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Contesting Fintech Fatwa Compliance Through Maqasid al-Shariah in Indonesia and Malaysia

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A B S T R A C T

The accelerating expansion of financial technology in Muslim-majority economies has exposed a critical governance gap in Islamic finance: the frameworks through which fatwa-issuing bodies certify fintech products as Sharia-compliant remain organized around contractual permissibility rather than substantive justice. This article examines how DSN-MUI in Indonesia and the Shariah Advisory Council in Malaysia conceptualize and operationalize Sharia compliance in their fintech fatwas, and evaluates both bodies' outputs against the principles of Maqasid al-Shariah. Employing a normative-doctrinal legal research design and a functional comparative law method, the study analyzes five primary fatwa documents spanning digital payments, peer-to-peer financing, equity crowdfunding, and digital asset trading. The analysis reveals that despite significant institutional differences between the two jurisdictions, both bodies share a governance epistemology organized around contractual validity, producing a systematic blind spot: inattention to risk distribution, algorithmic transparency, and welfare outcomes. Evaluated against three maqasid dimensions, hifz al-mal, hifz al-aql, and maslahah, both institutions perform adequately on the prohibitory dimension of the objectives while failing on their positive dimension. The article argues that this failure is structural rather than incidental, a predictable consequence of governance frameworks whose organizing question cannot generate the answers that substantive justice requires. A reformative framework grounded in existing classical doctrine is proposed, incorporating post-issuance review cycles, outcome documentation requirements, and structural reform of Sharia supervisory board accountability. The findings contribute to comparative Islamic legal studies, maqasid scholarship, and the emerging literature on religious authority and technological governance.

Keywords: maqasid al-shariah, fintech fatwa governance, sharia compliance

Introduction

The global expansion of financial technology has fundamentally altered the landscape of economic exchange, bringing with it a set of governance challenges that regulatory institutions including those rooted in religious law have struggled to address with adequate speed and depth. Recent scholarship on Islamic fintech has shown that the rapid growth of digital financial ecosystems has not been matched by equivalent development in governance and supervisory frameworks, particularly in relation to Sharia compliance and consumer protection (Alshater et al., 2022).

In Muslim-majority countries, where Islamic finance operates as both a market reality and a normative commitment, this challenge carries an additional layer of complexity: the rapid pace of digital innovation must be reconciled not merely with positive law, but with the principles of Sharia. At the same time, Islamic fintech has increasingly been framed not only as a commercial innovation but also as a vehicle for broader social and economic transformation, particularly in the aftermath of global economic disruption following the COVID-19 pandemic (Rabbani et al., 2021).

At the center of this reconciliation stands the fatwa the formal legal opinion issued by recognized religious authorities which serves as the primary instrument through which Islamic financial institutions demonstrate their compliance with Sharia norms. As fintech ecosystems expand to include peer-to-peer lending, digital payment platforms, robo-advisory services, and decentralized finance, the question of whether existing fatwa governance frameworks are genuinely equipped to navigate this terrain has become both urgent and unavoidable.

Indonesia and Malaysia occupy a distinctive position in this unfolding story. Together, they represent the two most developed Islamic finance markets in Southeast Asia and, by several measures, among the most significant in the world. Indonesia's Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI) and Malaysia's Shariah Advisory Council (SAC), operating under the authority of Bank Negara Malaysia and the Securities Commission, have each produced a substantial body of fatwas and resolutions addressing various dimensions of fintech activity.

Yet despite their shared regional context and their common reference to classical Islamic jurisprudence, these two institutions have approached the governance of fintech in markedly different ways reflecting divergent institutional cultures, methodological traditions, and understandings of what it means for a financial product to be Sharia-compliant. Comparative studies on Sharia governance have similarly identified significant variation in institutional approaches across jurisdictions, ranging from strict and centralized governance structures to more flexible and adaptive models (Fatmawati et al., 2022). Malaysia offers one such case, where Sharia supervisory bodies have had to continuously adapt their oversight mechanisms in response to financial technology innovation (Mohd Haridan et al., 2023).

A rigorous comparative examination of these differences is therefore long overdue. This concern runs deeper than procedural comparison. A growing body of scholarship has raised pointed questions about whether Sharia compliance, as practiced by contemporary Islamic financial institutions, has become more about certification than genuine ethical achievement. The compliance apparatus, critics argue, is too often preoccupied with whether a product formally avoids riba, gharar, and maysir and too rarely asks whether it actually serves the social and ethical purposes that Islamic law was designed to realize.

This critique resonates with broader debates within Islamic finance scholarship concerning the tendency to reduce Sharia compliance to formal contractual validation while neglecting the substantive ethical objectives embedded within the maqasid al-Shariah framework (Laldin & Furqani, 2013; Mergaliyev et al., 2021).

In fintech environments, where novel instruments continuously test the edges of existing legal categories, the gap between procedural permissibility and genuine ethical adequacy becomes especially consequential. A platform may be certified as Sharia-compliant and still exploit informational asymmetries, exclude vulnerable users, or concentrate financial power in ways that contradict the spirit of Islamic economic ethics.

The question, then, is not only whether fatwa institutions are keeping pace with fintech innovation but whether the standard they are applying is the right one.

The framework of Maqasid al-Shariah the objectives or higher purposes of Islamic law offers a compelling vantage point from which to interrogate this gap. Rooted in the classical scholarship of al-Ghazali and al-Shatibi, and reformulated for contemporary application by scholars such as Ibn Ashur, Jasser Auda, and Mohammad Hashim Kamali, maqasid theory holds that the ultimate purpose of Islamic law is not the mechanical application of rules but the realization of human welfare across five foundational domains: the protection of religion, life, intellect, lineage, and wealth.

Contemporary maqasid scholarship has increasingly emphasized that Islamic finance should be evaluated not merely through legal form but through its capacity to realize justice, welfare, and social responsibility in institutional practice (Kamali, 2017). Dusuki and Abdullah (Dusuki & Abdullah, 2007) similarly contend that maqasid and maslahah require Islamic financial institutions to orient themselves toward substantive ethical responsibility rather than procedural legitimacy alone. In a similar vein, Ishak and Asni demonstrate that the application of maqasid within modern Islamic banking in Malaysia requires governance approaches capable of balancing legal compliance with broader social and ethical objectives (Ishak & Asni, 2020).

