

ISLAMIC LEGAL REVIEW OF PRE-ORDER SALES: CONTRACT CLASSIFICATION, CONSUMER PROTECTION, AND SHARIA-COMPLIANT DIGITAL COMMERCE IN INDONESIA

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Abstract

Pre-order sales are increasingly common in digital commerce, but their legal status remains uncertain when payment precedes production, product specifications change, or delivery is delayed. Although Islamic commercial law recognizes salam and istisna' contracts, neither applies automatically to every transaction labeled pre-order. Previous Indonesian studies have largely examined individual sellers or marketplaces, leaving the relationship among contract classification, platform-held payments, and consumer remedies insufficiently integrated. This study examines how pre-order transactions should be classified under Islamic law, which conditions determine their validity, and how Sharia requirements interact with Indonesian electronic-commerce regulations. Using doctrinal legal research, it analyzes Islamic legal principles, DSN-MUI fatwas, relevant legislation, and selected scholarly publications, primarily from 2022 to 2025. The analysis employs normative interpretation, comparison of legal sources, and assessments of hypothetical transaction scenarios without presenting original field data. Findings indicate that fully prepaid, clearly specified future goods generally fall under salam, while commissioned production is more appropriately governed by istisna'. A preliminary expression of interest does not constitute a completed sale. Deposits and platform-held payments require closer examination: DSN-MUI Fatwa No. 145/2021 recognizes escrow payment as cash payment in a specified dropshipping-salam arrangement, although its application beyond that context depends on contractual facts. The study proposes a six-stage compliance framework covering classification, disclosure, payment, deliverability, remedies, and documentary evidence.

Keywords: Pre-order sales; Islamic commercial law; Salam contract; Istisna' contract; Consumer protection

Abstrak

Jual beli dengan sistem pre-order semakin umum dalam perdagangan digital, tetapi status hukumnya masih diperdebatkan ketika pembayaran dilakukan sebelum barang diproduksi, spesifikasi berubah, atau pengiriman tertunda. Hukum ekonomi Islam mengenal akad salam dan istisna', tetapi keduanya tidak otomatis berlaku pada setiap transaksi yang disebut pre-order. Penelitian terdahulu di Indonesia umumnya mengkaji penjual atau marketplace tertentu sehingga hubungan antara klasifikasi akad, dana yang ditahan platform, dan pemulihan hak konsumen belum dianalisis secara terpadu. Penelitian ini bertujuan mengklasifikasikan transaksi pre-order menurut hukum Islam, mengidentifikasi syarat keabsahannya, serta menjelaskan keterkaitannya dengan regulasi perdagangan elektronik Indonesia. Dengan pendekatan penelitian hukum normatif, kajian ini menganalisis prinsip hukum Islam, fatwa DSN-MUI, peraturan perundang-undangan, dan literatur ilmiah terpilih, terutama terbitan 2022 hingga 2025. Analisis dilakukan melalui penafsiran normatif, perbandingan sumber hukum, dan pengujian skenario transaksi, tanpa mengklaim pengumpulan data lapangan. Hasil penelitian menunjukkan bahwa pemesanan barang berkarakteristik jelas dengan pembayaran penuh di muka umumnya sesuai dengan akad salam, sedangkan pesanan yang mewajibkan pembuatan barang lebih tepat menggunakan akad istisna'. Pernyataan minat yang belum mengikat tidak dapat dianggap sebagai jual beli yang telah selesai. Uang muka dan pembayaran melalui platform memerlukan pemeriksaan tersendiri. Fatwa DSN-MUI Nomor 145 Tahun 2021 mengakui pembayaran melalui rekening escrow sebagai pembayaran tunai dalam skema dropshipping-salam tertentu, sementara penerapannya pada akad lain bergantung pada fakta kontraktual.

Kata kunci: Jual beli pre-order; Hukum ekonomi Islam; Akad salam; Akad istisna'; Perlindungan konsumen.

INTRODUCTION

Digital marketplaces have made it ordinary to purchase merchandise before a seller has finished producing, importing, or securing it. A pre-order notice may describe standardized goods, a custom product, or a nonbinding expression of interest. The same label thus conceals distinct moments of consent, payment, production, and delivery. This divergence has practical consequences for unavailable or delayed items (Rismayanti et al., 2025). Indonesian research increasingly examines *salam* and *istisna'* as possible legal bases for online ordering, although commercial terminology often remains less precise than the jurisprudential categories employed to assess it (Putri et al., 2023; Moslem et al., 2023; Nursari et al., 2025).

The dispute goes beyond a buyer accepting delayed delivery. Problems arise where images misdescribe products, shipping periods are open-ended, or risk is shifted to buyers who cannot inspect goods. Upfront payment may intensify these vulnerabilities; conversely, a buyer who cancels a customized order after production begins may impose substantial losses on a seller. Legal protection must consequently address both sides of the exchange without assuming that every cancellation is abusive or that a platform's refund interface resolves all contractual questions. Studies of Indonesian marketplace transactions identify recurring concerns about product information, performance, and consumer redress (Roaeni et al., 2024; Pratama et al., 2024; Katili et al., 2025).

