

FROM FATWA TO POSITIVE LAW: LEGAL CERTAINTY IN INDONESIA'S SHARIA GOVERNANCE CHAIN

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Abstract

Indonesia's Sharia governance chain operates within a dual financial system that separates institution-level supervision under the Financial Services Authority (OJK) from macroprudential oversight under Bank Indonesia, while Sharia compliance relies on DSN-MUI fatwas that must be translated into obligations under positive law. This article examines how legal certainty is formed, weakened, and repaired in the chain of Sharia governance from fatwa to positive law. Using doctrinal legal analysis, institutional mapping, and a bounded stress-test vignette from the Dana Syariah Indonesia case, the article shows that the central fragility of Sharia governance lies not in institutional absence but in the legal interfaces where fatwas must become regulatory obligations, institutional controls, supervisory evidence, escalation triggers, and enforceable remedies. The analysis identifies four main breakpoints: unclear translation from fatwa to regulatory rule, insufficiently specified evidence suitable for supervisory action, uncertain materiality thresholds for escalation, and limited Sharia-specific coordination when governance failures becomes conduct, prudential, reputational, or stability concerns. The article contributes to Islamic economic law by reframing Sharia governance as a legal certainty problem within Indonesia's dual financial architecture. It proposes legally feasible improvements: a clearer fatwa to rule protocol, proportionate evidence standards, materiality-based escalation, remedial closure tests, and mandate-sensitive coordination across relevant authorities.

Keywords: Dual financial system; Fatwa; Islamic economic law; Legal certainty; Sharia governance chain.

Abstrak

Rantai tata kelola syariah di Indonesia beroperasi dalam sistem keuangan ganda yang memisahkan pengawasan tingkat lembaga di bawah Otoritas Jasa Keuangan (OJK) dari kewenangan makroprudensial Bank Indonesia, sementara kepatuhan syariah bertumpu



pada fatwa DSN-MUI yang harus diterjemahkan ke dalam kewajiban hukum positif. Artikel ini mengkaji bagaimana kepastian hukum dibentuk, melemah, dan dapat diperbaiki dalam rantai fatwa ke hukum positif pada tata kelola syariah. Dengan menggunakan analisis hukum doktrinal, pemetaan kelembagaan, dan vignette uji-tekan terbatas dari kasus Dana Syariah Indonesia, artikel ini menunjukkan bahwa kerentanan utama tata kelola syariah tidak terletak pada ketiadaan lembaga, melainkan pada antarmuka hukum tempat fatwa harus berubah menjadi kewajiban regulatif, kontrol kelembagaan, bukti layak-supervisi, pemicu eskalasi, dan remediasi yang dapat ditegakkan. Analisis mengidentifikasi empat titik rapuh utama: penerjemahan fatwa ke aturan yang belum jelas, standar bukti layak-supervisi yang belum kuat, ketidakpastian ambang materialitas untuk eskalasi, dan terbatasnya koordinasi bertipe syariah ketika kegagalan tata kelola menimbulkan risiko perilaku pasar, prudensial, reputasi, atau stabilitas. Artikel ini berkontribusi pada hukum ekonomi syariah dengan mbingkai tata kelola syariah sebagai persoalan kepastian hukum dalam arsitektur keuangan ganda Indonesia, serta mengusulkan perbaikan yang layak secara hukum: protokol fatwa ke aturan, standar bukti yang proporsional, eskalasi berbasis materialitas, uji penutupan remediasi, dan koordinasi antarlembaga yang sensitif terhadap mandat masing-masing.

Kata kunci: Fatwa; Hukum ekonomi syariah; Kepastian hukum; Sistem keuangan ganda; Tata kelola syariah.

A. INTRODUCTION

Indonesia's Islamic financial sector operates within a dual financial system, in which Islamic and conventional finance coexist under the national financial architecture.¹ This duality is more than a market arrangement. It creates a legal-institutional setting in which Sharia governance must operate through positive law, even though the broader regulatory framework is primarily designed around prudential soundness, consumer protection, monetary stability, and financial system resilience. Since the establishment of the Financial Services Authority (OJK), financial supervision has been divided between OJK's institution-level supervision and Bank Indonesia's macroprudential mandate.² This division raises a central legal question for Sharia governance: how do Sharia norms, particularly DSN-MUI fatwas, acquire positive law force within a dual financial governance structure?

¹ OJK Indonesia Financial Services Authority, "Sharia Bank," [ojk.go.id](https://ojk.go.id/en/kanal/perbankan/Pages/Bank-Syariah.aspx), n.d., <https://ojk.go.id/en/kanal/perbankan/Pages/Bank-Syariah.aspx>.

² Republic of Indonesia, "Law of the Republic of Indonesia Number 21 of 2011 on Financial Services Authority" (2011), n. 111, <https://ojk.go.id/en/regulasi/otoritas-jasa-keuangan/undang-undang/Pages/Law-of-the-Republic-of-Indonesia-Number-21-of-2011-on-Financial-Services-Authority.aspx>.

Indonesia's formal Sharia governance architecture distributes authority across DSN–MUI, which issues fatwas as normative Sharia determinations, DPS, which oversees Sharia compliance at the institutional level,³ and OJK, which evaluates governance through supervision under positive law. POJK No. 2/2024 has strengthened this structure. Nevertheless, the problem of legal certainty lies not in the formal architecture itself, but in the way these layers connect.⁴

POJK No. 2/2024 strengthens the formal architecture while revealing a deeper problem of legal certainty. Sharia compliance becomes enforceable only when normative Sharia authority is translated into regulatory obligations, legally cognisable evidence, escalation triggers, and remedial pathways. If this translation is incomplete, documentation may increase without necessarily improving enforceability. Reports, reviews, and audit records may demonstrate procedural compliance, while substantive Sharia concerns remain weakly actionable as matters of law.⁵

The practical consequences are not merely doctrinal. Legal certainty requires obligations that are clear, assigned, and enforceable.⁶ In Islamic financial supervision, this means that clear responsibilities, reliable evidence, timely intervention, and corrective powers must support Sharia expectations. When the route from fatwa to supervision under positive law is unclear, three risks follow: uncertainty over which Sharia expectations are binding, a weak basis for classifying Sharia concerns as material supervisory issues, and fragmented accountability across DSN–MUI, DPS, OJK, and other authorities. These risks may weaken

³ Republic of Indonesia, “Law No. 21 of 2008 Sharia Banking” (2008), n. 94, <https://ojk.go.id/en/kanal/syariah/regulasi/undang-undang/Pages/law-no-21-of-2008-on-sharia-banking.aspx>.

⁴ Otoritas Jasa Keuangan Republik Indonesia, “Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah Dan Unit Usaha Syariah” (2024), n. 4, <https://ojk.go.id/id/regulasi/Pages/POJK-2-Tahun-2024-Penerapan-Tata-Kelola-Syariah-Bagi-Bank-Umum-Syariah-dan-Unit-Usaha-Syariah.aspx>.

⁵ Desi Siti Habibah Arifin, Dede Kania, and Syahrul Anwar, “Implications of Dual Positions of Sharia Supervisory Board on the Effectiveness of Supervision in Islamic Financial Institutions,” *Journal of Sharia Banking* 5, no. 2 (2024): 223–246, <https://doi.org/10.24952/jsb.v5i2.13766>.

⁶ Lon L. Fuller, *The Morality of Law*, rev. ed. (New Haven: Yale University Press, 1969), 39.

consumer protection and public trust because Islamic finance depends not only on financial soundness, but also on credible assurance that Sharia compliance is substantively governed and legally enforceable.⁷

Existing scholarship has identified several implementational frictions in Indonesia's Sharia governance architecture.⁸ Studies note that DSN-MUI fatwas and institutional positions do not always translate smoothly into enforceable regulatory standards,⁹ that coordination between financial supervisors and bank-level Sharia oversight can be uneven,¹⁰ and that Sharia compliance is often assessed through procedural or documentary proxies rather than substantive Sharia assurance.¹¹ At the DPS level, prior studies also highlight constraints in capacity, independence, and role conflict, including dual appointments that may weaken the quality of monitoring.¹²

However, much of this literature remains component centred. It tends to examine DSN-MUI, DPS, OJK, or disclosure-based compliance

⁷ Wafik Grais and Matteo Pellegrini, "Corporate Governance in Institutions Offering Islamic Financial Services: Issues and Options," in *Policy Research Working Paper No 4052* (Washington, DC: World Bank, 2006), 12, <https://hdl.handle.net/10986/9030>.

