit separately. Their empirical settings do not establish the compliance of Indonesian bullion providers.

Governance studies examine board characteristics, risk-taking, disclosure, and accountability (Haddad & Souissi, 2022; Hidayati et al., 2023;

Moudud-Ul-Huq, 2022; Mukhibad et al., 2022; Umar et al., 2023). Kamaruddin et al. (2024) identify audit scope, competence, and implementation constraints in Malaysian zakat and waqf institutions; their findings inform the need for defined evidence and responsibilities, without transferring sector-specific results to bullion. (Fayyad, 2023) and (Khalidin et al. ,2023) illustrate why contract form must be examined alongside obligations. (Rejeb et al. , 2026) place governance and ethical questions within the broader development of Islamic finance research. These streams support the present architecture, but do not supply the clause-level legal findings.

Table 2. Literature Debates and the Position of This Article

Literature stream	Established focus	Unresolved tension	Position of this article
Gold investment and adoption	Behaviour, trust, literacy, and investment intention.	Adoption does not establish a valid ownership or custody relationship.	Retain the economic context; examine the legal entitlement.
Fatwa authority	Textual, organisational, and institutional sources of authority.	Religious authority and positive-law enforceability follow different routes.	Identify normative authority, regulatory incorporation, and contractual effects.
Digital gold ownership	Constructive possession, complete ownership, and access constraints.	Electronic recording can document rights or merely record a claim.	Apply clause-based ownership and control tests to each contract.
Sharia governance	Ethical frameworks, supervision, disclosure, and risk control.	Formal approval or disclosed compliance may diverge from implementation.	Propose a bounded evidence framework; do not claim verified performance.

Source: authors' synthesis of the studies discussed in the related literature subsection.

METHOD

This is normative-juridical research, not a systematic literature review or an empirical audit of institutions. The statute approach examines Article 132 of Law No. 4/2023 and the provisions of POJK 17/2024 relevant to the four activities. The conceptual approach distinguishes legal authority, ownership, possession, debt, investment, and custody. The doctrinal/fatwa approach interprets Fatwa 166/2026 and the joint-ownership rules of Fatwa No. 159/DSN-MUI/VII/2024, with AAOIFI Sharia Standard No. 57 as a comparative standard (DSN-MUI, 2024, 2026; AAOIFI & World Gold Council, 2016).

The corpus is purposively bounded to these instruments and scholarly materials directly addressing fatwa authority, gold contracts, digital ownership, governance, and auditability. Official legal texts and the copies linked from DSN-MUI's official fatwa register take priority over secondary summaries. The OJK 2025 press release is used only to substantiate the institutional timeline. Journal literature is selected for a relevant argument or evidence, prioritising recent publications; publication rank is not treated as proof of a legal proposition. The corpus does not purport to exhaust all Indonesian financial regulations or all scholarship on gold.

The unit of analysis is an identified article, paragraph, or fatwa subsection. Fatwa locators I–IX in this article correspond to Pertama through Kesembilan in the original Indonesian text. Each relevant provision is recorded by source, locator, activity, legal proposition, interpretation, consequence, and proposed documentary evidence. Textual interpretation identifies the wording and legal subject; systematic interpretation connects definitions with operative clauses and the regulation; purposive interpretation considers the stated requirements of justice, clarity of rights, and avoidance of prohibited transactions. Comparative doctrinal reasoning identifies agreement and difference without assuming that AAOIFI or the fatwa overrides Indonesian regulation.

The analysis proceeds from provision to interpretation, then to legal consequence and proposed evidence. For example, POJK Article 5 classifies savings as unallocated and permits specified institutional use, while Fatwa V.2 identifies a qardh borrower's repayment and use rights. Reading them together supports a debt classification rather than a custody claim; the proposed evidence is a contract and ledger recording the principal in grams. By contrast, POJK Articles 14–17 and Fatwa VIII prohibit using custody gold for financing or trading. Table 5 retains the principal source locators and conclusions, providing an in-article audit trail for this reasoning.