International scholarship approaches comparable issues through Islamic contract theory, digital intermediation, data protection, and supply-chain risk. Scholarship on the characteristics of *istisna'* emphasizes the importance of a production obligation, while work on digital supply chains shows why delivery depends on coordination among multiple actors rather than the seller alone (Al-Amine, 2001; Al-Mashalah et al., 2022). Studies on consumer data in electronic commerce add that the integrity of a digital transaction concerns evidence and information handling as well as the sale itself (Mohd Yusoff et al., 2023). These strands do not settle when pre-ordering becomes *salam*, *istisna'*, or a promise. The recent account of digital offer and acceptance by Hakim et al. (2025) helps explain why a checkout click may serve as acceptance, while Hanim (2022) stresses the compatibility of e-commerce with Islamic law subject to its substantive conditions. Neither observation relieves an analyst from identifying the underlying obligation.

Indonesian work has made important progress. Case-based research documents pre-order practices in online shops, marketplace-based *salam* transactions, and consumer or seller losses following nonperformance (Ambawani & Mukarromah, 2020; Wijaya et al., 2021; Hadziq et al., 2024). More recent articles offer indicators of Sharia compliance, address consumer protection, and consider the regulatory position of online contracts (Nasrullah et al., 2025; Nursari et al., 2025; Khasanah & Salleh, 2025). However, many studies analyze an individual transaction against a preferred contract type without presenting a systematic decision rule for choosing among several contracts. The distinctive problems of escrow, a partial deposit, and a seller's unconfirmed supply remain difficult to locate in a single doctrinal framework. The site-specific work of Utami (2022) and the purchase-order analysis of Kesatriawan et al. (2022) are useful comparators but cannot by themselves resolve the normative character of every advance-payment structure.

This article addresses three related questions. First, which observable features of a pre-order determine whether the arrangement is properly characterized as *salam*, *istisna'*, an ordinary deferred-delivery sale, or a promise preceding a contract? Second, which forms of uncertainty, nonperformance, cancellation, and payment custody affect its permissibility under Islamic law? Third, how can Sharia-based obligations be made operational within Indonesia's consumer-protection and electronic-commerce rules? These questions focus on contract substance rather than on a marketplace's choice of product label.

The analysis starts from consensual trade, the prohibition of wrongful appropriation, and fiqh rules developed to distinguish permitted forward commitments from unjustified uncertainty. The National Sharia Council of the Indonesian Ulema Council (DSN-MUI) provides differentiated rules through Fatwa No. 05/2000 on salam, No. 06/2000 on *istisna'*, No. 144/2021 on marketplaces, No. 145/2021 on dropshipping, and No. 146/2021 on online shops. These fatwas must be read according to their respective contractual scopes, especially where a platform holds payment in escrow. The domestic legal context includes Law No. 8/1999 on Consumer Protection, Government Regulation No. 80/2019 on Electronic Commerce, the electronic-transactions statute as amended by Law No. 1/2024, and Minister of Trade Regulation No. 19/2026, which replaced the 2023 ministerial rule (DSN-MUI, 2000a, 2000b, 2021a, 2021b, 2021c; Republic of Indonesia, 1999, 2019, 2024, 2026).

The distinction has a firm textual basis. Qur'an 4:29 links lawful exchange to mutual consent and rejects wrongful acquisition of property, while Qur'an 2:282 underscores the value of recording deferred obligations. The report of Ibn 'Abbas on specified quantity, weight and term in salam (Sahih al-Bukhari, no. 2240; Sahih Muslim, no. 1604) permits a precisely defined future-delivery obligation. The prohibition on selling what one does not possess (Sunan Abi Dawud, no. 3503; Jami' al-Tirmidhi, no. 1232) is not a blanket annulment of salam: the juristic distinction concerns sale of an identifiable third-party item, the seller's lawful authority, and a valid obligation to deliver goods described as a liability (Al-Zuhayli, 2003; Al-Amine, 2001). For *istisna'*, the production undertaking is central. The school-specific grounds for its admissibility should therefore not be flattened into a general exception for any future sale.

The objective is not to pronounce a blanket judgment on every online store, but to clarify the conditions under which specific pre-order arrangements can be justified. The study develops a reproducible legal assessment that starts from commercial facts, classifies the contract, tests its constitutive conditions, and examines the consequences of breach. It also identifies points at which platform design can preserve evidence of consent and help allocate responsibility. A doctrinal approach is appropriate for this purpose because the unresolved issue concerns the interpretation and combination of normative standards rather than the measurement of consumer attitudes.

The argument advanced here is that valid Sharia-compliant pre-orders require correspondence between the economic substance of an arrangement and the legal contract chosen to govern it. A product label and a checkout receipt alone cannot establish that correspondence. This article contributes an integrated contract-classification matrix and a practical compliance model connecting Islamic doctrine to disclosure, payment handling, performance obligations, and dispute remedies. Such a model helps distinguish transactions that can be corrected by clearer terms from those whose underlying structure needs to change. It enables future empirical audits to trace conclusions to identifiable contractual facts.