⁸ Annisa Adha Minaryanti and Muhammad Iman Sastra Mihajat, "A Systematic Literature Review on the Role of Sharia Governance in Improving Financial Performance in Sharia Banking," *Journal of Islamic Accounting and Business Research* 15, no. 4 (May 15, 2023): 553–68, <https://doi.org/10.1108/JIABR-08-2022-0192>; Hasan et al., "Reassessing Islamic Banking Supervision in Indonesia: A Contemporary Islamic and Socio-Legal Perspective on OJK's Integrated Model," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025), <https://doi.org/10.32332/milrev.v4i1.10851>.

⁹ Asrori S Karni et al., "Navigating Fatwa-to-Regulation Transformation in Islamic Finance: Challenges and Innovations Post-Omnibus Law 2023," *Diponegoro Law Review* 10, no. 2 (2025): 157–72, <https://doi.org/10.14710/dilrev.10.2.2025.157-172>; Suaidi Suaidi et al., "Harmonisation Between DSN-MUI Fatwas and OJK Regulations: Towards an Innovative and Inclusive Sharia-Compliant Fintech Ecosystem in Indonesia," *Mazahib* 24, no. 1 SE-Articles (June 17, 2025), <https://doi.org/10.21093/mj.v24i1.10032>.

¹⁰ Hasan et al., "Reassessing Islamic Banking Supervision in Indonesia: A Contemporary Islamic and Socio-Legal Perspective on OJK's Integrated Model."

¹¹ Muhammad Adib Hasani and Rifqi Muhammad, "Determinant of the Level of Sharia Compliance of Islamic Banks in Indonesia," *Journal of Contemporary Accounting* 4, no. 1 (2022): 53–54, <https://doi.org/10.20885/jca.vol4.iss1.art5>.

¹² Arifin, Kania, and Anwar, "Implications of Dual Positions of Sharia Supervisory Board on the Effectiveness of Supervision in Islamic Financial Institutions"; Rita Wijayanti and Falikhatun Falikhatun, "The Effectiveness of The Sharia Supervisory Board's Role: Study on The Islamic Banks in Indonesia," *Jurnal Ilmiah Ekonomi Islam* 10, no. 3 (2024): 2652, <https://doi.org/10.29040/jiei.v10i3.14207>; Karni et al., "Navigating Fatwa-to-Regulation Transformation in Islamic Finance: Challenges and Innovations Post-Omnibus Law 2023."

separately, rather than tracing the legal chain through which fatwa becomes a positive law obligation, institutional control, supervisory evidence, escalation, and enforceable remedy.¹³ This leaves the precise points where legal certainty weakens underexplored: when a fatwa is translated into regulation, when internal Sharia assurance becomes supervisory-grade evidence, when non-compliance becomes material, and when remedies are verified as legally closed.

This article addresses that gap by analysing Sharia governance as a fatwa to positive law chain within Indonesia's dual financial governance structure, arguing that fragmentation in Sharia governance is not merely an institutional coordination problem but a problem of legal certainty. DSN–MUI fatwas carry normative Sharia authority, yet their supervisory force depends on their incorporation into instruments of positive law, evidentiary standards, escalation rules, and enforceable remedies. The analysis finds that the weakest points lie at legal interfaces rather than within any single institution; compliance may appear formally satisfied while accountability for substantive Sharia assurance remains fragmented. The article contributes to Islamic economic law by clarifying how legal responsibility moves across fatwa, regulation, DPS oversight, institutional assurance, OJK supervision, and cross-authority coordination. It proposes legally feasible improvements, including a clearer fatwa-to-rule protocol, proportionate evidence standards, materiality-based escalation, and mandate-sensitive Sharia-specific coordination.

B. LITERATURE REVIEW

1. Dual Financial and Institutional Allocation of Authority

Indonesia's Islamic financial sector operates within a dual financial system in which Islamic and conventional finance coexist under a shared national financial architecture.¹⁴ This duality is not merely a market arrangement involving different products and contracts, but a legal-institutional structure in which Islamic finance is governed through positive law designed to secure monetary stability, prudential soundness, consumer protection, and financial system resilience.

¹³ Arifin, Kania, and Anwar, "Implications of Dual Positions of Sharia Supervisory Board on the Effectiveness of Supervision in Islamic Financial Institutions"; Islamic Financial Services Board (IFSB), "IFSB-31: Guiding Principles for Effective Supervision of Shari'ah Governance" (Kuala Lumpur: Islamic Financial Services Board, 2025); Islamic Financial Services Board (IFSB), "IFSB-10: Guiding Principles on Shariah Governance Systems for Institutions Offering Islamic Financial Services" (Kuala Lumpur: Islamic Financial Services Board, 2009).

¹⁴ OJK Indonesia Financial Services Authority, "Sharia Bank."

This allocation of authority reinforces the structure. Under the OJK Law, institution-level financial regulation and supervision were transferred from Bank Indonesia to the Financial Services Authority (OJK),¹⁵ while Bank Indonesia retained its macroprudential mandate for financial system stability.¹⁶ This division of authority creates a juridical tension for Sharia governance: Sharia compliance depends on DSN–MUI fatwas, DPS oversight, and internal assurance, but becomes legally enforceable only when translated into regulatory obligations, evidence suitable for supervisory action, escalation mechanisms, and remedial action.

Because authority is distributed across institutional mandates, coordination becomes part of the governance architecture. Financial-stability coordination, including KSSK, links the Ministry of Finance, Bank Indonesia, OJK, and LPS.¹⁷ Yet for Sharia governance, the central issue is not merely whether coordination exists,¹⁸ but whether it can carry Sharia-specific governance signals when compliance failures become prudential, reputational, or stability concerns.

2. Sharia Governance as a Chain, Not a Node

In dual financial architecture, Sharia governance cannot be treated as a single organ, such as DPS, attached to an otherwise conventional prudential system. Comparative studies of Sharia supervisory systems show that Islamic finance governance depends on how Sharia authority is institutionally located, connected to regulators, and embedded in

¹⁵ Republic of Indonesia, Law No. 21 of 2008 Sharia Banking, n. 37.

¹⁶ Bank Indonesia, *Mengupas Kebijakan Makroprudensial* (Jakarta: Bank Indonesia, 2016), 13, <https://www.bi.go.id/id/edukasi/Documents/Mengupas-Kebijakan-Makroprudensial.pdf>; Juda Agung, Cicilia A. Harun, and Elis Deriantino, *Kebijakan Makroprudensial Di Indonesia: Konsep, Kerangka, Dan Implementasi* (Depok: Rajawali Pers, 2021), 5; OJK Indonesia Financial Services Authority, “The Role of Bank Indonesia,” [ojk.go.id](https://ojk.go.id/en/kanal/perbankan/stabilitas-sistem-keuangan/Pages/Peran-Bank-Indonesia.aspx), n.d., <https://ojk.go.id/en/kanal/perbankan/stabilitas-sistem-keuangan/Pages/Peran-Bank-Indonesia.aspx>.

¹⁷ Bank Indonesia, “First KSSK Periodic Meeting of 2026: Financial System Resilience Maintained, Supported by Interagency Policy Synergy and Coordination alongside Vigilance of Global Dynamics and Risks,” [bi.go.id](https://www.bi.go.id/en/publikasi/ruang-media/news-release/Pages/sp_281926.aspx), 2026, https://www.bi.go.id/en/publikasi/ruang-media/news-release/Pages/sp_281926.aspx; FSB Financial Stability Board, “Peer Review of Indonesia,” 2014, https://www.fsb.org/2014/02/r_140228/.

¹⁸ International Monetary Fund, “Indonesia: Financial Sector Assessment Program Financial System Stability Assessment,” in *IMF Country Report No. 24/272* (Washington, DC: International Monetary Fund, 2024), 39, <https://doi.org/10.5089/9798400286438.002>.

supervisory arrangements.¹⁹ It is more accurately understood as a fatwa to law governance chain: a sequence through which Sharia rulings are translated into regulatory obligations, institutional controls, supervisory evidence, and enforceable remedies.

This chain view is consistent with IFSB-10, which frames Sharia governance as an institutional arrangement covering Sharia pronouncements, dissemination of rulings, internal Sharia compliance review or audit, and periodic ex post review.²⁰ It also clarifies why fragmentation often occurs at interfaces rather than within a single institution. A DPS may exist, but the system can still weaken when fatwas are not translated into binding controls, internal review does not produce legally cognisable evidence, or audit findings do not trigger supervisory assessment and remedial action. The Islamic financial governance literature similarly notes that conventional governance frameworks cannot be extended to Islamic finance, as Sharia compliance introduces distinct compliance and oversight demands that require institutionally coherent arrangements.²¹

The chain perspective shows that Sharia governance is not merely a matter of religious compliance, but also one of legal enforceability and risk governance. Sharia non-compliance can affect governance credibility, institutional trust, consumer protection, and financial stability,²² making it relevant to supervisory assessment rather than merely internal religious assurance. IFSB-31 links Sharia governance supervision to financial stability and consumer protection mandates, and stresses the need for clear authority, responsibility, accountability, and checks and balances among governance organs.²³ Here, the supervisor's role is to assess whether the governance system provides reliable

¹⁹ Rihab Grassa, "Shariah Supervisory System in Islamic Financial Institutions: New Issues and Challenges: A Comparative Analysis between Southeast Asia Models and GCC Models," *Humanomics* 29, no. 4 (October 28, 2013): 333–348, <https://doi.org/10.1108/H-01-2013-0001>.

