

## Shariah Analysis on the Operation of Gold Investment in Malaysia and its Implications to the Consumer

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**Abstract:** Since prehistoric time, human are using the gold in trading and value keeping asset. Even current financial activities are always surrounding by the gold issue. Gold investment is booming in recent years and the reasons behind this can be explained as the consumers become more aware of the benefit of the gold and its special features. The objective of this study is to examine the shariah compliance of the operations of gold investment in Malaysia and its implications to the consumer. In the course of discussion, the Shariah rulings on gold transaction and the parameter for gold investment were analysed. Findings of the study showed that the financial institutions operating gold investment still need to comply with the Shariah rulings and parameters in ensuring the certainty of the transactions and fairness to the consumers.

**Key words:** Gold investment, shariah compliance, shariah rulings, certainty, consumer

### INTRODUCTION

Gold is an efficient investment vehicle for preservation of wealth and a store of value during the economy volatility, especially the high inflationary period. The special features of gold, such as diversifier, safe haven inflationary hedge, universal acceptance and transportability have make the gold demand the superior choice for investment purpose (Jagerson and Hansen, 2011). In the context of Muslims investors, there are several guidelines that must be adhered in order to achieve profit and also hereafter maximization. A Muslim must not only consider profit as the main objective because hereafter maximization also must be achieved for the days of hereafter.

### FEATURES OF GOLD INVESTMENT

Gold investment was studied by many of professional toward its ability to protect the wealth of investors against the overwhelming global financial crisis

and economic uncertainty. Gold investment is generally more robust and less risky as compared to other investment vehicle. The advantages only surface if the investors choose the right products. This is critical as there are varieties of products when it comes to gold. And the different products do not necessarily behave the same or give the same results. Even though, they may all is gold in some form. The features of gold as an investment are in Table 1.

### RULINGS ON GOLD INVESTMENT IN ISLAM

Gold investment which is in line with the Shariah principles has been one of many concerns that a Muslim faced today. Consumer need to comply the Shariah rulings when one would like to enter into gold investment. Gold investment refers to that part of income that is not spent on consumption but for obtaining a benefit further away in the future. Therefore, investing in gold in order to have a safe future is recommended by Allah s.w.t as in the Quran:

Table 1: Features of gold investment

| Features                                | Description   |
|---|---|
| Gold as an independent investment       | All other assets are dependent on something or some system. For example, stocks are dependent on the management and the performance of the company. Bonds are dependent on the issuer while gold is completely private because it is not tied to other financial assets |
| Gold is acceptable worldwide            | Gold is one of the few assets that are acceptable anywhere in the world. It can be bought and sold in the country and in a different continent  |
| Gold as the ultimate assets diversifier | Gold is the asset that will behave differently from all other assets. It is the ultimate assets diversifier hence, even if the price of all the other assets are crashing, gold stays unaffected and in fact may even go up   |

Ali (2010); Get Into gold: How to invest in gold profitably while avoiding the traps; Batu caves: True wealth

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Allah blesses those who acquire wealth in good manner then the wealth is spent accordingly and the remaining is saved for future use when hardship occurs

Nevertheless, one of the important sources of unjustified earning is receiving any monetary advantage in a business transaction without giving a just counter value. Riba represents in the Islamic value system, a prominent source of unjustified advantage. The prophet also condemned in the most unambiguous words not only those who take riba but also those who give riba and who record the transaction or act as witnesses to it. He even equated the taking of riba to committing adultery 36 times or being guilty of incest with one's own mother.

It is, however not every increase or growth which has been prohibited by Islam. In the Shariah, riba technically refer to the premium that must be paid by the borrower to the lender along with the principle amount as a condition of the loan or for an extension in its maturity (Chapra, 1984). In this sense, riba has the same meaning and imported as interest in accordance with the consensus of all the jurists without any exception.

#### **SHARIAH PARAMETER FOR GOLD INVESTMENT IN MALAYSIA**

The Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia has decided to accept and acknowledge the gold investment parameters (NCIRA, 2012) as follows:

**General conditions of sale and purchase:** Gold investment transaction must meet all trading tenets outlined by Shariah which are the parties to the contract, the item and sighthah (utterance). In the event that a transaction does not meet one of the pillars of trading, the transaction is considered void.

**Specific conditions for gold investment:** Gold is considered as ribawi items. Thus, the sale and purchase of gold must observe the following special conditions:

- The occurrence of taqabudh (deliverability) between the two items involved in the transaction before the two parties separated from the contract
- The sale and purchase must be conducted on the spot and cannot be delayed

#### **THE PRACTICE OF GOLD INVESTMENT IN MALAYSIA**

In Malaysia, there are two modes of gold investment; namely physical gold and opening gold investment account.