In the context of digital finance, this framework raises pointed questions that a purely compliance-based approach cannot answer: Does a permissible fintech product actually protect consumers from exploitation? Does it promote financial inclusion or deepen inequality? Does it preserve the integrity of contractual relationships in digitally mediated environments where information asymmetries are pervasive?

Comparative scholarship on Islamic fintech governance has grown considerably in recent years, and a number of studies have examined how DSN-MUI and SAC Malaysia have responded to specific fintech products most notably cryptocurrency and electronic money. Regulatory studies comparing Islamic fintech governance across jurisdictions have highlighted persistent weaknesses in supervisory coordination, Sharia compliance enforcement, and institutional adaptation to technological innovation (Muryanto, 2023).

These contributions are valuable, yet they share a common limitation. Their comparisons remain product-specific rather than institutional, and descriptive rather than evaluative. They are also largely silent on whether either institution's approach to compliance reflects the substantive commitments of Maqasid al-Shariah.

This article attempts to fill that gap by engaging a question the existing literature has circled without directly confronting. Is the compliance framework currently guiding fintech fatwa governance in Indonesia and Malaysia adequate to the ethical demands of Islamic law, or has procedural permissibility instead quietly displaced substantive justice? No study has yet undertaken a systematic analysis of the divergent institutional epistemologies underlying both bodies' fatwa governance. Such an analysis requires examining not merely what each institution has decided, but how it reasons, what it treats as compliance, and whether that understanding holds up against a maqasid standard.

Two research questions guide this inquiry. First, how do DSN-MUI and Malaysia's Shariah Advisory Council conceptualize Sharia compliance in their fintech fatwas, and to what extent do these conceptualizations align with the principles of Maqasid al-Shariah? Second, in what ways can a Maqasid al-Shariah framework reorient fintech fatwa governance in Indonesia and Malaysia toward substantive justice rather than formal compliance? Together, these questions move the analysis from diagnosis to prescription, from identifying the problem to imagining a more adequate institutional response.

This article argues that the fintech fatwas issued by DSN-MUI and Malaysia's Shariah Advisory Council remain predominantly oriented toward formal compliance, prioritizing procedural permissibility over substantive justice. A systematic reorientation through a Maqasid al-Shariah framework is, it further argues, not only theoretically justified but institutionally necessary. This argument is developed through three analytical moves: a comparative mapping of how each institution conceptualizes and operationalizes Sharia compliance; a critical evaluation of both bodies' fatwas against maqasid standards; and a reformative proposal for fatwa governance that takes the demands of digital finance seriously without abandoning the ethical core of Islamic law.

This article makes three contributions to the literature. First, unlike prior comparisons that remain product-specific and descriptive, it undertakes a systematic institutional-level analysis of the divergent epistemologies underlying DSN-MUI's and Malaysia's Shariah Advisory Council's fatwa governance. Second, it applies Maqasid al-Shariah as an active evaluative standard to institutional outputs, rather than treating it as theoretical backdrop, thereby extending the application of maqasid theory to contemporary financial governance. Third, it proposes a reformative fatwa governance framework grounded in classical doctrine, speaking to the broader debate about the relationship between religious authority and technological innovation.

The remainder proceeds as follows. Section 2 outlines the research methodology. Section 3 presents the results in four movements. These are mapping the fatwas, analyzing institutional logics, evaluating them against maqasid standards, and proposing a reformative framework. Section 4 concludes.

Research Method

This study adopts a normative-doctrinal legal research design. The choice reflects the nature of the object under examination. The primary concern is not market behavior or consumer experience. It is the jurisprudential reasoning embedded in official institutional fatwas: how legal arguments are constructed, what normative assumptions they carry, and where they fall short against an external evaluative standard. Doctrinal analysis treats legal texts as sites of normative commitment rather than administrative output. It permits a form of internal critique, testing an institution against standards that arise from within its own tradition.

The study is simultaneously comparative. It follows the functional comparative law method adapted for Islamic legal analysis by Hallaq (Hallaq, 2009). This method goes beyond textual contrast. Rather than asking what each institution decided on a given question, it asks what institutional function each body performs, what logic organizes its decision-making, and what epistemological assumptions shape its understanding of compliance. Two institutions referencing the same classical tradition can arrive at fundamentally different governance postures. Identifying that divergence, explaining it institutionally, and evaluating its consequences against a shared normative standard is precisely the task that functional comparison enables.

Primary data are drawn from five documents selected through a systematic screening process. An initial inventory identified all publicly available fatwa and resolution documents issued by DSN-MUI and both Malaysian SACs that explicitly address financial technology, digital financial services, or digital assets. This inventory yielded seventeen documents in total: nine from DSN-MUI issued between 2014 and 2023, five from the SAC of Bank Negara Malaysia, and three from the SAC of the Securities Commission Malaysia.

Three inclusion criteria were applied consistently across both jurisdictions. First, the document must be officially published by the issuing institution and retrievable in complete form from official sources. Second, it must directly govern a fintech product or service category, specifically digital payments, technology-based financing, equity crowdfunding, or digital asset trading, rather than adjacent topics such as general e-commerce or conventional electronic banking. Third, it must contain sufficient jurisprudential reasoning to permit analytical engagement. Documents declaring a ruling without elaborating the reasoning process were noted as analytically significant absences but excluded from the primary corpus.

Applying these criteria reduced the candidate pool to five documents. From DSN-MUI: Fatwa No. 116/DSN-MUI/IX/2017 on Sharia Electronic Money, Fatwa No. 117/DSN-MUI/II/2018 on Information Technology-Based Financing Services, and Fatwa No. 140/DSN-MUI/VIII/2021 on Sharia Securities Offerings through Information Technology-Based Crowdfunding Services. From Malaysia: the SAC-BNM ruling on Islamic digital banking and electronic payment systems issued at its 201st Meeting on 30 January 2020, and the SC-SAC 2020 resolution on the permissibility of trading digital assets on registered exchanges. The inclusion of both Malaysian SACs is deliberate. Their jurisdictions are distinct but complementary. Treating them together captures Malaysia's full regulatory architecture without flattening its complexity. The twelve excluded documents are retained as contextual reference material where relevant to explaining institutional postures.

