

Contract Construction and Risk Mitigation in Sharia Bullion Business Activities: Juridical Analysis of Fatwa DSN-MUI NO. 166/2026

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Abstract

The issuance of DSN-MUI Fatwa No. 166/DSN-MUI/II/2026 on Sharia-Based Bullion Business Activities marks an important development in the governance of gold within Indonesia's Islamic financial sector. This fatwa responds to the mandate of Law No. 4 of 2023 on Financial Sector Development and Strengthening and OJK Regulation No. 17 of 2024, which allow banks, including Islamic banks, to conduct bullion business activities. This study uses a juridical-normative approach to analyze contract construction and risk mitigation in sharia bullion activities, including gold custody, savings, trading, and financing. The findings show that the fatwa accommodates various contracts, including wadiah yad dhamanah, mudharabah, qardh, murabahah, rahn, ijarah, and wakalah, while maintaining compliance with sharia principles. Physical qabdh and underlying asset guarantees distinguish Islamic bullion from conventional gold trading. The study concludes that the fatwa strengthens the legitimacy of Islamic financial institutions in Indonesia's gold ecosystem.

Keywords: Islamic bullion, DSN-MUI Fatwa No. 166/2026, contract construction, risk mitigation, underlying asset, qabdh.

Abstrak

Terbitnya Fatwa DSN-MUI No. 166/DSN-MUI/II/2026 tentang Kegiatan Usaha Bulion Berdasarkan Prinsip Syariah menjadi perkembangan penting dalam tata kelola emas pada sektor keuangan syariah Indonesia. Fatwa ini hadir sebagai respons atas amanat Undang-Undang No. 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan serta POJK No. 17 Tahun 2024 yang memberikan ruang bagi bank, termasuk bank syariah, untuk menjalankan kegiatan usaha bulion. Penelitian ini menggunakan pendekatan yuridis-normatif untuk menganalisis konstruksi akad dan mitigasi risiko dalam kegiatan penitipan, simpanan, perdagangan, dan pembiayaan emas. Hasil kajian menunjukkan bahwa fatwa ini mengakomodasi akad wadiah yad dhamanah, mudharabah, qardh, murabahah, rahn, ijarah, dan wakalah dengan tetap menjaga kepatuhan syariah. Qabdh fisik dan jaminan underlying asset menjadi pembeda utama bulion syariah dari perdagangan emas konvensional. Studi ini menyimpulkan bahwa fatwa tersebut memperkuat legitimasi lembaga keuangan syariah dalam ekosistem emas nasional.

Kata kunci: bulion syariah, Fatwa DSN-MUI No. 166/2026, konstruksi akad, mitigasi risiko, underlying asset, qabdh.

INTRODUCTION

Gold has a strategic position in the financial system because it is seen as a hedge asset, a store of wealth, and a diversification instrument when financial markets are under pressure. In the Indonesian context, the potential for large public gold ownership has not been fully integrated into the formal financial intermediation ecosystem, so the space for monetization and strengthening gold-based liquidity is still open to the financial industry. For Islamic financial institutions, this opportunity cannot be read solely as product expansion, but as a need to build gold governance that combines commercial value, sharia compliance, and consumer protection. The financial literature suggests that gold often acts as a hedge and a safe haven, although its effectiveness depends on market conditions and a regime of uncertainty¹.

Changes in the national regulatory landscape through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector open up a more explicit space for financial services institutions to develop gold-based business activities. The space is emphasized through POJK Number 17 of 2024 concerning the Implementation of Bullion Business Activities which regulates gold deposit activities, gold financing, gold trading, gold custody, and/or other activities that have received authority approval. For Islamic banks, these provisions are important but not enough, as conventional bullion business models have the potential to contain usury, gharar, ownership ambiguity, and speculative risk. The differences in the intermediation character, asset structure, and stability of Islamic banks demand a more specific and accountable legal construction².

The need for an operational sharia foundation is becoming increasingly urgent because the bullion business is not only concerned with buying and selling gold, but also storage, management, guarantee, financing, and recording of ownership rights. DSN-MUI Fatwa Number 166/DSN-MUI/II/2026 concerning Bullion Business Activities Based on Sharia Principles is here to fill the space by establishing a contract framework, operational limitations, and prudential principles for national Islamic finance industry players. The significance of this fatwa lies in its attempt to connect the norms of fiqh muamalah with complex and dynamic modern institutional practices. In the Islamic banking literature, sharia compliance is not enough to be assessed from product labels, but from the suitability of the structure, process, risk, and substance of transactions with sharia principles³.

The construction of contracts in sharia bullion activities requires conceptual accuracy because each line of business has different legal characters and risks. Gold custody can be

¹ Dirk G Baur and Brian M Lucey, "Is Gold a Hedge or a Safe Haven? An Analysis of Stocks, Bonds and Gold," *The Financial Review* 45, no. 2 (2010): 217–29; Dirk G Baur and Thomas K McDermott, "Is Gold a Safe Haven? International Evidence," *Journal of Banking & Finance* 34, no. 8 (2010): 1886–98.

