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ABSTRACT

The value of national currencies rises and falls but the value of gold remains, remarkably stable. Gold is an asset that does not depend upon governments or corporations promise to repay. It is not directly affected by the policies in any country and it cannot be repudiated or frozen, as in the case of assets.

Gold is a popular investment because it is believed to be a stable way of hedging customer's savings against inflation. Malaysia offers both residents and non-residents a unique method of investing in gold. Bank in Malaysia allow anyone to open a gold investment account, where customer's balance is measured in grams of gold rather than as a traditional currency. This allows the customer to make deposits when gold price are low, and then withdraw the funds at a profit when the price of gold rises. The customer can even opt to receive gold instead of cash when he or she withdraws funds.

The purpose of this study is to provide a detailed description of the way in which gold investment operate in Malaysia, It then provides several type of gold investment been used in Malaysia. The paper also outlines some rules of gold transaction in Islamic perspective, including the concept of riba al-fadl and riba al-nasi'ah . The last part of this research is to compare and contrast the gold investment in Islamic bank and conventional bank and contains recommendations for reform in gold transact.

RULES ON TRANSACTION OF GOLD IN ISLAM:

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 (PBUH), also condemned, in the most unambiguous words 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 thirty- six times or being guilty of incest with one's own mother.¹

It is, however, not every increase or growth which has been prohibited by Islam. In the Shari'ah, *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. In this sense, *riba* has the same meaning and imported as interest in accordance with the consensus of all the *fuqaha'* (jurists) without any exception.

The term *riba* is used in Shari'ah in two senses. The first is *riba al-nasi'ah* and the second is *riba al-fadl*:²

i. Riba al-Nasi'ah:

Riba al-Nasi'ah is derived from the Arabic root "*nisā'a*" which means to "delay" or "defer". This type of *riba* falls into two categories:

¹ Liaquat Ali Khan Niazi, *Islamic Law of Contract*, (Lahore: Research Cell, Dyal Sing Trust Library, 1991) p. 262.

² Kingdom of Saudi Arabia, portal of the General Presidency of Scholarly Research and Ifta', "Riba al-Nasi'ah", <http://abdurrahman.org/economics/fatwa-buyu.html>, (accessed 7-03-2011)

First: charging interest on the loan lent to an insolvent debtor. This category was commonly practiced in the pre-Islamic era. A person, for example, may lend another person a sum of money to be paid back on a specified date. When the date agreed upon is due, the creditor gives the debtor the choice either to repay the debt or defer repayment in return for charging additional interest on the principal.

Second: Exchanging two items of the same type which bear the common cause of *riba al-Fadl* while stipulating deferment of delivery of one or both of the exchanged items. An example of this includes exchanging gold for gold or for silver or exchanging silver for gold while stipulating deferment of delivery.

ii. ***Riba al-Fadl:***

Riba al-Fadl is derived from the Arabic root “*fadl*” which means “increase” or “growth” this type of *riba* involves increase in either of the two articles subject to exchange. According to *Hadith* of the Prophet, six things are susceptible to *riba al-fadl*; gold, wheat, barley, dates and salt.

It is prohibited to charge interest on such transactions where any of the above things are exchanged for articles of the same type. The same holds true with regard to exchange two articles which bear the same common cause of prohibition. It is, for example, prohibited to exchange a kilo of gold of inferior quality for half kilo of superior quality. The same is applicable in the case of exchanging a good type of silver, wheat, barley, dates, or salt for a poor type.³

³ *Ibid.*

It is only permissible to exchange articles of the above mentioned things provided that they are equal in weight and the exchange has to be made in hand to hand transaction. However, it is permissible to exchange a kilo of gold for two kilos of silver provided that it is a hand-to-hand transaction. This is because gold and silver are of different types. The Prophet (peace be upon him) said, “gold to be exchanged for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt, like for like and equal for equal, payment being made hand to hand. If these classes differ, then sell as you wish if payment is made hand to hand”. Narrated by Muslim.⁴

Another *Hadith*, Narrated Ibn Shihab that Malik Ibn Aws said: ‘I was in need of change for one-hundred *Dinars*. Talhah Ibn ‘Ubaydullah called me and we discussed the matter, and he agreed to change (my *Dinars*). He took the gold pieces in his hands and fidgeted with them, and then said: ‘Wait till my storekeeper comes from the forest.’ ‘Umar was listening to that and said: ‘By Allah! You should not separate from Talhah till you get the money from him, for Allah’s Apostle said: ‘The selling of gold for gold is *Riba* except if the exchange is from hand to hand and equal in amount, and similarly, the selling of wheat for wheat is *Riba* unless it is from hand to hand and equal in amount, and the selling of barley for barley is *Riba* unless it is from hand to hand and equal in amount, and dates for dates, is *Riba* unless it is from hand to hand and equal in amount’.⁵

Narrated Abu Hurayrah: The Prophet said: ‘If you give gold, then receive back the same gold: the same weight and the same quality; and if you give silver then receive back

⁴ *Ibid.*

⁵ Bukhari, A. ‘A.M.I., *Sahih Bukhari*, (Karachi: *Daru’l-Isha‘at*, 1985), vol. 1. p. 2029.

the same silver: the same weight and the same quality, because the one who gives more or expects more, then that is exactly *Riba'*.⁶

The sale of gold jewellery for pure gold of a greater weight

The first opinion on this matter is that the sale of gold jewellery for pure gold of a greater weight is not permitted. The same applies to the sale of silver jewellery for pure silver. This is the view held by the majority of scholars. They base their opinion on the previously-discussed *hadîth* and other *hadîth* like them, which together number more than seventeen texts. In fact, some scholars have declared these *hadîth* to be *mutawâtir*.