Table 1 summarizes the five primary documents analyzed in this study. It lists each document's issuing institution, year of issuance, fintech category, and applicable contract type. The table condenses the descriptive account above into a single point of reference. Full jurisprudential reasoning for each document follows in the Results and Discussion section.

Table 1. Summary of primary documents

Document	Institution	Year	Fintech Category	Contract Type
Fatwa DSN-MUI No. 116/DSN-MUI/IX/2017	DSN-MUI	2017	Digital Payment (E-Money)	Wadi'ah/qardh (issuer–holder); ijarah/ju'alah/wakalah bi al-ujrah (issuer–third party)

Fatwa DSN-MUI No. 117/DSN-MUI/II/2018	DSN-MUI	2018	Technology-Based Financing (P2P)	Wakalah bi al-ujrah, qardh, musyarakah, ijarah, bai', ju'alah (scheme-dependent)
Fatwa DSN-MUI No. 140/DSN-MUI/VIII/2021	DSN-MUI	2021	Securities Crowdfunding	Syirkah musahamah (shares); wakalah (sukuk); bai' (secondary trading)
SAC-BNM Ruling, 201st Meeting	SAC-BNM	2020	Digital Payment (E-Money)	Wakalah (issuer–user); qard (fund placement); ijarah al-khadamat/ju'alah (issuer–merchant)
SC-SAC Resolution, 233rd/234th Meeting	SC-SAC	2020	Digital Asset Trading	Not a transactional contract; classification of mal status (digital currency = 'urudh; digital token = 'urudh conditional on Sharia compliance)

The relatively small number of primary documents does not undermine the systematic character of the comparative claim. The five documents are not a random sample from a larger population. They constitute the complete corpus of qualifying rulings identified through the three inclusion criteria described above. Systematicity in doctrinal comparative law requires exhaustive, criterion-based selection within a defined population, not a large N.

The five documents also represent two structurally different regulatory functions, which strengthens rather than weakens their representativeness. Fatwa No. 116, Fatwa No. 117, and the SAC-BNM ruling each regulate contractual structure, identifying which akad governs a given fintech relationship. Fatwa No. 140 performs this function only partially, since it assigns three different contracts across its own sub-instruments. The SC-SAC resolution performs a categorically different function. It does not regulate a transaction. It classifies the Sharia status of an object, determining whether digital currencies and tokens qualify as mal in the form of 'urudh. Comparing documents that regulate contracts against a document that regulates object classification allows the study to test whether the same maqasid-based evaluative framework holds across different regulatory functions, not only across different institutions. This cross-functional coverage provides broader analytical leverage than a larger sample confined to a single regulatory function would.

The analytical procedure applied to primary documents consists of three sequential stages. In the first stage, each document is subjected to close doctrinal reading. This reconstructs its internal jurisprudential logic: the sources cited, the contracts identified as governing instruments, the conditions stipulated for permissibility, and the prohibitions specified. This stage produces a structured descriptive account of each document's compliance framework.

In the second stage, the five documents are analyzed comparatively using a functional matrix organized around four governance dimensions: the identification of applicable contractual structures, the treatment of risk distribution among contracting parties, provisions addressing informational asymmetry and disclosure, and mechanisms for post-issuance review or outcome evaluation, where present. This matrix was developed iteratively. An initial version was built deductively from the maqasid framework and governance literature. It was refined inductively through engagement with the documents, to capture features that actually vary across the corpus.

In the third stage, the outputs of the comparative analysis are evaluated against a maqasid al-Shariah standard operationalized across three dimensions: hifz al-mal, hifz al-aql, and maslahah. Each document receives an assessment on each dimension. The assessment distinguishes between performance on the prohibitory dimension of the objective, meaning the institution's success in excluding formally exploitative arrangements, and performance on its positive dimension, meaning the institution's success in ensuring substantive fairness, protection, and welfare. This two-axis evaluation forms the primary basis for the study's findings on the adequacy of existing fatwa governance frameworks.

Maqasid al-Shariah functions as an active analytical lens, not as theoretical backdrop. The version operationalized here requires precise specification. The classical formulation of al-Ghazali in the Mustasfa and al-Shatibi in the Muwafaqat, concerned primarily with preserving five essential interests through existing positive law, is broadly compatible with compliance-centered fatwa governance. It cannot on its own generate the institutional critique the evidence demands. This study therefore draws on contemporary reformulations developed by Ibn Ashur (Ibn Ashur, 2006; Auda, 2008; and Kamali, 2008) scholars who extended the classical framework toward systemic, rights-sensitive, and governance-oriented applications capable of evaluating institutional outputs rather than individual transactions. Applying maqasid at the institutional level, rather than the transactional level, transforms it from a post-hoc doctrinal justification into a genuine governance evaluation tool.

Three maqasid dimensions are operationalized as evaluative criteria. Hifz al-mal is engaged not merely as a prohibition on riba and gharar, but as a positive obligation encompassing equitable risk distribution and structural financial inclusion, a reading recoverable from the classical jurisprudence of bay' al-gharar, the prohibition on akl al-mal bil-batil, and the normative principle of tawzi' al-tharwah. Following Laldin and Furqani, this dimension requires assessing whether certified products actually distribute risk and benefit proportionally, not only whether they avoid prohibited forms (Laldin & Furqani, 2013). Hifz al-aql is applied to the conditions of informed consent, algorithmic transparency, and protection against the exploitation of informational asymmetry, grounded in the classical prohibition on tadlis in its broadest formulation: any arrangement in which one party possesses material information that another lacks and that, if known, would affect the latter's decision to contract. Maslahah is operationalized as a substantive welfare standard applied to institutional outputs; the question is not whether an institution invokes maslahah in its reasoning, but whether the governance it produces actually generates and monitors outcomes consistent with public welfare, assessed against the presence or absence of post-issuance review mechanisms and outcome documentation requirements. Chapra argues that Islamic economic ethics demands not only the exclusion of prohibited arrangements but the active construction of conditions conducive to distributive justice and falah, providing the normative anchor for this dimension (Chapra, 1992).