METHOD

This study uses normative or doctrinal legal research with conceptual, statutory, and comparative approaches. Its object is not the frequency of pre-order transactions but the legal quality of a transaction when the goods are not delivered at the moment of order. Doctrinal research is suitable because the central inquiry requires interpreting the conditions of recognized contracts and identifying consequences when those conditions are absent. The work is a structured qualitative synthesis rather than a survey, experiment, or empirical case study. Claims in the results are therefore interpretive legal findings derived from selected

texts. No seller interviews, buyer questionnaires, unpublished platform transaction records, or judicial case files were generated or represented as original data.

Table 1. Research design and analytical decisions

Component	Operational specification	Reason for inclusion
Research design	Doctrinal legal inquiry with comparative normative synthesis	Tests legal validity rather than statistical prevalence
Unit of analysis	Individual pre-order arrangement reconstructed from contract facts	Prevents assuming all pre-orders are legally identical
Primary normative sources	DSN-MUI Fatwas 05/2000, 06/2000, 144–146/2021; UUPK, PP 80/2019 and current PMSE rules	Establishes governing contractual and regulatory criteria
Secondary materials	Verified journal scholarship, mainly 2022–2025	Maps disputes, interpretations, and implementation concerns
Analytical method	Extraction, contract classification, normative comparison, scenario testing	Connects legal rules with recurring commercial situations
Output	Contract matrix and six-stage compliance model	Converts findings into auditable transaction requirements

The unit of analysis is a legally reconstructed pre-order, defined as an offer or acceptance concerning goods to be delivered after an order is placed. Six factual variables are held visible throughout: whether the goods already exist, whether their identity and specifications are fixed, whether the seller must manufacture them, when payment becomes legally effective, whether the delivery obligation is certain, and which rights follow nonperformance. An intermediary platform is examined only insofar as its custody of funds, communications, or complaint process changes those variables. The figure below presents the analytical pathway; it is a conceptual model devised for this research rather than an observation of a specific marketplace.

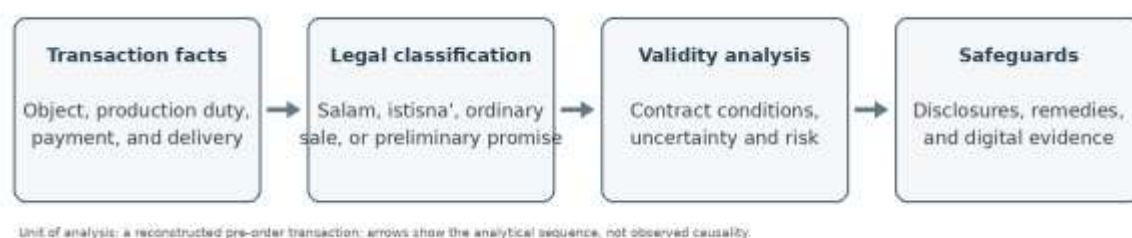


Figure 1. Unit of analysis and normative decision pathway (authors' analytical construction).

The primary legal materials comprise DSN-MUI Fatwa No. 05/DSN-MUI/IV/2000 on salam (payment, goods, delivery, cancellation); No. 06/DSN-MUI/IV/2000 on istisna' (payment, manufacture, specifications, khiyar); No. 144/DSN-MUI/XII/2021 on Sharia-based marketplaces; No. 145/DSN-MUI/XII/2021 on dropshipping (especially the Sixth provision, point 3(c), on escrow); and No. 146/DSN-MUI/XII/2021 on Sharia-based online shops (offer, acceptance and disclosure). The Qur'anic verses and hadith cited above are used as founding textual evidence rather than as independently collected empirical data. Indonesian positive-law sources include Law No. 8 of 1999, Government Regulation No. 80 of 2019, Law No. 1 of 2024 amending the electronic-information and transactions regime, Supreme Court Regulation

No. 2 of 2008 concerning the Compilation of Sharia Economic Law, and Minister of Trade Regulation No. 19 of 2026. Fatwas are treated as authoritative Sharia guidance for this inquiry, not misrepresented as statutes of identical formal rank. Secondary sources consist of journal articles about salam, istisna', online trade, deception, and consumer protection.

Materials were identified through focused English- and Indonesian-language searches of scholarly publisher pages, DOI-linked article records, the DSN-MUI fatwa archive, and official Indonesian legal databases. Search strings combined “pre-order”, “salam”, “istisna”, “gharar”, “escrow”, “consumer protection”, “marketplace” and “Islamic law”. Selection was purposive rather than exhaustive. Journal studies were retained when the source could be identified by an accessible publisher record or DOI and made an identifiable contribution to at least one analytical domain: contract formation, specification and delivery, intermediary payment, or consumer and seller protection. The principal currency window for journal discussion was 2022 to 2025, supplemented by older foundational and directly relevant work. Because the process did not implement a complete multi-database systematic-review protocol, it does not report a PRISMA flow, fabricated search-result totals, or numerical prevalence claims.