Five checks discipline the synthesis: the source and route of authority, alignment of activity and contract, correspondence between rights and control, compatibility with the applicable regulatory restriction, and sufficiency of the proposed evidence for the particular entitlement. Express provisions are reported as source requirements; interpretive conclusions are identified as readings of those provisions; additional procedures are labelled author proposals. Traceability means that a reader can recheck the cited texts and challenge the inference. It does not mean that institutional compliance, audit effectiveness, or inter-coder reliability has been empirically established.

RESULT AND DISCUSSION

Legal Authority and Regulatory Incorporation

The legal setting developed sequentially between 2023 and 2026. Article 132 of Law No. 4/2023 authorises the bullion-business framework, and POJK 17/2024 implements it through licensing, activity rules, prudential requirements, and supervision. Fatwa 166/2026 supplies Sharia conditions for institutions already licensed by OJK: its definition in I.3 expressly refers to authorised bullion providers. The fatwa is therefore analysed within the regulated framework, not as an independent source of an OJK licence.

Three dimensions of authority must be distinguished. Normative authority concerns DSN-MUI's determination of the Sharia permissibility and conditions of the transactions. Regulatory incorporation concerns the legal reference to authorised Sharia rulings: POJK Article 1(11) defines Sharia principles through such rulings, and Article 2(3)(c) requires Sharia bullion contracts to conform to them. Binding force arises, for regulated providers, through the regulatory obligations and their applicable enforcement provisions; Article 20 includes violations of Article 2(3) among grounds for administrative sanctions. For the contracting parties, specified rights and duties also operate through the agreed contract and the applicable law. These routes should not be collapsed into a claim that every statement in a fatwa is itself a generally applicable statutory rule.

This distinction gives a bounded meaning to the expression active legal instrument. It denotes the fatwa's role as a normative reference capable of shaping enforceable institutional and contractual obligations through identified legal mechanisms. It does not assert that Fatwa 166/2026 is legislation or automatically prevails over POJK. (Menchik, 2022; Nasrudin et al., 2025) supply the authority distinction; the specific incorporation route here is demonstrated by POJK Articles 1(11), 2(3), and 20, rather than inferred from those studies alone.

Fatwa IX.1 states that relevant statutory provisions bind so long as they do not conflict with the fatwa. In this article, that statement is read as a Sharia compatibility direction addressed within the fatwa's normative setting. It does not establish a state-law power to amend, disapply, or invalidate an OJK regulation. A licensed product must satisfy the applicable regulatory rule and its Sharia conditions. Where their operative requirements differ, the product design must remain within the lawful implementation boundary; an academic construction cannot remove that boundary.

The fatwa consequently has legitimising, disciplining, and connecting functions. Section II permits bullion subject to its conditions; III.2–5 requires suitable contracts, lawful transactions, recognised possession, and clear rights; and V–VIII specify consequences for individual activities. The authors' architecture connects those norms with regulation and proposed evidence. Its operational safeguards and intended legal outcomes are analytical constructions, not a further set of clauses attributed to DSN-MUI.

Contract Consequences across the Four Bullion Activities

Table 3. Bullion Activities Contracts Legal Consequences and Safeguards

Activity and source	Recognised contracts	Legal consequence and risk	Proposed evidence
Savings Fatwa V.1–3; POJK 5	<i>Qardh</i> ; <i>mudharabah</i> ; other Sharia-compatible contracts.	<i>Qardh</i> creates a gram-denominated repayment claim and permits borrower use. <i>Mudharabah</i> creates investment rights and agreed profit sharing. Neither is simply allocated custody.	State the contract, principal grams, permitted use, maturity, and applicable return or loss basis.
Financing Fatwa VII.1–4; POJK 8–10	<i>Musyarakah</i> ; <i>mudharabah</i> ; <i>wakalah bi al-istitsmar</i> .	Partner, investor–manager, and principal–agent relationships differ. Collateral requirements do not by themselves turn investment loss into guaranteed profit.	Record productive purpose, capital, allocation of loss, mandate, fees, collateral, and repayment basis.