²⁰ Islamic Financial Services Board (IFSB), "IFSB-10: Guiding Principles on Shariah Governance Systems for Institutions Offering Islamic Financial Services," 10–12.

²¹ Grais and Pellegrini, "Corporate Governance in Institutions Offering Islamic Financial Services: Issues and Options," 12.

²² Karim Ginena, "Shariah Risk and Corporate Governance of Islamic Banks," *Corporate Governance* 14, no. 1 (2014): 86–103.

²³ Islamic Financial Services Board (IFSB), "IFSB-31: Guiding Principles for Effective Supervision of Shari'ah Governance," 5.

compliance assurance, evidence, and controls. This aligns with the broader supervisory expectation that supervision should evaluate the effectiveness of governance and risk management, not merely formal rule compliance.²⁴ The chain concept therefore provides the analytical bridge between Sharia authority and the enforceability of positive law.

3. Prior Findings and the Legal Certainty Gap

Prior scholarship on Indonesia's Sharia governance commonly identifies capacity and independence constraints at the bank-level Sharia Supervisory Board (DPS). Studies show that Sharia governance may support the performance and accountability of Islamic banks, but its effectiveness depends on the quality of governance mechanisms.²⁵ Empirical work notes concurrent appointments, role conflict, and limited combined expertise in *fiqh al-mu'āmalāt*, finance, accounting, and risk management, which can reduce the intensity and quality of institution-level Sharia supervision.²⁶ This concern is consistent with broader Islamic finance governance literature, which highlights cross-membership, conflicts of interest, and the limited availability of scholars who combine sharia and modern finance competence.²⁷

A second strand of the literature examines the translation problem: how Sharia rulings and supervisory expectations become operational controls. Standards-based guidance treats Sharia governance as an institutional system that should enable the issuance of Sharia pronouncements and their implementation through internal policies, processes, assurance, and review mechanisms.²⁸ In Indonesia, legal and regulatory studies indicate that overlapping mandates among BI, OJK, and

²⁴ Basel Committee on Banking Supervision, "Core Principles for Effective Banking Supervision" (Bank for International Settlements, 2024), 3.

²⁵ Minaryanti and Mihajat, "A Systematic Literature Review on the Role of Sharia Governance in Improving Financial Performance in Sharia Banking"; 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>.

²⁶ Wijayanti and Falikhatun, "The Effectiveness of The Sharia Supervisory Board's Role: Study on The Islamic Banks in Indonesia"; Arifin, Kania, and Anwar, "Implications of Dual Positions of Sharia Supervisory Board on the Effectiveness of Supervision in Islamic Financial Institutions."

²⁷ Grais and Pellegrini, "Corporate Governance in Institutions Offering Islamic Financial Services: Issues and Options," 9.

²⁸ Islamic Financial Services Board (IFSB), "IFSB-31: Guiding Principles for Effective Supervision of Shari'ah Governance," 3.

DSN–MUI can create ambiguity, while DSN–MUI’s normative authority does not always align neatly with enforceable supervisory channels.²⁹ Related work on DSN–MUI, OJK harmonisation similarly notes that DSN–MUI does not conduct direct supervision, leaving effective compliance largely dependent on DPS and internal institutional mechanisms.³⁰

A third pattern is the tendency to evidence Sharia compliance through procedural or disclosure-based indicators. Disclosure studies on Islamic banks have shown the usefulness of annual reports and governance indicators for measuring institutional accountability, but such measures may still privilege what is reported over what is legally enforceable.³¹ This creates a risk of legal formalism: Sharia governance may appear complete through structures, reports, checklists, and disclosures, while the route from Sharia finding to supervisory classification, escalation, and remedy remains weak.

Taken together, the literature shows that Indonesia’s Sharia governance problem is not only a matter of DPS competence or institutional coordination. It is also a problem of legal certainty. What remains insufficiently developed is a chain-level account of how DSN–MUI fatwas acquire effect in positive law, how Sharia compliance becomes legally cognisable evidence, and how non-compliance is escalated into enforceable remedies.

Table 1
Positioning This Article within Prior Literature

Stream	Main Focus	Limitations	Contribution
DPS effectiveness studies	Capacity, independence, dual appointments, role performance, and competence	Focuses primarily on bank-level actors; does not explain how DPS findings enter an enforceable legal chain	Demonstrates how DPS outputs must feed into a legal chain of evidence, escalation, and remedial action

²⁹ Nur Sania Dasopang, “Sharia Banking Supervision in Indonesia: Legal Mechanisms and Implications,” *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12 (May 2, 2025): 236–237, <https://doi.org/10.29300/mzn.v12i1.6937>.

³⁰ Suaidi et al., “Harmonisation Between DSN–MUI Fatwas and OJK Regulations: Towards an Innovative and Inclusive Sharia-Compliant Fintech Ecosystem in Indonesia.”

³¹ 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/10.2139/ssrn.1828624>; Hasani and Muhammad, “Determinant of the Level of Sharia Compliance of Islamic Banks in Indonesia.”

Stream	Main Focus	Limitations	Contribution
Fatwa harmonisation studies	Relationship between DSN–MUI fatwas and OJK regulation	Explains harmonisation but underspecifies the enforceability route	Frames the fatwa to regulation step as a problem of legal certainty requiring incorporation into positive law
Disclosure or compliance studies	Annual report disclosure, governance proxies, and compliance indices	Risks privileging documented compliance over legally enforceable compliance	Distinguishes paper-based compliance from legally cognisable supervisory evidence
Supervisory governance standards	Authority, accountability, audit, correction, and inter-authority cooperation	Provides standards but requires contextual application to Indonesia's dual financial governance architecture	Maps how mandate; decision rights, evidence, escalation, and coordination operate across Indonesia's governance chain

Source: Authors' synthesis

The table shows that existing studies address Sharia governance through disclosure indices, board composition, performance metrics, and supervisory frameworks, but none examines it as an integrated fatwa to positive law governance chain. This gap motivates the legal-institutional approach adopted here.

C. METHOD

1. Research Design and Approach

This study adopts a legal-institutional research design to explain how Sharia norms, especially DSN–MUI fatwas, are translated into enforceable governance arrangements within Indonesia's dual financial system. It is anchored in doctrinal legal research, namely a systematic analysis of authoritative legal texts to clarify legal duties, institutional mandates, hierarchy of norms, and the conditions under which sharia governance becomes enforceable through mechanisms of positive law.³²

³² Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012): 83–85, <https://doi.org/10.21153/dlr2012vol17no1art70>.

The doctrinal component proceeds in three steps. First, the study compiles the primary legal corpus that structures sharia governance, including statutes, delegated regulations, supervisory standards, and official enforcement instruments. Second, these materials are interpreted using textual, systematic, and purposive legal reasoning, with attention to institutional competence and the distinction between normative sharia authority and enforceability under positive law. Third, the findings are synthesised into a legal map of responsibilities, decision rights, reporting duties, evidentiary requirements, escalation routes, and remedial consequences at each node of the governance chain.³³

Because the problem lies at institutional interfaces, doctrinal analysis is paired with institutional mapping³⁴ to identify where authority sits, who may decide, what information must move, and how accountability flows across three nodes: Sharia standard-setting and dissemination, institution-level Sharia oversight and assurance, and state regulation, supervision, and enforcement. The mapping uses the Institutional Analysis and Development (IAD) framework, treating each interface as an action situation in which actors occupy positions, exercise authorised actions, exchange information, and generate outcomes under specific rules.³⁵

In this design, doctrinal analysis supplies the legal inputs for IAD mapping. Legal mandates become actor positions; regulatory powers become decision rights; reporting and audit duties become information and evidence channels; sanctions and corrective measures become outcome rules; and coordination provisions become boundary rules. This helps separate ‘rules-in-form’ from ‘rules-in-use’ and identifies where legal certainty weakens along the chain from fatwa to positive law.

Finally, the study uses the Dana Syariah Indonesia (DSI) episode as a bounded diagnostic vignette drawn from OJK’s public record. Vignette-based analysis is appropriate when the aim is to examine institutional decision dynamics under pressure rather than to generalise statistically.