² T Beck, A Demirguc-Kunt, and O Merrouche, "Islamic vs. Conventional Banking: Business Model, Efficiency and Stability," *Journal of Banking & Finance* 37, no. 2 (2013): 433–47, <https://doi.org/10.1016/j.jbankfin.2012.09.016>; Martin Cihak and Heiko Hesse, "Islamic Banks and Financial Stability: An Empirical Analysis," *Journal of Financial Services Research* 38 (2010): 95–113.

³ Pejman Abedifar, Philip Molyneux, and Amine Tarazi, "Risk in Islamic Banking," *Review of Finance* 17, no. 6 (2013): 2035–96, <https://doi.org/10.1093/rof/rfs041>; Maher Hasan and Jemma Dridi, "The Effects of the Global Crisis on Islamic and Conventional Banks: A Comparative Study," *Journal of International Commerce, Economics and Policy* 2, no. 2 (2011): 163–200.

associated with wadiah, fund management or gold can use mudharabah, financing can use murabahah or qardh with rahn collateral, while management and representative services can use ijarah and wakalah. The combination of contracts must be positioned proportionately so that there is no mixing of rights, obligations, and sources of profit that give rise to hilah ribawiyah in practice. Therefore, the issue of qabdh, underlying assets, certainty of objects, and the separation between tabarru' and tijarah contracts are key elements. The literature emphasizes that Islamic finance practices should not stop at contract formalities, but must reflect usury-free substance and based on real transactions⁴.

In addition to contract construction, sharia bullion activities contain risks that are not simple. Market risk arises from fluctuations in gold prices, liquidity risk arises from mismatches in the maturity of assets and liabilities, operational risks relate to physical storage, technology, security, and recordkeeping, while sharia compliance risks arise when transactions do not meet qabdh, ownership, or clarity of object requirements. At this point, risk mitigation should not stop at administrative compliance, but should go into contract design, operational procedures, sharia audits, technology oversight, as well as dispute resolution mechanisms that can be tested periodically. International studies show that Islamic bank risks are multidimensional because they combine general financial risks and specific sharia compliance risks⁵.

Based on this context, this research is important because DSN-MUI Fatwa Number 166/DSN-MUI/II/2026 is the latest religious regulation that has not been widely analyzed academically, especially in relation to contract construction and risk mitigation of sharia bullion business. This study is directed to strengthen the juridical understanding of how sharia contracts can be operated in the modern gold ecosystem without neglecting the principles of prudence, transparency, and customer protection. The main contribution of the research lies in a normative reading of the relationship between fatwas, financial sector regulations, and institutional practices of Islamic banks in Indonesia in a more systematic manner. This approach is relevant because the development of modern Islamic finance requires integration between product innovation, governance, and sustainable legal legitimacy.

THEORETICAL FOUNDATIONS

The Shift in the Function of Gold: From Tsaman to Investment Commodities

In classical muamalah fiqh, gold and silver are placed as amwal ribawiyyah because they both function as tsaman or a measuring tool for value in transactions. Consequently, the exchange of gold for gold must meet the principle of equality of rate and cash, while the exchange of gold for money requires clarity of the object, price, and mechanism of delivery.

⁴ F Khan, "How 'Islamic' is Islamic Banking?," *Journal of Economic Behavior & Organization*, 2010, <https://www.sciencedirect.com/science/article/pii/S0167268110001940>; Beng Soon Chong and Ming-Hua Liu, "Islamic Banking: Interest-Free or Interest-Based?," *Pacific-Basin Finance Journal* 17, no. 1 (2009): 125–44.

⁵ Karim Ginena, "Shariah Risk and Corporate Governance of Islamic Banks," *Corporate Governance* 14, no. 1 (2014): 86–103; Hussein A Hassan Al-Tamimi and Faris M Al-Mazrooei, "Banks' Risk Management: A Comparison Study of UAE National and Foreign Banks," *The Journal of Risk Finance* 8, no. 4 (2007): 394–409.

However, the development of the modern monetary system has changed gold's position from a payment instrument into an investment asset, a hedge, and a value-storing commodity. This shift raises the need for legal reconstruction so that the provisions of classic ribawi are maintained without closing contemporary Islamic financial innovations. Gold is now not only read as money, but as a financial asset that has the function of portfolio diversification⁶.

The change in the function of gold after the weakening of the gold standard in the global monetary system has given rise to a conceptual debate about whether gold should still be treated as a *tsaman* or can be positioned as *sil'ah*. In the conservative *fiqh* approach, the nature of golden ribawi remains inherent even though it is no longer an official means of payment. In contrast, the contemporary approach sees that gold bars, gold savings, and bullion instruments are closer to the character of investment commodities as long as they have real underlying assets and are not used as a medium of exchange. This distinction is important because the construction of the contract, the obligation of *qabdh*, and the prohibition of delay will differ when gold is positioned as money or as an investment item⁷.

In modern financial markets, gold has a strategic position as a safe asset, a hedge instrument, and a means of diversification when the stock, bond, or currency markets are under pressure. The financial literature shows that gold is often chosen by investors not only because of its intrinsic value, but because of its ability to maintain value in conditions of uncertainty. In the context of sharia, these functions must still be limited by the principles of *halal*, *usury-free*, *gharar-free*, and have clear asset ownership. Therefore, the development of the sharia bullion business is not enough to imitate conventional gold market practices, but must include legal constructions that guarantee contract compliance and consumer protection⁸.

