

A COMPARATIVE STUDY OF GOLD INVESTMENT ACCOUNT BETWEEN
KUWAIT FINANCE HOUSE MALAYSIA BERHAD AND PUBLIC BANK
BERHAD

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Thesis submitted to

Othman Yeop Abdullah Graduate School of Business,

Universiti Utara Malaysia,

In Fulfillment of the requirement for the Master Degree

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Abstract

This research focuses gold investment account which offered by Kuwait Finance House Malaysia Berhad and Public Bank Berhad. This research is to know the comparison of both banks in term of their transaction on gold investment account. Now days, the public realize the importance of gold. So, there are some banks which offered their product base on gold which known as gold investment account or gold saving account. So far, the one of the emerging popular types of investment in Malaysia today is gold investment because it have a value and known as precious metal. As before, many researchers just do a research base on Dinar gold which is first establish in Kelantan. But, there is a little research on this particular investment product. Since, gold is relates to *ribawi* items, so it is important to the investor to know how gold is transacted whether it is followed to Shariah guideline or not. The objectives of this research, which is qualitative research methods including content analysis and interviews were used. The study utilized personal interviews with scholars, bank managers and studying books, journals, magazines, newspaper as well as the empirical analysis from the available evidence such as documents published by Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia. The study found that from both banks KFHMB and PBB, there just a few differences based on their transaction. The appearance of subject matter (physical gold) in such contract and way of transaction by on the spot is a main important part to ensure that transaction is really Shariah manner.

Keyword: Gold, Gold Investment Account, Public Bank Berhad, Kuwait Finance House Malaysia Berhad

Abstrak

Kertas penyelidikan ini memfokuskan kepada akaun pelaburan emas antara bank Kuwait Finance House Malaysia Berhad dan Public Bank Berhad. Penyelidikan ini bertujuan untuk mengetahui perbandingan antara kedua buah bank tersebut dari segi transaksi emas yang dijalankan. Hari ini, masyarakat telah sedar akan kepentingan emas. Maka telah wujud berbagai bank yang menawarkan produk berasaskan akaun pelaburan emas kerana pelaburan emas kian mendapat populariti di Malaysia berikutan harga emas yang tinggi dan merupakan aset nilai yang unggul. Sebelum ini, kebanyakan pengkaji hanya mengkaji berkaitan dinar emas yang mana dinar emas adalah yang pertama ditubuhkan di negeri Kelantan. Walaubagaimana pun, hanya sedikit sahaja kajian yang dijalankan ke atas produk pelaburan emas ini. Di sebabkan emas adalah tergolong di dalam salah satu barangan ribawi, maka ia sangat penting bagi pelabur untuk mengetahui status transaksi pelaburan emas sama ada ianya mengikut Syariah atau tidak. Kertas penyelidikan ini adalah berdasarkan kaedah kualitatif yang menggunakan kaedah kandungan dan kaedah temu bual. Kaedah temu bual di jalankan kepada penasihat Syariah dan pegawai bank. Dapatan kajian juga adalah di ambil dari pelbagai sumber seperti buku, surat khabar, jurnal dan sebagainya. Bagi analisis dokumen, penyelidik menggunakan Syariah parameter dari Majlis Fatwa Kebangsaan Malaysia berikutan prinsip-prinsip dan hal yang membabitkan transaksi emas. Dapatan kajian mendapati bahawa hanya terdapat sedikit perbezaan di antara dua buah bank tersebut. Emas fizikal merupakan elemen yang sangat penting semasa transaksi emas berlaku kerana ia merupakan syarat penting di dalam kontrak. Penyerahan secara lani juga amat penting bagi memastikan transaksi emas mengikut piawaian Syariah.

Kata kunci: Emas, Akaun Pelaburan Emas, Public Bank Berhad, Kuwait Finance House
Malaysia Berhad

ACKNOWLEDGEMENTS

In the name of Allah The Most Beneficent, The Most Merciful and all praise belongs to Allah whom we worship. Alhamdulillah for His grace and mercy. Praise is to Allah (swt) for enabling me to complete this study. In undertaking this work I am indebted to many people from whom I benefited directly or indirectly.

First and foremost I offer my sincerest gratitude to my supervisor, Dr. Sollehudin Bin Shuib and Dr. Ahmad Khilmy Bin Abdul Rahim who has supported me throughout my thesis with his patience and knowledge whilst allowing me the room to work in my own way. At the same time he has provided numerous suggestions and improvements, both in style and content, and helped me rethink issues through his critique. I also like to express my sincere thanks to Prof. Madya Dr. Abu Bakar Hamed as a reviewer and guide me in part of methodology. I thank them for their fatherly advice and support.

I am also indebted to my husband Mohamad Faiz Bin Kasim, who very critically reading various drafts of chapters throughout the writing period and check my grammar as well. I thank his support, love, encouragement and, more important still, light relief. I wish to record my gratitude for my parent and my siblings, for their patience, understanding and continuous support.

I also extend my appreciation and thanks to the personnel of University Utara Malaysia, International Islamic University's library for the good and sophisticated services they provided for those undertaking a research. Last but not least, loves goes to my friends who always supported me and give a great spirit to I accomplish this research.

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LIST OF ABBREVIATIONS

KFHMB	Kuwait Finance House Malaysia Berhad
PPB	Public Bank Berhad
GIA	Gold Investment Account
GSA-i	Gold Saving Account-i
SARF	Bai' al-Sarf
QARD	Qard al-Hasan

CHAPTER ONE

1.0 INTRODUCTION

1.1 Background of Study

Banks in Malaysia offer gold investment accounts to customers who will make deposits when prices of gold are low and withdraw at a profit when prices rise. The objective of the research is to determine the major differences between the nature of gold investment accounts operation in Islamic bank, Kuwait Finance House Malaysia Berhad (KFHMB) and the conventional bank, Public Bank Berhad to come up with the best options between their two products. From Islamic perspective, the perception of gold is very crucial in term of rules and regulations of Islamic finance. It is because; gold is a one of the six Ribawi items whereas it consists of element of Riba and it is strongly prohibited by Islamic law. So, it is important to know the details of both bank and how they operate the transaction of gold investment account. In fact, this study is also to know is there are any advantages on this product and what issues arise from both banks.

1.1.1 Background of Kuwait Finance House Malaysia Berhad

Kuwait Finance House Malaysia Berhad (KFHMB) is one of the Islamic banking in Malaysia. Kuwait Finance House Malaysia Berhad is known as the pioneer of Islamic compliance originates from Kuwait. Since the establishment, and to date, KFHMB become the largest and popular Islamic banking and financial institution. KFHMB offers a special product rather than another Islamic banking in this country such as, KFHMB

which offer a variety wide of product and services which covers from banking, real estate, trade, and investment, commercial and retail market. KFHMB is a foreign bank in state of Kuwait and also known as a second largest Islamic banking in the world (Shuib, 2011). The vision of KFHMB is to lead the international development of Islamic financial services and become the most trusted and sustainably most profitable Shariah compliant in the world where as its mission is to deliver the superior innovation and customer service excellence while protecting and enhancing the interest of all our stakeholders.

As proven, KFH raise many global awards and a part of it is such as Most Trusted Islamic Bank from World Finance, Best Islamic Bank in GCC from Global Finance, Best Islamic Bank in the Middle East from Euro money and so forth. KFH is chosen based on the good record that it has in gold investment account. It is mentioned in the KFH official website that its Gold Account-i has received ‘The Most Outstanding Islamic Consumer Banking Product’ award in Kuala Lumpur Islamic Finance Forum (KLIFF) Islamic Finance Award 2011.

1.1.2 Background of Public Bank Berhad

Public Bank was commenced the business on 6 August 1966 by Tan Sri Dato' Sri Dr. Teh Hong Piow who is founder and chairman of, and was listed on the Kuala Lumpur Stock Exchange (KLSE) on 6 April 1967. To-date, the Public Bank Group has grown into a premier banking group in Malaysia, with overseas market presence in Cambodia,

Vietnam, Laos, Hong Kong, China and Sri Lanka. A comprehensive range of financial products and services which offered by Public Bank Group includes of personal banking, investment banking, share broking, nominee services, sales and management of unit trust funds, commercial banking, Islamic banking, trustee services and general insurance products.

Public bank is choosing because it is a first bank that offered gold investment account. Public bank also is the third largest banking group in Malaysia and ranked number six by asset size in Southeast Asia. Public Bank is the largest non-government-linked corporation in Malaysia with a market capitalisation of RM57.52 billion as at the end of 2012.

Public bank has honoured many best bank awards and excellence in corporate governance as much of 36 awards by national and international publications. This is recognized by its stakeholders where the Public Bank was sustained in financial performance and excellence in the key areas as expected in banking institution. In addition, Tan Sri Dato' Sri Dr. Teh Hong Piow also continues to be honoured with awards of excellence for his sterling leadership and extraordinary achievements, as well as enormous contributions to the Public Bank Group and to the banking industry in Malaysia and in the region.

1.1.3 Introduction of Gold

"Abu Bakr ibn Abi Maryam reported that he heard the Messenger of Allah, may Allah bless him and grant him peace, says: "A time is certainly coming over mankind in which there will be nothing left which will be of use save a dinar and a dirham."

(The Musnad of Imam Ahmad ibn Hanbal)

In a claim by a Muslim scholar Ibn Khaldun in his book *Muqaddimah* (1989:298) that God have created the two precious metals which is silver and gold to serve as a measure of value for all capital accumulations. In fact, gold have precious value and gold become money that can be kept for later use and will not obsolete which is similar to fiat money. Furthermore, the gold will not cause inflation and it is also not vulnerable to exchange rate due to its physical form of its untreatable and indestructible (Muhammad, 2011). Professor Omar Ibrahim Vadillo was first introduced gold dinar investment in 1983. Professor Omar Ibrahim Vadillo is a founder of the Morabeteen International Organization in South Africa with the objective of unification of the economy among Islamic countries (Meera, 2002). Even Al-Ghazali stressed that Allah (S.W.T) created gold and silver as a measure of value (Meera, 2011).

Now days, the public realize the importance of gold. So, there are some banks which offered their product base on gold which known as gold investment account. So far, the one of the emerging popular types of investment in Malaysia today is gold investment (Syed Alwi *et al.*, 2013). Invest in gold could help the investors to meet their objectives. For example when investors invest in gold, they invest in tangible assets compared to

investment in stock. The price of gold in Malaysia is comparatively stable and that is the why gold considered as the safest and profitable tool for successful investments. Since 2006 to 2011 its value increased by 238 % (RM1, 740.65/ounce to RM5, 890.93/ounce) or 48 % on average each year (Utusan Malaysia Online, 2012).

1.2 PROBLEM STATEMENT

Banking institution offer many of gold investment account product since the gold is known as it have a stable value and precious metals. Lately, gold become a popular investment and bank try to offer this kind of product and it attracts many customer especially investor. So far, gold can be a *Haram* transaction if we do not know how it transact since it is a one of Ribawi item (Abdullah, 2012). So, it is very important to know how both bank, KFHMB and PBB operates in term of gold transaction and what are the rules of trading gold in Islam.

Riba from Shariah perspective refers to conditional extra amount or any predetermined, big or small, which the borrower must paid more than the original amount to the lender, (Alwosabi, 2011).

“That which you give as Riba to increase the people’s wealth increases not God; but that which you give in charity, seeking the goodwill, multiplies manifold.”