³³ Mike McConville and Wing Hong Chui, “Introduction and Overview,” in *Research Methods for Law*, 2nd ed. (Edinburgh University Press, 2017), 1–2.

³⁴ Loraine McFadden, Sally Priest, and Colin Green, “Introducing Institutional Mapping: A Guide for SPICOSA Scientists,” *SPICOSA Project Report* (Flood Hazard Research Centre, Middlesex University, 2010), 3–6.

³⁵ Elinor Ostrom, “Background on the Institutional Analysis and Development Framework,” *Policy Studies Journal* 39, no. 1 (2011): 7, <https://doi.org/10.1111/j.1541-0072.2010.00394.x>.

³⁶ DSI is not used as a proxy for Islamic banking, but as a revealing case of enforceability under positive law in a sharia-branded financial arrangement. Its interpretation is triangulated against the doctrinal and institutional mapping findings

2. Data and Sources

The study uses publicly available documentary materials.³⁷ Primary sources consist of statutes and delegated regulations that define Sharia governance duties and allocate institutional mandates; Sharia governance standards and supervisory guidance,³⁸ and official supervisory and enforcement artefacts, including OJK's restriction order and public communications concerning the Dana Syariah Indonesia (DSI).³⁹ Secondary sources, including academic and policy literature, are used to situate the doctrinal and institutional analysis.⁴⁰

Documents were selected using three criteria. First, they had to define or affect the legal authority of actors in the Sharia governance chain. Second, they had to regulate or clarify Sharia governance duties, supervisory evidence, reporting, escalation, or remedial action. Third, for the DSI vignette, documents were limited to official public records issued by OJK or related public authorities. The documents were compared by

³⁶ Lindsay O'Dell et al., "The Problem of Interpretation in Vignette Methodology in Research with Young People," *Qualitative Research* 12, no. 6 (2012): 702–14, <https://doi.org/10.1177/1468794112439003>; Sana Rizvi, "Using Fiction to Reveal Truth: Challenges of Using Vignettes to Understand Participant Experiences Within Qualitative Research," *Forum Qualitative Sozialforschung / Forum: Qualitative Social Research (FQS)* 20, no. 1 (2019), <https://doi.org/10.17169/fqs-20.1.3101>.

³⁷ Paul Chynoweth, "Legal Research," in *Advanced Research Methods in the Built Environment*, ed. Andrew Knight and Les Ruddock (Blackwell Publishing, 2008), 28–31.

³⁸ Islamic Financial Services Board (IFSB), "IFSB-31: Guiding Principles for Effective Supervision of Shari'ah Governance," 19–20.

³⁹ Otoritas Jasa Keuangan Republik Indonesia, "Pengumuman Nomor PENG-4/PL.1/2025 Tentang Pembatasan Kegiatan Usaha Layanan Pendanaan Bersama Berbasis Teknologi Informasi PT Dana Syariah Indonesia (DSI)," ojk.go.id (Jakarta: Otoritas Jasa Keuangan, 2025), [https://ojk.go.id/id/berita-dan-kegiatan/pengumuman/Documents/PENG-4.PL.1.2025_Pembatasan Kegiatan Usaha LPBBI PT Dana Syariah Indonesia DSI.pdf](https://ojk.go.id/id/berita-dan-kegiatan/pengumuman/Documents/PENG-4.PL.1.2025_Pembatasan%20Kegiatan%20Usaha%20LPBBI%20PT%20Dana%20Syariah%20Indonesia.DSI.pdf); Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Fasilitasi Pertemuan Lender Dengan Pengurus PT Dana Syariah Indonesia," ojk.go.id (Jakarta: Otoritas Jasa Keuangan, 2025), <https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/OJK-Fasilitasi-Pertemuan-Lender-dengan-Pengurus-PT-Dana-Syariah-Indonesia.aspx>.

⁴⁰ Chynoweth, "Legal Research," 29–31.

examining how each source allocates mandates, creates binding obligations, produces evidence, enables escalation, and supports enforcement.⁴¹

The use of public documents is appropriate because the study examines legal design, institutional authority, and supervisory enforceability rather than private conduct or internal organisational perceptions.⁴² The materials are read for their legal function in the governance chain: how they define authority, create obligations, generate evidence, enable escalation, and support remedial action.

3. Analytic Procedure

The analysis proceeds in four steps. First, the study defines the Sharia governance chain as a sequence of steps linking fatwa, regulation, institutional oversight, supervisory evidence, escalation, and enforcement. This step defines the main legal institutional links through which Sharia norms are expected to acquire an effect in positive law.⁴³

Second, each chain node is mapped according to formal mandate, decision rights, information duties, evidentiary outputs, accountability mechanisms, and escalation routes.⁴⁴ This mapping identifies where authority is clear, where it is shared, and where legal uncertainty may arise. Building on the literature above, the mapping evaluates the Sharia governance chain through five legal institutional expectations: mandate clarity, decision rights, evidence regimes, escalation and remedies, and coordination interfaces. Mandate clarity concerns whether each authority has clearly defined responsibilities and objectives within a suitable legal framework.⁴⁵ Decision rights concern whether actors have

⁴¹ Glenn Bowen, "Document Analysis as a Qualitative Research Method," *Qualitative Research Journal* 9, no. 2 (August 3, 2009): 27–40, <https://doi.org/10.3316/QRJ0902027>; Chynoweth, "Legal Research," 28–31.

⁴² Bowen, "Document Analysis as a Qualitative Research Method," 27–29.

⁴³ Ostrom, "Background on the Institutional Analysis and Development Framework," 9–20, 23.

⁴⁴ McFadden, Priest, and Green, "Introducing Institutional Mapping: A Guide for SPICOSA Scientists," 3–4, 6.

⁴⁵ Basel Committee on Banking Supervision, "Core Principles for Effective Banking Supervision," 20–21; Islamic Financial Services Board (IFSB), "IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance," 4.

usable authority to approve, require correction, and escalate.⁴⁶ Evidence regimes concern whether Sharia compliance is supported by legally cognisable evidence through mechanisms for implementing Sharia pronouncements, verifying compliance, promoting transparency, and linking governance to audit follow-up.⁴⁷ Escalation and remedies concern whether material Sharia governance issues can move from detection to binding correction, timely intervention, and remedial action.⁴⁸ Coordination interfaces concern whether relevant authorities can cooperate across institutional boundaries through information-sharing and supervisory coordination mechanisms.⁴⁹ Together, these criteria guide the analysis of where legal certainty strengthens or weakens along the fatwa to positive law chain: mandate, decision rights, evidence, escalation, and coordination.

Third, the study identifies translation points in the chain. Translation is examined in two senses: semantic juridical translation, in which Sharia rulings are translated into positive law categories or regulatory expectations; and operational legal translation, in which regulatory expectations are translated into controls, audit evidence, reporting duties, remedial instructions, and closure verification.

Fourth, the DSI episode is used as a bounded stress-test vignette. The analysis examines how complaints, regulatory non-compliance, supervisory restrictions, written instructions, sanctions, and cross-agency coordination reveal the conditions under which a Sharia-branded financial issue becomes legally actionable.⁵⁰

⁴⁶ Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance,” 22–25; Basel Committee on Banking Supervision, “Core Principles for Effective Banking Supervision,” 20–21.

⁴⁷ Basel Committee on Banking Supervision, “Core Principles for Effective Banking Supervision,” 31–33; Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance,” 9–10.

⁴⁸ Basel Committee on Banking Supervision, “Core Principles for Effective Banking Supervision,” 33–34; Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance,” 18–19.

⁴⁹ Basel Committee on Banking Supervision, “Core Principles for Effective Banking Supervision,” 23–24; Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance,” 19–20.

⁵⁰ O’Dell et al., “The Problem of Interpretation in Vignette Methodology in Research with Young People,” 703–4, 711–12; Rizvi, “Using Fiction to Reveal Truth:

4. Quality Criteria and Ethics

This study applies three quality criteria: traceability, institutional consistency, and bounded inference. Traceability requires each claim to be anchored in identifiable legal texts, supervisory standards, or official public communications. Institutional consistency requires mandates, decision rights, reporting duties, accountability links, and remedial routes to be read coherently across the governance chain. Bounded inference limits the analysis to claims supported by the documentary record.⁵¹

The DSI vignette is treated as a bounded institutional stress test and used only to examine how enforceability under positive law becomes visible when complaints, supervisory restrictions, written instructions, sanctions, and cross-agency coordination appear in public records. This limits overgeneralisation from a single case.⁵²

The study uses only public sources and does not involve interviews, surveys, private documents, or personal data. The analysis is limited to institutional roles, legal authority, supervisory evidence, and decision interfaces, without identifying private individuals or speculating beyond official records.⁵³

D. RESULTS AND DISCUSSION

1. Reconstructing the Sharia Governance Chain

This section maps the baseline legal-institutional design of the sharia governance chain, tracing how sharia norms acquire legal force as they move from fatwa into regulatory instruments, institutional controls, supervisory evidence, and enforceable remedial action.⁵⁴ As defined in the

Challenges of Using Vignettes to Understand Participant Experiences Within Qualitative Research,” 2–5.