Ibn `Abd al-Barr writes:

“The position upon which all are agreed is that nothing of gold – it matters not whether it is in the form of bullion, ore, or jewellery just as it matters not if it has been smelted or is of a low grade – may be sold for anything of gold except of an equal quantity in a hand-to-hand transaction. The same goes for silver – whether it is in the form of bullion, jewellery, or ore and whether it is white or black, of good quality or bad, it is all the same – it must not be sold for itself except of an equal quantity in a hand-to-hand transaction. Whoever makes an increase or decreases in any of that or defers any payment has in doing so engaged in usury”.⁷

The other opinion on this matter is that this kind of sale is permissible. It is the preferred opinion of many Hanbalî jurists. This opinion was chosen by Ibn Taymiyah
Ibn Taymiyah says:

“The sale of gold and silver jewellery for gold and silver is permissible without being conditional upon the quantities being equal. The excess is considered to be

⁶ Abu Husen Muslim, *Sahih Muslim*, (Lahore; Khalid Ihsan Publishers, 1981), Vo. 4. p. 211.

⁷ Ibn `Abd al-Barr, *al-Kâfi fi Fiqh Ahl al-Madînah*, (Bayrut; Dar al-Kutub al-`Ilmiyah, 1992), p.302.

in lieu of the craftsmanship. It does not matter whether the sale is immediate or deferred, as long as it is not intended for monetary purposes”.⁸

Ibn al-Qayyim writes:

“Permitted jewellery becomes, by virtue of permitted craftsmanship, of the same category as clothing and merchandise and is not of the category of monetary instruments. This is why there is no *Zakâh* required upon it. Therefore, the question of usury does not apply to traffic between it and monetary instruments any more than it applies to traffic between monetary instruments and other forms of merchandise, though admittedly those other forms are made of other substances. The reason for this is that this jewellery has become removed from the intent of being a monetary instrument and has been prepared for sale as merchandise. Consequently, there is no prohibition of selling it for something of the same physical makeup. The issue of “pay up front or fall into usury” does not enter into it except in the way that it does with other forms of merchandise when they are sold for a deferred payment”.⁹

The scholars who hold the opinion that the sale of gold jewellery for pure gold of a greater weight – and silver jewellery for pure silver of a greater weight – is permitted provide various arguments and evidence in support of their view. The following arguments are presented by both Ibn Taymiyah and Ibn al-Qayyim:¹⁰

1. The effective cause in Islamic Law for the usurious nature of trading gold for gold and silver for silver is that gold and silver are monetary instruments. When gold

⁸ Ali al-ba’li, *al-Ikhtiyârât alfiqhiyah li ibn Taimiyah*, (Riyad; Maktabah al-Hadithah), p.127.

⁹ Muhamad bin al-Qayyim, *I’lâm al-Muwqi`în* (Beirut, Dar al-Fikri, 1977), vol,2 p. 141.

¹⁰ *Ibid.*

and silver are crafted into jewelry, the resulting product becomes no different than other merchandise.

2. The exchange of gold jewelry for gold of a greater quantity is based on the idea that the excess is in lieu of the craftsmanship and labor involved. No rational person would sell gold jewelry for gold of equal weight. That would be foolishness and a waste of a craftsman's labor. Islamic Law does not demand a goldsmith to sell his jewelry for the same quantity of gold and lose out on the value of his labor. It does not demand from him to abandon his profession. It also does not command him to devise some legal loopholes to get around the prohibition and sell his jewelry for a greater weight of gold. Islamic Law is far more precise than to impose such requirements.

2. HOW TO INVEST IN GOLD?

In Malaysia, there are two ways to invest in gold. First: through physical gold investment and second: by opening gold investment account.

2.1 PHYSICAL GOLD INVESTMENT:

Physical gold investment means investors hold their gold investment in the physical form.¹¹ Instand it can be divided into three categories: gold coins, gold bars and Jewellery.

2.1.1 Gold Coins:

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 to ensure hardness.¹² Gold coins are priced according to their fine weight, plus a small premium based on supply and demand. The exquisite designs of gold bullion coins and the history behind them further enhance their value. They 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 one ounce. Instant worldwide liquidity and the ability to take physical possession give investors complete control over their gold bullion coin investments.¹³

¹¹ What Is the Advantage of Physical Gold Investment? ,
<http://www.ehow.com/facts_5801825_advantage-physical-gold-investment.html#ixzz1Fi44ROuf> , (accessed March 1, 2011).