(Al-Ruum 30:39)

Riba is strongly prohibited by Islamic law as stated in above verse. The most famous *Hadith* regarding the prohibition on *Riba* with exchange of commodities was found in *Kitab al-Musaqat*, chapter on *Riba*. By Ubadah Ibn al-Samit reported a *Hadith* from the Prophet S.A.W:

“Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt, like for like, equal for equal, and hand-to-hand. If the commodities differ, then you (may) sell as you wish provided that (the exchange) is hand-to-hand”

(Riwayat Muslim, No. 1584)

Many customers do not know the differences of the services and facilities offered by Islamic and conventional banks. Based on research done by Abdullah (2012), he stated that being a customer who has the right to choose especially Muslim, one must know the difference and similarity in order to make a correct decision in investment that is in line with Shariah. This research is important in generating Muslim’s awareness towards business and transaction particularly gold investment which must be free from the elements of *Riba* (interest), *Gharar* (uncertainty) and *Maysir* (gambling).

From previous research, most of researcher focused their objectives on the possibility of using gold dinar as a currency. For example, Rab (2002) emphasized on the stability of gold dinar as compared to fiat money. Haneef & Barakat (2002) addressed the issue of using gold and silver as money according to two schools of thought in Islam. Another research on Islamic gold dinar is done by Meera & Aziz (2002) who provided the

argument on the potential of Islamic gold dinar to be a complementary currency within and among Muslim nations. Thus, there just a few numbers of researches that has been done in the operation of gold investment account offered in banks in Malaysia.

1.3 RESEARCH QUESTION

- 1.3.1 What are Islamic views about gold investment?
- 1.3.2 What are the comparison of gold investment account between Kuwait Finance House and Public Bank Berhad?
- 1.3.3 What is the advantage and issues of gold investment account from both banks?

1.4 RESEARCH OBJECTIVES

- 1.4.1 To study Islamic views about gold investment
- 1.4.2 To examine the comparison of gold investment account between Kuwait Finance House and Public Bank Berhad.
- 1.4.3 To identify the advantage and issues of gold investment account from both banks.

1.5 SIGNIFICANCE OF STUDIES

This research is important and useful to:

1.5.1 Academician

This study will give to academician an opportunity to explore more detail about the gold saving account. Since, there is so limited research on this chapter whereby the previous research is about Gold Investment Account in Kuwait Finance House (M) Berhad and Maybank Berhad done by (Syed Alwi, 2013). So, researcher can suggest to Maybank Berhad and Public Bank Berhad to operate their transaction based on Shariah principles as what have been practiced by Kuwait Finance House.

1.5.2 Consumer

The benefits can be in terms of more understanding about the differences of both gold investment accounts in conventional and Islamic verse. So, consumer can be more aware on their investment especially in gold and create wealth as recommend by Islam as much as they can. Therefore, when they understand about the function of gold investment in Islamic version, they will avoid from any prohibition elements as banned by Shariah jurisdictions.

1.5.3 Bank

Banker can grab this opportunity by offering this kind of product by using Islamic contract and attract more people to trust and interested to invest in gold saving account. At the same time, both of bank and customer can get more benefits from that particular investment.

1.5.4 Government

From this study the government also can counterpart in this kind of gold investment and increase the level of economic in Malaysia. By the way, government also must play an important role to attract public and pay attention to be participating in this investment. Otherwise, Bank Negara Malaysia must support this incentive to make it ideal and real.

1.6 SCOPE AND LIMITATION OF STUDY

There are so limited in gathering information about gold investment account because this product is still new and not all banks offer this kind of product. So, researcher try to look at two banks which are Kuwait Finance House Malaysia Berhad and Public Bank Berhad in terms of their differences in transaction and what are the advantages and issues beyond it.

1.7 DEFINITION OF KEY TERMS

1.7.1 Gold investment account: Gold Investment Account is an account which allows individual customers to purchase the purest available gold commodity in 99.99% fineness at daily prices for 1 gram in Ringgit Malaysia (RM) (KFH, 2014).

1.7.2 Gold: Gold is an ideal value keeper of which it can be kept for future use and will not be obsolete like fiat money (Muhammad, 2011).

1.7.3 Kuwait Finance House: Kuwait Finance House is the first Islamic bank that established in the state of Kuwait and it is known as a foremost Islamic financial institution in the world.

1.7.4 Public Bank Berhad: Public Bank Group is the third largest banking group in Malaysia and ranked number six by asset size in Southeast Asia.

1.8 ORGANIZATIONS OF CHAPTERS

For this research, it is divided into three sections. Section 1 comprise of Introduction, background of the study and problem statement. Meanwhile, for Section 2 will explain details on the literature review about gold investment and Section 3 will determine the methodology that use by researcher to analyze the research question and research objectives. Chapter 4 is about analysis of research questions that done by researcher through gathered information and interviewed from bank manager in KFHMB and PBB. Last chapter will conclude a comparison from both bank and which bank is best in term of gold investment account product.

CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 INTRODUCTION

According to Ibrahim (2012), gold is the favourable property as an investment asset for the Malaysian emerging market. As mentioned by Baur and McDermott (2010), gold is different from another asset in that it reacts positively to adverse market shocks. As they mention, real gold value reached its historic high roughly in 1980 when the global economy faced the threat of stagflation due to oil crises in 1970s. Likewise, at the time the US subprime crisis intensified in September 2008, gold has responded with a surge in its value (Baur and McDermott, 2010).

Base on studies by Faugere and van Erlach (2006), Sherman (1982), Kaufmann and Winters (1989) and Lucet et al. (2006), mention that there are several reasons why central banks reserves a large proportion of gold which are economic security where gold maintains its purchasing power, physical security where gold is a highly liquid and asset portfolio diversification which provides confidence during economic uncertainty, secure value and as hedging tool against economic crisis. Meera and Larbani (2004) has also highlighted that on the aspects of its acceptability, divisibility, mobility, stability and the standardization.

Many people belief that gold can provide security, as a hedge or a safe haven, against this keen risk in the financial markets (Ibrahim, 2012). Gold is alleged as a symbol of wealth, fame and beauty since years back. In Islamic economic history, gold is used as currency and good saving asset. Many verses in al-Quran disclose that gold will be the most precious item in this world and hereafter.

“Made tempting to people is the love of lusts, women and children, heaped up hoards of gold and silver, choicest horses, cattle and crop. Such is the enjoyment of the life of this world, but the everlasting and the best abode in with God”

(Al-Imran 3:14)

“Those, theirs shall be Garden of Eden, beneath which rivers flow; there shall be adorned therein with bracelets of gold, and they shall be robed with green garments of fine silk, brocade, reclining upon couches therein; how excellent a reward, and how fair a resting place!”

(Al-Kahf 18:31)

2.2 THE IMPORTANCE AND NEEDS OF GOLD BY PUBLIC

Syukor Hashim (2009), in his e-book gives 4 main reasons on why human need gold and become true commodities around the world. First, gold is the “real wealth”. Real wealth should mean any commodities been used as a money, it cannot be destroyed and even can be cut into pieces, the value is sustained. Gold fit with both description of real wealth plus with shiny yellow of gold itself, it becomes human attraction even for a pharaoh. History dated 6,000 years ago recorded Pharaoh of Egypt stamped his own name on the gold bar for economic transaction at that time.

Secondly, the values of gold always increase by time. Analysis done by Syukor Hashim (2009) indicates that average increment is 27% per annum. For example, Kijang Emas gold coin produced by Royal Mint of Malaysia and distributed by Malayan Banking Berhad was valued RM1 on 16 August 2001. By 16 August 2009, the prices tag on Rm3 with increment of 219.65% or 27.45% per year.

Third, fiat money depreciates against time thus making it the weakest value-store and purchasing power due to inflation, (www.kitco.com). According to Syukor Hashim (2009), on fourth, gold become the greatest asset from other because of its liquidity. Even if we have a small amount of cracked gold, the goldsmith will weigh and exchange it with fiat money according to the gold current price. Unlike diamond, if there little cracks on the edge, the values drop drastically. For example, during Vietnam War, the refugee left their home, orchard and others but bring their gold along because of its liquidity even in other part of the world.

Finally, gold cannot be manipulated like other commodities due to hard to mine and cannot be create. Thus, make it difficult to add into market. Differently what happen to fiat money, when it can be added make it abundance; it will lead to the disaster what we call a hyperinflation. The great example of hyperinflation is Zimbabwe where we need U.S 100 Billion Zimbabwe dollars just two buy three eggs.

Meera and Aziz (2002) add that the speculative and arbitrage activities that take place in money exchange between country will be eliminate if gold been accepted as single currency. Our economy would more stable in future.

2.3 INVESTMENT OF GOLD

In support the investment of gold, Dr.Mahathir bin Mohamed who is the former Prime Minister of Malaysia, proposed to replace US dollar by introduce the Islamic Gold Dinar for overseas trade settlements. In present monetary system, there is general agreement of inflation and nation around the globe has failed to create stability and wealth.

According to A.M Hafizi *et al.*, (2010) in their research paper on Gold Investment in Malaysia: Its Operation, Contemporary Applications and *Shariah* Issues stated that in order to hedge inflation, storing intrinsic value, and preserving wealth and generating high level of return, gold can b deemed as a stable means. Gold offers great benefits to investor as a part of investment instruments in the portfolio diversification or either in the physical market. The value of gold was remains stable while the value of fiat money may fall and rise. It is accepted as a form of payment internationally and also fulfils the purpose of money. Investors can purchase gold coins as low as a quarter troy ounces to begin their gold investment.

Besides, gold's low-to-negative correlation compared to bonds and stocks makes it an outstanding portfolio diversifier. In reality, many wealth advisors recommend to keep between 4% to 12% of individual's total assets in the form of gold. Figure 2.1 illustrates the world gold price for ten years period from 2002 until 2012 (present). It shows the potential of gold as an investment instrument due to its nature of rising in price, especially during economic crisis period.



Figure 2.1: World Gold Price for 10 years Period (May 2003-May 2013)

Source: www.kitco.com

Historically, due to the methods available in this commodity market, gold was largely inaccessible to retail. Investors need to buy gold coins or gold bullion from banks and other jewellers. That is the reason why the buyers of this precious metal were institutions, normally central banks and those company involved in the jewellery trade. After the year of 2000, the rise of commodity prices, coupled with a weakening of US Dollar, set the environment for a bullish trend in the gold price.

Instead of buying physical gold in traditional way, Malaysia bank offers investors a unique way in investing gold by allowing investors to open a gold investment account. This account is measured in unit of gold's grams rather than in Ringgit Malaysia (RM). Such measurement method provides flexibility to investors and permits them to deposit their money when price of gold are low, and later withdraw the investment's profit once the price of gold rise up. Even, investors can withdraw their investment by receiving gold wafers instead of cash.

2.4 GOLD INVESTMENT FROM SHARIAH PERSPECTIVE

Muslim scholar's opinion on the present interest-based fiat monetary system is flawed due to incompatible with the objectives of Shariah law. Haneef and Barakat (2002) reviewed the *Fiqh* opinion on the use of gold and silver as money. According to them, there are two opinions where as gold and silver are obligatory money while second opinion allows flexibility. That is, the latter admits other forms of money.

Referring to article "Must Money Be limited to Only Gold and Silver?" which contains of "A Survey of Fiqhi Opinions and Some Implications" written by Haneef and Barakat (2002) survey into the issue of money in Islam. They investigate money issue in Islam. Past Muslim scholars also taken for their consideration and discuss their findings in today opinions. They also compares view between scholars whom take only money can

used as gold and silver versus other scholars which do not limit gold and silver for money.