⁵¹ Yvonna S Lincoln and Egon G Guba, *Naturalistic Inquiry* (Beverly Hills, CA: Sage, 1985), 289–331; Matthew B. Miles, A. Michael Huberman, and Johnny Saldaña, *Qualitative Data Analysis: A Methods Sourcebook*, 3rd ed. (Thousand Oaks, CA: SAGE Publications, Inc., 2014), 310–15.

⁵² Bowen, “Document Analysis as a Qualitative Research Method,” 33–36; O’Dell et al., “The Problem of Interpretation in Vignette Methodology in Research with Young People,” 703–4, 711–12; Rizvi, “Using Fiction to Reveal Truth: Challenges of Using Vignettes to Understand Participant Experiences Within Qualitative Research,” 2–5.

⁵³ O’Dell et al., “The Problem of Interpretation in Vignette Methodology in Research with Young People,” 703–4, 711–12; Rizvi, “Using Fiction to Reveal Truth: Challenges of Using Vignettes to Understand Participant Experiences Within Qualitative Research,” 2–5; Bowen, “Document Analysis as a Qualitative Research Method,” 34–36.

⁵⁴ Islamic Financial Services Board (IFSB), “IFSB-10: Guiding Principles on Shariah Governance Systems for Institutions Offering Islamic Financial Services,” 2.

method, translation here operates in two senses semantic juridical and operational legal and legal certainty arises only when a fatwa is converted into an instrument of positive law supported by evidence and enforcement mechanisms.

a. Sharia Meaning into Authoritative Rulings (Fatwa)

Indonesia's statutory design ties the Sharia principles in Islamic finance to DSN–MUI fatwas.⁵⁵ At this layer, the fatwa functions as an authoritative Sharia determination that provides the normative content of Sharia compliance and defines whether a financial arrangement is compatible with Sharia principles. However, the fatwa does not automatically operate as a complete supervisory instrument. Its legal effect under state supervision depends on how it is translated into positive law.

This is the first point at which legal certainty can become fragile. If the fatwa remains only a normative sharia reference, supervised entities may understand the religious standard but still face uncertainty about its binding regulatory consequences. The relevant legal question is how that authority becomes legible and enforceable within the financial regulatory system

b. Fatwa into Enforceable Regulatory Standards

The Sharia Banking Law anticipated a second translation step: DSN–MUI fatwas are used as the substantive basis for Bank Indonesia regulations.⁵⁶ Today, the same functional step must still occur, but through the current regulator's instruments. This is why POJK No. 2/2024 matters for chain mapping: it frames Sharia governance as an integrated governance package that includes DPS, supporting control functions, review mechanisms, and evidence channels from banks to the OJK.⁵⁷

This layer is central to this article's legal-certainty argument. The binding force of a fatwa in financial supervision does not arise merely from the existence of the fatwa itself, but from its conversion or incorporation into positive law obligations by the competent authority. The key chain question is therefore: through which legal instrument does a fatwa become a binding requirement, which part of the fatwa becomes enforceable, and what evidence must a supervised institution provide to prove compliance?

⁵⁵ Republic of Indonesia, Law No. 21 of 2008 Sharia Banking, n. 1 (12).

⁵⁶ Republic of Indonesia, n. 26.

⁵⁷ Otoritas Jasa Keuangan Republik Indonesia, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah dan Unit Usaha Syariah, nn. 37–40.

c. DPS and Internal Control Functions

At the operational level in the banking segment, the law requires every Islamic bank and every bank that operates an Islamic window to establish a DPS. DPS, appointed by the bank upon MUI recommendation, advises directors and supervises Sharia compliance.⁵⁸ This places DPS centrally in the banking governance chain. However, DPS findings provide Sharia supervision and internal assurance; they do not automatically create enforceable remedial duties unless translated through bank governance channels and, where required, OJK supervision.

POJK No. 2/2024 strengthens this operational layer by requiring supporting functions, including Sharia compliance, Sharia risk management, Sharia internal audit, and periodic external review of Sharia governance.⁵⁹ These functions translate Sharia obligations into institutional routines and generate the records through which compliance becomes visible to internal and external governance actors. Their legal significance lies in whether internal records can support classification, escalation, remediation, and verification of closure. Internal control therefore serves as the operational link that turns Sharia norms into supervisory evidence.

Two design features here directly support a chain view: First, evidence production is legally relevant but not self-sufficient. Sharia internal audit reports must be submitted to the internal governance organ,⁶⁰ while external review results must be submitted to the OJK and followed up by the organisation.⁶¹ These outputs may serve as supervisory evidence, but they become legally meaningful only when they support supervisory follow-up. An evidence regime is therefore the legally cognisable record system through which the competent authority assesses and addresses Sharia compliance or non-compliance.

Second, escalation is implied, but not always fully specified. POJK No. 2/2024 identifies reporting channels and follow-up duties, but the chain still depends on whether a Sharia finding can move clearly from internal detection to binding correction. The critical movement is from “finding” to “required correction” to “verified remedy.” Absent clear

⁵⁸ Republic of Indonesia, Law No. 21 of 2008 Sharia Banking, nn. 32(1)–(3).

⁵⁹ Otoritas Jasa Keuangan Republik Indonesia, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah dan Unit Usaha Syariah, nn. 37–40.

⁶⁰ Otoritas Jasa Keuangan Republik Indonesia, n. 39(2).

⁶¹ Otoritas Jasa Keuangan Republik Indonesia, n. 40.

rules on classification, evidence, correction, and escalation, Sharia governance may be well documented yet weakly enforceable. This is where fragmentation appears in practice, echoing IFSB-31’s emphasis on clear escalation procedures for Sharia non-compliance risk.⁶²

d. System Level Interfaces: Dual Mandates and Coordination Forums

The final layer concerns the system-level interface between Sharia governance and Indonesia’s dual financial authority structure. Because OJK performs institution-level regulation and supervision, while BI retains macroprudential responsibilities, the Sharia governance chain has at least one system-level interface that is not purely Sharia.⁶³ Coordination forums are therefore part of the governance design. The IMF notes structured BI–OJK coordination mechanisms and routine exchange of data and analysis.⁶⁴ At the crisis-stability layer, KSSK institutionalises interagency coordination among the Ministry of Finance, BI, OJK, and LPS.⁶⁵

Table 2
Baseline Fatwa to positive law Governance Chain

Chain node	Legal status	Chain output	Legal-certainty function	Primary recipient
DSN–MUI	Normative Sharia authority	Fatwa	Provides substantive Sharia content	Regulator, DPS, Islamic financial institutions
Regulator/OJK	Positive-law supervisory authority	POJK/SEOJK, supervisory, sanctions and remedial instructions	Converts Sharia norms into binding regulatory obligations and enforceable standards	Islamic banks, UUS, DPS, internal control functions

⁶² Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari’ah Governance,” Principle 4.

⁶³ International Monetary Fund (IMF), “Indonesia: Financial Sector Assessment Program, Technical Note on Macroprudential Policy,” in *IMF Country Report No. 25/52* (Washington, DC: International Monetary Fund (IMF), 2025), 4, 10, <https://doi.org/10.5089/9798229003476.002>.

⁶⁴ International Monetary Fund (IMF), 13–14.

⁶⁵ Bank Indonesia, “First KSSK Periodic Meeting of 2026: Financial System Resilience Maintained, Supported by Interagency Policy Synergy and Coordination alongside Vigilance of Global Dynamics and Risks.”

Chain node	Legal status	Chain output	Legal-certainty function	Primary recipient
DPS	Institution-level Sharia supervisory organ	Sharia opinions, recommendations, supervision and non-compliance findings	Provides internal Sharia assurance and identifies issues	Board of management, audit and regulator
Sharia compliance function	Internal control function	Compliance, monitoring and implementation reports	Converts regulatory and Sharia requirements into operational controls	DPS, management, internal audit
Sharia risk management	Internal risk-control function	Sharia non-compliance risk and mitigation plans	Identifies and mitigates Sharia-related risks	DPS, governance committees
Sharia internal audit	Independent internal assurance	Audit reports on Sharia compliance	Produces potential supervisory evidence	DPS, CEO, BOD
External review	Independent periodic review mechanism	External review reports and recommendations	Provides external assurance and supervisory evaluation	OJK and supervised institutions
OJK supervision and enforcement	Competent positive law authority for institution-level	Supervisory findings, restrictions, corrective, instructions, sanctions, and verification	Determines whether evidence triggers enforceable remedial action	Supervised institutions; coordination interfaces
BI / KSSK interfaces	Macroprudential and financial-stability coordination roles	Information exchange, stability assessment, coordinated response	Relevant when Sharia governance failures create prudential, conduct, reputational, or systemic risk	OJK, BI, LPS, Ministry of Finance and coordination forums

Source: Author's analysis from various sources.