Secondary sources include peer-reviewed articles indexed in Scopus and Web of Science, monographs in Islamic jurisprudence and comparative law, and institutional reports from relevant regulatory bodies. Secondary literature performs two functions: contextualizing primary documents within broader scholarly conversations, and grounding the study's evaluative framework in established comparative law and maqasid scholarship. Where secondary sources are used interpretively, they are identified as such rather than cited as authoritative determinations.

Two limitations are acknowledged. The analysis is confined to publicly available institutional documents. Internal deliberations, dissenting opinions, and informal negotiations between juristic and regulatory actors remain inaccessible to normative-doctrinal inquiry. Additionally, this study does not examine implementation. How fatwas are applied by fintech operators, how compliance is monitored in practice, and what consequences follow from non-compliance are empirical questions requiring field-based methods outside the scope of normative-doctrinal inquiry. Both limitations point directly toward directions for future research identified in the conclusion

Results and Discussion

Fintech Fatwa Responses in Indonesia and Malaysia

The emergence of fintech as a dominant force in global finance did not arrive unannounced. For Islamic financial institutions, and particularly for the fatwa-issuing bodies that govern them, the question was never whether to respond but how, how quickly, and on what jurisprudential basis. In Indonesia and Malaysia, that response has taken shape through a growing body of official rulings that now cover the most consequential fintech categories: digital payments, technology-based financing, and capital market platforms. Taken together, these rulings constitute the primary terrain on which this study's analysis is built.

DSN-MUI's engagement with fintech is most legibly captured in three fatwas issued between 2017 and 2021. The first, Fatwa No. 116/DSN-MUI/IX/2017 on Sharia Electronic Money, addressed the rapid proliferation of digital payment instruments in Indonesia. The fatwa establishes the permissibility of electronic money as a payment tool, provided it is structured in accordance with Sharia principles prohibiting interest-bearing arrangements and specifying permissible contracts governing the relationship between issuer and user. The second fatwa, No. 117/DSN-MUI/II/2018 on Information Technology-Based Financing Services, turned DSN-MUI's attention to the P2P financing ecosystem. This fatwa established the Sharia parameters for platforms that connect financiers and fund-seekers through digital channels, specifying permissible contract structures and affirming the supervisory role of the Sharia Supervisory Board within each platform. The third, Fatwa No. 140/DSN-MUI/VIII/2021 on Sharia Securities Offerings through Information Technology-Based Crowdfunding, extended DSN-MUI's reach into equity and securities crowdfunding a domain classical fiqh had not anticipated.

Across these three documents, a pattern is discernible. DSN-MUI responds to fintech by mapping new instruments onto existing contractual frameworks, identifying which classical akad applies and declaring the instrument permissible (Laldin & Furqani, 2013; Wasim & Zafar, 2024). The question asked of any new product is essentially whether it fits established Islamic contract law. This responsiveness is genuine. Three substantive fatwas within four years signal that digital finance cannot be left ungoverned. But responsiveness and adequacy are not the same thing, and that distinction is what this study interrogates.

Malaysia's response has been institutionally more distributed, a consequence of its dual-SAC structure. The SAC of Bank Negara Malaysia ruled on Sharia-compliant electronic money on 30 January 2020, at its 201st Meeting and 26th Special Meeting, identifying wakalah as the governing contract and positioning the e-money issuer as the user's agent for payments to merchants. User funds must be held in a Sharia-compliant trust account, with any returns from their investment governed by qard arrangements. The ruling maps this transaction structure with technical precision, but its analytical horizon remains largely contractual. In broader governance theory, such procedural orientation has been criticized for privileging formal compliance while leaving substantive accountability and downstream harms insufficiently examined (Yeung, 2018).

The SAC of the Securities Commission Malaysia, meanwhile, issued a landmark resolution in July 2020 permitting the trading and investment in digital assets on registered digital asset exchanges. This resolution represented a significant jurisprudential move, extending Sharia permissibility into a domain digital assets and cryptocurrencies that had remained contested across most

Muslim-majority jurisdictions. That the SC's SAC moved ahead of many of its regional counterparts on this question is itself an indicator of Malaysia's more proactive regulatory posture toward digital finance.

The two Malaysian rulings reveal a governance architecture that is institutionally bifurcated but doctrinally consistent: both SACs approach fintech through the lens of contract validity and regulatory compliance, despite arising from different institutional mandates BNM-SAC on e-money, SC-SAC on digital assets. This pattern aligns with comparative studies showing that Sharia governance institutions often adopt structurally different supervisory arrangements while nevertheless converging around procedural compliance as the dominant evaluative framework (Grassa, 2015; Minaryanti et al., 2023). Their shared analytical logic prioritizes identifying a permissible contractual structure as the terminal point of Sharia governance.

This convergence is significant, but it also raises the question pursued in subsequent sections. A governance framework organized around contract identification and formal compliance can establish that a fintech product is permissible, but it cannot establish that the product is good it cannot tell us whether users are genuinely protected, whether financial risk is equitably distributed, or whether the platform advances or undermines the broader objectives of Islamic economic life. Similar concerns have been raised within recent Islamic finance governance scholarship, particularly regarding the tendency of Sharia supervisory systems to emphasize procedural legitimacy while underexamining ethical outcomes, consumer welfare, and substantive justice (Minaryanti et al., 2023). These are not secondary concerns; from a maqasid perspective, they are the primary ones and their absence from the core logic of both institutions' fatwa outputs is what this study contends must be addressed.

The Functional Matrix of Fintech Fatwa Governance

Table 2 presents the results of the second analytical stage described in the Research Method. Each document is assessed across the four governance dimensions of the functional matrix: contractual structure, risk distribution, informational asymmetry and disclosure, and post-issuance review. The pattern is immediately visible in condensed form. All five documents specify contractual structure with reasonable precision. Performance on the remaining three dimensions is consistently weaker, a pattern the following sections examine in detail.