Moreover, from Al-Maqrizi (1994) in his book “A Study and Translation of Al-Maqrizi’s Ighathat”, is regard to the issue of money debasement. When issue of money were discussing, ‘state of the monetary system’ was influenced by other scholars by their time. By this, in the early part of Muslim history the scholars writing were exposed to gold and silver as the main forms of money, although some limited amounts of copper based money *fulus* were in circulation. For example, *fulus* has accepted by Ibn Taymiyyah (d. 728 A.H) as money at a time when it was not used as the as major form of money. He says: “The authority should mint the ‘*fulus*’ coins (other than gold and silver) according to the just value of people’s transactions, without any injustice to them”. Ibn al-Qayyim (d. 751 AH), did not limit money to one item whereas he followed his teacher, Ibn Taimiyyah in this regard. The changes of the debased type of *fulus* to a better quality could solve the problem of inflation at that time. Ibn Khaldun (d. 808 A.H) and his disciple al-Maqrizi (d. 845 A.H), confined money to only “the two mineral stones” gold and silver.

Al-Maqrizi says “the currency that has been used to determine prices of goods and cost of labor consists only of gold and silver”. Al-Maqrizi identifies the main reasons for the economic crisis in the year (806 A.H) is due to the extensive use of *fulus*. Al-Maqrizi took opinion of limiting money to only gold and silver for ‘major purposes/expenditures

while accepting the use of *fulus* in small quantities could explain why this predominant use of *fulus* and its adverse effects on the economy. A greater attention was paid to the issue of money since the economic and financial realities of their times saw changes in the type of dominant money used, (Aslam Haneef and Emad Rafiq Barakat, 2002).

Later scholars have made their own *ijtihad* (intellectual assertion) who give their opinion to supporting the view that only gold and silver can be used as money based on their interpretations of the opinion of Abu Hanifah. The common base agreements among scholars are:

- i. The gold and silver as money was accepted by their own nature.
- ii. Gold and silver as money has approved by Prophet Muhammad (P.B.U.H).
- iii. Compared to other forms of money, gold and silver are relatively stable.
- iv. It is the state responsibility to regulate, supply, and mint the gold and silver.
- v. Money is seen as measure of value and a medium of exchange rather than a commodity itself.

There are another contemporary scholars who have limited money to only gold and silver such as Shaykh Ahmad al-Khatib, Shyakh ‘Abd al-Rahman al-Sa’di (d. 1376 A.H), Ibn Badran, Ahmad al-Husayni (d. 1332/1914), Shaykh al-Muti’I, Shyakh Muhammad Amin al-Shanqiti (d. 1393 A.H), Taqi al-Din al-Nabhani , Muhammad Baqir al-Sadr, Muhammd Makhluuf, Hassan Ayyub and Nasir Farid Wasil. The evidence that support such view can be as follows:

- i. *Sunnah Taqririyyah* i.e. the use of gold and silver has approved by The Prophet in Makkah and Madinah. Only gold and silver can be used as money as according to their view which makes gold and silver as money '*hukm shar'i*'.
- ii. Gold and silver is based on Mu'amalah and '*ibadah maliyyah*'. For example, Zakah, *diyah* or blood money, *hadd al-sariqah* (theft punishment) and exchange transactions are based on gold and silver calculations.
- iii. Some verses in al-Quran which indicates that gold and silver are to be used as money. For example, al-Tawbah: 34 prohibits the hoarding of gold and silver which indicate that gold and silver function as money; Al-Imran: 75, 91 showing the function of gold as a store/measure of value; Yusuf: 20 indicating silver as a measure of value and medium of exchange: al-Kahf: 20 where silver is used as a medium of exchange.
- iv. *Ijma' al-Sahabah* (consensus of the companions of the Prophet) for example the guided caliphs (al-khulafa 'al-rashidin) also accepted gold and silver as money.
- v. Gold and silver are money by nature.
- vi. There is a Hadith reported in Ibn Majah which prohibits the destruction of the monetary system of Muslims (interpreted as gold and silver).

- vii. Shafi'i and Maliki scholars limit the *'illah of thamaniyyah* only to gold and silver, so other thing cannot be considered as money.
- viii. The fact that gold and silver are prohibited for certain other uses like ornaments for men indicate that its function is to be primarily as money.
- ix. In order to achieve justice (an objective of Shariah) in the monetary system, you need stable measure of value and since gold and silver are relatively stable, they must be used as money.
- x. Zakah is imposed on gold and silver in whatever form and use (except some limited amounts for jewellery).

In addition, it is prohibit to hoarding the gold and silver (*iktinaz*). Otherwise, gold and silver can perform the function of money. For example, Abd al-Malik ibn Marwan in the year 76 AH (d. 86 AH) is the first Caliph to mint 'standard Islamic money'. Although gold and silver was used as money before, it was not minted by the Islamic rulers. This means that money is an issue that is left to the authorities to decide based on the welfare of society.

According to al-Maqrizi in his book "*Ighathat al-Ummah bi-Kashf al-ghummah*" from a historical point of view, gold and silver were sued as money in economic crisis during

the period where, the causes were very much ‘real’ factors. An introduction of *fulus* (copper based money) was only created new kinds of stability and inflation where the causes were mainly monetary phenomenon (due to debasement of currency). They do not guarantee stability while gold and silver are inherently more stable. A proper monetary management need to focus on. Through bad management, it is possible to have a gold and silver to have instability (Adel Allouche, 1994).

According to OIC Fiqh academy resolution in a paper titled “What Shariah Experts Say. Currency Exchange”, *sarf* or sale of currency for currency is permitted as evidenced from the Quran in general and it also includes the Quranic verses in which Allah permits commerce, such as:

*“And Allah has permitted bay (sale) while He has forbidden
riba”*

(Al Baqarah 2:275)

The verse applies to *sarf*, as *sarf* is fundamentally a sale of currency for currency. This includes Dinar and Dirham and all other fiat currencies. Evidences from Sunnah include well-known Hadith (Muslim and Ahmad) where the Messenger of Allah forbids this kind of sale.

“Gold for gold, silver for silver, dates for dates, wheat for wheat, barley for barley and salt for salt. Except for when the transaction is “like for like” (in equal amounts) and “hand to hand” (immediately transferred). If they are different in nature you can sell them as you wish as long as the transaction is in hand to hand”

(Riwayat Muslim, No. 1584)

Jantan (2001) in his book titled “Pedoman Muamalat and Munakahat” mentioned that the sale and purchase of gold, silver, currencies, rice, wheat, salt or other essential food, if they are similar in nature must follow to the following conditions: 1.Cash, 2.Equal in weight, and 3. Agreeable weight and measurement. However if they are each different in nature for example, an exchange of gold with silver, then they should not be similar in weight (Jantan, 2001). The exchange ratio should be adhered rather than exchanging them weight wise.

2.5 Gold Investment Account

Banks in Malaysia are offering a gold savings account or paper gold to the public instead of investing in physical gold. Gold savings account based on a statement. In gold investment account, the investors can buy and sell the gold without the hassles associated with the transfer of actual physical gold. It is hassle-free investment method and secured. Without inconvenience of storing and transferring the physical gold, the investors can invest in gold and do not have to worry about the security of holding it. Thus, investors are able to sell their holdings to the bank during trading hours to gain high liquidity. (A.M Hafizi, *et.al*, 2011)

Gold investment account is long term investment which allow customer to buy gold in their behalf and invest it for many years. Buying physical gold is actually a challenging security issue as investors need to think about their gold storage. Based on the fact that

most of the safety deposit boxes in Malaysian banks are currently hired, there is an urgent need for the banks to increase the availability of the safe deposit boxes facility. Although there are some private companies which provide this type of service, the Malaysian government should encourage the banks to provide this service for the customer's benefits. Otherwise, investing in physical gold would be very risky due to the security reasons.

The idea of creating a paper gold or gold savings account was a great one. Although there are only seven banks that offers this type of gold investment, the demand from investors should serve as motivating factor for all banks in Malaysia to offer the same product. BNM should really monitor the product, probably as a start, by setting the ceiling price spread as a guideline for banks. Most of the banks currently ask for a spread around RM5 to RM9 per gram, which could be considered as high. The only bank that offers attractive price spread is UOB Bank, where as mentioned is charging RM2 per gram price spread for their Gold Savings Account, and only RM1 per gram price spread for their Premier Gold Account.

Today, gold investment account was offered by seven banks which are Maybank, Public Bank, CIMB Bank, Kuwait Finance House (KFH), Citibank, UOB Bank and Standard Chartered Bank. Normally, some banks allow for the minors to open gold investment account it also open for individuals with aged 18 years and above as well.

The investor can open a joint account with a maximum number of 4 persons in one account is one of the interesting characteristics of this investment. The price of gold is quoted on daily basis and will be pegged to the global market price. This is better than goldsmith shops that normally charge high workmanship charges. When the price of gold is low, it is recommended time for investors to buy. This account provides an instant liquidity, where investors can cash in on their investments at any time during banking hours. The returns on this account are subject to the world gold price fluctuations and this investment product is not insured by Malaysia Deposit Insurance Corporation (PIDM).

There are a much benefits of gold investment which provide an opportunity for greater capital gain from the gold price appreciation. Gold provides an efficient platform to diversify investor's portfolio besides its potential of better returns. By holding a physical gold, gold savings account also serves the same functions of providing a good hedge against inflation. Investments are well protected in which the account is fully backed by physical gold. The main reason for the investors to invest in gold investment by depositing in gold savings account is the affordability and convenience aspects that allow people to buy or sell gold and withdraw it easily with their account at the bank's branches in Malaysia. Gold purchase or sale will be based on the bank's prevailing gold buying and selling price quoted in Ringgit Malaysia (RM) per gram and normally the mode of payments accepted are through cash and debiting or crediting of current or savings account maintained with the bank.

The investors will purchase at selling price as quoted by the bank at the time of the placement of the purchase order. Each transaction will be recorded in passbook when the investors purchase gold through the gold savings account. In this case, gold was kept by banks in their safe custody for the investors, and there is no interest to be paid for this service. In this type of investment, there are two main risks involved which are pricing risk and market risk. Bank shall determine and quote the gold buying or selling price at its sole and absolute discretion taking into account. All of factors could be deemed relevant including the prevailing international and local market price conditions for gold, the exchange rate between USD and RM and the gold purity. Investors may sustain substantial losses on their investment if market conditions move against the investors' favours, due to unforeseen market movements. Table 2.1 below describes the criteria of gold savings account from the banks in Malaysia.

Table 2.1: List of Gold Saving Account and Gold Investment Account in Malaysia

Sources: A.M. Hafizi. Et.al (2011)

Bank	Account Name	Minimum Investment	Minimum Subsequent Purchase/Sale	Minimum Balance in the Account	Gold Purity	Withdrawal Options	Price Spread	Eligibility
Maybank	Maybank Gold Investment Account (MGIA)	1 gram	In multiples of 1 gram	1 gram	999.9 fineness (24 karat)	Cash only, No physical gold	High	Individual / Joint Account
Public Bank	Gold Investment Account (GIA)	10 grams	5 grams and must be in multiple of 1 gram	2 grams	999.9 fineness (24 karat)	Cash & Physical	High	Individual / Joint Account
CIMB Bank	CIMB Bank Gold Deposit Account (GDA)	5 grams	5 grams and must be in multiple of 1 gram	5 grams	999.9 fineness (24 karat)	Cash & Physical	High	Individual / Joint Account
Kuwait Finance House Malaysia Berhad (KFHMB)	KFH Gold Account-i	10 grams (individuals/joint) & 50 grams (non-individuals)	In multiples of 1 gram	2 grams	995.0 fineness	Cash & Physical	High	Individual / Joint Account Non-individual Account
	KFH Junior Gold Account-i	5 grams	In multiples of 1 gram	2 grams	995.0 fineness	Cash & Physical	High	Customer below 18 years old requires a guardian to open the account.