Activity and source	Recognised contracts	Legal consequence and risk	Proposed evidence
Trading Fatwa VI.1–6; POJK 12–13	<i>Bai'</i> , including <i>murabahah</i> and <i>bai' al-musya'</i> .	Gold must exist and be identified; the seller cannot trade beyond physical gold owned. Possession and the regulatory spot boundary must be examined separately.	Identify gold or pool, grams, seller title, price, delivery, ownership share, and transfer permissions.
Custody Fatwa VIII.1–3; POJK 14–17	<i>Ijarah</i> or <i>wadi'ah</i> .	Customer title is retained. The provider must not use or transfer custody gold. Replacement liability follows negligence, excess, or breach under the fatwa.	Separate customer holdings, record custody terms and fees, document withdrawal and loss responsibility.

Source: DSN-MUI (2026) and Otoritas Jasa Keuangan (2024), cited locators. The final column contains author-proposed evidence, not additional official requirements.

Table 3 preserves the activity–contract–risk–safeguard structure, while separating express rules from the authors' proposed evidence. The alternatives listed for an activity are not a requirement to combine all the contracts in one product. Any combined arrangement must identify when the legal relationship changes and what consent and documentation that change requires.

For qardh savings, Fatwa V.2(a–e) identifies the customer as lender and the institution as borrower. The grams must be known; the institution may use the gold and must return the corresponding gram quantity. No return is an entitlement of the customer except a voluntary gift that is neither stipulated nor customary. The obligation is therefore not repayment of an unspecified cash principal or return of the same identified ingot. Customer-facing documentation should state the gram claim and applicable gold standard, rather than describing the product as gold simply being kept untouched for the customer.

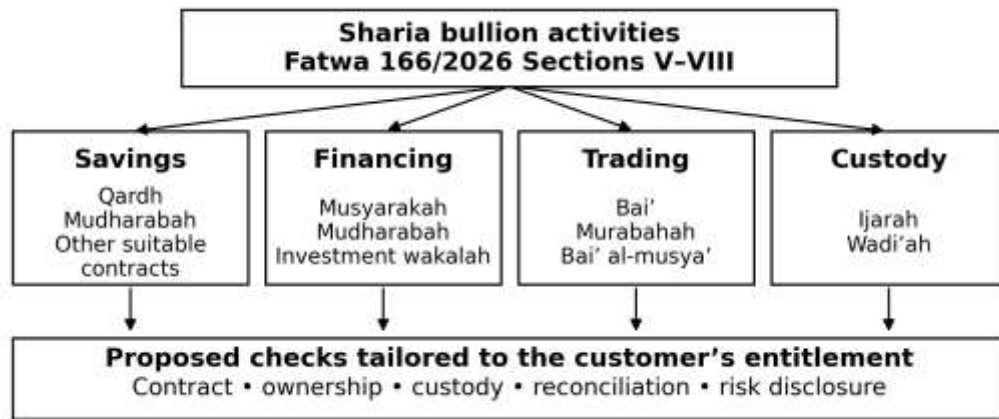
For mudharabah savings, V.3 identifies the customer as capital provider and the institution as manager, specifies permissible business activity and known capital grams, and requires an agreed profit-sharing ratio. The

incorporation of the relevant mudharabah rules in V.3(g) preserves the investment character of the relationship. This classification is consequential: a statement of grams must not be used to promise a fixed investment return or to erase the contract's loss-allocation rules. The audit question concerns the capital and investment records, not the continued physical storage of every gram originally contributed.

For financing, VII.2(a-h) requires productive activity, clear capital proportions, agreed profit ratios, and proportional losses in musyarakah. VII.3 and VII.4 distinguish an investment manager from an investment agent; the latter acts within the agreed mandate and receives *ujrah* only where specified. POJK Article 8 separately requires collateral with a minimum value of 100% of financing, while Article 10 requires repayment in gold. The legal reading is that prudential collateral and gold settlement must be documented alongside the relevant investment or agency obligations; the collateral provision is not evidence of an unconditional Sharia entitlement to profit or immunity from business loss. This contract-specific reasoning extends the concerns about legal form and substance discussed by (Fayyad , 2023), (Khalidin et al. , 2023), and (Mukhibad et al. , 2023).

Trading differs from financing because its immediate legal effect is transfer of title. Fatwa VI.1–4 recognises sale, including *murabahah* and *musya'* sale, while requiring existing, identified gold, known quantity, complete ownership, and recognised delivery. VI.3 prohibits trading quantities exceeding physical gold owned by the seller. The title and possession analysis in the next subsection therefore applies to completed sales and proprietary holdings. It must not be extended to reclassify *qardh* creditors as owners of the borrower's stored gold.