This mapping shows that the key vulnerability is not the plurality of actors, but an underspecified fatwa to positive law chain. Where legal status, evidence, escalation, or remedial authority is unclear, Sharia compliance may appear complete yet remain weakly actionable in law. Basel treats clear responsibilities and effective cooperation as safeguards against supervisory gaps across multiple authorities. The chain lens treats these safeguards as necessary infrastructure for Sharia governance beyond procedural compliance.

2. Legal Certainty Breakpoints in the Governance Chain

The chain map shows that sharia governance depends on successive legal and institutional translations. The key question is whether each interface is specified sufficiently to prevent Sharia compliance from being reduced to routine reporting. Where fatwas are not translated into duties under positive law, evidence is not legally cognisable, or findings do not trigger enforceable remedies, the chain may appear complete but remain fragile. Table 3 applies these five analytical dimensions to identify where legal certainty weakens in the governance chain.⁶⁶

Table 3
Analytical Matrix of Legal-Certainty Dimensions

Analytical dimension	Chain question	Main finding	Legal-certainty implication
Mandate clarity	Who is responsible when Sharia issues become supervisory?	Sharia compliance sits across DSN–MUI, DPS, OJK, BI, and KSSK, without always having clear prioritisation rules	Sharia concerns may remain internal compliance issues unless translated into categories of positive law
Decision rights	Who may classify, require correction, or escalate?	Firm-level decision rights are clearer than inter-authority decision rights	DPS findings may not become enforceable unless routed into supervisory classification
Evidence regime	What counts as evidence suitable for supervisory action?	POJK No. 2/2024 strengthens documentation, but evidence may remain procedural	Documentation risks becoming paper-based compliance unless tied to materiality, escalation, and remediation

⁶⁶ BCBS, *Core Principles*, 20, 23, 33-34.

Analytical dimension	Chain question	Main finding	Legal-certainty implication
Escalation trigger	When does a finding become enforceable?	The materiality gate remains underspecified	Escalation may depend on discretion or on reclassification as consumer harm, prudential risk, or reputational risk
Coordination interface	When do BI/KSSK become relevant?	Coordination exists, but it is not clearly Sharia-specific	Cross-authority response becomes relevant only when Sharia governance failure affects conduct, prudential, reputational, or stability concerns

Source: Author’s analysis from various sources.

a. Mandate Overlay without Sharia-Specific Prioritisation Rules

In a dual-authority setting, fragmentation arises not from multiple authorities per se, but from unclear mandates, boundaries, and coordination mechanisms. The problem deepens when Sharia governance is added to a financial architecture primarily oriented toward systemic stability, prudential soundness, market conduct, and institutional supervision. This creates a mandate overlay across supervision, macroprudential stability, and normative Sharia authority, without always specifying how Sharia compliance issues should be prioritised, classified, or escalated once they move beyond product approval into consumer protection, reputational risk, market confidence, or systemic stability.⁶⁷

The legal-certainty issue is whether Sharia compliance has a clear route under positive law when a Sharia-related issue is brought under supervision. Without sharia-specific prioritisation rules, a matter may remain within firm-level compliance routines even when it has broader implications. In that situation, the chain tends to manage sharia compliance as an internal governance matter rather than as a legally actionable supervisory concern.

b. Decision Rights at Firm and Inter-Authority Layers

At the firm layer, the regulatory framework increasingly specifies internal decision rights. POJK No. 2/2024 requires Islamic banks and

⁶⁷ International Monetary Fund (IMF), “Indonesia: Financial Sector Assessment Program, Technical Note on Macroprudential Policy,” 4.

Islamic windows to embed Sharia governance into their internal controls and reporting mechanisms, while imposing administrative sanctions for non-compliance with core governance obligations.⁶⁸ The chain becomes less explicit when decision rights move across organisational boundaries; DPS may advise or recommend corrections, internal audit may produce findings, management may prepare remediation plans, and OJK may assess governance effectiveness. Yet the legal pathway from internal Sharia finding to supervisory classification is not always clearly defined.

The central question is who may reclassify a Sharia issue from internal compliance into a supervisory priority, and on what criteria. If this route is unclear, decision rights remain formally distributed but operationally weak. The likely result is a low-friction response: the institution documents the issue, records follow-up, and keeps it within internal remediation unless OJK independently treats it as material.⁶⁹ This is a problem of legal certainty: when decision rights are unclear, bindingness is affected because a Sharia finding becomes enforceable only when it enters a recognised legal route, such as supervisory action, enforcement, or verified closure.

c. Evidence Regimes and Procedural Compliance

A governance chain becomes enforceable when its evidence regime is connected to supervisory action. POJK No. 2/2024 strengthens evidence production by requiring internal and external assurance mechanisms.⁷⁰ These mechanisms improve traceability. However, traceability is not the same as enforceability. The risk is legal formalism. Sharia governance may generate extensive documentation, but this documentation may primarily serve as proof of procedural compliance rather than as evidence capable of triggering legal consequences. In this situation, Sharia compliance becomes paper-based compliance: formally recorded, but weakly connected to supervisory follow-up, enforcement, or verified closure.

⁶⁸ Otoritas Jasa Keuangan Republik Indonesia, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah dan Unit Usaha Syariah, n. 16.

⁶⁹ International Monetary Fund (IMF), “Indonesia: Financial Sector Assessment Program, Technical Note on Macprudential Policy,” 12–13.

⁷⁰ Otoritas Jasa Keuangan Republik Indonesia, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah dan Unit Usaha Syariah.

For this reason, “evidence regime” should be understood in a legal-supervisory sense. It refers to the legally cognisable evidence through which Sharia compliance or non-compliance can be addressed and enforced. International supervisory guidance stresses that adequate supervision requires access to relevant information, the capacity to assess effectiveness, and the authority to require timely correction.⁷¹ The breakpoint appears when evidence is abundant but not legally actionable. Without explicit links between evidence, escalation, and remedies, the system may look procedurally mature while remaining substantively fragile. The governance chain then rewards the production of documents rather than the correction of Sharia governance failure.

d. Escalation Triggers and Enforceable Remedies

Escalation is where the legal force of Sharia governance becomes visible. An internal finding has a limited effect unless it is classified, routed, and connected to an enforceable remedial pathway. The key issue is therefore not only whether Sharia non-compliance can be detected, but whether it can be moved from internal observation into supervisory correction.

Indonesia’s coordination architecture, including BI–OJK coordination and KSSK, is mainly oriented toward financial stability rather than Sharia-specific escalation.⁷² This creates uncertainty when Sharia governance failures affect market conduct, public trust, reputation, or stability. The chain does not always provide a clear materiality gate: who determines materiality, by what criteria, on what evidence, and with what consequences.

Without such a gate, the system may default to procedural containment. The institution records the finding, prepares internal follow-up, and the supervisor notes compliance activity without necessarily reclassifying the issue as a broader supervisory concern. The weakness is therefore both supervisory and legal: enforceability depends on whether Sharia non-compliance is translated into a breach category that positive law can recognise and act upon.

e. Coordination Interfaces and Sharia-Specific Supervisory Signals

Coordination is not absent in Indonesia’s financial governance architecture. BI and OJK have established mechanisms, and KSSK provides

⁷¹ International Monetary Fund (IMF), “Indonesia: Financial Sector Assessment Program, Technical Note on Macroprudential Policy,” 12–13.

⁷² International Monetary Fund (IMF), 12–13.

a financial stability forum. The problem is that these interfaces are not clearly Sharia-specific. Sharia governance risks need recognisable coordination signals when they affect prudential supervision, market conduct, reputational stability, or systemic confidence. Without such signals, they may be reduced to general compliance issues: OJK handles them at an institutional level, while BI becomes engaged only when macroprudential or payment-system implications arise.

This creates a legal certainty gap. Sharia governance becomes actionable only after it is translated into another category of positive law, such as consumer harm, prudential weakness, asset risk, liquidity pressure, or reputational crisis. The system may then act decisively, but through general enforceability rather than Sharia-specific escalation.