Table 2.1: (Continued)

Bank	Account Name	Minimum Investment	Minimum Subsequent Purchase/Sale	Minimum Balance in the Account	Gold Purity	Withdrawal Options	Price Spread	Eligibility
UOB Bank	Gold Savings Account (GSA)	20 grams	5 grams	10 grams	999.9 fineness (24 karat)	Cash & Physical	Low RM2 per gram	Individual / Joint Account
	Premier Gold Account (PGA)	1 kilogram	1 kilogram	1 kilogram	999.9 fineness (24 karat)	Cash & Physical	Very low RM1 per gram	Individual / Joint Account
Citibank	Citibank Gold Account	-	-	-	999.9 fineness (24 karat)	Cash only, no physical gold	High	-
	Citibank Dual Currency Account (Gold)	-	-	-	999.9 fineness (24 karat)	Cash only, no physical gold	High	-
Standard Chartered Bank	Premium Currency Investment Gold	RM250,000 or RM50,000 (only for individuals with net personal assets exceeding RM3 million or non-individuals with net assets exceeding RM10 million)			999.9 fineness	Cash (USD) & physical	Based on exchange rate (USD & gold (XAU))	Individual / Non-individual Account

CHAPTER THREE

3.0 RESEARCH METHODOLOGY

3.1 INTRODUCTION

The overall procedure in carrying out the research in this study will be explained in this chapter in a detail manner. A detailed idea was provide in this chapter in term on how the research will be conducted. It includes of approach, purpose, data collection, sample selection and data analysis. Refer to Idris (2001) research is a systematic process to find out answer or new knowledge pertaining to unresolved question or problem. Intractable social problem cannot be solved by a massive research effort. Research that been organized properly could bring a new discovery and knowledge to the public (Syed Arabi, 1992).

Basically, research can be divided into two methods (quantitative and qualitative research). Quantitative research is actually in form of numerical data. It can be noticed in terms of numbers that been accumulated by using certain methods such as questionnaire that been created in a specific order. While qualitative research method can be trace via facts, information, statements, comments, assumptions, meanings, concepts, specifications, symbols, perceptions, metaphors and feelings. All sources of data can be in form of manuscript, newspaper, diary, picture, official and personal letter, artefact, certain people by using method of interview and researcher involve in situation that been analysed by using ethnography (Idris, 2001).

For the table 3.1 below show the simplified research methodology that has been used by researcher to analyze in chapter 4.

Table 3.1: Simplified Research Methodology

Research questions	Method	Analysis
1) What are Islamic views about gold investment?	Document/books	Inductive approach
2) What are the comparison of gold investment account of Kuwait Finance House Malaysia Berhad and Public Bank Berhad?	Interview	Inductive approach
3) What is the advantage and issues of gold investment account from both banks?	Document and interview	Inductive approach

3.2 RESEARCH DESIGN

This research adopts qualitative method. Both the primary and the secondary data are used for the purpose of this research. In data collection, the interview method is very crucial in this research. It is because of the primary data is regard to the operations of gold investment accounts in KFHMB and Public Bank Berhad. The method of interviews is gained through the selected respondents who are directly involved with the operation. Other than that, there are few types of research could be done such as library research, field research, laboratory research, model theory research, ethnography research, comparative research, possibility research and observation research (Idris, 2001).

3.3 POPULATION AND SAMPLING DESIGN

This research contained of semi standardized (guided-semi structured or focused) which conduct of face to face interview as the main method of collecting extensive data about the operations of gold investment accounts in KFHMB and Public Bank Berhad with all the respondents as an alternative way to obtain information due to the lack of published materials in gold investment accounts. Two interviews were conducted with Madam Norafiza Ani Abdullah, Personal banking manager of Kuwait Finance House, Ustaz Ahmad Suhaimi Yahya, Regional Head Shariah, KFHMB, Kuala Lumpur and interview with Mr. Najmi Bin Ahmad and Madam Sree Dewi A/P Chellappan from Public Bank Berhad in order to gain information on the gold investment account offered in KFH and Public Bank Berhad.

3.4 METHOD OF ANALYSIS

This study uses the qualitative method. According to Cassel and Simon (1994), qualitative method in social science seeks to describe and interpret accurately the meaning of social phenomenon. This method relies on the collection and analysis of written text or spoken words. Therefore, the following methods for data collections will be followed throughout my study. However, the information on gold investment account can be found on news or related issues on newspapers and magazines which help a lot in gaining information for this research. The sources of secondary data are also gained either from internal or external data sources. Internal data are collected from KFH's Gold Account-i Procedure and Policy for reference. Permission is granted from KFH

authorities to access their procedures and policies of Gold Account-i in order to compare it with Public Investment Gold Account. In data collection, it was divided into three categories which are library research, field research and document analysis. In field research, it has two types which are interview method and content analysis.

3.4.1 Library Research

This method of research needs author to make a library research which materials could be found such as previous literature, paper works, journals, books that related to the topic. Thus, author will seek out those sources at University Utara Malaysia Library, Kedah Public Library, University Malaya Library, University Kebangsaan Malaysia Library, International Islamic University Malaysia Library, and Insaniah College University Library. Besides, information which related to investment gold, gold dinar, fluctuation of currency, shariah principles, Shariah fatwas and otherwise were obtain through references available at Institute of Islamic Banking and Finance Malaysia (IBFIM), International Centre for Education in Islamic Finance (INCEIF) and Shariah Research Academy for Islamic Finance (ISRA).

Nowadays, undeniable searching information and knowledge by latest technology called internet is much easier and save time. Researcher also was trying to get updated information regarding Islamic finance, Islamic banking products and gold dinar through related website. Bank Negara Malaysia website also was really useful for researcher to search information on Shariah parameter and the resolution regarding to gold

investment. The researchers had also called Public bank Hotline to ensure the correctness and accuracy of information obtained from the website and other financial websites.

3.4.2 Field Research

The researcher conduct field research in order to get data for the study. Among the method used are:

3.4.2.1 Interview Method

This method means one kind of data collection through interview with certain individual to get information. In this research, researcher had structured interview and semi-structured interview with the expert. An interview was conducted on 3 April 2014 at Kuwait Finance House Malaysia Berhad, Seberang Jaya, Penang with Madam Norafiza Ani Abdullah as Personal banking manager of Kuwait Finance House and phone interview with Ustaz Ahmad Suhaimi Yahya as Regional Head Shariah, KFHMB, Kuala Lumpur. Another interview was conducted on 10 April 2014 with Mr. Najmi Bin Ahmad and Madam Sree Dewi A/P Chellappan from Public Bank Berhad Jitra to gain information on the gold investment account offered in KFHMB and Public Bank Berhad.

Otherwise, situations when the informant is highly confidential or commercially sensitive or where the respondents may be reluctant to be truthful about the issue other than confidentially in a one-on-one situation, it is appropriate to considered as face-to-face structured interview (Easterby-Smith et al., 2001). According to (Morse and Richard, 2002), use of semi structured interviews is appropriate when the researcher knows about the topic to frame the needed discussion in advance, as in the “Body Image” study. An interview has been claimed to be useful when one needs to supplement, validate, explain or reinterpret qualitative data obtained from the same setting (Miles and Huberman, 1994). (Banyard and Miller’s, 1998) asserted that interview can help us to tell the rest of the story regarding the issues and problems no matter sensitive it may be.

Although, interview offers researcher with organization and comfort of pre-planned questions, but also it poses challenges of presenting them to participants in such a way that invite detail and complex answers (Morse et al., 2002). Thus, this research is iterative rather than linear as the researcher moves back and forth between design and implementation to ensure agreement among question formulation, literature, data collection strategies, and analysis (Morse et al., 2002). Besides, author also found opinion from Syariah Bank Negara Malaysia Committee Advisor and panel of Syariah advisor that involve with the topic research. The interview session were conducted occasionally depending on needs in getting additional information and explanation regarding certain problem.

3.4.2.2 Developing Interview Protocol

Developing an interview protocol is about the rules that guide the administration and implementation of the interviews. Put simply, these are the instructions that are followed for each interview, to ensure consistency between interviews, and thus getting accuracy and reliability information of the findings. Interview questions also had validated by Dr. Mohamad Solehuddin Bin Shuib who is a senior lecturer of Islamic Business School in UUM. Protocol interview also will be used as a guide the administration and implementation of the interview and to ensure the consistency between interviews, thus increase the reliability of the findings (Boyce, C. and Neale, P., (2006). The interviews have been designed to probe the following key issues so the researcher asks these questions:

- 1) What is gold saving/ investment account?
- 2) What contract use for this kind of product?
- 3) What are the benefits of gold investment account?
- 4) What are the risks involve?
- 5) What are the pillars of gold investment account?
- 6) How to purchase the gold?
- 7) Is it permissible to use jewellery to open the account?
- 8) What are the obstacles in implementation the gold investment account?
- 9) What are the issues arise?
- 10) Is bank having any security box to keep the gold?
- 11) Is there any physical gold appeared in time of transaction?
- 12) What are the conditions to make the gold as line to Shariah?

- 13) Is bank charge any additional amount to keep the gold?
- 14) Account holder need to pay *Zakat* or not?
- 15) What your opinion about gold investment account among banks?

3.4.2.3 Content analysis

Content analysis been conducted to analyse the interview transcripts. Content analysis involves certain key phrases or words being counted, and the frequencies are the analysed (Easterby-Smith et al., 2001). In content analysis, words of the text are classified into fewer categories where each category may consist of one or several words and phrases which are classified in the same category are presumed to have similar meanings (Weber, 1990). The differences of gold investment account in these two banks are elaborated and analyzed accordingly. At the end of the research, the best option for gold investment account is chosen and recommended to the public either for the Muslim or the non Muslim.

3.4.3 Document Analysis

Analysis document method is a data collection which researcher doing the research by surveying the documents. Documentation method is a type of data collection by doing research on documents that related to the problem statement. The resource of those documents includes autobiography, personal letters, daily note book, memory, newspaper, articles and journals. Among the document that author used to refer

including conference paper presentation and document on gold dinar (Imam Bernadib, 1982).

For this research, researcher use document based on the Dialogue Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia-96 on 13-15 October 2011. It has been discussed by Proffesor Dr. Ashraf Md. Hashim and Ustaz Lokmanulhakim Bin Hussein from International Shariah Research Academy for Islamic Finance (ISRA) on Shariah parameter of gold investment account.

3.5 INDUCTIVE METHOD

The information on gold investment accounts from KFHMB and Public Bank Berhad was identified with the selected respondents from the interviews and include of a few reading materials to be referred is classified according to the transaction of gold investment account.

In this qualitative research, according to Miles and Huberman (1994), to describe the major phases of data analysis, it is include of data reduction, data display and conclusion drawing and verification. So, researcher used data reduction, data display and drawing conclusion and verification for the analysis in chapter four. Researcher also applies deductive method and comparative methods.