**Physical gold investment:** Physical gold investment means investor hold their gold investment in the physical form. It can be divided into three categories: Gold coins, gold bars and jewelry. Gold coins are a common way of owning gold. Gold coins are made from an alloy composed of that metal and a small amount of another metal ensure hardness. Gold coins are priced according to their fine weight, plus a small premium based on supply and demand. The gold coin come in a great variety of weights that typically range from 1/10 ounce to 1 ounce but by far the most commonly traded coins weigh 1 ounce (Sukami, 2011). The ability to take possession gives investors complete control over their gold coin investments. In Malaysia, 'The Kijang Emas Gold Bullion Coins' is the official bullion gold coin of Malaysia. It is minted by the Royal Mint of Malaysia and only distributed by selected Maybank branches throughout Malaysia. The Kijang Emas has a gold purity of 999.9 millesimal fineness. The coins come in denominations of RM200, 100 and 50 which are nominal face values and weight 1, ½ and ¼ oz, respectively. The purchase and reselling price of Kijang Emas is determined by the prevailing international gold market price.

Besides acquiring the Kijang Emas which is the official bullion gold coin of Malaysia, investors also have other options such as Kelantanese Gold Dinar, Gold coins distributed by United Overseas Bank and Gold coins distributed by Public Fine Gold Sdn Bhd (2012). The Kelantanese Gold Dinar was created by the government of the Malaysian state of Kelantan in 2006. Kelantanese Gold Dinar is similar to the original dinar in weight and purity of gold used. Among the size of the gold dinar for sale are 2, 1, ½ and ¼ Dinar.

In addition, United Overseas Bank is one of the five banks in Malaysia that sell large variety of gold products, ranging from gold coins, gold wafers to kilobars. The coins can be sold to the Bank's daily published rates. These coins are legal tender with face values and accepted and tradable worldwide.

Public Fine Gold International Sdn Bhd otherwise known as "Public Gold" is also a private company that sells and purchases gold coins, gold dinar and gold bars. Public gold is the first company in Malaysia that sells gold investment in international market prices and offers opportunities for communities to have gold with reasonable price. The main goal of public gold is to create awareness and educate the public about the importance of store the physical gold as the ultimate safe investment (Public Fine Gold Sdn. Bhd., 2012).

Apart from gold coins, the best way to invest in gold is by buying gold bars. Gold bars are made of pure gold.

The price of gold bars usually is close to the international gold price, with purity 999.9 and has low spread (Sukami, 2011). In Malaysia, there are three popular types of gold bars that can be purchased such as Public Gold Bars, Poh Kong Bunga Raya and PAMP Suisse (Ali, 2010). Public Fine Gold Sdn Bhd. (2012) which has been mentioned previously also produced gold bars. The sale of gold bars weighing as follows; 20, 50 and 100 g and 1 kg. Each gold bar has a certificate of authenticity and a unique serial number. PAMP which based in Switzerland is one of the world's leading in purifying precious metals and produce products of precious metals such as silver, gold, platinum and palladium. Gold produced by PAMP is recognized worldwide. All PAMP gold bars have a serial number and certificate of authenticity. In Malaysia, PAMP Suisse gold bars can be purchased at some stores of gold, Habib Jewel and UOB Bank (Suisse Gold, 2011).

There are two main reasons why people buy gold jewelry; firstly because of its beauty and status symbol and secondly for investment purposes. Investment via gold jewelry enables an individual to appreciate her beauty together as security during rainy days. The 916 gold is a standard form of jewelry gemstone in Malaysia. It was made from 22 carat gold which is soft but will not damage or bend when worn. However according to Wang Lixin, the China Representative for the World Gold Council said that jewelry is not a good investment because people are paying a lot for the design and the skill in its manufacture (Ali, 2010).

**Gold investment account:** Apart from physical gold investment, investment in gold can also be made through bank account. Currently, there are five banking institution that offer gold investment account, namely; CIMB Bank (gold deposit account), Kuwait Finance House (gold account-i), Maybank (gold savings passbook account), Public Bank (gold savings account) and United Oversea Bank (gold saving account).

The purpose of gold investment account is to provide the Bank's customers with the convenience of investing in gold without the hassle of keeping physical gold. The passbook or statement will record every purchase and sale of gold made through account. Gold investment account operates in a way where customer's investment amount is converted to gold holdings expressed in gram based on the bank's prevailing counter gold selling price and will be recorded in a Passbook or statement. The savings will be recorded in gold grams unit. Subsequently, if a customer wants to sell the gold, the gold will be converted to RM equivalent at the bank's prevailing counter gold buying price. Customers will benefit if there is an appreciation on gold price or vice versa.