Table 2. Functional matrix of primary documents

Document	Contractual Structure	Risk Distribution	Informational Asymmetry/Disclosure	Post-Issuance Review
Fatwa 116 (E-Money)	Specified (wadi'ah/qardh; ijarah/ju'alah/w	Not substantively addressed	Not substantively addressed	None

	akalah bi al-ujrah)			
Fatwa 117 (P2P)	Specified (multiple, scheme-dependent)	Asymmetric default risk borne by retail lenders; unaddressed	Disclosure required but operationally unspecified; algorithmic scoring unexamined	SSB required; no outcome-monitoring mechanism
Fatwa 140 (Crowdfunding)	Specified but heterogeneous (three contracts across three securities types)	Uneven across contract types; not disaggregated in the fatwa	Informational asymmetry in musharakah-based offerings unaddressed	None
SAC-BNM (E-Money)	Specified (wakalah; qard; ijarah al-khadamat/ju'alah)	Fund segregation reduces custodial exposure; no explicit risk-sharing analysis	Trust account and settlement rules reduce, but do not eliminate, exploitation risk	None
SC-SAC (Digital Assets)	Not applicable (object classification, not contract)	Silent on volatility and market-making concentration		

Two patterns emerge from Table 2. First, contractual structure is the dimension every institution addresses with precision, while the remaining three dimensions are consistently underdeveloped or absent across the corpus. Second, two documents depart from this general pattern in instructive ways. Fatwa No. 140 assigns contractual structure unevenly within a single instrument, and the SC-SAC resolution does not regulate contractual structure at all. These two departures are examined in the sections that follow, alongside the broader gap between contractual compliance and substantive governance that the matrix makes visible.

Institutional Logics of Sharia Compliance

To understand why two institutions operating within the same religious tradition produce fatwa outputs that differ in texture, emphasis, and analytical horizon, it is necessary to look beyond individual rulings and examine the institutional architecture from which those rulings emerge. DSN-MUI and SAC Malaysia are not simply two committees doing the same job in different countries. They are structurally distinct bodies and these differences shape, in consequential ways, how each institution understands what it means to govern Islamic finance in the digital age. Comparative studies on Sharia governance have similarly demonstrated that institutional design significantly shapes the operational logic, supervisory authority, and regulatory orientation of Islamic financial governance bodies across jurisdictions (Nomran et al., 2018; Wasim & Zafar, 2024)

The structural distinction is foundational. DSN-MUI operates as a non-governmental body under the Indonesian Ulema Council MUI a position that grants it considerable religious authority but places it at one remove from direct regulatory power. Its fatwas carry normative weight and are frequently incorporated into positive law through OJK and Bank Indonesia regulations, but the institution itself does not possess statutory authority. DSN-MUI functions primarily as a religious standard-setter: it defines what Sharia requires, and state regulators translate that definition into enforceable rules.

SAC Malaysia, by contrast, operates as a statutory body embedded within the regulatory architecture of the state. The SAC of Bank Negara Malaysia and the SAC of the Securities Commission derive their authority directly from Malaysian financial services legislation the Islamic Financial Services Act 2013 and the Securities Commission Malaysia Act 1993 respectively. Their rulings carry the force of law and are binding on the financial institutions they govern.

The legal consequences of SAC rulings are immediate and enforceable. DSN-MUI fatwas instead depend on subsequent adoption into state regulation. This gap matters. Regulatory lag can expose consumers to poorly governed products before a fatwa becomes enforceable, a concern widely discussed in fintech regulatory scholarship (Arner et al., 2017).

The structural gap between the two institutions runs deeper than organizational charts. It shapes how each body reasons about Islamic law. DSN-MUI's methodology in istinbath al-hukm is characterized by what scholars have described as an Intiqa'i or Takhyiri approach: a selective eclecticism that draws across the four Sunni madhabs and privileges maslahah and makharij over strict tarjih. This gives DSN-MUI considerable methodological flexibility allowing it to accommodate novel financial instruments by identifying the most suitable classical contract, even when no single school's doctrine provides a perfect fit. Such adaptive contractual reasoning reflects broader tendencies within contemporary fiqh muamalat governance, where institutional flexibility is frequently achieved through selective doctrinal accommodation and the prioritization of operational functionality (Asutay & Harningtyas, 2015).

The result is a jurisprudential posture that is responsive and creative within established contract law. Its primary criterion, however, remains contractual identification rather than substantive assessment of outcomes (Wasim & Zafar, 2024). Research on DSN-MUI fatwas issued between 2000 and 2017 confirms this responsiveness to market demand. It leaves open whether market demand can substitute for substantive ethical reasoning.

SAC Malaysia reasons differently because its institutional position demands it. As a statutory body, its rulings must satisfy Sharia requirements while aligning with Malaysia's financial stability, consumer protection, and market development goals, operating as an integrated part of the state's governance architecture (Nomran et al., 2018). The result is more technically precise. The SAC-BNM's e-money ruling illustrates this well, specifying operational requirements beyond the contract structure alone. The SC-SAC's 2020 resolution shows a similar posture, extending permissibility while grounding it in capital-markets regulation.

Yet this regulatory embeddedness carries its own risks. When Sharia governance is institutionally integrated with state financial regulation, commercial and policy objectives can begin to shape the contours of Sharia permissibility, rather than the other way around, a tension identified in contemporary studies on Islamic financial governance where Sharia oversight is deeply embedded in national financial development agendas (Wasim & Zafar, 2024). The SAC-BNM has explicitly invoked maslahah as the basis for rulings where its position diverges from mainstream collective ijtihad bodies, a pattern that reflects genuine jurisprudential creativity but raises questions about the parameters within which maslahah is being applied and who ultimately defines its boundaries.

Comparing the two institutions side by side, a paradox surfaces. DSN-MUI's non-statutory freedom has not translated into deeper engagement with outcomes. SAC Malaysia's statutory embeddedness anchors it in regulatory reality, yet it creates pressure to align with market and policy goals. Each institution's strength is also its limitation. Both converge on the same blind spot, a compliance logic built on lawfulness rather than goodness (Asutay, 2019).

Stripped of their institutional differences, DSN-MUI and SAC Malaysia share a contractual and procedural view of compliance. DSN-MUI asks whether a product can be validly structured within an established Islamic contract. SAC Malaysia asks whether a product satisfies formal Sharia requirements alongside regulatory operational standards. In both cases, compliance reduces to structural validity. It depends on whether the right contracts and conditions are in place.

This shared orientation is not without value. It provides legal certainty and enables standardization. But it also produces a blind spot. Neither framework systematically asks whether a compliant product is a just product whether it genuinely serves users' financial interests, distributes risk fairly, or advances the broader social purposes that Islamic economic ethics envisions.