3.5.1 Data Reduction

Based on Miles and Huberman (1994) again, he said that data reduction refers to the process of simplifying, abstracting, selecting, focusing, and transforming the data that appear in written up field notes or transcriptions. Refer to Sekaran and Bougie (2013), data reduction have two types which is coding and categorization. Coding is the process of identifying categories and meanings in text, creating and applying a name or code to each, and systematically marking similar strings of text with the same code name. It is begin with selecting coding unit.

Coding units are in the form of words, sentences, paragraphs, themes, items, images, graphics, photographs, actions, behaviors, topics, ideas, concepts, terms, phrases, keywords, and so forth. Units of text are coded (labels given to units of text). Codes help researchers identify patterns in data. Then, thus codes will be grouped into categories. Furthermore, coding is an iterative process, repeat reading of data and recognize patterns or connection and organize data into categories. It permits systematic retrieval of categories and meanings during analysis. The end result of coding, therefore, is to enable the researcher to link data with topics, themes, concepts, ideas and other higher order abstractions so the data can be manipulated, organized and eventually categorized.

In term of categorization, it is a process of organizing, arranging, and classifying coding units. In easy word, it means a group of codes. Categorization gives meaning to the data which able to identify themes and patterns, ideas, concepts, behaviour, interactions,

incidents, terminology, or phrases used. Table 3.2 below shows how researcher code and categorized the key term from interview session.

Table 3.2: Coding of interview result

Interview questions	KFHMB	PBB	Code remark
1) What is gold saving/ investment account?	Gold savings account is a long term investment base on gold.....	GIA is a long term investment which allows you to purchase or sell the purest available gold commodity in 99.99%	Long term investment
2) What is the contract/Shariah concept use for this kind of products?	KFH use Bai' As-Sarf and Qardh Hassan	Do not have Shariah principle	Shariah contract
3) What are the benefits of KFH Gold Account-i?	Convenient and secure, more options, ease of purchase /sale, Affordable initial deposit	Gold is the best possible hedge against inflation, potentially earn higher return, convenience, easy and affordable.....	Convenience
4) What are the risks when apply this product?	The capital....depends on fluctuations of gold prices...not secure by PIDM	GIA are subject to the international gold price fluctuations and not secure by PIDM	Price fluctuations
5) What are the pillars of gold investment account?	Gold must be exist, physical subject matter, agreed by parties, executed by mutual consent...	No pillars	Pillars
6) How to purchase the gold?initial purchase of gold is 10gm..... Bank will provide the bar gold.....	Minimum quantity of initial gold purchase is 5 grams.....	Price
7) Is it permissible to use	No.....	No....	Jewellery

Table 3.2: (continued)

	jewellery to open the account?			
8)	What are the obstacles in implementation the gold investment account?	Customer confuses either the transaction is really Shariah or not...there are problem if customer do not know about gold price.....	There are problem if customer do not know about gold price	Obstacle
9)	What are the issues arise?	Gold price, Riba and Gharar	Gold price, Riba and Gharar	Shariah issues
10)	Is bank having any security box to keep the gold?	Yes.....	No.....	Security box
11)	Is there any physical gold appeared in time of transaction?	Yes.....	No...	Physical gold
12)	What are the conditions to make the gold as line to Shariah?	Existence of gold, on the spot transaction.....	Turn the transaction to Shariah guideline.	Gold transaction
13)	Is bank charge any additional amount to keep the gold?	No....	Annual service fee of RM 10 for GIA account which balance below than 10g	Fee charge
14)	Account holder need to pay zakat or not?	Yes.....	Yes.....	Zakat
15)	What your opinion about GIA among banks?	There are same in gold price but not same in term of transaction because of non-existence of physical gold	There just a same in term of gold price and transaction	Gold price

Table 3.3: Categorization from interview results.

Code remark	Categories
1. Shariah contract	Shariah compliance
2. Pillars	
3. obstacles	
4. Issues	
5. Gold transaction	
6. Zakat	
1. Long term investment	Gold transactions
2. Convenience	
3. Price	
4. Price fluctuation	
5. Jewellery	
6. Security box	
7. Physical gold	
8. Fee charge	
9. Gold price	

3.5.2 Data Display

Data display is to reduced data and display them in organized and condensed manner. Qualitative researcher can organized information and views it in a way that enables them to identify linkages and develop explanations that relates their findings to existing theory through process of data display. Data displays also links various codes and help to build themes. As example, it can be done in kind of charts, matrices, diagrams, graphs, table, frequently, mentioned phrases and drawings. Researcher interprets the data display in chapter four.

3.5.3 Drawing conclusion and Verifications

Drawing conclusion involves deciding of what the identified themes and patterns mean and how it helps to answer the research questions. Besides, verification involves of checking and rechecking the data to ensure the initial conclusion are realistic, supportable and valid (David McHugh, 1982).

3.6 DEDUCTIVE METHOD

Deductive methods means making a conclusion based on the evidence in general to become a foundation in finding specific conclusion. This method been applied by analysing data and doing research base on critical thinking in order to find a evidence via utilizing general data and specific data. In this research, the researcher analysed information regarding to gold investment account from Shariah perspective.
(<http://www.socialresearchmethods.net>)

3.7 COMPARATIVE METHOD

Comparative method means that a conclusion made by comparing analysis base on all data and information obtained. The researcher were comparing books chosen in term of ideas that been introduce, Syariah principles, operations, implementation and problem raised and researcher will propose solutions back to gold investment account as line to Shariah compliance. Book chosen is as per stated in literature review.
(<http://www.visionlearning.com>)

3.8 CONCLUSION

Overall, for this research, researcher use all above methods to be analyze in chapter four.

Researcher also makes a comparison between two banks which are Kuwait Finance House and Public Bank Berhad in terms of transaction of Gold investment account, advantages and issues arise.

CHAPTER FOUR

4.0 FINDINGS AND ANALYSIS

4.1 INTRODUCTION

This chapter is meant for analysing the comparison between both bank from its transaction and to analyze what is the advantages and issues arise for gold investment account product. This chapter starts with the description of the analysis associated with the transaction of gold investment account by both banks results from interview. Data findings from the observations and identification towards the gold investment account have been analyzed by researcher using content analysis.

4.2 ISLAMIC VIEWS ON GOLD INVESTMENT

4.2.1 Al-Quran and Hadith

In Al-quran, there is not clearly mention about *al-sarf* concept which relates to gold investment. In fact, there are only explaining about transaction concept which allowed by Allah in general. All transaction must be free from any element of *Riba* (Ali, 1967). *Riba* is an Arabic word, derived from the verb *raba* that literally means ‘to grow’ or ‘expand’ or ‘increase’ or ‘inflate’ or ‘excess’ (Ahmad, 2007). *Riba* from Shariah perspective refers to any predetermined and conditional extra amount, big or small, that

must be paid by the borrower to the lender above and over the principal, for the loan to be materialized or for an extension in its maturity (Alwosabi, 2011).

After knowing those severe verdicts of the Qur'an and the *Sunnah* against *Riba*, it is necessary to determine what a stand is really for. However, it is not every increase or growth which Islam has prohibited according the word '*riba*' in the Arabic language. As a Shariah term, *Riba* refers to the premium that must be paid by the borrower to lender along with the principal amount as the condition for the loan or for extension in its maturity (Ismail, 2010). *Riba* definition generally identified as having three elements that are the cause of *Riba*. According to Syed Mohd Ghazali Wafa Syed Adwam Wafa et.al, (2006), *Riba* generally have three elements: the first one, additional or excess of existing on loan capital. Second, an additional determine with regard to time. Third, the agreement is conditions on an additional, previously determined by the two parties having debt. An express of prohibition follows in Chapter 'Ali `Imran (The Family of Imran), which mentions *Riba* and bans it, for the first time:

*“O you who believe! Do not devour Riba multiplying it over,
and keep your duty to Allah that you may prosper”*

(Ali-Imran 3:130)

According to Dusuki (2012), this Hadith indicates two main criteria to constitute *Riba*. Firstly, is deferment of the time of exchange and secondly is the difference of counter values in the exchange of similar *ribawi* as mention in that Hadith. So, there are two rules regarding to exchange items to avoid *Riba*. First, it must be a spot transaction. If

one of the commodities are delayed, *Riba al'buyu'* occurs. Second, it must be of equal value which means when the parties want to exchange wheat with wheat, it must be an equal exchange, 2kg of wheat for instance with 2kg of wheat. The scholars of Shafi' view that *Riba* can be classified into two categories which are *Riba* in exchange contracts (*Riba al-Buyu'*) and *Riba Al-Duyoon* (Riba on Debts), (Syed Mohd.Ghazali Wafa Syed Adwam Wafa et.al, 2006).

According to Ismail (2010), goods of *Riba al-Fadl* has arisen from the Hadith requiring that if gold, silver, wheat, barley, dates and salt are exchanged against themselves they should be exchanges on the spot and be equal and same. In otherwise, the view on *Riba al-Fadl* is laid down in a number of Hadiths, but the following is the most famous and accepted one,

“Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates and salt for salt, like for the like, hand to hand (i.e., immediate sale), (but) if the kinds differ, then sell as you may like it from hand to hand”.

(Riwayat Muslim, No. 1584)

Another Hadith is one narrated by Abu Sa'id al-Khudri from the Prophet who said:

“Do not sell gold for gold, except when it is like for like, and do not increase one over the other; and do not sell silver for silver except when it is like for like, and do not increase one over the other; and do not sell what is away (from among these) for what is ready”,

(Riwayat Muslim, No. 2177).

As a conclusion, it is important to know what *Riba* is and its types. Therefore, the ban on *Riba* in Islam should be seen as an attempt to improve human ethics that all people must be treated fairly, not as an obstacle to business.

According to *Wahbah al-Zuhaily*, he defined that “*Gharar as a contract which contains a risk to any one of the parties which could lead to his loss of properties*”. The word *Gharar* comes from the root verb *gharara/gharra* which means to reveal oneself. In specifically, *Gharar* covers a variety of negative elements like cheating, danger, peril and risk that might tend to destruction and loss. There is no specific verse regarding to *Gharar* in verse of Al-Quran. But, due to hazard from *Gharar*, it becomes void in transaction where we take verse which prohibits all forms of business that cause injustice for both parties involved.

Gold has a relation with *Gharar* which is the existence of physical gold in time of transaction. *Gharar* is an important element which could render a transaction to be void (Dusuki, 2012). The word *Gharar* is sometimes interpreted as meaning ‘uncertainty’ rather than deception. Technically, Ibn al-Qayyim described *Gharar* as a sale in which the vendor is not in a position to hand over the subject matter to the buyer, whether the subject matter is existence or not. Imam al-Sarakhsi defined *Gharar* in general terms which is *Gharar* is any bargain which results from its hidden. Al-Quran has mentioned all forms of business transaction which cause injustice or *Zulm* to any of the parties.

“O you who believe! Eat not your property among yourself unjustly by falsehood and deception, except or be a trade amongst you, by mutual consent.”

(An-Nisa 4:29)

The strength evidence towards *Gharar* is based on Hadith narrated by Prophet (P.B.U.H) where the Prophet has forbidden *Gharar* in all trading and sales. There are also some Hadith which prohibits contracts based on *Gharar*. There are *Habl Al-Habla sale* and *Hasat Sale*. The *Habl Al-habla sale* literally means the sale of future pregnant animal. The sale is defined as a contract with condition which is executed depends upon a birth of a She-camel. There are unknown either the camel would delivery she-camel or not. The contract may defect because of a condition in future which is unknown but attached in now. While *the Hasat sale* means the stone or pebble sale. This category of contract was not reported by Bukhari, but widely reported by others include of Muslim (d. 261H.). The Hadith reporter reported that the sale is through the act of throwing a stone by either one of contracting parties as a means of completing the contract. There is other example gave by

“I sold you this land from here (where I stand) until the place to which the stone I throw reaches”.