The development of sharia gold investment shows that the Muslim community's preference for gold is not only driven by profit motives, but also by the perception of sharia compliance, asset security, religiosity, and financial literacy. When gold is marketed through Islamic financial institutions, the public expects certainty that contracts, ownership, storage, and service fees do not contain elements of *riba*, *gharar*, *tadlis*, or exploitation. Thus, the position of gold as an investment commodity must remain associated with the principles of trust and transparency. This is the theoretical basis for why fatwas, regulations, and contract design are important in building the legitimacy of the sharia bullion business in Indonesia⁹.

The Principle of Fiqh Muamalah in Gold Transactions

Gold transactions in *fiqh muamalah* are based on the principle of prudence because gold is a usury commodity that has special rules. The principle of *yadan bi yadin* requires a

⁶ Baur and McDermott, "Is Gold a Safe Haven? International Evidence."

⁷ Mohd Fahmi Ghazali, Hooi Hooi Lean, and Zakaria Bahari, "Sharia Compliant Gold Investment in Malaysia: Hedge or Safe Haven?," *Pacific-Basin Finance Journal* 34 (2015): 192–204, <https://doi.org/10.1016/j.pacfin.2014.12.005>.

⁸ Baur and Lucey, "Is Gold a Hedge or a Safe Haven? An Analysis of Stocks, Bonds and Gold."

⁹ Hani Amirah Juisin et al., "Determinants of Shari'ah Gold Investment Behaviour: The Case of Penang, Malaysia," *Journal of Islamic Marketing* 14, no. 12 (2023): 3228–46, <https://doi.org/10.1108/JIMA-11-2021-0360>.

handover in a transaction assembly, while the principle of mitslan bi mitslin applies when gold is exchanged for similar gold. In the modern context, the main problem arises when transactions are made through gold accounts, digital platforms, safeguards, financing, or installment schemes. Therefore, the concept of qabdh is an important element. Qabdh not only means physical control, but can also be in the form of constructive control if the ownership has been legally transferred, recorded, and can be withdrawn by the owner¹⁰.

Qabdh hukmi is an important instrument in bridging classical fiqh with modern financial practices. In bullion transactions, customers often do not receive gold physically at the time of the transaction, but obtain proof of ownership recorded in the financial institution's system. This model is acceptable as long as the gold is actually available, identified, not double-sold, and can be handed over when requested. If the listing only represents financial claims without the support of real assets, then the transaction risks becoming speculative and contains gharar. Therefore, the validity of a sharia bullion contract is highly dependent on the quality of asset registration, ownership segregation, and verifiable handover mechanism¹¹.

The prohibition of gharar, usury, and tadlis are the main parameters in assessing the legality of sharia gold transactions. Gharar arises when the object of the transaction is unclear, gold is not available, ownership status is uncertain, or the delivery mechanism cannot be met. Riba arises when a gold transaction is treated in exchange for riba containing an unjustified addition or delay. Tadlis arises when an institution hides information about gold grades, storage costs, price risk, or customer rights. Therefore, the construction of the contract must explicitly explain the object, price, ujrah, margin, risk, custody obligation, and gold withdrawal rights in order for transactions to meet the principles of sharia justice and transparency¹².

DSN-MUI Fatwa No. 77/DSN-MUI/V/2010 provides an important precedent by allowing the sale and purchase of gold in a non-cash manner as long as the gold is not positioned as an official medium of exchange and is treated as a commodity. The fatwa became the conceptual basis for the development of gold transactions that are more adaptive to the needs of modern society. DSN-MUI Fatwa No. 166/2026 then expands the scope of regulation by including bullion activities more comprehensively, including gold deposits, gold financing, gold trading, and gold custody. Theoretically, this development shows a shift from a single transaction-based fatwa to a more structured governance of the sharia bullion business ecosystem¹³.

¹⁰ Abdulazeem Abozaid, "The Internal Challenges Facing Islamic Finance Industry," *International Journal of Islamic and Middle Eastern Finance and Management* 9, no. 2 (2016): 222–35, <https://doi.org/10.1108/IMEFM-05-2015-0056>.

¹¹ Saad Azmat, Michael Skully, and Kym Brown, "The Shariah Compliance Challenge in Islamic Bond Markets," *Pacific-Basin Finance Journal* 28 (2014): 47–57, <https://doi.org/10.1016/j.pacfin.2013.11.003>.

¹² Dahlia El-Hawary, Wafik Grais, and Zamir Iqbal, "Diversity in the Regulation of Islamic Financial Institutions," *The Quarterly Review of Economics and Finance* 46, no. 5 (2007): 778–800, <https://doi.org/10.1016/j.qref.2006.08.010>.

¹³ Sabur Mollah and Mahbub Zaman, "Shari'ah Supervision, Corporate Governance and Performance: Conventional vs. Islamic Banks," *Journal of Banking & Finance* 58 (2015): 418–35, <https://doi.org/10.1016/j.jbankfin.2015.04.030>.