¹² Difference Between Gold Bars & Gold Coins,
<http://www.ehow.com/facts_5828103_difference-gold-bars-gold-coins.html#ixzz1FryADEmD>, (accessed March 1, 2011).

¹³ <<http://www.gold-investment.info/bullion-investments.php>>, (accessed March 1, 2011).

Different countries worldwide have their own set of gold bullion coins. In Malaysia, ‘**The Kijang Emas Gold Bullion Coins**’ is the official bullion gold coin of Malaysia. It is minted by the Royal Mint of Malaysia¹⁴ and only distributed by selected Maybank branches throughout Malaysia. It was first issued in 17 July 2001 and launched by the fourth Prime Minister of Malaysia, Tun Dr. Mahathir Mohamad.¹⁵ Malaysia is the 12th country in the world to issue its own gold bullion coins and now joins the ranks of other international gold bullion coins.¹⁶



The design on the obverse of the Kijang Emas depicts a barking deer ("kijang") in its natural habitat in the Malaysian jungle. Also appearing on the obverse are the words BANK NEGARA MALAYSIA, for the central bank of Malaysia as the issuer of the coins; KIJANG EMAS; the weight; gold purity; and the year of minting. The reverse side features the hibiscus, the national flower of Malaysia together with the denomination face value, as well as the words BANK NEGARA MALAYSIA in Jawi (an adapted Arabic alphabet for writing the Malay language).¹⁷

The Kijang Emas has a gold purity of 999.9 millesimal fineness. The coins come in denominations of RM200, RM100 and RM50 which are nominal face values, and

¹⁴The Royal Mint of Malaysia was the national mint of Malaysia. It was located at the Kompleks Kilang Wang Bank Negara Malaysia in Shah Alam. It was established in 2003.

¹⁵ Kijang Emas, <http://en.wikipedia.org/wiki/Kijang_Emas>, (accessed March 2, 2011).

¹⁶ Bank Negara Malaysia, <<http://www.bnm.gov.my/index.php?ch=103&pg=441&ac=302>>, (accessed March 2, 2011).

¹⁷ Kijang Emas, <http://en.wikipedia.org/wiki/Kijang_Emas> , (accessed March 2, 2011).

weighs 1 oz, ½ oz and ¼ oz respectively. The purchase and reselling price of Kijang Emas is determined by the prevailing international gold market price. It has a low spread¹⁸ (3.9%-7.4%). The daily market price is posted on the BNM web site.¹⁹ These coins can be charged at Ar-Rahnu and if the customers want to sell the coins to Maybank, they must ensure that the coins are not broken, scratched, bent or dented otherwise Maybank will not accept the coins back.²⁰

Besides acquiring the Kijang Emas which is the official bullion gold coin of Malaysia, investors also have other options:

- Dinar Emas Kelantan / Kelantanese Gold Dinar
 - Gold coins distributed by United Overseas bank
 - Gold coins distributed by Public Fine Gold Sdn. Bhd
- **Dinar Emas Kelantan / Kelantanese Gold Dinar:**

Gold dinar is a bullion gold coin made from 4.25 grams of 22k gold with historical Islamic significance.²¹

The Kelantanese Gold dinar was created by the Government of the Malaysian state of Kelantan in 2006 (27 Shaban 1427 AH corresponds to 20th Sep 2006). It features the Kelantan state crest, the date of production, as well as the weight and purity of the

¹⁸ Spread means the difference between selling price and buying price. The formula for calculation of spread: $\frac{\text{Selling price} - \text{Buying price}}{\text{Selling price}} \times 100$.

Selling price

¹⁹ Kijang Emas, <http://en.wikipedia.org/wiki/Kijang_Emas>, (accessed March 2, 2011).

²⁰ Maybank Berhad, <<http://www.maybank2u.com>>, (accessed March 3, 2011).

²¹ Dinar Emas Kelantan, <http://www.chiefacoins.com/Database/Micro-Nations/Emas_Dinar_Kelantan.htm>, (accessed March 4, 2011).

gold used on its face. The DEK (Dinar Emas Kelantan) is similar to the original dinar in weight and purity of gold used.²²

All these coins are having the description "EMAS DINAR KELANTAN" with Kelantan arms. The AH 1427 corresponds to 2006-2007 CE are also visible on these coins. The word "Emas" written in Malay language using Arabic script means gold. These coins are produced and minted by: Mariwasa Kraftangan Sdn. BHD. These coins are inserted inside holed colourful cardboard with an extra-thick transparent plastic lamination to make them sturdy.



This way the coins will retain their weight and look authentic. Among the size of the gold dinar for sale are; 2 Dinar, 1 Dinar, ½ Dinar and ¼ Dinar.

- **Gold coins distributed by UOB Bank:**

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 at the Bank's daily published rates. These coins are legal tender with face

²² *Ibid.*

values, and accepted and tradable worldwide.²³ As for gold coins they are offering as follows:²⁴

1) Canadian Gold Maple Leaf



2) Australian Kangaroo Gold Nugget



3) Swiss Kinebar



4) Swiss Palm Gold



5) Singapore Lion Gold Coin



²³ UOB Gold Coins, <http://www.uob.com.sg/corporate/corporate/treasury/precious_metals.html>, (accessed February 26, 2011).