Nawawi (d. 676H).

So, it means that the determination of specification of the object is entirely dependent to the act of throwing the stone by the seller which is certainly unpredictable. Moreover, the reason for the prohibition of *Gharar* is to avoid future disputes. If the parties involve are not fully aware and clear about any material information of the contracts, they might

be engaged in unexpected financial responsibility and commitments. Ibn Abbas reported the Prophet (P.B.U.H) to have said:

“He who buys food grain should not sell it until he has taken possession of it.”

(Sahih al-Bukhari, Hadith No. 2136)

Next, type of *Gharar* is due to inadequacy or inaccuracy of information. The prohibition of this type is because there exist of the possibility of fraud in such of contract. Last but not least, *Gharar* due to the undue complexity of the contract (combining to sales in one interdependent contract).

In addition, there are some more types of *Gharar* which relates to modern financial transaction. In conventional, there are modern terms which known as settlement risk and counter party risk. In this position, the seller could not to handle the subject matter to the buyer. So, there are *Gharar* due to nonexistence of the exchanged counter values. *Gharar* also can arise due to inaccuracy and non-disclosure of information toward the subject matter which comprises of characteristics of exchanged counter value, species, quantities, date of delivery and otherwise.

In conclusion, there are so many alternatives which can split this *Gharar* element and replace it with Islamic product that govern Islamic elements and free from prohibited sense. *Gharar* just make the contracting parties to expose with unnecessary risk in business transaction and other negative elements which makes the parties in losses.

As far as *Maisir* is concerned, it is regarded in Islam as one form of injustice in the appropriation of others' wealth and therefore has much in common with the concept of *Riba*. The act of gambling, sometimes referred to betting on the occurrence of a future event, is prohibited and no reward accrues for the employment of spending of wealth that an individual may gain through means of gambling. Under this prohibition, any contract entered into, should be free from uncertainty, risk and speculation. Contracting parties should have perfect knowledge of the counter values intended to be exchanged as a result of their transactions (Ahmed *et.al*, 2006).

Also, parties cannot predetermine a guaranteed profit. This is based on the principle of 'uncertain gains', which, on a strict interpretation, does not even allow an undertaking from the customer to repay the borrowed principal plus an amount to take into account inflation. The rationale behind the prohibition is the wish to protect the weak from exploitation. Therefore, options and futures are considered as non-Islamic and so are forward foreign exchange transactions because rates are determined by interest differentials.

However, none of the above implies that a contract can be deemed invalid on the basis that the future outcome is not known. The future is always unknown from man's point of view. But not knowing whether one shall make a profit as a result of entering into an

investment contract is not the same as the lack of knowledge that exists where the subject matter of the investment contract itself is uncertain (El Diwany *et.al*, 1997).

4.2.2 Ijma' Ulama

Muslim's scholars (Mazhab Hanafi, Maliki, Syafi'i and Hanbali) agreed that currency exchange is permissible as according to its term and conditions. There are two conditions in terms of gold investment transaction. There are:

- 1) Tamathul: An exchange with same weight and value.
- 2) Al-qabd: An exchange must be happen in both items which is price and gold, and it must be transact before the contracting parties spread from the contract.

As according to the Dialogue Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia-96 time was sitting on 13 to 15 October 2011. There have been discussed about parameters gold investment. Proffesor. Dr. Ashraf Md. Hashim and Ustaz Lokmanulhakim Bin Hussain from International Shariah Research Academy for Islamic Finance (ISRA), agreed to accept and endorse the gold investment parameters as follow:

4.2.2.1 General conditions of sale and purchase

The transaction must meet the entire gold trading rule as set by the Shariah, the parties of the contract, exchange of items and *sighah* by *Uruf* practices. In the event that a

transaction does not meet one of the pillars of the sale transaction, the transaction is considered void (Hashim *et.al*, 2011).

4.2.2.2 Contracting parties

A contract can only be established in its actuality if the contracting parties have a legal capacity (*ahliyyah*) that renders him competent to offer or to accept an offer made in a contract. This implies that a contract can be undertaken only by those who are legally capable and competent to act as a contracting party. The contracting parties who must be qualified to perform a contract (*Ahliyyah al-Ta'aqud*) of the following criteria:

- i. Matured (*Baligh*), understanding and *Rashid* which means the contracting parties, a madman or a child whether *Mumayyiz* or not, then the sales and purchase is not valid. Contract by children who is *Mumayyiz* is invalid for this type of transaction which involves goods of high value.
- ii. Pleasure which means any of sale contract entered by two parties must mutually consent without any elements of coercion, pressure and exploitation.

4.2.2.3 Purchase price (*al-bithaman*)

The purchase price (*al-bithaman*) shall be clearly known by both parties to the contract when trading session.

4.2.2.4 Jewellery shop (*al-Muthman*)

Goods (*al-Muthman*), shall be an inherent and wholly owned by selling party at the contract. Therefore, the sale and purchase something without physically exist and not owned by the selling party is invalid. Otherwise, if the purchased item cannot be delivered to the buyer, the contract is void. The goods shall be known by both contracting parties in trading session. It can be done through the rules below:

- i. Seeing the subject matter by him during a sale contract or within the period, the contract of sale does not affect its properties.
- ii. View sample of the product to be bought and sold. This usually occurs during the booking process before the contract.
- iii. Determine the properties and detailed rate goods. In the context of gold, it is need to identify the level of purity of gold whether it is according to the standard (24 Karat gold) or a new standard (999 gold). The determination of gold must be accounted either in form of coins, wafers, bars and so on. Gold scales on the right also are attribute which required the determination of gold.

4.2.2.5 *Sighah*

The form of contract refers to an expression made by the contracting parties to declare their inner will to undertake a contract and thereafter be bound by certain obligations. This expression is manifested in offer (*ijab*) and made by the offeror and acceptance

(*qabul*) made by the offeree. The offer refers to what originated from a person from whom the ownership of the transacted subject matter is transferred, even if it is done after acceptance (Dusuki, 2012).

In *Majallah Al-Ahkam Al-Adliyyah*, offer is defined as the word first spoken for making a disposition of property and the disposition is established by it. Acceptance refers to a second word which comes from a person to whom the ownership of a transacted subject matter is transferred even if it is done earlier than the offer made, (Basha, 1302 H).

It is agreeable among jurists that the basis of the formation of contract is its capability of giving a clear reflection of the willingness of both contracting parties to undertake a contract. So, the form of contract should be free from any possibilities of indicating other than what is intended by the parties for the contract that they entered into. This rule also applied in civil law which an agreement is not considered a contract in the strict sense unless it is made out of the common intention of contracting parties that it shall be legally enforceable. In addition, there are three conditions that have been prescribed by jurists in order for a contract to be validly concluded (*in 'iqad al-'aqd*).

Firstly, the offer and acceptance must clearly indicate the intended motive of the contracting parties. Secondly, a correspondence of acceptance to the offer (*tatabuq al-qabul wa al-ijab*) which means a contract is not validly concluded if the subject of

acceptance contradicts what has been offered. Lastly, the contract must be continuity of offer and acceptance. It means, the offer and acceptance must be jointly connected in the same session of the contract (*majlis al-aqad*) to indicate the dual declaration (Khafif, 1996).

In other word, *Sighah* in the sale and purchase which pleasure to show the two parties signed a contract for sale and purchase. It can happen either through speech which shown the consent of like. In *sighah*, there is no element for some period. As example, “I sell this to you with a price of RM 100 for a period of one year”. The consent must be correspondently along with *Ijab and Qabul*.

4.2.2.6 Specific terms of the sale and purchase of gold which specifies to the *Ribawi* items

Since gold and money is specifies as *Ribawi* items with the same *illah*, so there are additional conditions regarding to transaction of sale and purchase of gold:

- i. *Taqabudh* must be happen in both items which is price and gold, and it must be transact before the contracting parties spread from the contract.
- ii. Gold trading must be carried on the spot and cannot be deferred.

Specific Terms of the Sale and Purchase of Gold

Conditions of *Taqabudh*:

- i. *Taqabudh* shall apply to both the sale and purchase of the item price and purchase goods (gold) and it must be done before both of the parties separate from the contract.
- ii. Prices delivery can be done through following methods:
 - Cash payment
 - Banker's cheque
 - Personal cheque
 - Debit card
 - Credit card
 - Transfer money from saving account or current account

Associated with Fatwas parameter, Meera *et.,al* (2004) in their book on “*Seigniorage of Fiat Money and the Maqasid al-Shari’ah: The Unattainableness of the Maqasid*” state that basically, the customer who’s want to open a gold investment account, they will buy the gold and then they will sell it whenever the gold price rise up. Gold investment account has divide into a number of categories *Hukm* which are:

i. **Haram and Void:**

If the gold is not in bank possession, then the gold bought by third party in separate transaction, it can consider as void. In that situation, it contains of element of '*Taqabud fil Majlis*' which *Riba* has occurred. As example, there are no subject of offer and acceptance during the same event. If the transaction is delay, it would bring to *Riba an-Nasiah*. In other hands, it also become *Haram* and void if the gold is not deliver to the customer as requested at time of opening the gold investment account. As example, if customer buy the gold as much as 100 grams and activates his/her account, but the bank fail to prove the customer purchase and the physical gold is not appeared at time of transaction. So, the sale is not successful conclude because bank not give a written proof as a *tasarruf* to customer as their right to sell their gold.

Conclusion: Make sure that bank really owned the gold in rightful possession and the transaction is really clear by contracting parties.

ii. **Halal and Valid:** When both conditions stated below are met:

- a. The bank owns the gold rightfully at the point of sale.
- b. The bank gives to customer their '*tasarruf*' (rights) immediately. So, it means that the bank has issues a proof of purchase, in the form of physical gold or certificate.

The certificate functions like a debit card or cheque, which represents money that exists. The issuance of the certificate, as a token to signify sales and account opening have been completed, is valid and '*harus*' (must) in the eyes of Islam. It is taken as the non-physical 'delivery' (*al-Qabdhu al-Ma'nawi*). Otherwise, bank have to explain and tell the customer either that bank is Shariah approve or not regarding to their gold investment account. From previous research, gold investment account by Kuwait Finance House proves as Shariah compliant rather than other bank. The other bank is still applying conventional based and that is why there are not Shariah compliant. As example, Maybank and Citibank failed to prove the physical gold at time of transaction while the rest have a potential to become a Shariah compliance gold investment account based on a number of conditions:

i. There is no element of *Riba*' activities:

The bank should keep the physical gold as their custody on behalf of their customer and that gold cannot be utilized with other's *ribawi* activities. Bank must guarantee that there are Shariah compliance in form of written or expression. A customer should be able to ascertain from the '*aqad*' (contract) on the type of contract entered with the bank, such as whether it is a *wadiah*, *qard*, or etc.

ii. Enough gold during transaction:

At the time of sale transaction, bank must possess enough gold.. For example, the bank has only 100 kilograms of gold at a particular point of time, but sells (with the opening of the gold investments account) to two different customers 100 kilograms of gold each.