Construction of Contracts in the Sharia Bullion Business

The construction of contracts in the sharia bullion business must be arranged based on the function of activities carried out by sharia financial service institutions. In gold trading activities, the sale and purchase contract must affirm the object, level, quality, price, delivery time, and rights of the customer to gold. In gold custody activities, wadiah or ijarah contracts can be used according to the nature of the service and the reward structure. In gold financing activities, murabahah contracts, musyarakah, or other relevant contracts must be placed appropriately so that there is no mixing of the functions of buying and selling, borrowing, and safekeeping. The mistake of combining a contract can pose sharia risks because the legal relationship between the parties becomes unclear¹⁴.

In the practice of Islamic finance, multi-contract is not automatically prohibited, but must meet strict sharia restrictions. Multi-contract becomes problematic if it combines conflicting contracts, disguises interest-bearing loans, or creates ambiguity in the obligations of the parties. In the bullion business, potential problems arise when institutions combine gold trading, custody, financing, and liquidity facilities in a single product package without separation of rights and obligations. Therefore, each contract must have separate objectives, objects, prices, rewards, and legal consequences. This principle is needed so that sharia bullion innovation is not only legally valid, but also substantial maqashid¹⁵.

The construction of bullion contracts must also pay attention to the principle of asset-backed transactions. In Islamic finance, transactions should ideally be connected to real assets, not just financial claims that move on top of electronic record-keeping. In the gold business, this principle becomes very crucial because gold has a high value, is easy to move, and is prone to overleveraged practices. If the institution sells gold that it does not yet own, records ownership without physical reserves, or uses gold deposited without legal approval, then the legal and sharia risks increase. Therefore, the separation between gold owned by the institution, gold entrusted by customers, and gold that is the object of financing must be strictly maintained¹⁶.

Bullion Business Regulation and Sharia Risk Mitigation

The regulation of the bullion business in Indonesia rests on the integration between state law and sharia norms. Law No. 4 of 2023 provides a legal basis for the development of bullion business activities in the national financial sector ecosystem. POJK No. 17 of 2024 then regulates the technical aspects of the implementation, including licensing, gold standards, reporting, governance, risk management, consumer protection, and the obligations of the organizers. DSN-MUI Fatwa No. 166/2026 complements the normative dimension by determining sharia principles, types of activities, contracts that can be used,

¹⁴ Hameeda Abu Hussain and Jasim Al-Ajmi, "Risk Management Practices of Conventional and Islamic Banks in Bahrain," *The Journal of Risk Finance* 13, no. 3 (2012): 215–39, <https://doi.org/10.1108/15265941211229244>.

¹⁵ R Grassa, "Shariah Supervisory System in Islamic Financial Institutions: New Issues and Challenges: A Comparative Analysis between Southeast Asia Models and GCC Models," *Humanomics*, 2013, <https://doi.org/10.1108/H-01-2013-0001>.

¹⁶ Beck, Demirguc-Kunt, and Merrouche, "Islamic vs. Conventional Banking: Business Model, Efficiency and Stability."

and operational limitations. The integration of these three is needed so that the sharia bullion business is not only positively legal, but also religiously legitimate¹⁷.

Risk mitigation in the sharia bullion business includes market risk, liquidity risk, operational risk, legal risk, sharia compliance risk, and reputational risk. Market risk arises from fluctuations in the price of gold, while liquidity risk arises when institutions are unable to meet the demand for gold withdrawals. Operational risks can arise from weaknesses in the record-keeping, storage, auditing, or security of assets. Legal risks arise if the contract is unclear or contrary to regulations. Sharia risks arise when the contract is not in accordance with the substance of the *fiqh muamalah*. Therefore, mitigation should not only be based on administrative procedures, but should include contract design, sharia supervision, asset transparency, and periodic¹⁸ audits.

The Sharia Supervisory Board has a central role in ensuring that bullion products do not deviate from sharia principles. Oversight is not enough at the product approval stage, but must continue on implementation, contract documentation, asset management, and dispute resolution. In the bullion business, DPS needs to ensure that gold is available, ownership is clear, contracts do not negate each other, and customer rights are protected. Weak sharia supervision will make the product appear formally compliant, but problematic in implementation. Therefore, sharia bullion governance requires a combination of *fiqh* competence, understanding of the gold market, risk management, and a strong internal audit system¹⁹.

Conceptually, DSN-MUI Fatwa No. 166/2026 can be understood as an instrument for legal reconstruction of sharia bullion activities in Indonesia. This fatwa not only gives legitimacy to gold deposit, custody, trading, and financing activities, but also limits the space for innovation to remain within the sharia corridor. The construction of the contract and risk mitigation are two elements that cannot be separated because the mistake of the contract will give birth to sharia risks, while weak risk management will damage the purpose of the contract. Thus, the sharia bullion business requires a legal model that combines regulatory certainty, *fiqh* compliance, consumer protection, and accountable institutional governance²⁰.