Data extraction proceeded in three steps. First, normative propositions were organized under contract formation, payment, specification, manufacture, delivery, prohibited uncertainty, and remedy. Second, findings reported by earlier scholars were coded as contextual evidence of possible practice, without treating them as original field findings of this article. Third, a comparative matrix tested common scenarios, including standardized goods paid in full, commissioned products with staged payment, goods advertised before a supplier has confirmed availability, and mere reservation requests. Apparent doctrinal differences were resolved by identifying the relevant contractual premise rather than assuming that the same rule applies to every scenario. For each scenario, the analysis recorded (i) factual predicate, (ii) proposed contract, (iii) rule and its source location, (iv) counter-interpretation or scope limitation, and (v) remedy or design implication. Sources were compared by legal status: Qur'anic and hadith foundations, juristic doctrine, DSN-MUI guidance, binding positive law, and contextual journal scholarship. This comparison treats fatwas as normative Sharia guidance and statutes as enacted law; it does not claim that they share the same formal legal hierarchy. Interpretive statements were checked against the corresponding fatwa and regulation, and no numerical scoring was assigned to Sharia compliance.

Validity was strengthened through source triangulation across fatwas, legislation, and research articles, together with explicit separation between directly stated legal requirements and the authors' proposals for implementation. The model is analytical and normative: it does not establish that a particular business has complied or violated the law. A further limitation is that marketplace user interfaces and payment terms may change, and the legal handling of escrow or partial payment depends on the actual agency and contractual arrangements. Consequently, the study's decision rules should guide document review and subsequent field verification, not substitute for case-specific adjudication. These boundaries enable useful conclusions without overstating the evidence or turning published case reports into purported independent observations.

RESULTS AND DISCUSSION

Contractual Configuration of Pre-Order Sales: Descriptive Findings

The first finding is that pre-order is a commercial description rather than a single legally established contract. Across the documentary materials, delayed physical delivery can arise from at least four distinct arrangements. A buyer may pay immediately for standardized goods to be supplied later, may commission

a manufacturer to make an individually described object, may purchase a specific existing object while agreeing to later shipment, or may merely register an intention to buy when stock becomes available. These transactions look similar in an application because each displays a future shipping date. They are not equivalent in fiqh. The relevant classification follows the parties' actual obligations, not the title used by an advertisement. Articles investigating online sales describe this ambiguity, while the DSN-MUI framework provides separate rules for salam and istisna' (Putri et al., 2023; Nursari et al., 2025; DSN-MUI, 2000a, 2000b).

This distinction can be restated as a functional test: what exactly does the customer obtain at checkout, and what must the seller do in return? In a classical salam structure, full advance payment accompanies a commitment to deliver goods defined by objective characteristics, quantity, and an ascertainable delivery term. In an istisna' structure, the defining economic obligation is to make or procure manufacture of the commissioned item to agreed specifications, with payment terms shaped by the applicable agreement. Where the seller already owns an individually identifiable item, the principal issue may instead concern an ordinary sale with a later performance date, rather than the sale of future manufactured output. If no sale has been concluded, payment characterized as a binding purchase price would be premature unless a distinct legally supportable arrangement is documented. The distinction is especially important for customized furniture, garments, print work, or made-to-order goods (Al-Amine, 2001; Sari, 2025).

The contract distinction is not a semantic exercise. For example, an importer who accepts full payment for a fungible item described by material, size, quantity and a definite delivery term may have a salam obligation even without present ownership of an identified piece of stock. A retailer who sells a specific existing watch that it is lawfully entitled to transfer, but dispatches it next week, is not automatically engaged in salam. A bespoke cabinet ordered from a craftsman involves production and therefore suggests istisna' even when payment is made in installments. By contrast, a "notify me when available" button is not itself proof that offer and acceptance have created a sale. The four scenarios are analytical reconstructions of the sources, not observed marketplace frequencies (Al-Amine, 2001; Al-Zuhayli, 2003; Afifah & Faizi, 2024).

A closer examination of the documentary examples shows why product specification must not be confused with attractive advertising. A defensible order record should describe the type of item, measurable attributes, quantity, quality threshold, permissible variation, agreed price, and the event or date that constitutes timely delivery. In manufactured orders, approved design and revision procedures are additionally material. Descriptions such as 'premium quality,' 'similar to the photo,' or 'shipping when available' may make it difficult to distinguish performance from substitution. An estimated dispatch window may be useful commercially, but its legal function depends on whether the parties have established a sufficiently definite obligation and a remedy if the estimate proves inaccurate. These concerns recur in studies of online salam and consumer disputes (Hadziq et al., 2024; Roaeni et al., 2024; Katili et al., 2025). The resulting classification rules are summarized in Table 2.

Table 2. Legal classification of common pre-order arrangements

Factual arrangement	Tentative legal pathway	Decisive compliance question
Standardized future goods, full price paid at contract formation	Salam	Are goods, price, receipt of payment, and delivery obligation sufficiently definite?