Based on this situation, only the first completed transaction is deemed as valid, while the second transaction is deemed as void.

iii. ***Halal* method of payment:**

Customer can made a payment either through in cash, immediate account debiting, local bank's Islamic debit or credit card, or local cheque. However, according to the International Council of *Fiqh* Academy (ICFA), it is prohibited if the customer makes a purchase on gold more than three days by using international cheques or Islamic credit card. Based on normal standard or '*urf*', three days is enough as accepted for settlement, to be ensure the requirement under '*taqabul fil hal*' is achieved. It is a *fatwa* that has been obtained from the opinion of the *Malikis* and the majority of *Fiqh* scholars worldwide, including Syeikh Dr Abd Sattar Abu Ghuddah.

iv. **Holder of gold investments account must pay *Zakat*:**

The holder of gold investment account is obliged to pay *Zakat* when enough *hawl* of 85 grams of gold or exceeded.

4.3 SHARIAH PRINCIPLE ON GOLD INVESTMENT ACCOUNT

Bai' as-Sarf is an exchange of one monetary form for another in the same or different form on a spot basis, where in this case it refers to the exchange of the money with gold (Dusuki, 2012). *Bai' as-Sarf* (sale of currency) is a sale of money for money such as the sale of gold for gold or silver for silver. However, Maliki scholars consider money exchange only if the sale is gold for gold or silver for silver does not belong to such transactions. The legality of *Bai al-Sarf* can be deduced from the Prophetic tradition and the legal consensus of Islamic scholars. All Islamic scholars unanimously agree on the permissibility of *bay' al-Sarf* as it has been practised by people since the time of Prophet (P.B.U.H) until now without any objections from anyone. Since trading currency involves *ribawi* items, it is always subject to the Islamic rules enacted to govern such transactions to avoid the occurrence of *Riba*.

In this regard, scholars has come up with certain rules and conditions such as taking possession before leaving one another, equal for equal transaction, freedom from *khiyar al-shart* and non deferment (Dusuki, 2012). *Qardh* can be defined as benevolent 'loan' or interest-free 'loan' which the KFHMB act as the borrower and they required to returning the commodity or principal borrowed. As according to Saat et.al, (2011), *Qard al-Hasan* is a contract of social welfare which comprise of loan between the two parties to fulfil financial needs of borrower. The must be equivalent between the amount borrowed and amount of repayment.

4.4 GOLD SAVING ACCOUNT/GOLD ACCOUNT-I OF KUWAIT FINANCE HOUSE MALAYSIA BERHAD

In Malaysia, gold saving account which offered by KFHMB is based on *Shariah*-approved which structured based on Islamic principle. This gold savings account use the *Shariah* principle of *Bai' as-Sarf* and *Qardh al-Hassan*. Under this contract, gold of KFH is available to investor if they want to buy in gram at the selling price as determined by KFH. In *Qard*, the investor who bought the gold will deposited into the gold account with KFH as the debtor (*Muqtaridh*) and the investor as the creditor (*Muqridh*). Figure 4.1 illustrates the transaction for KFHMB Gold Account-*i*.

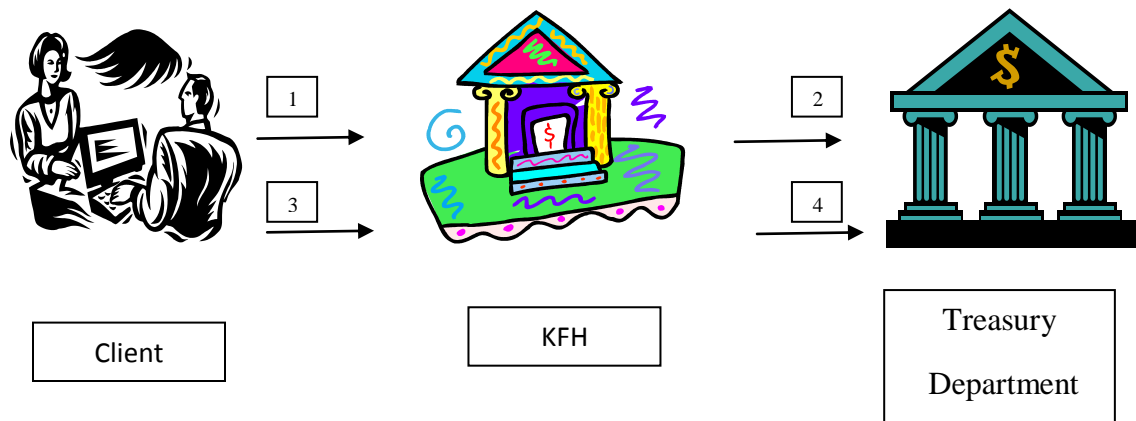


Figure 4.1: Modus operandi for KFHMB Gold Account-i/Gold saving Account

Referring to Figure 4.1 above which based on interview with KFHMB officers , (1) the customer comes to the Bank to open the KFH Gold Account and purchase gold (in g) according to the bank's selling price. The transaction is based on spot. (2) Than, the

bank will notify the treasury department for their further action. (3) The customer will lend the physical gold to the bank based on *qard*. In *qard* contract, customer who bought the gold either in initial or afterwards, it will be deposited into the Gold Account (based on *qard* contract). At that stage, KFHMB act as the debtor (*muqtarid*) and the customer as the creditor (*muqrid*). The gold is appeared at time of transactions. Customer has option either to keep the gold by themselves or just let the gold to be kept by bank. In the situation where the customer intends to withdraw the gold, he will come to the KFH counter and request to sell the gold. The customer will be paid based on the bank's buying price for the amount of gold sold by the customer. (4) The bank will notify the treasury department for their further action.

At KFHMB, in case if the customer wish to sell the physical gold back to the bank, the physical gold will repurchase by KFHMB's at quoted buying price at the time of purchase. The physical gold which provided to customer before, must match with KFHMB's record whereby there are conditions that the customers should follow from the packaging, security seal, serial number and the barcode attached at the packaging of the gold. The selling of the gold to goldsmiths by the customer depends so much on their acceptance of the gold.

KFH Gold Account-i is a commodity for customer to buy and sell without needing to keep the gold by themselves. In addition, it is not for jewellery making purpose. However, KFHMB will not repurchase the gold if customer uses the gold to make

jewellery because it is not even same as earlier gold was purchase. The investors can conveniently invest and trade in gold With KFH Gold Account-*i* which allows investors to track and plan their investments wisely as trades are recorded in their account statement. Besides enjoying the peace of mind of purchasing gold without having to keep it in the physical form as another gold savings account, investors in this account may withdraw the physical gold on the spot or have the bank retain the gold under *Qardh al-Hassan* concept.

As according to A.M Hafizi *et.al.*, (2011), out of the seven providing banks, only one bank are confirmed to having been approved as providing Shariah-compliant products, KFH Gold Account-*i* by Kuwait Finance House (KFH). It would be encouraging if the government through BNM set a requirement for the banks that offer gold savings account products to apply for the Shariah compliance status. This is important to address the investors' concern on the permissibility of the products based on the Islamic law, besides avoiding the elements of *Gharar* in the transaction. *Gharar* may exist when the investors cannot withdraw physical gold from their accounts, which raise the question on the status of the gold, whether or not it really exists in the bank's custody.

4.5 GOLD INVESTMENT ACCOUNT OF PUBLIC BANK BERHAD

Gold investment account is a long term investment account which allows you to purchase or sell the purest available gold commodity in 99.99% fineness at daily prices quoted in Ringgit Malaysia (RM) per gram and all the purchase and sale transaction will be recorded in a passbook. From the interview that has been done with Public bank Senior Financial Executive, Sree dewi and Najmi Ahmad who is customer service representative, there is a lot of useful information to be gather in this part. Since, Gold investment account by Public bank is conventional so there are no any Shariah principles used. However, the transaction is quite same with gold saving account in KFHMB. There are slightly different in a few parts which will be analyzed later on. Figure 4.2 illustrates the transaction for Public Bank Gold Investment Account.

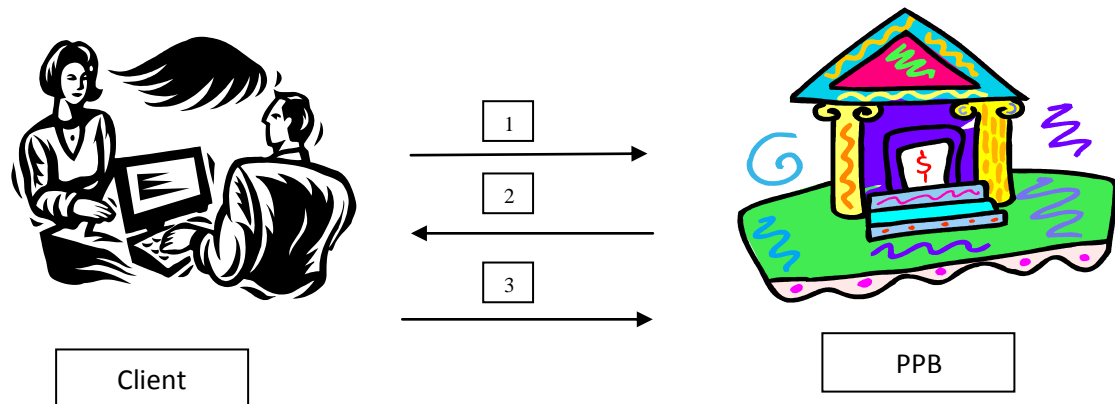


Figure 4.2: Modus operandi for Public Bank Gold Investment Account

Based on interview with representative from Public Bank Berhad, by referring to figure 3, (1) the customer has to come to the Public bank to open the Gold Investment Account

and deposit the amount to invest based on Bank's gold selling price. (2) Public bank will give a Passbook that will record buying and selling of the gold transaction. In the situation where the customer intends of withdrawal, he will request bank to credit his money into savings account or by cash. (3)The customer will be paid based on the Bank's buying price for the amount of gold sold by the customer. For example, Fayyad wants to open GIA on 10 April 2014 with minimum 10gram of gold. On that day, gold price is RM 140.29 per gram. It means, Ahmad must deposit RM 1402.90 as price gold. After 5 years, the gold price rise up to RM 180.29 per gram. So, if Fayyad wish to sell the gold by withdraw his money, the bank's price will turn to RM174.29 per gram. It means, Fayyad can withdraw as much as RM 1742.90 for 10 gram. So, Fayyad profit is RM 340.00.

Public bank's customer cannot purchase a real physical gold because the non existence of the real physical gold at the time of transaction. The returns on the customer's gold investment are depending on fluctuations of gold. Each of transactions must record in a passbook. However, the Perbadanan Insurans Deposit Malaysia (PIDM) not insured this kind of investment.

Ironically, the status for investing in Public Bank gold investments account has been a bit of an issue in terms of its uncertainty because it has not been properly mentioned by the bank whether the certificate or the proof of purchase issued will allow investors to withdraw their gold deposits as and when wanted by them.

4.6 THE COMPARISON OF GOLD INVESTMENT ACCOUNT BY KUWAIT FINANCE HOUSE MALAYSIA BERHAD AND PUBLIC BANK BERHAD

Table 4.1: the comparison of GIA by KFHMB and PBB

	Content	KFHMB	PBB
1.	Muamalat Contract		
	- Bai' al-Sarf	✓	X
	- Qard		
2.	Shariah contract		
	- Contracting parties	✓	✓
	- Sighah	✓	✓
	- Purchase price	✓	✓
	- Subject matter (gold)	✓	X
3.	Gharar	X	✓
4.	Shariah committee	✓	X
5.	Gold jewellery	X	X
6.	Security box for gold	✓	X
7.	hibah	X	X
8.	Zakat	✓	✓

As referring to table 4.1, there are table that shows specified analysis by researcher from interviews and modus operandi as discussed before and also the features of Gold investment account by Kuwait Finance House Malaysia Berhad and Public Bank Berhad. So far, there are a few comparisons of both of banks from Shariah matter and their transactions.