METHOD

This study uses a juridical-normative approach (*normative legal research*) that focuses on the study of primary, secondary, and tertiary legal materials. The approach used includes: (1) Statute *approach*, namely systematically analyzing the P2SK Law, POJK No. 17/2024, and DSN-MUI Fatwa No. 166/2026; (2) Conceptual *approach*, namely examining the doctrine of *fiqh muamalah* and the risk management theory of Islamic banking; and (3) Comparative

¹⁷ Annisa Adha Minaryanti et al., "The Role of Sharia Governance in Minimizing Credit Risk in Islamic Banking: A Systematic Literature Review," *Journal of Islamic Accounting and Business Research* 17, no. 2 (2026): 311–27, <https://doi.org/10.1108/JIABR-11-2022-0301>.

¹⁸ Sabur Mollah et al., "The Governance, Risk-Taking, and Performance of Islamic Banks," *Journal of Financial Services Research* 51, no. 2 (2017): 195–219, <https://doi.org/10.1007/s10693-016-0245-2>.

¹⁹ Sayd Farook, M Kabir Hassan, and Roman Lanis, "Determinants of Corporate Social Responsibility Disclosure: The Case of Islamic Banks," *Journal of Islamic Accounting and Business Research* 2, no. 2 (2011): 114–41, <https://doi.org/10.1108/17590811111170539>.

²⁰ Abozaid, "The Internal Challenges Facing Islamic Finance Industry."

approach, which compares the construction of sharia bullion contracts with conventional gold business models²¹. Primary legal materials include the text of the DSN-MUI fatwa No. 166/2026, the P2SK Law, POJK No. 17/2024, and a compilation of sharia economic law. Secondary legal materials include jurisprudence literature, reputable journal articles, and sharia finance industry reports. The analysis was carried out in a descriptive-analytical manner through four sequential and interrelated stages, as follows:

- a) First, inventory of legal materials. This stage is carried out by collecting, classifying, and systematizing all relevant legal materials. Primary legal materials, including the DSN-MUI fatwa No. 166/2026, the P2SK Law, POJK No. 17/2024, and the compilation of sharia economic law, are inventoried based on the hierarchy of norms and their relevance to the research object. Secondary legal materials in the form of jurisprudence literature, reputable journal articles, and reports on the Islamic finance industry are cataloged to support a comprehensive dogmatic-normative analysis.
- b) Second, the interpretation of norms. This stage uses a grammatical, systematic, and teleological legal interpretation method of the provisions contained in the primary legal material. Grammatical interpretation is carried out to understand the textual meaning of norms; systematic interpretation is used to map the relationship between norms in a regulatory unit; while the teleological interpretation is applied to explore the purpose and ratio legis of the formation of sharia bullion regulations, especially in the context of harmonization between sharia provisions and Indonesia's positive legal framework.
- c) Third, Analysis of the Concept of Contract. This stage examines the construction of contracts applied in sharia bullion transactions such as *murabahah*, *ijarah*, *rahn*, and *qardh* based on classical and contemporary muamalah fiqh doctrines. The analysis was carried out by evaluating the suitability of the harmony and conditions of the contract, identifying potential conflicts between contracts (*ta'arud al-'uqud*), and comparing the construction of the sharia contract with the conventional gold business model to find significant distinguishing points normatively and practically.

The final stage is carried out by synthesizing the results of inventory, interpretation, and analysis of the concept of the contract into coherent legal propositions. The conclusion is formulated inductive-deductive to test the suitability of sharia bullion practices against applicable legal norms. At this stage, an operational risk mitigation strategy is also proposed as a normative contribution of research to the development of regulations and practices of the Islamic finance industry.

²¹ Windha Windha and Syarifah Lisa Andriati, "A Study on the Impact of Vertical Integration Agreements on the Pharmaceutical Industry Reviewed from the Perspective of Business Competition Law," 2023, <https://doi.org/10.25077/jsfk.10.2.226-237.2023>; Muhammad Mahbub Abrary Ansar and Muhammad Fajri, "REVIEW OF ISLAMIC LAW ON MULTI-LEVEL MARKETING (MLM) BUSINESS PRACTICES AT PT. CITRA NUSA INSAN CEMERLANG (CNI) INDONESIA MAKASSAR BRANCH," 2021, <https://doi.org/10.24252/qadauna.v2i3.20589>; Bani Idris Hidayanto, "The Implementation of the Compilation of Sharia Economic Law in Decision Number: 3333/Pdt.G/2014/PA. BL," 2016; Rizki Agustian, "Analysis of Sharia Economic Law on the Transaction Mechanism of Interbank Mudharabah Investment Certificates in BI Circular Letter No. 17/27/DKMP 2015," 2020.