As far as these four banks earlier mentioned are concerned with an exception to Kuwait Finance House, when the customers open gold account, the physical gold to represent the amount of their purchase units are not available during the sale transaction took place. The physical gold will only be available for the purpose of gold withdrawal and at certain weight only. With regard to withdrawal options, the gold holdings can be disposed and converted to RM equivalent at the bank's prevailing counter gold buying price. The proceeds will be paid in cash or credited into customer's account. Besides, the customers are also allowed to perform physical gold withdrawal. General practice of conventional bank is that for the purpose of physical gold withdrawal, the customers are subjected to a maximum waiting period of 4 weeks and period of collection of physical gold is within 30 days of working days at selected designated branches of bank only except for Kuwait Finance House.

Table 2 and 3 explained that there are five banking institutions that offer gold investment account in Malaysia. Only one financial institution that is the Kuwait Finance provides Shariah based gold account. The KFH gold investment account utilises the bay' al Sarf (contract of sale of money) and qard hasan (benevolent loan) in its operations. In Kuwait Finance House, after the conclusion

Table 2: List of banks that offers gold investment account

| Name of bank                            | Details  |
|---|--|
| CIMB bank (gold deposit account)        | CIMB bank has launched gold deposit account that allows individual customers to purchase the purest available gold commodity in 99.99% fineness at daily prices in Ringgit Malaysia per gram. It requires customers to open an affiliate conventional savings or current account prior to opening a gold deposit account to facilitate the purchase or sale of gold and other charges. The designated affiliated account is compulsory and customer without CIMB bank savings or current account would be required to open one. Mode of operation of account is through passbook |
| Maybank (gold savings passbook account) | The gold savings passbook account is an account that allow customers to invest in gold in a convenient, more secure and cheaper way of gold in 999.9 fineness at all Maybank branches at daily quoted gold prices for 1 grams in Malaysian Ringgit. It is cheaper as gold prices quoted are pegged to international gold prices without additional charges. All transactions will be recorded in passbook. Customers also have opportunity for capital gain if the price of gold appreciates. Mode of operation of account is through passbook                                   |
| Public bank (gold investment account)   | Public bank has launched a new investment product that allows individual customers to purchase the purest available gold commodity in 99.99% fineness at daily prices in Ringgit Malaysia per gram. The launching of   |

Table 2: Continue

| Name of bank   | Details   |
|--|---|
| United Overseas bank (gold account and premier gold account) | the gold investment account is in line with recent rise in gold demand and at the same time to provide alternative investment products to the bank's customers who wish to earn potentially high returns<br>United Overseas bank has launched gold savings account and premier gold account; it is a gold investment saving without the need to hold actual physical gold where it allows customer to buy the purest gold commodity in 999.9% fineness at daily prices in Ringgit Malaysia per grams. Prior to opening a gold investment account, the investor is required to maintain either a savings account or current account in RM to facilitate the transaction, administrative fees or and other charges. Mode of operation of account is through statement   |
| Kuwait Finance House (KFH gold account-i)                    | KFH gold account-i enables customers to invest in gold without having to keep the gold physically. It is the first Shariah-based gold account offered in Malaysia where Kuwait Finance House sells physical gold to customers. Customers have a choice to either collect the gold or keep it with the bank for safe custody, at no charge. By choosing to keep the physical gold with the bank customer will have a peace mind, as there is no need to worry about any security or storage issues. Customers can always sell or withdraw their gold at the branch based on the bank's daily purchasing price (Kuwait Finance House, 2012). The Shariah concepts used are Bai' As-Sarf and Qardh Hasan. Bai' As-Sarf refers to the exchange of one monetary form for another in the same or different form for example gold for gold coins, silver for silver, silver for gold etc. Qardh refers to benevolent loan whereby the bank as the borrower only required to repay the principal borrowed. Under the Islamic contract of Bai' As-Sarf, the customers will purchase amount of gold in gram, at the bank's selling price from KFH and there after the purchased gold and any amount of gold to be subsequently purchased shall be deposited into the account based on Islamic contract of Qardh with KFH as the debtor and the customer as the creditor |