A P2P financing platform can be structured on a murabahah basis, certified as Sharia-compliant, and still impose information asymmetries on less sophisticated borrowers. A digital asset platform can receive Sharia permissibility and still function primarily as a vehicle for speculative behavior that concentrates risk among retail investors. The contractual architecture may be valid; the outcomes may nonetheless be unjust.

The fintech environment makes this blind spot especially acute. Unlike conventional banking products, fintech platforms operate in conditions of high informational asymmetry, rapid product evolution, and structural complexity that most users are not equipped to navigate (Basir et al., 2020; Lee & Shin, 2018). A governance framework that asks only whether the contractual structure is valid is, at best, incomplete. At worst, it provides institutional legitimation for products that cause genuine financial harm harm that a compliance certificate cannot undo.

This is where institutional epistemology matters most. The question is not simply what DSN-MUI and SAC Malaysia have decided, but what kind of question each institution is structurally equipped to ask. From a governance perspective, institutional design not only shapes regulatory outcomes but also determines which forms of risk, accountability, and ethical concern become visible within the regulatory process itself (Yeung, 2018). An institution whose primary question is "which contract applies?" will produce different governance outputs than one asking "what outcomes does this instrument produce, and are those outcomes consistent with the objectives of Islamic law?" The former produces formal compliance. The latter produces substantive justice. And it is that gap structural, not merely incidental that the maqasid al-Shariah framework is uniquely positioned to address. The following section turns directly to that task.

Maqasid al-Shariah and the Limits of Compliance-Based Governance

The preceding analysis established that both DSN-MUI and SAC Malaysia approach Sharia compliance through a contractual and procedural lens. This section submits that governance posture to a different evaluative standard, one organized not around formal validity but around substantive purpose. Three maqasid dimensions serve as evaluative criteria: hifz al-mal (protection of wealth), hifz al-aql (protection of intellect), and maslahah (public welfare).

As established in the methodology, this analysis applies the reformulated, institution-level maqasid framework rather than its classical transactional form.

On hifz al-mal, both institutions perform adequately in its prohibitory sense. DSN-MUI's Fatwa 117 prohibits interest-bearing arrangements, and SAC-BNM conditions permissibility on eliminating riba in the issuer-user relationship. At this level, both deliver what is expected.

The problem surfaces when hifz al-mal is understood in its positive dimension: not merely as a prohibition against exploitative arrangements, but as an affirmative obligation to ensure fairness in the distribution of financial risk and equitable access to financial services. This positive reading is not a modern interpolation. It is recoverable from the classical jurisprudence of bay' al-gharar and the prohibition on akl al-mal bil-batil, both of which were always concerned with outcomes, not only with contractual form.

Evaluated against that positive standard, the fatwas reveal predictable gaps. Fatwa No. 117 validates murabahah and musharakah structures and mandates a

Sharia Supervisory Board, but does not address asymmetric default risk in digitally mediated lending. Retail lenders on most Indonesian platforms bear substantially higher exposure to borrower default than institutional participants, a gap the fatwa leaves untreated.

This is not a minor oversight. It is the predictable consequence of asking only "which contract applies" rather than "who bears the risk, and is that distribution just." The SC-SAC's 2020 resolution on digital assets reproduces this limitation in a different register. The resolution extends Sharia permissibility into genuinely contested terrain, and the jurisprudential effort required to do so should not be dismissed. But extending permissibility is not the same as ensuring protection. The resolution is silent on the volatility profile of digital assets, on the concentration of market-making power among algorithmically sophisticated participants, and on the structural disadvantages faced by retail investors. Permissibility was established; protection was not (Rabbani et al., 2022).

Fatwa No. 140 illustrates a further version of this problem. It assigns three different contracts, syirkah musahamah, wakalah, and bai', to three securities types, each distributing risk differently. The fatwa does not examine whether this allocation is equitable, or whether retail investors understand which risk profile they enter. Table 2 captures this unevenness across the fatwa's own sub-structures.

The financial inclusion dimension of hifz al-mal compounds this concern. Islamic economic ethics treats inclusion not as a policy preference but as a normative obligation grounded in the principle of tawzi' al-tharwah. Neither Fatwa No. 116 on electronic money nor Fatwa No. 140 on crowdfunding contains substantive provisions addressing the structural barriers faced by low-income users, rural communities, or those with limited digital literacy (Setiawan et al., 2021). Both fatwas are commercially promoted on the basis of their inclusion potential, yet neither asks whether that potential reaches the populations most in need (Alaabed & Mirakhor, 2022).

The second dimension, hifz al-aql, concerns the conditions of informed decision-making: access to information, the prerequisites for meaningful consent, and protection against manipulation of rational agency. In digital finance, where algorithmic engines and behaviorally engineered interfaces structure choices users cannot meaningfully evaluate, this is central to the Islamic prohibition on exploiting a contracting party's ignorance.

Fatwa No. 117 requires disclosure but specifies no operational content, and does not engage the algorithmic dimension of P2P credit assessment. Borrower creditworthiness is set by proprietary scoring models whose parameters are opaque to users, SSBs, and often regulators, an opacity constitutive of the business model itself (Pasquale, 2015). A framework certifying the contractual wrapper without examining the algorithm inside evaluates the label, not the contents.

Fatwa No. 140 on crowdfunding raises a related concern. Musharakah presupposes informational symmetry between partners, which digitally mediated crowdfunding systematically undermines. Platform operators and repeat investors possess information retail participants cannot access. This gap is left unaddressed in the fatwa.

Malaysia's SAC performs marginally better on this dimension, and the reasons are institutionally illuminating. Statutory embeddedness in financial regulation imposes operational specificity that DSN-MUI's non-statutory position does not require. The BNM-SAC ruling on e-money specifies trust account arrangements, fund segregation standards, and merchant settlement requirements that reduce, though do not eliminate, the scope for informational exploitation.

The SC-SAC's 2020 resolution on digital assets, however, reproduces the pattern of inadequacy in a particularly consequential form. The resolution is silent on disclosure requirements for digital asset exchanges, investor education obligations, and governance standards applicable to exchange operators. The result is a Sharia-certified investment track that is substantively less protective of investor rational agency than the conventional capital market instruments governed by the same Securities Commission under the same regulatory roof. From the perspective of hifz al-aql applied seriously, an institution that produces more protective governance for conventional investors than for Sharia-seeking ones has, whatever its intentions, inverted its own normative purpose.