²⁴ UOB Gold Coins, <http://www1.uob.com.my/webpages/b_treasury_gold.htm>, (accessed February 26, 2011).

It has a low spread (2%-16.5%) and can be charged at Ar-Rahnu.²⁵ If the customers want to sell the coins to UOB Bank, they must ensure that the coins are not broken, scratched, bent or dented otherwise UOB will not accept the coins back. The same applies to gold purchase certificate, if the customers lost it, the coins cannot be sold back to UOB. UOB issues receipts for the gold that they sell and is committed to buy them back at a small discount to the spot price of gold at any time, as long as the receipts are presented. This means that the customer can sell their gold back to UOB at their convenience without having to look for a buyer themselves.²⁶

- **Gold coins distributed by Public Fine Gold Sdn Bhd:**

Public Fine Gold International Sdn Bhd otherwise known as "Public Gold "is a private company that sell and purchase gold coins, gold dinar and gold bars. Public Gold is the first company in Malaysia that sell gold investment in international market prices and offers opportunities for communities to have gold with reasonable price. Public Gold also has been recognized by Malaysian Book of Records to be the first Malaysian company to produce certified gold bullion locally. 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 Gold has appointed agents throughout the Malaysia to facilitate the sale and purchase of gold by communities throughout the country.²⁷

²⁵ Shukor Hashim, *E-book, Menyingkap Rahsia Pelaburan Emas*, p. 35.

²⁶ Selling Gold, <<http://blog.theasianinvestor.com/>>, (accessed February 27, 2011).

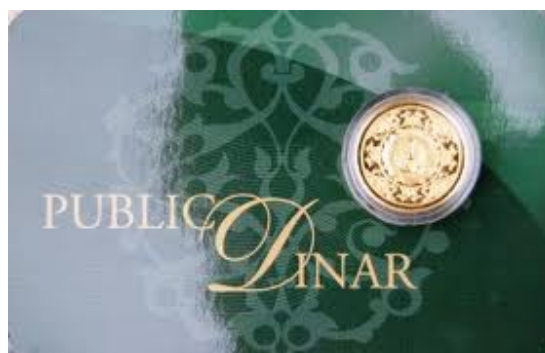
²⁷ Public Gold, <<http://www.publicgold.com.my/content/view/522/107/lang,malay/>>, (accessed February 23, 2011).

Public Gold has its own mint which is known as **Public Gold Mint Sdn Bhd**. It provides minting facility covering tooling, design, dies, and the production of Gold Bars and Gold Coins.²⁸

Public Gold Coin:



Public Dinar:



As far as gold dinar is concerned, it is under Public Gold subsidiary company known as **Public Dinar Sdn. Bhd. Public Dinar**. It was incorporated with the intention to buy and sell own Islamic Gold Dinar coins. Public Dinar buys and purchases Dinar coin within Public Gold Group.²⁹

Public Gold offer low spread between 5% - 6% and can be charged at Ar-Rahnu. What is great about Public Gold, it guarantees that if the gold scratched, bent or dented, customers can still sell it back to Public Gold as long as the weight is the same according to market price.³⁰

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

2.1.2 Gold Bars:

Apart from gold coins, the best way to invest in gold is by buying gold bars. Gold bars are made of pure gold.³¹

The price of gold bars usually is close to the international gold price, with purity 999.9, and has low spread.³² Gold bars are made in a wide variety of sizes. Gold bars have their weight and purity written right on them. This makes it easy to identify and authenticate the bars, as well as calculate their value.³³

In Malaysia there are three popular types of gold bars that can be purchased:

1. Public Gold Bars.
2. Poh Kong Bunga Raya.
3. PAMP Suisse.

- **Public Gold Bars:**

Public Fine Gold Sdn. Bhd. which has been mentioned previously also produced gold bars. The sale of gold bars weighing as follows: 20 grams, 50 grams, 100 grams and 1 kg. Each gold bar has a certificate of authenticity and a unique serial number.



³¹ Difference Between Gold Bars & Gold Coins <http://www.ehow.com/facts_5828103_difference-gold-bars-gold-coins.html>

³² Shukor.

³³ <http://www.ehow.com/facts_5488501_define-gold-bullion.html>, (accessed March 7, 2011).

- **Pamp Suisse Gold Bars:**

PAMP is an abbreviation for (Artistic, precious metals products). PAMP which base 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 and available in two forms.³⁴

PAMP Suisse Gold Bar with pink certificate:



Lady Fortuna PAMP Suisse:



³⁴Pamp Suisse, <<http://pamp.com/main.htm>>, (accsesed March 1, 2011)

- **Poh Kong Gold Hibiscus:**

Gold shop Poh Kong has sold their output of gold bars own. It is called Bunga Raya gold bars.³⁵

Poh Kong Gold Hibiscus:



2.1.3 Jewellery:

There are two main reasons that people buy gold jewellery. One is because of its beauty and status symbol and two for investment. Unlike other forms of gold investment, by investing in gold jewellery one can enjoy its beauty and at the same time have strength against a weak economy.³⁶