Factual arrangement	Tentative legal pathway	Decisive compliance question
Custom-made goods ordered for production, payment staged or otherwise agreed	Istisna'	Is there a genuine manufacture obligation with agreed specifications and fair terms?
Identified existing goods sold now, shipment scheduled later	Ordinary sale with deferred delivery	Is the seller entitled to sell the item and bound to deliver it as agreed?
Buyer joins waitlist without acceptance or binding sale	Preliminary promise or expression of interest	Has a sale actually been formed, and what is the legal status of any deposit?
Seller lists goods without confirmed lawful ability to perform	Requires restructuring, not automatic validation	Is the object deliverable, is uncertainty excessive, and what agency or supply contract exists?

Sources of Legal Risk: Critical Analysis

The second finding is that uncertainty must be assessed according to its legal significance, not merely because delivery occurs in the future. Islamic law recognizes specified future performance through named contract forms, so delay alone cannot be equated with prohibited gharar. The stronger concern arises where uncertainty concerns the existence of a binding obligation, the identity of the product, the seller's capacity to perform, the time of delivery, or access to redress. A seller who takes a payment without identifying the promised goods creates a different problem from a manufacturer who accepts an accurately specified order with a documented completion period. Research on marketplace disputes and the prohibition of gharar supports a differentiated assessment of uncertainty (Moslem et al., 2023; Rahmawati et al., 2025). The analysis therefore treats ascertainability and enforceability as more discriminating indicators than the mere presence of a waiting period.

A second source of risk is the legal character of payment. Fatwa No. 05/2000, First provisions 1–3, requires the salam price to be known and paid when the contract is agreed, not discharged by forgiving debt. A partial deposit against a balance due only at delivery therefore does not satisfy that specified salam payment rule merely by being labelled “pre-order”. Yet such a deposit is not per se proof of an unlawful transaction: an actual manufacture undertaking may support istisna' under Fatwa No. 06/2000, First provision 2; a genuinely preliminary reservation may not yet be a sale; and agency arrangements must be assessed in their own terms. Most significantly, Fatwa No. 145/2021, Sixth provision 3(c), expressly treats customer payment through an escrow account as cash payment even before the seller receives the funds, for the salam-based dropshipping structure governed by that fatwa. Thus delayed merchant settlement, standing alone, cannot be presented as a failure of advance payment. The analyst must instead identify whether the escrow constitutes a completed customer payment, what the platform is authorized to do, and whether the particular transaction falls within the fatwa's scope. Extending its rule to every kind of pre-order without

contractual analysis would likewise be unwarranted (DSN-MUI, 2000a, 2000b, 2021b, 2021c; Hadziq et al., 2024).

Another critical distinction concerns the word “non-existent”. The principle against selling an identified item one cannot lawfully deliver is not identical to the permission to incur a properly specified future-goods liability under salam. The object may be described by genus, quality, quantity and delivery location, so that the seller owes conformity rather than a particular third-party object. In *istisna'*, the obligation to manufacture supplies a separate basis for a future object. A sales page offering the exact unique article displayed in another seller's stock without authority to sell it creates a different legal issue from a precisely specified generic order. That issue cannot be cured solely by receiving money or invoking the term “pre-order” (Al-Zuhayli, 2003; DSN-MUI, 2000a, 2000b, 2021b).

Risk also arises when one party controls the terms of delay or cancellation unilaterally. For the buyer, an indefinite extension can turn a nominally defined commitment into practical exposure without a meaningful exit. For the seller, unconditional cancellation after materials have been cut, printed, or otherwise irreversibly committed may produce costs that were not contemplated at contract formation. An effective analysis thus asks when cancellation is permitted, whether consent was obtained for material changes, which party caused the problem, and which demonstrable losses are relevant. Seller-focused studies identify the problem of unilateral cancellation, while consumer-focused studies stress legal remedies for nonconforming goods or non-delivery (Tektona, 2024; Pratama et al., 2024; Katili et al., 2025). Fairness requires protecting legitimate reliance on both sides, rather than endorsing penalties or refunds automatically in every situation.

Crosswalk Between Sharia Duties and Indonesian Statutory Requirements

The statutory test is complementary, not interchangeable. Article 4 of Law No. 8/1999 protects consumer information, choice and remedies; Article 7 concerns good-faith conduct and truthful explanations by businesses; and Article 16 prohibits failing to honor orders or promised completion times. Government Regulation No. 80/2019, Article 13(1)–(2), requires truthful and clear identity and product disclosures, while Article 27 provides for consumer complaint services. Article 28 requires operators to retain lawful transaction evidence. For electronic contracts, Articles 52–53 identify formation conditions and minimum information such as the parties, goods, value, payment, shipment, return and cancellation terms. Articles 55–56 require Indonesian-language consumer contracts and a form that users can download or save. These provisions provide concrete legal grounds for the proposed disclosure and evidence stages, rather than proving Sharia validity by regulatory compliance alone (Republic of Indonesia, 1999, 2019).