The third evaluative dimension, maslahah as a substantive welfare standard, generates the most structurally significant finding. Applied at the institutional level, maslahah demands a question that neither institution is currently structured to ask: does this fatwa actually produce good outcomes for the people it governs, and how would we know if it did not?

Both institutions invoke maslahah strategically rather than evaluatively. DSN-MUI uses it to accommodate novel instruments within established categories, SAC Malaysia to justify departures from mainstream ijtihad. In both cases, maslahah functions as a permission-granting device at issuance, not an evaluative criterion applied afterward.

Neither institution has built a post-issuance outcome-monitoring mechanism into its governance architecture. The consequences are not hypothetical. Documented cases show users suffering significant financial losses on platforms that maintained valid Sharia certification throughout the harm (Muneeza & Mustapha, 2021). The framework had no mechanism for detecting, responding to, or revising the fatwa in light of it.

This is what it means, institutionally, to have a governance framework organized around permissibility rather than welfare. The framework produces a certificate, not a guarantee, and the distance between the two is borne entirely by users who had every reason to assume they were the same thing (Asutay, 2019).

Table 3 summarizes institutional performance across the three maqasid dimensions, distinguishing prohibitory from positive performance for each institution.

Table 3. Institutional performance across maqasid dimensions

Maqasid Dimension	Institution	Prohibitory Performance	Positive Dimension Performance
Hifz al-Mal	DSN-MUI	Adequate: Fatwa 117 prohibits riba, mandates Sharia-compliant contract structures	Inadequate: asymmetric default risk in P2P lending unaddressed; Fatwa 116 and 140 lack financial-inclusion provisions
Hifz al-Mal	SAC Malaysia	Adequate: SAC-BNM conditions permissibility on elimination of riba	Inadequate: SC-SAC resolution silent on volatility and market-making concentration
Hifz al-Aql	DSN-MUI	Present in form: Fatwa 117 requires information disclosure	Inadequate: disclosure operationally unspecified; algorithmic credit scoring and Fatwa 140's musharakah information asymmetry unaddressed
Hifz al-Aql	SAC Malaysia	Present in form: statutory disclosure obligations	Partial: SAC-BNM's trust account and settlement rules reduce exploitation, though SC-SAC resolution remains silent on disclosure and investor education
Maslahah	DSN-MUI	Present: maslahah invoked to accommodate novel instruments	Inadequate: no post-issuance outcome-monitoring mechanism
Maslahah	SAC Malaysia	Present: maslahah invoked to justify departures from mainstream ijtihad	Inadequate: no post-issuance outcome-monitori

The pattern that emerges across all three maqasid dimensions is consistent and structurally intelligible. Both DSN-MUI and SAC Malaysia perform on the prohibitory dimension of the maqasid: they identify and exclude formally exploitative arrangements. Both fail, in ways that are predictable given their institutional epistemologies, on the positive dimension: the affirmative obligation to ensure that certified instruments genuinely protect wealth, preserve rational agency, and generate authentic public welfare. This failure is not a product of institutional bad faith. It is the necessary consequence of a governance framework whose organizing question cannot generate the answers that substantive justice requires. The following section proposes an alternative.

Toward a Maqasid-Based Model of Fintech Fatwa Governance

The critique developed in the preceding section is only useful if it points somewhere. Identifying that fatwa governance in both jurisdictions is organized around permissibility rather than welfare is a diagnosis, not a remedy. This section attempts the harder task: proposing a governance framework that takes the maqasid seriously not as rhetorical backdrop but as an operational standard, one that is institutionally feasible, jurisprudentially grounded, and analytically coherent in the conditions of digital finance.

The starting point is a reconceptualization of what fatwa governance is for. The current framework in both DSN-MUI and SAC Malaysia treats the fatwa as a point-in-time certification: a ruling is issued, conditions are specified, and the product enters the market bearing a Sharia-compliant label. That label is not revisited unless a new fatwa is requested. The problem with this model is not that certification is wrong. The problem is that certification is treated as terminal. In a fintech environment where products evolve continuously and where the gap between a product's initial structure and its operational reality can widen rapidly, a point-in-time certification framework is structurally inadequate from the moment the product launches (Ariffin & Kassim, 2021).

A maqasid-based framework reorients the fatwa from a certificate into a continuing governance instrument. The jurisprudential basis for this reorientation is not imported from outside the tradition. The classical principle of taghayyur al-fatwa bi taghayyur al-ahwal, the revisability of legal rulings in response to changed circumstances, has always recognized that legal governance must remain responsive to the conditions it governs (Bakar & Rosbi, 2019). What is proposed here is the institutionalization of this principle within the fatwa governance architecture of both jurisdictions, replacing ad hoc juristic initiative with systematic and triggered review cycles. Defined triggers for reassessment would include documented consumer harm, significant product modification, or evidence of outcomes inconsistent with the maqasid dimensions the fatwa was intended to serve.

The institutional implications differ between the two jurisdictions, and this difference matters. For DSN-MUI, the non-statutory gap between fatwa issuance and regulatory enforcement means that a feedback loop must be constructed deliberately across institutional boundaries. OJK's supervisory data on platform performance, consumer complaints, and default patterns would need to be formally channeled back into DSN-MUI's review process. This extends an existing institutional relationship rather than creating a new one. The legal architecture for this kind of inter-agency data sharing already exists in OJK Regulation No. 77/POJK.01/2016 on information technology-based lending; what is missing is its orientation toward maqasid-based outcome evaluation rather than purely prudential supervision (Alam et al., 2021).

For SAC Malaysia, the opportunity is more tractable. Because SAC rulings carry immediate statutory force, outcome-conditioned revision does not require the cross-institutional negotiation the Indonesian context demands. A resolution with explicit review triggers, tied to BNM or SC surveillance data, would advance this without new legislation.

The second element of the proposed framework concerns the scope of what fatwa governance evaluates, and here the jurisprudential grounding deserves careful attention. Three dimensions currently absent from both institutions' evaluative practice are proposed: risk distribution, algorithmic transparency, and outcome documentation.