RESULTS AND DISCUSSION

1. Construction of the contract in fatwa no. 166/2026

DSN-MUI Fatwa No. 166/2026 stipulates four bullion business activities that can be carried out by Sharia Financial Services Institutions (LJKS), each with a specific contract construction. The following table 1 presents a comparison between the conventional gold business and sharia bullion within the framework of the fatwa:

Table 1. Comparison of Conventional Gold Business vs Sharia Bullion (Fatwa No. 166/2026)

Aspects	Conventional Gold Business	Bulion Syariah (Fatwa No. 166/2026)
Legal Basis	Civil Code, general OJK regulations	P2SK Law, POJK 17/2024, DSN-MUI Fatwa No. 166/2026
Storage Mechanism	Interest deposits; gold does not need to be physical	Wadiah Yad Dhamanah; A 1:1 ratio of physical gold is required.
Savings Contracts	Fixed interest	Qardh / Mudharabah
Financing Agreement	Interest-bearing loans	Murabahah + Rahn
Handover (Qabdh)	Not physically required	It is necessary to follow the rules of the Yaddin
Riba Risk	Height	Halal margin/profit sharing
Supervision	OJK	OJK + DPS
Gold Standardization	Not mandatory for LBMA/Antam	Mandatory Antam/LBMA

Source: Processed from DSN-MUI Fatwa No. 166/2026 and POJK No. 17/2024

Contract on the Funding Side

Gold custody and storage activities are the *funding* side of the sharia bullion business. In gold custody activities, Fatwa No. 166/2026 uses *the Wadiah Yad Dhamanah contract* as the main contract. In this scheme, Islamic banks are positioned as recipients of deposits (*muda'*) who are given the authority to manage the gold and bear the risk of damage or loss (*dhaman*). The fundamental difference from *ordinary wadiah* is that banks are allowed to use gold deposits for business activities including gold trading in the market, provided that they are able to return gold in equal quantity and quality whenever customers request it. The Trust Principle in *the wadiah* contract requires banks to maintain the integrity of *the underlying assets* strictly²².

In gold deposit activities, Fatwa No. 166/2026 opens the choice between *the Qardh* and *Mudharabah* contracts. The *Qardh* mechanism places the customer as a lender to the bank in the form of gold, while the bank is obliged to return the same amount of gold without

²² Mardani, *Sharia Economic Fiqh: Fiqh Muamalah*.

addition. While the *Mudharabah* scheme allows customers to act as *shahibul maal* (owners of gold capital) while banks act as *mudharib* (managers) who book profits from gold management to then be divided according to the ratio agreed at the beginning of the contract. This mechanism structurally replaces the deposit interest that is characteristic of conventional deposits²³.

An important supporting contract in terms of *funding* is *Wakalah*, which is a bank acting as a customer's representative (agent) to buy gold in the international market. This scheme is especially relevant when customers do not have the capacity or direct access to the gold commodity exchange. In practice, BSI applies the principle of one to one (1:1 ratio) where every gram of gold stored in a customer's digital account must be backed by real physical gold stored in an international standard vault²⁴.

Contract on the Financing Side

Two bullion activities with a distribution dimension are gold trading and gold financing. In gold trading, the main contract used is *Bai'* (buying and selling). The key to the legality of this transaction is the fulfillment of the conditions of *yadan bi yadin*, the handover must occur simultaneously between gold (*mabi'*) and price (*tsaman*). However, in the digital era, the fulfillment of *yadan bi yadin* does not always have to be physical-manual; *qabdh hukmi through real-time verified gold account recording* can meet these requirements, as affirmed in Fatwa No. 166/2026 and in line with the views of *Majma' al-Fiqh al-Islami*.

In gold financing, the combination of *Murabahah* and *Rahn* contracts is the most commonly applied construction. *Murabahah* is a gold buying and selling where the bank first buys gold from a supplier (Antam or a reputable third party), then sells it to customers at a price that includes the cost of goods plus a transparently agreed profit margin²⁵. Payment can be made in installments (*taqsith*) provided that the selling price has been set in advance and does not change, different from the conventional fluctuating interest system.

The *Rahn* contract functions as *collateral* in the financing of *gold murabahah*: gold purchased by the customer as well as collateral (*marhun*) for the debt incurred. The bank's position as a *murtabin* (pawnholder) provides the right to execute the guarantee if the customer defaults. Research by Lestari et al. (2025)²⁶ confirms that the *murabahah-rahn* combination effectively avoids *the practice of gharar because the object* of the contract (gold) is clear, the price is definite, and the delivery mechanism is standardized.

The *Ijarah* contract acts as a supporting contract for the storage fee in the bank vault both in the custody and pawn schemes. Transparency of *ijarah* fees is important to ensure

²³ Fahmi et al., "Implementation of Fatwa Dsn-MUI/V/2010 Against Murabahah Contract on Gold Installment Products at Bank Syariah Mandiri."

²⁴ SDGS Admin, "DSN MUI Fatwa Strengthens Sharia Bullion Business," kabarsdgs, 2026, <https://kabarsdgs.com/sustainability/2026/02/23730/fatwa-dsn-mui-perkuat-usaha-bulion-syariah/>.

²⁵ Firdaus Abdul Rahman and Rona Naula Oktaviani, "Analysis of Sharia Business Feasibility Study in Small and Medium Industries in Obtaining Financing from Islamic Banking," *Jurnal Tabarru': Islamic Banking and Finance* 5, no. 1 (2022): 108–21, [https://doi.org/10.25299/jtb.2022.vol5\(1\).8864](https://doi.org/10.25299/jtb.2022.vol5(1).8864).