The 2026 regulatory update should be described accurately. Minister of Trade Regulation No. 19/2026 on the conduct of electronic commerce took effect on 8 June 2026 and revoked Ministerial Regulation No. 31/2023. The current rule provides the administrative and platform-governance context, but it should not be cited as the source of the detailed contract-content duties established by Articles 52–56 of Government Regulation No. 80/2019. This distinction avoids attributing specific statutory language to an unrelated instrument or implying that the new ministerial regulation creates Islamic contract types (Republic of Indonesia, 2019, 2026).

Table 3. Normative traceability matrix for pre-order compliance

Legal issue and factual trigger	Primary norm and location	Proposed operational test
Full price for described future goods	DSN-MUI Fatwa 05/2000, First 1–3 and Second 1–4	Verify price payment and specified goods, delivery term and place
Manufacture under commission	DSN-MUI Fatwa 06/2000, First 2 and Second 1–4, 7	Confirm production duty, approved design, agreed payments and khiyar
Marketplace payment held in escrow	DSN-MUI Fatwa 145/2021, Sixth 3(c), within dropshipping-salam model	Inspect actual payment completion, agency and applicability of the fatwa
Checkout offer, consent, and truthful advertising	DSN-MUI Fatwa 146/2021 on online shops; PP 80/2019, Arts. 13 and 52	Preserve versioned offer, affirmative acceptance and clear disclosure
Delayed delivery, cancellation, and returns	Law 8/1999, Art. 16; PP 80/2019, Art. 53(1)(f)–(i)	Show agreed deadline and accessible cancellation or return procedure

Toward a Sharia-Compliant Pre-Order Model: Transformative Findings

The third finding is that contract validity and consumer protection can be translated into a practical sequence of six auditable decisions. Table 3 makes the legal source for each safeguard explicit; the six-stage design itself remains the authors' proposal, not a mechanism empirically validated in Indonesian marketplaces. The first stage identifies whether the transaction is a completed sale, a commissioned manufacture agreement, or a preparatory promise. The second records the material specifications, price, seller identity, and a definite or legally adequate delivery commitment. The third tests whether the payment flow is compatible with the selected contract, including the role of any custodian or agent. The fourth evaluates the seller's lawful ability to supply or make the goods and its responsibility for failure. The fifth establishes rights concerning defects, unacceptable substitution, cancellation, delays, refund, or agreed cure. The sixth preserves a readable digital record of the offer, acceptance, payment, changes, and dispute outcome. Each stage follows from an identifiable legal risk, rather than from a claim that a marketplace currently employs the proposed process.

The sequence does not imply that every sale requires a long written agreement or a formal religious label at checkout. It means that legally material obligations should be understandable and recoverable from the electronic record. A platform can operationalize the first two stages through structured fields identifying 'ready stock,' 'standard pre-order,' 'made to order,' and 'reservation,' accompanied by compulsory information relevant to each pathway. It can operationalize payment and performance through visible deadlines, the identity of the responsible seller, and notices when a material change requires renewed assent. It can operationalize remedies by separating complaints about late delivery, nonconforming goods, and cancellation by the customer. The evidentiary duties under Government Regulation No. 80/2019, Articles 27–28 and 52–56, support such design features, while Law No. 8/1999, Article 16, directly addresses failure to perform an order as promised. Regulation No. 19/2026 supplies the current ministerial governance context (Republic of Indonesia, 1999, 2019, 2026).

The normative implications extend beyond software design. For sellers, selecting the correct contract encourages realistic specifications, defensible production commitments, and coherent terms for deposits and cancellations. For consumers, it clarifies what has been purchased, what waiting entails, and when a remedy can be sought. For Sharia advisers, the model prevents decisions from being reduced to a superficial analogy between 'pay now, receive later' and salam. For policymakers and platform operators, it separates Sharia contract questions from the general legal obligations to provide truthful information and effective mechanisms for redress. The model also produces a research agenda: transactions could be audited against the six stages to determine how often disclosure fields or contract terms are missing, but such prevalence cannot be inferred from this normative study. Consider three contrasting examples. A seller who receives the entire price for twenty identical units with a fixed description and delivery period may plausibly use salam, subject to the legally required payment and performance conditions. A furniture maker who receives an agreed deposit to build a desk according to the buyer's dimensions is better assessed as an *istisna'* transaction, because manufacture is central to the exchange and payment may be structured differently. A reseller who advertises 'coming soon' goods without an identifiable supplier, quantity, or reliable delivery commitment cannot establish validity merely by changing a product listing to 'pre-order.' These examples are analytical hypotheticals, not reported field observations. Their purpose is to make each decision point transparent and to demonstrate why the same user-interface label can produce different legal findings. Its immediate contribution is a coherent benchmark for those audits and for more reliable contracting.