Custody creates a different obligation again. Under VIII.2(c-d) and VIII.3(d-f), the provider must safeguard the gold, may not use it or transfer its ownership, and must replace loss caused by negligence, exceeding authority, or breach of agreement. *Ijarah* relates to a custody service and agreed *ujrah*; *wadi'ah* also permits administrative custody costs under VIII.3(f). POJK Articles 14–17 identify allocated custody, separate recording, exclusion of custody gold from the provider's bankruptcy estate, and a prohibition on its use for financing or trading. That express protection must not be presented as automatically extending to unallocated savings or investment capital.



Source: authors' mapping of Fatwa 166/2026, Sections V–VIII. The bottom checks are proposed by the authors. Contract alternatives do not require combining every listed contract.

Figure 3. Activity-specific contracts and proposed checks

Constructive Possession and Complete Ownership

Fatwa I.21 defines qabdh hukmi as control documented electronically or non-electronically that demonstrates complete transfer of ownership, even before physical receipt. This must be read with I.10, which identifies the owner's powers of use, transformation, and transfer, and with IV.1 and VI.4, which require physically existing gold, ascertainable existence, complete ownership, and deliverability. The legal test is consequently conjunctive: a record is relevant because it documents a valid transfer and exercisable rights over existing gold. A screen balance does not independently create the physical object, the seller's title, or the customer's ability to exercise those rights.

Recording, ownership, and possession are related but distinct. Recording is evidence of an entry; ownership identifies whose rights attach to the asset; possession concerns legally effective control. The proposed documentary test for a completed gold sale asks whether the record identifies the gold or bounded pool, the seller had transferable title, the purchased grams or proportion are determinate, the transfer is effective, and the holder can transfer or obtain the gold through the agreed lawful procedure. These are the authors' operational questions derived from the cited clauses, not a verbatim official checklist.

Yahaya (2023) supports examining release of control and the ability to exercise it rather than insisting on hand-to-hand receipt alone. (Haq , 2025) similarly connects digital possession with disposal rights. The restrictive assessment by (Avisya et al. , 2025) remains relevant when physical availability is accompanied by institutional barriers to effective control.

Conversely, physical withdrawal thresholds need not negate title if the holder's share, transfer rights, and lawful means of realisation remain clear. The conclusion is conditional on contract design and evidence, not a general ruling that all digital gold is valid or invalid.

AAOIFI Standard No. 57, clauses 3/4 and 3/5, provides a comparative account of allocation, effective disposal, and specified undivided shares. Terminology must be handled carefully: POJK Article 5's unallocated savings category permits institutional use, whereas AAOIFI 3/5 discusses joint ownership in a specified pool. The presence of the word unallocated in both settings does not make a loan claim equivalent to an undivided proprietary share. The customer's entitlement must be established from the contract and underlying rights.

Two differences delimit the comparison. AAOIFI 3/2/1 requires immediate exchange when gold is sold for currency, while Fatwa IV.2(c) and VI.6 recognise non-cash trading subject to the incorporated DSN-MUI rules. POJK Article 13(1) and its elucidation, however, require physical-standardised gold traded through a spot transaction. Therefore, recognition of qabdh hukmi is not itself permission to defer payment, and the fatwa's broader permission is not automatically an executable product under POJK. This article keeps proposed implementation within the regulatory spot boundary. Separately, AAOIFI 4/1 requires monetary valuation of gold investment capital, while Fatwa IV.4 permits omission of valuation in specified mudharabah or musyarakah arrangements when capital is clear. The two standards are reported as distinct; dual compliance cannot be claimed without satisfying both sets of requirements.

Joint and Undivided Gold Ownership

Fatwa 159/2024, I.1–5, distinguishes al-mal al-musyarak, property owned by two or more parties with a known measure and value, from al-mal al-musya', whose ownership boundaries are not physically divided. It also identifies hishshah and unit hishshah. Fatwa 166/2026, I.8–9 and IV.3, permits musya' structures within specified bullion activities, and VI.3 limits trading to gold actually owned. Reading the two fatwas systematically allows a fractional interest in an identified gold pool to be distinguished from an unallocated debt balance (DSN-MUI, 2024, 2026).