916 Gold is a standard for jewellery without gemstone in Malaysia. The jewellery made from 22 carat³⁷ gold is soft enough, but will not damage or bend when worn, please

³⁵ <http://pohkong.com.my/collections/bunga_raya/bunga_raya.asp>, (accessed March 5, 2011)

³⁶ <<http://mcdonoughinfo.com/investments/id71.html>> (assessed March 5, 2011)

³⁷ Carat comes from Arabic, meaning bean seed, because years ago seeds were used to measure the weight of gold and precious stones. Any jewellery- by law- has to exhibit both the finest

note that jewellery of any carat does not damage by wearing it on the body, but does so by storing it unsafely, 22 carat jewellery if stored properly can, last for years. Gold jewellery made in 22k purity, has be worn for generations in India, China, far east, middle east, most of Africa and many other parts of the world.³⁸

However, according to Wang Lixin, the China Representative for the World Gold Council³⁹ said that vesting in jewellery is not a good investment because people are paying a lot for the design and the skill in its manufacture.

2.1.4 How to Purchase Physical Gold?

Previously, we have discussed thoroughly about types of physical gold investment and where it can be acquired. The question now, how to buy it?

If the physical gold distributed by the bank, customers can go straight to the bank to buy it and they will possess the physical gold on the spot during the sale transaction took place as long they still have stock of the gold. For example: Kijang Emas distributed by Maybank and Gold coins and bars distributed by UOB. The same also apply if customers want to purchase gold bars or jewellery from gold shop like Habib Jewel and Poh Kong Sdn. Bhd. For Dinar Kelantan, it can be purchased and possessed it immediately at Wakalah⁴⁰ and Ar-Rahn branches.

quality mark that indicates the caratage, which is the percentage of fine gold contained in the jewellery. Now though, carat literally means the amount of gold an item of jewellery contains.

³⁸ Jewellery, <<http://www.publicjewellery.com.my/catalogue/faq.php>>, (accessed March 7, 2011).

³⁹ Gold jewelry can hedge, but not investment, <<http://www.ixgw.com/2011/01/gold-jewelry-can-hedge-but-not-investment/>>, (accessed March 2, 2011).

⁴⁰ Permodalan Kelantan Berhad, Nubex (Nusantara Bullion Exchange), and Bayu Melawi Sdn Bhd.

However for Public Gold, gold coins or gold bars can order it through online or authorizes dealers. If order through online, customer will receive an agreement by e-mail or fax stated the terms and conditions together with total price. Upon agreement, customers have to bank in the payment within 1 ½ hours. The time limit will be stated on the agreement. Customers then are requested to fax the bank in slip together with the signed agreement to the Public Gold (fax no: 04-6464916) or email: payment@publicgold.com.my. Customers can collect the item from Public Gold branch 3-5 days from the day of the payment been made.⁴¹

If customers choose to buy from dealer, the customers will be able to obtain the gold at once if the dealer has the item is his possession at that moment. Otherwise, the customer will have to order the gold from the dealer and wait for the dealer to get the gold from Public Gold branches. The dealer has right either to ask the customers to pay deposit to secure the promise to buy made by the customers or payment only be made at the moment the dealer has the gold and give it to the customers.

Thus, does this transaction permissible in Shariah?

As far as transaction of physical gold are concerned, the rule that applies on the transaction must be hand in hand and if the gold is not delivered to the customer immediately during the transaction or the gold is not existed during the sale contract, it amounts to *riba*. Therefore, it is permissible for customers to buy physical gold like Kijang Emas, physical gold distributed by UOB, Dinar Kelantan, gold bars and jewellery

⁴¹ Mr. Vincent, interview by author, Public Gold Sdn, Bhd. 1st March 2011.

from gold shop provided that the gold is existed and delivered to the customer on the spot time and the payment is on cash basis.

However, in case of Public Gold, buying gold via the internet is not a transaction that is conducted hand to hand, because the customer are sending the money to institution then they send that gold to the customer after a while.⁴² If that is the case, then buying and selling in this manner is not permissible, If customers deals with dealer, they have to ensure the dealer have the gold with him during sale transaction in order for the transaction to be permissible.

⁴² Muhammad Saed Abdul-Rahman, *Jurisprudence and Islamic rulings part 6*, (London: Misa Publication Limited, 2004), p.218. according to Fataawa Islamiyyah (2/364). Stated that “Exchanging currencies hand to hand over the phone or via internet when the two parties are far away from one another is impossible. Hence the contemporary scholars stated that it is permissible to sell currencies by phone or internet if there is something that takes the place of hand-to-hand exchange, which is immediate transfer of funds from the account of the seller to the account of the buyer,” <http://islamqa.com/en/ref/93334> (accessed 7-3-2011).