DISCUSSION

The analysis yields three interconnected propositions. First, pre-order cannot be presumed valid or invalid as a category; classification follows the parties' substantive commitments. Second, Sharia compliance depends on the fit between those commitments and the conditions of a recognized contract, particularly in relation to payment, the object of sale, production obligations, and delivery. Third, the practical value of compliance depends on the remedies and evidence available when performance fails. These propositions help explain why different articles reach different assessments of ostensibly similar marketplace transactions. A standardized item paid in full, a custom-made item secured by a deposit, and an unconfirmed supplier listing pose separate problems even where all three appear under a 'pre-order' badge. The central theoretical result is thus a move away from label-based analogy toward fact-sensitive legal characterization. This perspective avoids the opposite mistakes of treating non-possession as automatically unlawful and of treating any mention of salam as a sufficient legal cure. What matters is whether the contract chosen has genuinely organized the obligations that the parties undertook. A compliance review should first state the facts and only then choose the most defensible fiqh category. It is a legal synthesis, not a claim to have established the prevalence of any transaction type (Putri et al., 2023; Nasrullah et al., 2025).

The Indonesian setting gives the findings particular relevance. Digital platforms have normalized a single checkout process for varied kinds of goods, yet the regulatory obligation to be transparent does not make all underlying contracts interchangeable. The DSN-MUI fatwas provide a differentiated vocabulary for particular sales, while the statutory framework addresses the conduct of traders and operators, truthful information, and consumer rights. Government Regulation No. 80/2019 remains a broad basis for electronic commerce. Minister of Trade Regulation No. 19/2026, effective from June 2026, supersedes Regulation No. 31/2023, which is therefore unsuitable as a standalone statement of current ministerial law (Republic of Indonesia, 2019, 2026). The complementary relationship between Sharia rules and positive law does not

depend on claiming that a fatwa has the same formal hierarchy as a statute. Statutory consumer rights may supply enforceable remedies even when a business has not explicitly adopted a Sharia contract label. Conversely, satisfying licensing or information requirements under public law does not alone settle whether the terms of *salam* or *istisna'* have been satisfied. Analytical clarity requires both questions to be examined without collapsing one into the other (Panggabean & Tanjung, 2022; Dewi et al., 2025). Rather, a transaction may need to satisfy distinct normative and public-law obligations at the same time.

Theoretical interpretation begins with the tension between future performance and contractual uncertainty. Fiqh does not reject every sale involving future delivery. Instead, *salam* and *istisna'* are structured legal responses to commercial needs under defined conditions. The normative significance of these contract types lies precisely in their limitations: specifications discipline the promised object; payment rules discipline the buyer's exchange; production obligations discipline the commissioned work; and delivery commitments define actionable performance. The *maqasid*-based protection of wealth explains why those conditions matter to both parties, but it does not eliminate the need to interpret the specific rules. A seller cannot repair an indeterminate object merely by asserting good intentions; equally, a buyer cannot invoke fairness to deny every agreed responsibility after a custom order has been produced. The allocation of costs also requires attention to the moment when production becomes irreversible and to the evidence of any agreed specifications. A penalty that is unrelated to actual obligations is no substitute for a lawful cancellation rule, and neither is a blanket 'no refund' statement. Conceptual accounts of *istisna'* and more recent studies of online transactions reinforce the need to maintain this distinction (Al-Amine, 2001; Puad & Hamdi, 2025).

A comparison with juristic doctrine adds an important qualification. For *salam*, the price and the specified liability are central because the contract provides a permitted route to future delivery without unjustified exchange of indeterminate debts; for *istisna'*, the ordered work and permissible negotiated payment timetable are central (Al-Zuhayli, 2003; Al-Amine, 2001). The prohibition on selling what is not in one's possession must be applied to its factual and doctrinal subject, rather than invoked to strike down every described future good. In the same way, *maqasid* reasoning explains the purposes of fair dealing and wealth protection but cannot independently waive the constitutive payment terms of *salam*. This relationship between specific conditions and general objectives prevents both excessive formalism and unsupported permissiveness.

This interpretation also clarifies the significance of platforms. Electronic commerce does not abolish the traditional components of a contract; it distributes them across screens, payment ledgers, and third-party services. A click may record acceptance, but the transaction record must still show what offer was accepted. A customer may complete payment through an escrow facility even though funds are released to the merchant later, as expressly recognized in the particular dropshipping-*salam* arrangement in Fatwa No. 145/2021, Sixth 3(c). Accordingly, the legal consequence of custody must be determined from the applicable fatwa and the relationship among the platform, merchant and payment custodian, not by treating later merchant disbursement as a universally unpaid price (DSN-MUI, 2021b). A carrier may be responsible for the physical movement of the goods, but the seller's contractual delivery obligation cannot simply be erased by referring the buyer to a logistics company. These issues suggest that digital records should be treated as part of contractual accountability, not merely customer-service tools. The argument is compatible with research on online consumer protection and the documentary safeguarding of electronic transactions (Mohd Yusoff et al., 2023; Sugito et al., 2024).