Table 3: Comparative analysis of gold investment account in Malaysia

| Description                                      | CIMB bank gold deposit account  | MAY bank gold savings passbook account   | Public bank gold investment account  | United overseas bank gold savings account and premier gold account  | Kuwait finance house KFH gold account-i   |
|--|---|--|--|---|---|
| Minimum initial deposit                          | 10 g  | 5 g  | 20 g   | 20 g  | 10 g  |
| Minimum balance in account                       | 1 g   | 1 g  | 1 g  | 2 g   | 2 g   |
| Charges for gold balance below quantity required | RM5 will be charged in the event gold balance falls <10 g at the end of years     | Not applicable   | RM 10 will be charged in the event gold balance falls <10 g at the end of year             | RM 2 will be charged per month if the balance of account falls <10 g at the end of year                     | Not applicable  |
| Minimum subsequent purchase/sale                 | 5 g and must be in multiples of 1 g   | 5 g and must be in multiples of 1 g  | 5 g and must be in multiples of 1 g  | 5 g and must be in multiples of 1 g   | 5 g and must be in multiples of 1 g   |
| Fineness of gold                                 | 99.9% fineness  | 999.9% fineness  | 99.9% fineness   | 999.9% fineness   | 99.5% fineness  |
| Minimum quantity for physical gold withdrawal    | 100 g in multiples of 100 g   | Gold wafers at 10, 20 and 50   | Not applicable   | 50 and 100 g  | 1, 5, 10 and 50 g   |
| Account opening requirement                      | Either a savings or current account is acquired                                   | Not applicable   | Either a saving or current account is acquired   | Either a savings or current account is acquired   | Either savings or current account is acquired                                     |
| Modes of operation                               | Passbook  | Passbook   | Passbook   | Statement   | Statement   |
| Gold sale/purchase price                         | Based on the bank's prevailing gold selling/ buying price quoted in RM per gram   |  |  |   |   |
| Gold withdrawal                                  | Credit into savings or current account. Physical gold withdrawals at all branches | Cash. Credit into savings or current account. Physical gold withdrawals at selected branches | Cash. Credit into savings or current account. Physical gold withdrawals at selected branch | Credit into savings or current account. Physical gold withdrawals subject to UOB's bank approval            | Credit into savings or current account. Physical gold withdrawals at all branches |
| Interest   | No interest payout  | No   | No   | No  | No  |
| Online trading                                   | No  | No   | No   | No  | No  |
| Note   | Physical gold withdrawal will be charged RM 1 per gram of gold ordered            | Malaysia's largest bank, 100% backed by physical gold  | Online gold trading via PbeBank.com gold purchases and sales are offered at discount price | Premier gold account is available at smaller difference between selling and buying prices for big investors | First shariah based gold account in Malaysia                                      |

Current study

of the sale contract, the customer have two options either to collect the gold physically and keep it with him or keep it with the bank for safe custody at no charge based on the Islamic contract of Qard. This kind of transaction is

permissible due to the fact that the exchanging of gold for silver or cash is only permissible if the exchange occur in a hand to hand transaction. This is based on the Hadith in which the prophet is reported to have said gold for

silver is usury except hand to hand equal in amount. Furthermore, Kuwait Finance House does not offer online trading, the customers need to do direct transaction with the bank to buy the gold and they will possess the physical gold on the spot during the sale transaction took place.

However, CIMB bank, Maybank, Public bank and United Overseas bank have different transaction where the gold is not delivered to the customer instantly and the gold do not exist during the sale contract. This kind of transaction is not permissible according to Shariah since it involves with *riba*. By right, it is necessary for the seller and the buyer to deliver the commodity before they separate and conclude the contract.

Additionally, Table 3 showed that the transaction in CIMB bank, Maybank, Public bank and United Overseas bank also involves the delay in the delivery of the gold for a certain period after making the deal. A buyer needs to pay a certain amount of money for a quantity of gold that they receive after a span of time. This situation contradicts to the rulings stipulated in the hadith where the prophet says:

Sell not gold for gold or silver for silver unless when you do so on the spot and unless are equal in quantity

### CONCLUSION

Gold investment is a good option where consumers have the opportunity to diversify their investment portfolio. In fact, consumers have two options either to invest in physical gold or to open gold investment account. For Muslims consumers, whenever they intend to purchase physical gold, they have to ensure that the

gold can be obtained on the spot during the transaction. This is to fulfill the requirement of on the spot transaction which is permissible in Islam. On the other hand, if the consumer opts for gold investment account in Malaysia, there are five banks that offer such product. However, Kuwait Finance House is the only institution which is compliance with Shariah principle. Hence, the financial institutions operating gold investment still need to comply with the Shariah rulings and parameters in ensuring the certainty of the transactions and fairness to the consumers.

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