2. GOLD INVESTMENT ACCOUNT:

Apart from physical gold investment, investment in gold can also be made through bank account. There are five banking institutions that offer Gold Investment Account:

- i) CIMB Bank- Gold Deposit Account (GDA)
- ii) Kuwait Finance House- Gold Account-I (GAI)
- iii) Maybank- Gold Savings Passbook Account (GSPA)
- iv) Public Bank- Gold Investment Account (GIA)
- v) United Overseas Bank- Gold Savings Account (GSA)

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 the 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. Gold purchase and sale will be based on the Bank's prevailing gold selling price quoted in RM per gram. For Gold account investment there is no interest payout plus it is not insured by The Malaysia Deposit Insurance Corp (*PIDM*).

As far as these four banks abovementioned are concerned with an exception to Kuwait Finance House, when the customers open gold account, the physical gold to represent the amounts 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 weights 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 four 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.

Further discussion regarding the gold investment account as follows:

CIMB Bank- Gold Deposit Account (GDA):

CIMB Bank has launched Gold Deposit Account effective on 17th January 2011 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/current account prior to opening a GDA to facilitate the purchase or sale of gold and other charges. The designated affiliate account is compulsory and customers without a CIMB Bank

savings/current account would be required to open one. Mode of operation of account is through Passbook.⁴³

The initial gold purchase quantity to open a Gold Deposit Account is at only 10 grams and subsequent minimum trading quantity is 5 grams and in multiples of 1 gram. The Bank can make available the physical gold in denominations of 100 grams in multiples 100 grams should the customer require physical withdrawal of gold. A minimum quantity of 1 grams of gold is to be maintained by the customer to ensure the account remains active.⁴⁴

Maybank- Gold Savings Passbook Account (GSPA):

Maybank has launched a gold investment account in 1997. It is 100% backed by physical gold and in collaboration with the World Gold Council⁴⁵. The Gold Savings Passbook Account (GSPA) 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 1gm 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 GSPA passbook. Customers also have opportunity for capital gain if the price of gold appreciates. Mode of operation of account is through Passbook.

⁴³ Gold Deposit Account, <http://www.directaccess.com.my/index.php?ch=cb_per_st&pg=cb_per_st_inv&ac=12&tpt=cim_b_bank>, (accessed March 3, 2011).

⁴⁴ *Ibid.*

⁴⁵ Maybank, <http://www.maybank2u.com.my/mbb_info/m2u/public/personalDetail04.do?channelId=&cntTypeId=0&cntKey=INV03.02&programId=ACC01-SavingsAccounts&chCatId=/mbb/Personal/ACC-Accounts>, (accessed March 5, 2011).

The minimum quantity of initial gold purchase is 5 grams and subsequent minimum trading quantity is 5 grams and in multiples of 1 gram. A minimum quantity of 1 grams of gold is to be maintained by the customer to ensure the account remains active. The Bank can make available the physical gold wafer in denominations of 10 grams, 20 grams and 50 grams should the customer require physical withdrawal of gold.⁴⁶

A conversion charge to cover the shipping and insurance will be charged for the physical gold withdrawal. The amount of gold holdings can be converted to Ringgit Malaysia at the prevailing market price. The amount in RM will be credited into customers Maybank deposit account.⁴⁷

Public Bank- Gold Investment Account (GIA):

Public Bank has launch a new investment product effective on 21st April 2008 known as the Gold Investment Account that allows individual customers to purchase the purest available gold commodity in 99.99% fineness at daily prices in Ringgit Malaysia per gram. According to its Managing Director Dato' Sri Tay Ah Lek; the launching of 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 higher returns. The world demand for gold as a precious metal is ever growing

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

as evident from the India and China markets which are among the world's largest consumers of gold.⁴⁸

The initial gold purchase quantity to open a Gold Investment Account is affordable at only 20 grams and subsequent minimum trading quantity is 5 grams and in multiples of 1 gram. The difference between the selling and buying prices is relatively small. As a global practice, the Gold Investment Account does not pay interest as this is not a deposit placement and furthermore, the Bank keeps the gold with an authorised custodian bank. Mode of operation of account is through Passbook.⁴⁹

The Bank can make available the physical gold in denominations of 100 grams, 500 grams and 1,000 grams should the customer require physical withdrawal of gold. A minimum quantity of 2 grams of gold is to be maintained by the customer to ensure the account remains active. For the purpose of physical gold withdrawal, the minimum quantity is 50 grams. Besides that, customers can perform gold purchases and sales via online for GIA at discounted price.⁵⁰

⁴⁸ Public Bank Gold Account, <http://ww2.publicbank.com.my/cnt_press257.html>, (accessed March 5, 2011).

⁴⁹ Gold Purchase requirement, <http://www.pbebank.com/en/en_content/personal/investments/gold.html>, (accessed March 5, 2011).

⁵⁰ *Ibid.*

United Overseas Bank- Gold Savings Account (GSA) and Premier Gold Account (PGA):

United Overseas Bank has launched its new product of Gold Savings Account and Premier Gold Account on 15th October 2010. It is a gold investment 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 gram. 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.

The preliminary purchase quantity to open Gold Savings Account⁵¹ is at 20 grams and the subsequent minimum trading quantity is 5 grams and it must be in multiple 5 grams. The minimum gold balance to be maintained in GSA is 10 grams.