The findings both affirm and qualify earlier research. Hakim et al. (2025) are particularly useful on electronic acceptance, while Pirawati et al. (2023) and Afifah and Faizi (2024) provide concrete discussions of khiyar and purchase-order contracts. Kesatriawan et al. (2022) foreground the legal status of purchase orders under national private law; these studies address related questions but do not offer the same source-linked distinction among advance-payment completion, escrow custody and pre-contractual reservation. They affirm studies that treat salam and istisna' as relevant tools for pre-order commerce and identify product information as a condition of meaningful consent (Moslem et al., 2023; Hadziq et al., 2024; Nursari et al., 2025). They qualify accounts that present one contract as the default legal explanation for all pre-orders, because the production obligation and payment pattern can alter the result. They also extend consumer-protection studies by giving equal attention to seller reliance, contract-specific cancellation, and the evidentiary role of payment custody (Tektona, 2024; Katili et al., 2025). This study does not claim that prior scholars overlooked these matters entirely. Its contribution is to place them in one sequenced legal evaluation so that a reader can see why a given arrangement passes or fails each test.

Several practical implications follow. Marketplaces should avoid presenting a generic pre-order toggle as proof of Sharia compliance, and sellers should not rely on vague disclaimers to shift all delivery uncertainty to consumers. A more defensible process is to differentiate the sale type, require specifications appropriate to the item, disclose deadlines, state payment custody and release rules, and provide a proportionate procedure for correction, cancellation, or refund. Contract review should examine platform and seller obligations together, including any relationship of agency or delegation. Sharia supervisory bodies and consumer-protection institutions could use the proposed checklist as a discussion tool, while empirical researchers could test the framework through transaction-document audits and interviews. These recommendations remain conditional on sector-specific law and the facts of each transaction. They offer a workable path from normative values to enforceable conduct without claiming that compliance can be certified from publicly visible marketing material alone. Sharia literacy for sellers is therefore as important as interface redesign: a merchant should understand why full advance payment can matter to salam and why a commissioning obligation matters to istisna'. The findings are consistent with Wari (2024), Suryani (2024), and Rahmah (2025), who connect transactional fairness to certainty, seller protection, and consumer rights. They also suggest that a platform audit ought to review merchant terms, payment-provider conditions, and dispute notices together rather than evaluating an attractive storefront in isolation.

CONCLUSION

Pre-order commerce presents neither a categorical prohibition nor a blanket permission under Islamic law. Its permissibility depends on the legal structure created by the parties and on the clarity of the rights and duties that structure entails. An exchange involving full advance payment for defined future goods generally raises the rules of salam; an order for an object that a seller undertakes to manufacture invites the rules of istisna'; an existing identified item may involve a different sale; and an unaccepted reservation may remain a promise rather than a binding sale. These pathways cannot be reduced to the same formula. The study's primary contribution is to show that contract classification must precede a judgment on compliance and that escrow cannot be presumed non-compliant merely because the seller has not yet received platform-held proceeds. Fatwa No. 145/2021 specifically recognizes completed escrow payment within its defined dropshipping-salam setting, which calls for careful examination of the arrangement rather than universal extrapolation. It further demonstrates that ambiguous specifications, delivery obligations, payment custody,

and cancellation provisions are not isolated technical defects. They determine whether consent is informed, whether performance can be established, and whether commercial risk is allocated fairly. A legally intelligible pre-order must therefore connect valid formation to credible performance and accessible remedies.

Theoretically, the article integrates the contract-specific conditions of *salam* and *istisna'*, the juristic treatment of absent goods and prohibited uncertainty, the protection of wealth, and enforceable duties under Law No. 8/1999 and Government Regulation No. 80/2019. This synthesis moves beyond the assumption that a pre-order can be analyzed by resemblance alone. Methodologically, the normative design was deliberately limited to authenticated legal materials and identifiable published scholarship; it did not create field observations or claim to have measured marketplace practices. Its results are legal inferences about possible arrangements, supported by comparative interpretation and scenario analysis. That is an appropriate basis for proposing a decision framework, but not for asserting how frequently particular defects occur across Indonesian platforms. The findings should likewise not be used as a substitute for examining the contract terms and payment arrangements in a concrete dispute. The article contributes a structured research instrument whose empirical validity remains open to examination.

Practically, merchants should identify whether they are taking a binding *salam* order, an *istisna'* commission, a sale of existing stock, or merely a preliminary request, and record terms consistent with that choice. Platforms should make product identity, payment custody, delivery commitments, and cancellation or refund procedures clear before checkout and accessible afterward. Consumers should retain the offer, payment evidence, and any later changes to the agreement. Regulators and Sharia advisers can use the six-stage model as an initial compliance checklist while respecting differences between religious guidance and enforceable legislation. Further research should examine real transaction records from several marketplaces, compare disputes involving full and partial advance payments, and determine when escrow payments fall within the express scope of Fatwa No. 145/2021 or require distinct analysis. The proposed framework has not yet been validated through business audits or consumer interviews. Additional interviews with sellers, buyers, platform representatives, and dispute mediators would test whether the proposed framework is understandable, practical, and capable of reducing preventable disputes. Such research would build empirical evidence on a clearer doctrinal foundation. Comparative studies could then examine whether disclosure and resolution safeguards differ across small independent shops, major marketplaces, and social-commerce services, and whether those differences affect actual access to timely remedies.

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