²⁶ Lestari, "Analysis of Sharia Compliance in the Implementation of the Murabahah Agreement on Gold Financing Products (Study on LKMS MM Sejahtera Bengkulu Province)."

that there is no element of ambiguity (*gharar*) or duplication of costs that has the potential to become a covert usury.

Table 2. Construction of the Agreement Based on DSN-MUI Fatwa No.

Bullion Business Activities	Main Contract	Supporting Contracts	Key Principles
Gold Custody	Wadiah Yad Dhamanah	Ijarah (SDB)	Trust + bank responsibility
Gold Savings	Qardh / Mudharabah	Wakalah (purchase of gold)	Profit sharing / no interest
Gold Trading	Bai' (Cash Buying)	Wakalah, Musyarakah	A Lot of Others (Live)
Gold Financing	Murabahah + Rahn	Ijarah (storage fee)	Underlying asset nyata

166/2026

Source: Processed from DSN-MUI Fatwa No. 166/2026

The Issue of *Ba'i al-Ma'dum* in Digital Gold Transactions

One of the most fundamental fiqh challenges in the sharia bullion business is the threat of *ba'i al-ma'dum*, which is the buying and selling of goods that are not owned or have not yet existed. In digital *gold* transactions, this risk arises if the platform sells gold balances to customers without first securing the physical gold that is the *underlying*. Fatwa No. 166/2026 expressly prohibits this practice through the provision that every digital gold deposit and trading transaction must have a *1:1 physical gold* backing²⁷.

The strict monitoring of this issue is evident from the steps taken by DSN-MUI to conduct a direct review of the gold factory before passing the fatwa, in order to ensure the physical existence of goods and the handover mechanism in accordance with sharia rules²⁸. This is an important methodological precedent in the formulation of fatwa on contemporary Islamic financial products in Indonesia.

2. Sharia Bullion Risk Mitigation Strategy

Market Risk: Global Gold Price Fluctuations

Market risk in the bullion business stems from the volatility of gold prices in international markets which is influenced by geopolitical factors, the monetary policy of global central banks (especially *the Fed*), inflation, and investor sentiment. Research by the Academic Media Journal (2026) on BSI Gold Installment products confirms that gold price fluctuations are the main market risk factor that affects the interest and decisions of prospective customers, where customers tend to delay contracts when gold prices are at a high level.

²⁷ (DSN-MUI), *Fatwa No. 166/DSN-MUI/II/2026 concerning Bullion Business Activities Based on Sharia Principles*.

²⁸ Admin, "DSN MUI Fatwa Strengthens Sharia Bullion Business."

To mitigate this risk, the instruments available within the sharia framework are sharia-based *hedging*. DSN-MUI Fatwa No. 96/DSN-MUI/IV/2015 concerning Sharia Hedging Transactions (*at-Tabawwuth al-Islami*) allows the use of hedging mechanisms for gold commercial transactions provided that there is no element of *maisir* (pure speculation) and there are real business interests. The *sharia* forward mechanism through *the Musyarakah* or *Murabahah* futures contract can be structured to mitigate the risk exposure of short-term gold prices without violating sharia principles.

Other operational strategies that can be applied by Islamic banks are the determination of *murabahah prices* that reflect the price of gold when the contract occurs (not the projected price), as well as the establishment of price *risk reserves* through commercial mechanisms that are allowed by fatwa. BSI has implemented a daily gold price information transparency strategy as part of market risk management in its gold installment products²⁹.

Sharia Non-Compliance Risk

Sharia compliance risks are specific risks that are not found in conventional banking. This risk arises when bullion business operations deviate from the provisions of Fatwa No. 166/2026, for example, the occurrence of *ba'i al-ma'dum*, the unclear mechanism of *qabdh* in digital gold transactions, or the formal fulfillment of the terms of the contract. Mitigating this risk requires three layers of supervision. First, internal supervision by the Sharia Supervisory Board (DPS) which periodically audits the conformity of products and operational practices with the applicable fatwa. BSI emphasized that all bullion products offered have obtained DPS opinions and refer to the applicable fatwas³⁰. Second, external supervision by the OJK through the sharia compliance check mechanism contained in POJK No. 17/2024. Third, technology-based supervision through a standardized and auditable *real-time* contract and gold movement recording system. Lestari et al. (2025) emphasized that DPS supervision is a crucial instrument in ensuring sharia compliance because it is able to detect *gharar potential* at the product design stage, long before the product is launched to the public.

Operational Risk: Storage Security and Gold Purity

Operational risk in the bullion business includes two main dimensions: (1) the physical security of gold storage in the vault, and (2) the assurance of the purity of the transacted gold content. The first risk relates to the potential for theft, natural disasters, or the failure of the vault security system. The second risk relates to the possible circulation of counterfeit or low-rated gold in the bullion supply chain. Vault security risk mitigation is addressed through the requirements of international vault standards set forth in POJK No. 17/2024, including insurance requirements, physical security standards, and certified vault management procedures. In practice, Pegadaian and BSI state that gold storage is carried out

²⁹ Ghina Fitri Ariesta Susilo, "Analysis of Market Risk Handling and Financing Risk in Maintaining the Quality of Gold Installment Product Financing at BSI KCP Magelang Muntilan," *Journal of Academic Media (JMA)* 4, no. 4 (2026).