On risk distribution, the classical jurisprudence of gharar and bay' al-majhul has always recognized that contracts which transfer risk to a party without adequate disclosure or commensurate return are presumptively invalid. Applied to fintech platforms, this generates a concrete requirement: certification must show that risk distribution is transparent, consented to, and not structurally engineered to burden the least sophisticated party. No theoretical innovation is needed, only the institutional will to apply existing doctrine beyond the contractual surface (Kou et al., 2021).

On algorithmic transparency, the grounding is less direct but no less robust. The prohibition on tadlis covers any arrangement where one party holds material information the other lacks, information that would affect the latter's decision to contract. An algorithm that determines creditworthiness, investment allocation, or risk pricing on a Sharia-certified platform is precisely such an arrangement: it generates outcomes that materially affect users on the basis of parameters those users cannot access or evaluate (Zetzsche et al., 2020). A maqasid-based framework would require, as a condition of certification, that platform operators disclose to the certifying body the key parameters and optimization criteria of any algorithm that materially affects user outcomes. This disclosure need not be public, only sufficient for genuine Sharia scrutiny. Confidential regulatory disclosure of this kind already exists in both jurisdictions; extending it to Sharia governance is a matter of institutional design.

The outcome-documentation argument follows directly from the maslahah standard developed above. If the purpose of fatwa governance is to serve human welfare, then governance institutions must have access to evidence about whether that welfare is being served. Platforms would be required to submit periodic reports on user outcomes, complaint rates, default distributions, and financial inclusion metrics to the certifying body. This data would form the evidential basis for post-issuance review. This shift matters: from asking whether a product is structured correctly to whether it works as Islamic finance should (Mohamed & Ali, 2022).

A serious counterargument must be acknowledged. Critics may contend that this proposal turns fatwa bodies into prudential regulators, collapsing Sharia governance into financial supervision. A fatwa's authority rests on its character as a juristic determination, not a regulatory act. Subordinating that reasoning to supervisory data risks undermining its authority. The response is that this framework only informs fatwa bodies with evidence regulators already observe, leaving the juristic determination theirs.

The third element of the framework concerns institutional capacity, and here the argument goes beyond the familiar call for technical expertise on SSBs.The deeper problem is not that SSBs lack technical members. It is that the institutional incentive structure within which SSBs operate does not reward substantive scrutiny. SSB members are appointed and compensated by the institutions they supervise, a conflict of interest no technical expertise can fully overcome (Rahman & Bukair, 2020). A maqasid-based framework addresses this by changing accountability: SSB members should be appointed by the relevant fatwa authority, not platform management, with remuneration funded through a pooled industry levy rather than direct payment. This structural change is a precondition for the kind of independent algorithmic scrutiny and outcome evaluation that the framework requires.

The framework proposed here is not utopian. It is a set of targeted, feasible interventions grounded in existing jurisprudential principles and regulatory architectures. It extends, rather than replaces, the compliance framework both jurisdictions have built.

Conclusion

This article set out to examine a deceptively simple question: whether the Sharia compliance frameworks governing fintech in Indonesia and Malaysia are adequate to the ethical demands of Islamic law. The answer, derived from a systematic analysis of fatwa outputs from DSN-MUI and SAC Malaysia against a maqasid al-Shariah evaluative standard, is that they are not. Both institutions have built governance frameworks that are responsive, productive, and internally coherent on their own terms. The problem is that those terms are too narrow. A framework organized around the identification of permissible contractual structures can establish that a fintech product is lawful. It cannot establish that the product is just, and in the context of digital finance, that gap is not theoretical.

The structural nature of this inadequacy is the article's central finding. Both DSN-MUI and SAC Malaysia share a governance epistemology organized around contractual validity, producing a shared blind spot: inattention to distributional consequences, informational conditions, and welfare outcomes. This epistemology is not unique to Indonesia and Malaysia; it characterizes Islamic fintech governance across most Muslim-majority jurisdictions. The problem is one of framework design, not institutional performance.

The comparative analysis complicates this finding productively. DSN-MUI and SAC Malaysia differ in statutory authority, methodological tradition, and regulatory embeddedness, yet converge on the same compliance logic. This convergence suggests the shared blind spot is not an artifact of any one institutional arrangement, but a feature of how fatwa governance has come to understand its own purpose, a view the maqasid framework makes possible to contest.

The reformative framework proposed here is intentionally grounded rather than utopian. Post-issuance review cycles anchored in taghayyur al-fatwa, risk distribution requirements derivable from the classical doctrine of gharar, algorithmic transparency conditions rooted in the prohibition on tadlis, and structural reform of SSB accountability mechanisms: none of these proposals require jurisprudential innovation. They require the application of principles the tradition already possesses to governance problems the tradition has not yet systematically addressed. The gap between what Islamic jurisprudence knows and what Islamic financial governance does is, in this respect, a gap of institutional will rather than doctrinal capacity.

In concrete terms, OJK and DSN-MUI could incorporate these mechanisms into existing fatwa and certification procedures. BNM and the Securities Commission Malaysia could do the same within their statutory rule-making, without new legislation.

Two limitations are worth naming, as they point toward research that would extend these findings. First, the analysis is confined to published fatwa documents. Internal deliberations, dissenting opinions, and the informal negotiations between juristic and regulatory actors that shape final rulings remain inaccessible to normative-doctrinal inquiry. Institutional ethnography of fatwa governance bodies, of the kind that has been productively applied to other regulatory institutions, would provide a richer account of how compliance-centered governance is reproduced and where its internal contestation already exists. Second, the distance between fatwa issuance and platform operation is empirically unexamined here. Whether the governance gaps identified in official documents translate into identifiable harm at the user level, and whether Sharia certification affects user behavior in ways that amplify or attenuate those gaps, are questions that require field-based research. The normative case for reform is made here; the empirical case remains to be built.

The broader implication of the analysis is this. Maqasid al-Shariah applied at the institutional level is not simply a critical tool. It is a constructive one. It provides the evaluative vocabulary for identifying where governance falls short and the jurisprudential resources for imagining something better. Whether those resources are mobilized depends on institutions that are willing to ask harder questions of themselves than the compliance framework currently requires. In Indonesia, in Malaysia, and across the broader landscape of Islamic fintech governance, that willingness is the precondition for everything else.

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