Fractional ownership consequently requires a defined whole and a determinate share. For illustration, an agreement assigning 1% of an identified 1,000-gram pool gives a 10-gram undivided interest; it does not identify a separately marked 10-gram ingot. This arithmetic example describes a proposed contractual structure, not an observed product. The custody and

ownership records must correspond to the same pool so that a sale does not transfer more gold than the seller owns. A generic assertion of gold backing, without identification of the pool and shares, does not establish this relationship.

Transfer rights also have conditions. Fatwa 159/2024, IV.1, requires agreement of all partners for sale of the jointly owned whole, with proportional distribution of proceeds. IV.3–4 permits sale of shares or share units subject to the other partners' permission and avoidance of harm; IV.5–6 requires clear measure and an acceptable sale object. Documentation should therefore state whether a transaction sells the whole asset, an undivided part, or a share unit, and how the relevant permissions are evidenced. Fractional ownership is not an unrestricted right to dispose of the entire pool.

Redemption must distinguish realisation of an undivided interest from a promise to deliver a particular bar. AAOIFI 3/5/2 permits segregation where possible without prejudice to other co-owners, while Fatwa 159/2024, IV.9, recognises agreed termination through lawful transfer or other Sharia-compatible means. The authors therefore propose disclosure of minimum physical withdrawal units, costs, timing, treatment of residual fractions, and transfer or sale alternatives. Those terms may organise exercise of the right, but must not conceal that the advertised proprietary interest has in fact been reduced to a discretionary cash claim.

Proposed Auditability Framework and Sharia Supervision

The framework addresses RQ3 by translating the preceding legal consequences into proposed review questions and documentary evidence. It is a proposed normative framework, not an official OJK, DSN-MUI, or AAOIFI audit standard, a certification instrument, or a validated measure of compliance. Its function is to make the authors' inference inspectable: the source rule identifies an entitlement; the audit question asks what would substantiate it. Legal and Sharia non-compliance literature supports this distinction between rules, governance, and control evidence (Aljughaiman & Salama, 2019; Mustapha et al., 2021; Umar et al., 2023).

Table 4. Proposed Normative Auditability Framework

Area	Source basis	Proposed question and evidence	Intended legal implication
Contract	Fatwa III.2–5 and V–VIII; POJK 2(3).	Does the agreement identify debt, investment, sale or custody? Examine contract, consent and product summary.	The customer can identify rights, obligations and return basis.
Ownership	Fatwa I.10, I.21; IV.1; VI.3–4; Fatwa 159/2024 I and IV.	For sold or jointly owned gold, do title, pool and recorded shares correspond? Examine allocation, transfer and share records.	Proprietary rights are distinguishable from repayment claims.
Custody	Fatwa VIII.2–3; POJK 14–17.	Is customer gold separately recorded and protected from prohibited use? Examine custody and vault records, withdrawal and loss terms.	Retained ownership and custody liability are identifiable.
Gold records	Fatwa VI.3; POJK 5–6, 15, 28–30 and 42–43.	Reconcile proprietary and custody holdings separately from <i>qardh</i> liabilities, deployed capital and permitted savings use; investigate discrepancies.	Gold records correspond to each legal entitlement without imposing a universal physical-reserve rule.
Risk disclosure	Fatwa III.5 and IX.2; POJK 41.	Can the customer understand price, fees, margin, <i>nisbah</i> , losses, withdrawal, operational risk and remedies? Examine plain-language terms and complaint procedures.	Consent and dispute handling are supported by intelligible information.

Source: authors' normative synthesis of the cited provisions. Questions and evidence requirements are proposed academic safeguards; they are not a new official standard.

Reconciliation must be contract-specific. For gold sold into a proprietary pool, records should substantiate existing gold and the shares that attach to it. For allocated custody, holdings must correspond to customer custody rights. For qardh savings, the obligation is a gram-denominated liability while permitted deployment is separately recorded; for investment, capital and its lawful deployment must be traced. POJK Articles 28–30 permit different ceilings on savings gold deployed in financing and trading at successive stages. Accordingly, the authors do not propose one-to-one vault backing for all savings liabilities or confuse the regulatory 70%, 80%, and 90% deployment ceilings with standards for proprietary gold ownership.