For Premier Gold Account,⁵² the initial purchase quantity is 1 kg and the subsequent minimum trading quantity is in multiple of 1 kg. The minimum gold balance to be maintained in this account is 1 kg.

The return of customer investment is based on the movement of gold price.⁵³ This statement-based accounts allow customer to buy and sell gold at UOB Bank's Prevailing market rate.⁵⁴ Investors can deposit or withdraw gold grams at their convenience in cash

⁵¹ Gold Savings Account, <http://www1.uob.com.my/webpages/b_treasury_gold_investment.htm>, (accessed March 7, 2011).

⁵² Premier Gold Account, Ibid.

⁵³ UOB Gold Account, <http://www1.uob.com.my/webpages/b_treasury_gold_investment.htm>, (accessed February 26, 2011).

⁵⁴ *Ibid.*

form. However, gold grams cannot be exchanged for physical gold for retail investors. The gold grams can only be deposited or withdrawn in cash.⁵⁵

Kuwait Finance House -KFH Gold Account-i:⁵⁶

Kuwait Finance House has launched KFH Gold Account-i effectively on 29 April 2010. It 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 (KFHMB) sells physical gold to the 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 of 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. Physical withdrawal of gold can be made in a denomination of one, five, ten and fifty grams.

The *Shariah* concepts used are *Ba'i As-Sarf* and *Qardh Hasan*. *Ba'i As-Sarf* refers to the exchange of one monetary form for another in the same or different form i.e. 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) hereinafter referred to as "the gold") at the bank's selling price from KFHMB, and there after the purchased gold and any amount of gold to be subsequently purchased shall be

⁵⁵ *Ibid.*

⁵⁶ Shahimah, interview by author, Kuwait Finance House, Lot 22, 1st Floor, Pavilion KL, 168 Jln Bukit Bintang, 55100 Kuala Lumpur, 25 February 2011.

deposited into the account based on Islamic contract of *Qardh* with KFHMB as the debtor (*Muqtaridh*) and the customer as the creditor (*Muqridh*).

The customer may, on any business day and from time to time purchase from the bank such amount of gold by submitting a duly completed application form. The minimum initial purchase of gold shall be not less than ten grams of gold for individual customers or fifty grams of gold for non-individual customers. Thereafter, for each and subsequent purchase of gold shall be for not less than five grams of gold. The purchase price per gram at which each purchase will be made by the customer shall be selling price as quoted by the bank to customer upon placement of the purchase order. The selling price quoted shall be determined by the bank at its sole and absolute discretion taking into account all factors the bank shall deem relevant including the prevailing world and local market conditions for gold, the exchange rate between United States Dollar (USD) and Ringgit Malaysia (RM) and the gold fineness. The daily purchase and sell prices of gold shall be displayed during the business hours at the branches of the bank. Furthermore, The customer have to make full payment for any gold purchased from the bank by authorizing the bank to debit the designated account and the bank will not be obliged to effect any purchase order if there is insufficient funds in the customer's designated Account.

For sale of gold, the customer may instruct the bank to sell the gold maintained in the account by completing the relevant withdrawal or sale form. The proceed of the sale shall be paid to the customer on the same business day by crediting into the customer's designated account. Each sale of gold by the customer will be at the purchase price quoted by the bank to the relevant purchase transaction. And no physical gold to be

delivered to the bank for opening and deposit into the customer's account and the bank shall be entitled to reject such deposits. Therefore, the customer can get the profit from this activity when he resells the gold to the bank for a higher purchase price.

The customer can request for physical of gold from the account. The quantity of gold standing to the credit of the account of the account is sufficient; the customer may withdraw any of physical gold from the account in the denomination of one, five, ten, one hundred grams or such other denomination as may be denominated by the bank from time to time. The customer may request for withdrawal of physical gold from account provided that the maximum withdrawal of physical gold shall be not more than fifty grams within three months.

The customer agrees that they will collect the gold from the designated branch of the bank, on the date the customer submits the withdrawal form or on such other time and date as notified by the bank subject to availability of gold. The customer further agrees that all risk of delivery of the physical gold shall pass to the customer upon receipt of the gold by the customer. In the event the customer fails or neglects to be present at the designated branch of the bank on the collection date, the customer and the bank agree that the bank shall hold and store the gold so withdrawn until the customer collects the physical gold from the bank.

After acquiring the physical gold from the bank, the customer may resell the physical gold withdrawn to the bank and the bank may repurchase from the account at purchase price quoted by the bank to the customer and provided that;

- (a) The packing and security seal of the physical Gold remain intact; and

(b) The serial number and the barcode printed on the face of the packing must match the bank's record.

The minimum of repurchase of physical gold from the customer is one gram. And the minimum redeposit physical gold shall be for not less than five grams of gold or other minimum quantity determined by the bank from time to time and multiples of one gram of gold or other minimum multiples quantity as determined by the bank from time to time.

In the event that the customer has closed the account, the customer may resell the physical gold withdrawn from the closed account to the bank provided always that the gold security seal embossed or marked on is remain intact and the proceeds from the sale of gold above shall be credited into the customer's designated account or the customer may open a fresh account subject to the terms and conditions herein contained.