³⁰ Pratama, "DSN-MUI Issues Fatwa on Sharia-Based Bullion Business Activities, Here's the Response of Industry Players."

in international standard vaults³¹. Mitigation of gold purity risks is carried out through commodity standardization referring to the *London Bullion Market Association* (LBMA) standard or Antam's standard as a reputable gold bullion producer in Indonesia. Only gold that meets the minimum purity standard (99.99% for 24-carat gold bars) can be used *as an underlying* in sharia bullion transactions. This is an operational provision (*dhawabit*) implicitly contained in Fatwa No. 166/2026.

Liquidity Risk: Physical Availability of Gold at Withdrawal

Liquidity risk in the sharia bullion business means the inability of banks to meet the demand for physical gold withdrawals (*redemption*) from customers in a timely manner. This risk is unique because unlike the liquidity of conventional banking funds, banks cannot print gold in the same way that central banks can print money. Fatwa No. 166/2026 anticipates this risk through several instruments. In custody activities with *the Wadi'ah Yad Dhamanah* contract, banks are required to maintain an adequate physical gold adequacy ratio to accommodate normal withdrawal requests. In deposits with *Qardh* contracts, the obligation to return gold by banks is absolute, banks cannot excuse a lack of gold stock as a reason for delay.

Liquidity mitigation strategies that can be applied include: first, the determination of minimum *gold reserve ratio* in Islamic bank vaults; second, operational cooperation with gold producers (Antam) to guarantee the supply of gold bars; third, digital gold disbursement mechanisms through a network of outlets that are widespread as implemented by Pegadaian through Gold ATMs and BSI through its office network³².

Analysis/Discussion

The analysis of the construction of the contract in Fatwa No. 166/2026 reveals three structural advantages that distinguish sharia bullion from its predecessors. First, a complementary multi-contract: by allowing a choice between *Qardh* and *Mudharabah* on gold deposits, this fatwa gives LJK Syariah the flexibility to adjust its business model according to its risk profile and operational capacity. Second, strengthening the *underlying asset*: the requirement that every digital gold transaction must be backed by real physical gold on a 1:1 basis is a systemic protection against *the risk of ba'i al-ma'dum* that is the scourge of conventional digital gold transactions. Third, the integration of layered supervision: the combination of DPS, OJK, and LBMA/Antam standards creates a robust compliance ecosystem.

However, there are several implementation challenges that need attention. First, information technology capacity: real-time tracking of gold movements to ensure the transparency of contracts and the status *of underlying assets* requires a significant amount of IT investment, especially for middle-class Islamic banks that are just about to enter the bullion business. Second, standardization of *digital qardh* procedures : although Fatwa No. 166/2026 recognizes *qardh hukmi*, there is no uniform technical standard on how *qardh hukmi*

³¹ Admin, "DSN MUI Fatwa Strengthens Sharia Bullion Business."

³² Admin.

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should be implemented in the digital banking system, potentially causing variations in practices between institutions. Third, the depth of the domestic gold market: the availability of certified gold bars in sufficient quantities to accommodate the growth of the sharia bullion business depends on Antam's currently limited production capacity. An encouraging development is the enthusiasm of the industry: BSI has penetrated more than 1 million gold ecosystem customers in less than a year since obtaining the bullion license, with a growth rate of around 40%.³³ This figure indicates that the public's demand for sharia gold products is very large and Fatwa No. 166/2026 is present at the right momentum.

CONCLUSION

This study concludes that DSN-MUI Fatwa No. 166/DSN-MUI/II/2026 provides an important normative foundation for constructing contracts and mitigating risks in sharia bullion business activities in Indonesia. The fatwa responds to the transformation of gold from a classical monetary instrument into a modern investment commodity by offering a sharia-based framework for bullion activities, including gold trading, financing, savings, and custody services. The juridical analysis shows that the construction of contracts in sharia bullion business must be based on clear ownership, identifiable underlying assets, valid qabdh mechanisms, transparency of rights and obligations, and strict avoidance of *riba*, *gharar*, *tadlis*, and misuse of customer assets.

The study further finds that risk mitigation in sharia bullion business cannot rely solely on administrative compliance, but must integrate sharia compliance, legal certainty, operational governance, consumer protection, and asset security. The roles of financial regulators, Islamic financial institutions, and Sharia Supervisory Boards are therefore essential in ensuring that bullion products are not only formally compliant with sharia principles, but also substantively aligned with *maqashid al-shariah*. This study contributes to the development of Islamic economic law by emphasizing that contract construction and risk mitigation are inseparable elements in building a credible, accountable, and sustainable sharia bullion ecosystem. Future research is recommended to examine the implementation of Fatwa No. 166/2026 in Islamic financial institutions through empirical, comparative, and regulatory impact studies.

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³³ Pratama, "DSN-MUI Issues Fatwa on Sharia-Based Bullion Business Activities, Here's the Response of Industry Players."

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