POJK Articles 37–38 refer to sectoral governance and risk-management requirements, and Articles 41–43 address consumer protection and reporting. Those provisions provide the regulatory setting for Sharia supervision. Fatwa 166/2026 supplies contract conditions; it does not expressly prescribe the life-cycle audit schedule proposed here. The authors recommend that a Sharia Supervisory Board (SSB), or Dewan Pengawas Syariah (DPS), review the contractual classification at product approval and receive evidence when features affecting ownership, fees, use, or withdrawal change. Operational reconciliation remains a management and audit responsibility; SSB review addresses its Sharia significance.

The proposed allocation of responsibility links management's contract and ledger records, custody staff's gold records, internal audit's reconciliation and exception checks, and SSB review of Sharia consequences. (Kamaruddin et al., 2024) help identify the relevance of scope and competence, while (Ghafran & Yasmin, 2020) caution against assuming that ethical commitments automatically create effective organisational processes. These studies justify making review responsibilities explicit, without attributing a particular process to the fatwa or claiming that the proposed arrangement has been tested.

Risk disclosure should follow the entitlement being sold. A qardh customer needs to understand the repayment claim and absence of a promised yield; an investor needs to understand profit and loss; a co-owner needs to understand the pool and transfer conditions; a custody depositor needs to understand charges and safeguarding. Price, fee, margin, redemption, operational, and Sharia risks should be distinguished where applicable. Concealing these differences can undermine consent and create gharar or tadlis concerns even when a product uses the name of an accepted contract.

The five-layer architecture in Figure 2 brings the analysis together. Its regulatory layer identifies the permitted institutional activity; its Sharia layer identifies the relevant conditions; its contract layer determines rights and liabilities; its safeguard layer proposes the evidence and review process; and its outcome layer states the intended certainty of ownership, obligations, risk, and remedies. The first two layers are grounded in identified sources. The arrangement of the layers and the proposed procedures are constructed by the authors. The final layer is an evaluative objective, not an empirically demonstrated outcome.

The contribution is thus a differentiated connection between authority, entitlement, and evidence. A recorded gold balance cannot answer all three questions. (Hidayah et al. , 2021) show why an ethical label requires scrutiny of its institutional translation, while (Mergaliyev et al. , 2021) warn that disclosure alone does not establish actual performance. In bullion, this means that an approved contract and a matching statement are necessary evidence to examine, but neither is conclusive without the corresponding legal right and, where relevant, existing gold and exercisable control.

Clause Level Comparison and Legal Consequences

Table 5 records the main provision-level comparisons supporting RQ1 and RQ2. It is selective to the article's four activities and is not a claim of exhaustive harmonisation. Agreement is identified where the rules support the same consequence; differences are retained as implementation boundaries. Proposed evidence is separated from both source texts.

Table 5. Traceable Fatwa and POJK Comparison

Issue	Fatwa locator and rule	POJK locator and rule	Interpretation and consequence	Proposed evidence
Authority	II; III.2-5: conditional permission, lawful contracts and clear rights.	1(11), 2(3), 20: recognised Sharia rulings, conformity duty and sanctions.	Regulatory references supply the state-law route; fatwa authority and statutory force remain distinct.	Identify the applicable ruling and conformity assessment