The account shall be deemed closed upon the withdrawn of all gold available in the account by the customer or by operational law. The closing of the account shall be deemed as an act of terminating of the *Qardh* contract (benevolent loan) and neither the bank nor the customer shall have any liability to the other save for any antecedent breaches under this terms and conditions.

The bank shall at any time, at its discretion prevent the customer from operating the account, if the bank suspect that KFH Gold account-i is being used for any illegal purpose or whatever.

COMPARISON BETWEEN FIVE BANK GOLD ACCOUNTS:

	CIMB Bank Gold Deposit Account	Kuwait Finance House Gold Account-i	Maybank Gold Savings Passbook Account	Public Bank Gold Investment Account	UOB Gold Savings Account
Launch Date	17-Jan-11	29-Apr-10	1997	21-Apr-08	15-Oct-10
Minimum Initial Deposit	10 grams	10 grams	5 grams	20 grams	20 grams
Minimum Balance in the Account	1 grams	2 grams	1 grams	2 grams	10 grams
Charges for Gold Balance Below Quantity Required	RM5 will be charged in the event gold balance falls below 10 grams at the end of year	Not Applicable	Not Applicable	RM10 will be charged in the event gold balance falls below 10 grams at the end of year	RM2 will be charged per month if the balance of account falls below 10 grams at the end of year
Minimum Subsequent Purchase/ Sale	5 grams and must be in multiples of 1 gram	5 grams and must be in multiples of 1 gram	5 grams and must be in multiples of 1 gram	5 grams and must be in multiples of 1 gram	5 grams and must be in multiples of 1 gram
Fineness of Gold	99.9 % Fineness	99.5 % Fineness	999.9 % Fineness	99.9 % Fineness	999.9 % Fineness
Minimum Quantity for Physical Gold Withdrawal	100 grams in multiples of 100 grams	1 grams, 5 grams, 10 grams, 50 grams	Gold Wafers at 10, 20, and 50	50 grams and 100 grams,	To be Confirmed
Account Opening Requirement	Either a savings or current account is acquired	Either a savings or current account is acquired	Not Applicable	Either a savings or current account is acquired	Either a savings or current account is acquired
Mode of Operation	Passbook	Statement	Passbook	Passbook	Statement

Gold Sale/ Purchase Price	Based on the Bank's prevailing gold SELLING/ BUYING price quoted in RM per gram				
Gold Withdrawal	a) Credit into savings or current account b) Physical gold withdrawals at selected branch	a) Credit into savings or current account b) Physical gold withdrawals at all branches	a) Cash b) Credit into savings or current account c) Physical gold withdrawals at selected branch	a) cash b) Credit into savings or current account c) Physical gold withdrawals at selected branch	a) Credit into savings or current account b) Physical gold withdrawals subject to UOB's bank approval
Interest	No interest payout				
Online Trading	No	No	No	Yes	No
Protection of PIDM	Investment is not insured by PIDM				
Note	Physical gold withdrawal will be charged RM 1 per gram of gold ordered	First shariah based gold account in Malaysia	Malaysia's largest bank, 100% backed by physical gold	Online gold trading via PBeBank.com-gold purchases and sales are offered at discounted price	Premier gold account is available at smaller difference between selling and buying prices 4 big investors.

After analyzing the above gold account investment practicing in this country, it can be seen that there are five banking institutions that offer gold investment account whereby Kuwait Finance house the only one institution which is compliance with Shari'ah based on *bai'Sarf* contract.

In Kuwait Finance House, after conclude the sale contract, the customer have two options whether 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. Because of the exchanging 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 (peace be upon him) 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 must go straight to 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 is not existed during the sale contract. This kind of transaction is not permissible according to Shari'ah since it is involved with *riba*. It is necessary for the seller and the buyer that before they separated from each other, they should deliver the commodity, and its exchange to each other. And if even a part of the thing about which agreement has been made, is not delivered to the person concerned, the transaction becomes void.

The transaction involves delaying the delivery of the gold for a certain period after making the deal in which a buyer pays a certain amount of money for a quantity of gold that he receives after a span of time. This really contradicts the stipulation of the *Sunnah*. In his *Hadith*, the Prophet (peace and blessings be upon him) says: "Sell not gold for gold or silver for silver unless when you do so on the spot and unless they are equal in quantity".

CONCLUSION

Gold investment is a good option where investors can look at when they want to diversify their investments portfolio. As had been discussed previously, investors have two options either to invest in physical gold or to open gold investment account.

For Muslims, whenever they intend to purchase physical gold, they have to ensure that the gold will be obtained on the spot during the transaction in order to make the transaction permissible in Islam.

If they opt for gold investment account, in Malaysia there are five banks that offer such product. However it is recommended that to those who want to open gold investment account, Kuwait Finance House is the best choice. This is because based on our research; Kuwait Finance House's gold investment account is the only product which complies with *Shari'ah*.

In conclusion, it cannot be denied that gold is considered as the most precious commodity in the world and as a sign of wealthy. In Islam, Muslim is not forbidden to acquire wealth through gold investment as long as done in accordance with *Shari'ah*.

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