3. The DSI Episode as a Bounded Stress-Test Vignette

The Dana Syariah Indonesia (DSI) episode is used here as a bounded diagnostic case, not as a proxy for Islamic banking generally. It reveals how enforceability under positive law becomes visible when a sharia-branded financial arrangement encounters regulatory restriction, written instruction, and cross-agency coordination functioning as a stress-test of the governance chain under regulatory pressure

The first observable trigger was the emergence of consumer complaints concerning the delayed return of principal and payment of returns. These complaints are important because they shifted the issue from an internal business problem into a supervisory concern involving consumer protection, performance failure, and public accountability.⁷³

OJK then facilitated a meeting between lender representatives and DSI's management on 28 October 2025. The regulator requested an explanation and responsibility for lender funds and sought a concrete resolution plan.⁷⁴ This step illustrates an early supervisory effort to hold institutions accountable for complaints before imposing stronger restrictions.

The escalation became more legally visible when OJK imposed Pembatasan Kegiatan Usaha (PKU) through letter SR-2/PL.1/2025 dated 15 October 2025, citing non-compliance with POJK 40/2024 and POJK

⁷³ Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Kembali Gelar Pertemuan Dengan Lender Dana Syariah Indonesia," [ojk.go.id](https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/OJK-Kembali-Gelar-Pertemuan-dengan-Lender-Dana-Syariah-Indonesia.aspx), 2025, <https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/OJK-Kembali-Gelar-Pertemuan-dengan-Lender-Dana-Syariah-Indonesia.aspx>.

⁷⁴ Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Fasilitasi Pertemuan Lender Dengan Pengurus PT Dana Syariah Indonesia."

49/2024.⁷⁵ The restriction package shows how supervisory concern becomes a binding legal constraint. OJK restricted DSI's fundraising, financing, asset transfers, governance changes, and required continued operations with active complaint-handling channels.⁷⁶

By late December 2025, OJK reported that DSI had been placed under special supervision, examined for transaction tracing, and had its accounts blocked by PPATK.⁷⁷ This shows that the governance chain can expand beyond ordinary supervision when the issue is re-characterised as involving transaction tracing, asset protection, or wider enforcement concerns.

OJK also stated that on 10 December 2025, it issued written instruction addressed not only to directors and commissioners, but also to DPS and shareholders. The instruction required fulfilment of obligations to lenders and a clear, measurable action plan with a defined timeframe. OJK further reported that it had issued 15 supervisory sanctions by that point.⁷⁸ The instructions and sanctions therefore indicate a shift from complaint handling to enforceable remedial direction.

a. The Vignette Reveals about Chain Interfaces

The DSI episode reveals five features of the governance chain under stress. First, mandate clarity becomes visible when a problem is framed as supervisory, not merely Sharia-related. In the public record, OJK's action was not framed primarily as a Sharia interpretive dispute. It was framed as regulatory non-compliance and consumer harm under OJK's authority for the relevant sector.⁷⁹ This distinction matters. Even when a financial arrangement carries a Sharia label, enforceability depends on whether the issue falls within a positive-law mandate, such as consumer protection, business restrictions, asset protection, or supervisory compliance.

⁷⁵ Otoritas Jasa Keuangan Republik Indonesia, "Pengumuman Nomor PENG-4/PL.1/2025 Tentang Pembatasan Kegiatan Usaha Layanan Pendanaan Bersama Berbasis Teknologi Informasi PT Dana Syariah Indonesia (DSI)."

⁷⁶ Otoritas Jasa Keuangan Republik Indonesia.

⁷⁷ Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Kembali Gelar Pertemuan Dengan Lender Dana Syariah Indonesia."

⁷⁸ Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Fasilitasi Pertemuan Lender Dengan Pengurus PT Dana Syariah Indonesia."

⁷⁹ Otoritas Jasa Keuangan Republik Indonesia, "Pengumuman Nomor PENG-4/PL.1/2025 Tentang Pembatasan Kegiatan Usaha Layanan Pendanaan Bersama Berbasis Teknologi Informasi PT Dana Syariah Indonesia (DSI)."

Second, decision rights become effective when they are attached to binding supervisory instruments. The PKU package demonstrates strong decision rights under positive law. OJK restricted new transactions, limited asset-related actions, constrained governance changes, and required active complaint handling.⁸⁰ These are not merely advisory measures. They are enforceable supervisory constraints. In chain terms, decision rights became visible when OJK moved from monitoring and facilitation to restriction and instruction.

Third, evidence becomes legally meaningful when it supports classification and action. The record suggests that complaints, regulatory non-compliance, risk of asset dissipation, and the need to protect lenders formed the evidentiary basis for restrictions and further supervisory measures.⁸¹ This supports the article's earlier point that an evidence regime is not merely documentary. Evidence becomes suitable for supervisory action only when it enables classification, restriction, remediation, and follow-up verification.

Fourth, escalation occurs through categories of positive law rather than a visible Sharia-specific route. The path moved from complaints and facilitated meetings to PKU restrictions, special supervision, examination, written instruction, sanctions, and cross-agency transaction tracing.⁸² This escalation appears to be driven by consumer protection and enforceability concerns, not by a publicly visible Sharia-based rule. It confirms the earlier legal-certainty gap: Sharia-branded governance becomes clearly actionable only when translated into categories of positive law such as consumer harm, regulatory breach, asset risk, or supervisory non-compliance.

Fifth, coordination expands when the issue is re-characterised as enforcement or asset protection. OJK's coordination with PPATK and the reported account blocking show that the chain can move beyond sectoral supervision.⁸³ The point is not that DSI mirrors Islamic banking, but that

⁸⁰ Otoritas Jasa Keuangan Republik Indonesia.

⁸¹ Otoritas Jasa Keuangan Republik Indonesia.

⁸² Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Fasilitasi Pertemuan Lender Dengan Pengurus PT Dana Syariah Indonesia"; Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Kembali Gelar Pertemuan Dengan Lender Dana Syariah Indonesia"; Otoritas Jasa Keuangan Republik Indonesia, "Pengumuman Nomor PENG-4/PL.1/2025 Tentang Pembatasan Kegiatan Usaha Layanan Pendanaan Bersama Berbasis Teknologi Informasi PT Dana Syariah Indonesia (DSI)."

⁸³ Otoritas Jasa Keuangan Republik Indonesia, "Siaran Pers: OJK Fasilitasi Pertemuan Lender Dengan Pengurus PT Dana Syariah Indonesia."

supervision under positive law follows similar legal movements: harm signals become evidence, evidence justifies action, and action requires coordination when risks exceed the capacity of a single institution or regulator.

b. Implications for the Main Argument and Limitation

The DSI vignette supports the article's central claim: the main vulnerability in sharia governance lies between normative sharia status and enforceability under positive law. Under stress, the system can act decisively, but only once the problem is categorised as legally actionable, such as consumer harm, regulatory breach, asset protection, special supervision, written instruction, sanction, or enforcement coordination.

DSI is not used to support sector-wide generalisation. Its value is diagnostic: it shows what a governance chain requires to become enforceable: evidence, authority, remedies, escalation, and closure. This limitation is built into the analytical design. DSI therefore helps clarify what the Islamic banking governance chain must specify: when a Sharia-related concern becomes supervisory, what evidence counts, who may reclassify it, what remedies are binding, and when cross-authority coordination is required. Without these links, Sharia compliance may remain symbolically present but weakly actionable in law.

4. Strengthening the Fatwa to Positive Law Governance Chain

The findings indicate that the main fragility of Indonesia's sharia governance chain lies not in the absence of regulatory institutions, but in the incomplete legal translation between them. POJK No. 2/2024 has strengthened the formal architecture by integrating oversight of DPS, Sharia compliance, Sharia risk management, internal audit, external review, and supervisory follow-up.⁸⁴ However, the legal issue is more specific: when does a Sharia norm, especially one derived from a DSN–MUI fatwa, become a positive law obligation that can be evidenced, escalated, and enforced?

This matters because fatwa and regulation operate through different forms of authority. DSN–MUI fatwas provide normative sharia authority, while OJK regulations provide enforceability under positive law. POJK No. 2/2024 already anchors sharia principles in DSN–MUI fatwas and recognises an internal coordination mechanism for their regulatory

⁸⁴ Otoritas Jasa Keuangan Republik Indonesia, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah dan Unit Usaha Syariah, nn. 3–5.

use.⁸⁵ Yet legal certainty requires more than an acknowledgement of a fatwa. It requires a predictable route that identifies which part of a fatwa becomes binding, how it is translated into supervisory test points, what evidence proves compliance, and what consequences follow when non-compliance occurs.

The chain of findings also shows that more extensive documentation does not automatically produce stronger enforceability. Supervisory reporting and information systems are important because they enable follow-up action.⁸⁶ IFSB-31 similarly links Sharia governance to transparent documentation, audit follow-up and remediation tracking.⁸⁷ However, documentation becomes legally meaningful only when it is connected to classification, materiality assessment, escalation, and verified closure. Without those links, the risk is legal formalism: Sharia governance appears complete through reports, reviews, and checklists, while substantive Sharia concerns remain weakly actionable.