Issue	Fatwa locator and rule	POJK locator and rule	Interpretation and consequence	Proposed evidence
Gold object and possession	I.10, I.21; IV.1; VI.4: existing gold, full title and recognised control.	1(6), 3, 13(1): standardised physical gold; spot trading in the elucidation.	Electronic evidence does not waive the existence or spot-trading requirements.	Gold identity, quantity, title and effective transfer.
Savings	V.2–3: gram-based <i>qardh</i> or investment with agreed profit sharing.	5–6: unallocated savings, permitted use and accounting.	Separate a repayment claim or investment entitlement from allocated custody.	Contract classification, gram liability or capital ledger.
Financing	VII.2–4: productive partnership, investment or agency; differentiated returns.	8–10: collateral, minimum quantity and return in gold.	Collateral and gold settlement do not eliminate the contract's Sharia loss rules.	Mandate, capital, collateral and loss basis.
Trading payment	IV.2(c); VI.5–6: cash and non-cash sales under incorporated rules.	13(1) and elucidation: physical gold traded spot.	Fatwa permission is broader; implementation remains subject to the regulatory boundary.	Payment and delivery terms confirming lawful spot execution.
Fractional interests	I.8–9; IV.3; VI.3: <i>musya'</i> permitted; trading limited to owned gold.	12(1–4): quantity threshold and specified exceptions.	Identify pool and share; the fatwa does not waive regulatory quantity limits.	Pool ledger, share and applicable transaction classification.

Issue	Fatwa locator and rule	POJK locator and rule	Interpretation and consequence	Proposed evidence
Custody	VIII.2(c-d), VIII.3(d-f): safeguarding, qualified replacement liability and no use.	14–17: allocated account, separate records, bankruptcy protection and no reuse.	Retained title and non-use distinguish custody from savings.	Separate custody holdings and withdrawal obligations.
Oversight and protection	III.5; IX.2: clear rights and Sharia-compatible dispute resolution.	37–38, 41–43: sectoral governance, risk, consumer protection and reports.	Specific life-cycle audit procedures are author proposals within this governance setting.	Responsible actors, review records, disclosure and complaint path.

Sources: DSN-MUI (2026), I–IX; Otoritas Jasa Keuangan (2024), cited articles and elucidation. Fatwa 159/2024 supplements the fractional-interest interpretation in the Joint and Undivided Gold Ownership subsection. The final column is the authors' proposal.

Implication

For product design, institutions should identify the customer's entitlement before setting the documentation and review process. Standard agreements should distinguish *qardh* repayment, investment capital, proprietary gold holdings, and custody, and should explain the transition between them where a product combines activities. The clause-level comparison can help regulators, institutions, and SSBs locate a compatibility issue without treating an academic recommendation as a new mandatory rule.

For legal scholarship, the architecture advances a provision-based account of Sharia legal certainty rather than an inference from institutional labels. Its boundary is licensed Indonesian bullion business under the analysed instruments; it does not establish a ruling for every digital-gold platform or settle all questions of insolvency, litigation, or cross-border standards. As a normative analysis, it does not verify vault holdings, operational compliance, or customer outcomes. Future examination can compare contracts, transfer records, pool allocations and reconciliation exceptions against Tables 4 and 5. Evidence that title cannot be exercised, custody gold is reused, or the same gold is allocated beyond ownership would challenge a claim that the proposed safeguards are fulfilled.

CLOSING

Fatwa 166/2026 contributes to legal certainty through Sharia conditions that connect with regulatory and contractual obligations; its normative authority must be distinguished from direct statutory force. The analysis identifies a regulatory incorporation route in POJK Articles 1(11), 2(3), and 20, while preserving the implementation boundaries of the regulation.

The four bullion activities produce different entitlements. *Qardh* savings create a gram-based repayment claim, investment arrangements create capital and profit-loss rights, trading transfers title, and allocated custody preserves customer ownership while prohibiting institutional use. *Qabdʰ hukmi* requires evidence of complete ownership and effective control over existing gold; an undivided share also requires a defined asset and determinate proportion. Regulatory spot trading and differing AAOIFI requirements prevent an unqualified claim of harmonisation.

The authors' five-layer architecture links those legal distinctions to a proposed normative audit framework. Its contribution is traceable reasoning from provision to interpretation, consequence, and evidence. Clear contracts, differentiated reconciliation, and intelligible disclosure are proposed means of supporting certainty; their effectiveness remains to be examined in institutional practice.

CONFLICT OF INTEREST

The author(s) declare that there is no conflict of interest regarding the publication of this paper.

Author Contributions (CRediT Author Statement)

Bambang Sugiharto: Conceptualization, Methodology, Formal Analysis, Writing - Original Draft, and Supervision.

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Muhammad Syaifullah: Validation, Legal Analysis, and Writing - Review & Editing.

GENERATIVE AI STATEMENT

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