The same problem appears in escalation. POJK No. 2/2024 provides a graduated sanctions framework for failures to comply with Sharia governance obligations.⁸⁸ IFSB-31 also expects supervisors to require timely correction and apply stronger measures where remedial action is inadequate.⁸⁹ The remaining gap is the materiality gate: who determines that a Sharia issue is material, what legal test is used, what evidence is sufficient, and what supervisory response must follow. Without this gate, escalation depends heavily on discretion and may occur only when the issue is re-characterised as consumer harm, prudential weakness, reputational risk, or wider stability concern.

Finally, dual financial architecture means that Sharia governance cannot be treated only as a bank-level compliance issue. KSSK and BI-OJK coordination are designed for financial stability and cross-authority

⁸⁵ Otoritas Jasa Keuangan Republik Indonesia, nn. 3–5.

⁸⁶ Basel Committee on Banking Supervision, “Core Principles for Effective Banking Supervision,” n. Principle 10.

⁸⁷ Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance,” 18–19.

⁸⁸ Otoritas Jasa Keuangan Republik Indonesia, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah dan Unit Usaha Syariah, nn. 4–5.

⁸⁹ Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance,” 18–19.

policy coherence, not for issuing Sharia rulings.⁹⁰ Their relevance arises when Sharia governance failures create risks that cross institutional boundaries, such as market conduct concerns, reputational contagion, liquidity pressures, or public trust erosion. In that context, Sharia-specific coordination does not mean transferring Sharia interpretation to BI or KSSK. It means creating a legally legible interface for risk classification, information exchange, and escalation when Sharia governance failures become stability-relevant.

5. Legal Institutional Remedies

The preceding analysis suggests that Indonesia does not lack Sharia governance institutions. The more specific problem is that the legal route from fatwa to enforceable supervision remains insufficiently specified. Indonesia already has several legal building blocks, including the statutory role of DSN–MUI fatwas, DPS oversight, OJK supervision, internal assurance functions, and corrective measures.⁹¹ The task is therefore not to add another organ, but to clarify the legal interfaces among existing organs.

First, the fatwa to rule route should be formalised as a legal translation protocol. This protocol should distinguish fatwa as normative Sharia input from POJK or SEOJK as output under positive law. It should specify which parts of a fatwa become binding, which serve as guidance, which transitional requirements apply, what evidence is required, and how conflicts of norms are resolved. This is important because DSN–MUI is not a state legislative body; the enforceability of fatwa-based obligations depends on their incorporation by the competent positive law authority.⁹²

Second, the evidence regime should be standardised but proportionate. A minimum Sharia governance evidence set may include DPS deliberation records, Sharia non-compliance registers, internal Sharia audit reports, external review outputs, remediation logs, and closure evidence.⁹³ However, standardisation should not create excessive compliance burdens for smaller Islamic banks or Islamic windows. The

⁹⁰ Basel Committee on Banking Supervision, “Core Principles for Effective Banking Supervision,” Principle 3.

⁹¹ Republic of Indonesia, Law No. 21 of 2008 Sharia Banking, n. 26 and 32.

⁹² Basel Committee on Banking Supervision, “Core Principles for Effective Banking Supervision,” 20–21.

⁹³ Islamic Financial Services Board (IFSB), “IFSB-31: Guiding Principles for Effective Supervision of Shari‘ah Governance,” 18–19.

better approach is proportional supervision: the minimum evidentiary core should be uniform, while the depth, frequency, and format of reporting should reflect the institution's size, complexity, risk profile, and product structure.

Third, escalation should be organised through a materiality gate. A Sharia issue should not remain indefinitely within internal compliance when it is repeated, unresolved, product-wide, consumer-facing, or reputationally significant. The legal route should identify when a DPS finding or audit finding becomes a supervisory matter, what evidence is sufficient, who classifies materiality, and what binding response follows. This would clarify the progression from internal finding to corrective action plan to supervisory instruction to sanction or restriction, where necessary.⁹⁴

Fourth, remedial pathways should end in verified closure, not merely documentary submission. POJK-based sanctions and corrective measures already provide an enforcement spine.⁹⁵ The missing element is a closure test: whether the institution has actually corrected the Sharia governance failure, whether the correction is independently validated, and whether the same breach is prevented from recurring. This would reduce legal formalism by ensuring that remedies are judged on substantive grounds rather than merely on the production of reports.

Fifth, Sharia-specific coordination should be clarified for risks that cross institutional boundaries. This does not require BI or KSSK to issue Sharia rulings. It requires a coordination interface through which OJK, BI, and other relevant authorities can exchange information and classify Sharia governance failures when they become conduct, prudential, reputational, liquidity, or systemic risks.⁹⁶ Such coordination should remain mandate-sensitive: OJK retains Sharia governance supervision, DSN-MUI retains normative Sharia authority, BI acts within macroprudential competence, and KSSK functions as a stability coordination forum.

These remedies would reinforce legal certainty without collapsing institutional roles. They would make the governance chain more enforceable by clarifying how fatwas become regulatory obligations, how

⁹⁴ Otoritas Jasa Keuangan Republik Indonesia, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 2 Tahun 2024 Tentang Penerapan Tata Kelola Syariah Bagi Bank Umum Syariah dan Unit Usaha Syariah.

⁹⁵ Otoritas Jasa Keuangan Republik Indonesia; Islamic Financial Services Board (IFSB), "IFSB-31: Guiding Principles for Effective Supervision of Shari'ah Governance."

⁹⁶ Basel Committee on Banking Supervision, "Core Principles for Effective Banking Supervision," Principle 3.

evidence becomes suitable for supervisory action, how material breaches trigger correction, and how remedies are verified. In this sense, Sharia governance is not strengthened by multiplying institutions, but by making the existing fatwa to positive law chain legally legible and operationally enforceable.

The analysis carries three implications for Islamic economic law. First, Sharia governance should be understood not only as institutional compliance but as a legal translation problem: the supervisory effect of DSN–MUI fatwas depends on how they are incorporated into instruments of positive law, evidentiary standards, and remedial pathways, shifting the debate from whether governance organs exist to whether their outputs are legally enforceable. Second, legal certainty depends on the quality of the interfaces between Sharia law and positive law; where these interfaces are unclear, compliance becomes formalistic. Third, the dual financial system requires mandate-sensitive coordination that specifies when Sharia governance failures become conduct, prudential, reputational, or stability concerns requiring cross-authority attention.

E. CONCLUSION

This article has argued that the fragility of Sharia governance in Indonesia’s dual financial system is best understood as a problem of legal certainty. DSN–MUI fatwas provide normative Sharia authority, but they become enforceable in financial supervision only when translated into obligations under positive law, supervisory evidence, escalation triggers, and remedial pathways. The main weakness, therefore, does not lie in the absence of Sharia governance organs but in the legal interfaces that connect fatwa, regulation, DPS oversight, institutional assurance, OJK supervision, and cross-authority coordination.

The analysis identifies four main breakpoints in the fatwa to positive law chain. First, the route from fatwa to binding regulatory expectation remains insufficiently specified. Second, Sharia governance evidence may be produced through reports, audits, and reviews, but it becomes legally meaningful only when linked to classification, materiality assessment, and supervisory follow-up. Third, escalation remains fragile, with no clear materiality threshold determining when a Sharia issue becomes an enforceable supervisory matter. Fourth, coordination among OJK, BI, and KSSK becomes legally relevant when Sharia governance failures give rise to conduct, prudential, reputational, or stability concerns.

The article contributes to Islamic economic law by shifting the debate from the formal existence of Sharia governance institutions to the enforceability of their outputs. Conceptually, it frames Sharia governance as a chain from fatwa to positive law. Analytically, it uses legal-institutional mapping to identify where legal certainty strengthens or weakens across mandates, decision rights, evidence, escalation, and coordination. In policy terms, it proposes a legally feasible repair agenda: formalising the fatwa to rule route, standardising evidence suitable for supervisory action in a proportionate manner, defining materiality gates, clarifying remedial closure, and developing mandate-sensitive Sharia-specific coordination.

The argument is bounded. This study is document-based and does not estimate economic outcomes or causal effects. The DSI vignette is used as a limited stress test of the enforceability of positive law in a Sharia-branded financial arrangement, not as a proxy for Islamic banking supervision. Future research may validate the proposed evidence and escalation standards through practitioner interviews, expert elicitation, or comparative legal analysis across jurisdictions. Overall, Indonesia's case suggests that Sharia governance is not strengthened by adding another compliance layer, but by making the existing chain from fatwa to positive law supervision legally certain, evidence-based, and enforceable.

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