Regarding to table above, Kuwait Finance House offers product of gold saving account which applies Shariah concept of *bay' al-sarf and qard*. *Bay' al-sarf* is the exchange of one monetary for another in the same or different, that is gold for gold coins, silver for silver, gold for silver, silver for gold; whether it is in the form of jewellery or minted

coins (al-Zuhaily, 2003). *Qard* is a loan that obliges a borrower to repay the lender the same principal sum borrowed (Haron And Azmi, 2009). The deposit received under the KFH Gold Account-i will be quoted in g (of gold). The customer will need to pay according to the KFH's daily selling price of gold for deposit and buying price for withdrawal. Meanwhile Public bank does not offer product of gold investment account base on Shariah concept because Public bank operates under conventional banking.

Regarding to the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia in their 96th conference on 13 – 15 October 2011, in the case of gold transaction, there are four conditions to be followed. First, the gold or the subject matter must exist, wholly owned by the seller who can deliver to the purchaser within the *uruf* (custom) period. Next, the subject matter must be known its physical, weight and originality either by looking its physical form or through purchase order. Third, the value of the gold must be made known and agreed by both parties' seller and buyer during *aqd* (contract). Lastly, the contract must be executed based on mutual consent.

The contracting parties must have a legal capacity (*ahliyyah*) which could renders him to competent to offer or to accept an offer that made in a contract. *Ahliyyah* is the ability to acquire rights and exercise them as well as to accept duties and perform them. *Ahliyyah* comprises of two types which are *Ahliyyah al-Wujub* (capacity for acquisition of rights) and *Ahliyyah al-Ada'* (capacity for execution of duties). *Ahliyyah al-Wujub* means the legal competency of a person that establishes rights for himself and imposed obligations

on him. The underlying basis of this legal capacity is the human's life and his attribute of being human (*sifah insaniyyah*). In other words, all of human being including the foetus in its mother's womb possesses this type of *ahliyyah*. However, *Ahliyyah al-Wujub* does not give any impact to the establishment of a contract (*ibram al-aqd*) even if it is perfect (*kamilah*), (Al-Zuhaily, 2007).

For *Ahliyyah al-Wujub*, it can be categorized into deficient (*ahliyyah al-wujub al-naqisah*) and perfect (*ahliyyah al-wujub al-kamilah*). *Ahliyyah al-wujub al-naqisah* is only confined to a foetus in its mother's womb which renders it to capable in accepting the establishment of the rights which not require accepting an inheritance and bequest. However, there are no obligations that can be incumbent upon it at this stage. While *ahliyyah al-wujub al-kamilah* is a person that has capacity to acquire rights and obligations since the time he was born alive and does not dissociate from him in all stages of his life. This legal capacity is establish when the person attains full mental development and acquires ability to discriminate. For those age below seven has only a deficient legal capacity which qualifies him to acquire only rights and obligation that his custodian (*wali*) can perform on his behalf such as obligation of giving *Zakat*.

Ahliyyah al-ada' means a legal capacity of a person which enables him or her to execute duties in a way that is recognised by Shariah. It is divided into *ahliyyah al-ada' naqisah* and *ahliyyah al-ada' al-kamilah*. *Ahliyyah al-ada' naqisah* is a legal capacity which establish in a human when a person at the stage of discrimination till the stage of

puberty. Deficient intellectual and physical capacity constitute the essence of this legal capacity as it is unanimously agreed that the performances of duties is dependent on one's ability to understand the rules (Kamil Musa, 1998). While *ahliyyah al-ada' al-kamilah* is complete intellectual and physical capacity forms the basis which originally determined by the perfection of one's intellect. He is duty-bound to perform all the legal commandments assigned to him and is consider sinful if he neglect of them. All contracts and conducts emanated from him are valid and their legal consequences will take effect. So far, for both banks Kuwait Finance House Malaysia Berhad and Public Bank have contracting parties at time of transactions.

In term of *sighah* (offer and acceptance), a term used by the *fuqaha'* (Muslim jurists) to refer to the formal exchange which takes place between the contractual parties indicating their willingness to enter into the contractual agreement and therefore constitutes the contract itself (islamicbanker.com). The form of offer and acceptance is the procedure by which contract is made. Juristic rules require that the offer should be in clear language and unconditional. There should be conformity of the offer and acceptance on the subject matter and the consideration and issuance of the offer and its acceptance should be in the same session (Muhammad Ayub, 2007). It indicates the pleasure of both parties to execute sale and purchase contract and can be carried out through verbal and written forms. In KFHMB and Public bank, customer will request to purchase or sell the gold through verbal and then follow by filling the specific form provided by respective banks. The transactions will not be completed or considered valid until both buyers and

sellers agree with the offer made by the other parties. In brief, the banks require the customer's approval on the features and rates before the buying or selling activities are executed.

We can see that from the transaction, *Gharar* is not exist in KFHMB meanwhile it is existed in PBB because the non-existence of gold itself. The important thing in gold investment account is it physical gold. PBB do not appear it physical gold in time of transaction so that is why PBB have *Gharar* because of its uncertainty while KFHMB appeared its physical gold at time of transaction. So it is clear that the transaction must have subject matter during the transaction.

"Shariah committe will train the KFH staff in twice a year".

As mentioned by Madam Norafiza Ani. So, gold saving account in KFHMB is Shariah compliant because the Shariah Division of KFHMB wills advice and guides them. The Shariah Committee will inspect periodically any the investment activities to ensure its compliance with Shariah rules and principles. On the contrary, Public Bank Gold Investment Account not gets the approval of Shariah Committee and does not any Shariah committee members.

Both of bank do not allowed any jewellery as a medium of exchange to gold in gold saving account. Gold will prepared by bank and customer can choose either to keep the gold by themselves or to keep by bank. As KFHMB there have a security box for gold

while PBB doesn't have the security box since there have no physical gold to be keep. PBB only record each of transaction in their passbook.

In addition, Kuwait Finance House Malaysia Berhad and Public bank do not give and promise *hibah* to any of their gold account depositor. *Hibah* is not the prime principal in the financial operation system however; it is applied as the supported principal in *muamalah* (business transaction) activities in Islamic financial institutions in Malaysia (Muhamad, 2010). The customers will get the profit only if they sell the gold on the higher price than their initial purchasing price. The contract is merely voluntary and based on mutual consent without any coercion, deceit and hidden defect (Utusan Malaysia Online, 2012).

For both bank, customers are obliged to pay *Zakat* by their own when there are enough of *Haul*. Bank will advice them to pay *Zakat* by themself. Bank will not pay for them as bank has many other works to accomplish.

4.7 ADVANTAGES OF GOLD INVESTMENT ACCOUNT

“Each of bank which offered Gold saving account usually just same whereby the price of gold is based on world gold price and checked by Bank Negara Malaysia. Investor should know how to play with the gold price and they will get a huge profit if they invest more than 5 years and they alert with the appreciation of gold price”

As mention by interviewee from Public bank by Encik Najmi and Cik Sree Dewi many bank are also have similarity in terms of the price of gold and its payment method. First of all, the customers and sellers must know the price of the gold and agree to the rates before any transaction can take place. Both banks accepts cash, payment by certified check (such as banker's check), personal check, debit card, credit card or transfer money from saving or current account as the method of payment. All forms of payment methods, except personal check, are treated as a cash payment by the bank. Payment by credit card is considered as cash because the bank will receive the full sales price from the party that issued the credit card. Debts that occurred, if any, are between the cardholder and the card issuer rather than the seller of goods. Status of this cash is still accepted by the seller despite the fact that the vendor will receive a physical or included in its accounts a few days after the transaction occurs.

Otherwise, there are some benefits which are firstly; gold is the best possible hedge against inflation. Secondly, it is able to earn potentially higher return from appreciation in gold price. Thirdly, it is convenience to purchase and sell the gold at any PBB branches or via online. Fourthly, it also easy to monitor because it is recorded in passbook and lastly, it is affordable initial purchase and subsequent investment. Customer can easily sell and purchase gold via online banking. There can surf to PBeBank.com at any time they wish.

In fact, as 2013, Public bank has mandate that the minimum quantity of initial gold purchase is 5 grams rather than before, the initial gold purchase is 10 grams. While the

minimum gold balance that need to be maintained in GIA is 2 grams. The maximum amount that customer can invest is actually depend on customer either to add their amount as they wish for every month or just invest at initially by lump sum. Furthermore, It is open to any individuals (resident or non-resident) aged 18 years and above. Parent may open together with their children who are below the age of 18 years. PBB does not allowed this account to any organisational investors as practice by KFHMB.

Meanwhile, Gold saving account by KFHMB also has many benefits as said by Norafiza Ani during the interview session. She said,

“The benefits from Gold Investment Account are convenient and secure which customer can purchase gold without having to keep the physical gold. Customer also has an option either to withdraw the physical gold on the spot or have the bank retains the gold under Qardh Hassan concept. Otherwise, customer can purchase or sale via debit/credit card from KFH saving account-i or KFH current account-i”.

Customers are convenient to make a gold deposit and secured where the customer no need to keep the gold by themselves. The customer can buy the gold start from as low as 5 grams (for junior), 10 grams (for individual) and 50 grams of gold (for non-individual). If the investors want to withdraw, they must deposit their account in a denomination of 1, 5, 10, 20, 50 or 100 grams. It is because; the availability of physical gold held by the bank is one of the reasons why this savings account was approved as a *Shariah*-compliant product. Furthermore, KFHMB will not impose any charges for gold safekeeping and withdrawal. KFHMB Gold Account-i allows any organisational

investors to invest through the non-individual account such as associations, societies, companies or other business entities that KFHMB Malaysia finds suitable or acceptable.

4.8 ISSUES OF GOLD INVESTMENT ACCOUNT

In addition, postponement of payment is not allowed in both banks because instalment purchases are not acceptable. From result of interviews, the subject matter (physical gold) will be on loan to KFHMB based on qard principle (the customer is guaranteed the quantity of gold deposited with KFHMB). The management of the gold will be handled by the treasury department of KFHMB. Meanwhile, Public Bank Gold Investment Account is an account which allows customers to invest in 999.9 fine gold commodities at a daily price in Ringgit Malaysia (RM) without the hassle of keeping physical gold. Public Bank's customer cannot purchase a real physical gold because the non existence of the real physical gold at the time of transaction. The returns on the customer's gold investment are depending on the gold price fluctuations. Transactions performed would be recorded in a passbook. However, this investment is not insured by the Perbadanan Insurans Deposit Malaysia (PIDM).

A recent inquiry made to the bank on the said matter has disclosed that the certificate cannot be used to withdraw the bought physical gold. It is therefore in our opinion that this product is problematic from the viewpoint of Shariah compliance. If the certificate being held by the investors cannot be 'transformed' into physical gold, it thus meddles in

the process of *'taqabud al-hukmi'*, which is required in transactions involving *ribawi* items, and thus spoils the *'aqad* which in this case is between gold and Ringgit Malaysia. It is therefore being strongly suggested to anyone interested to start a gold investments account, to make a prior checking on the issues discussed above.

“The customer who wants to open gold account-i is given chance to look and check whether the gold is the real gold of 995.0 gold which is in form of wafer”.

During interview with Ustaz Ahmad Suhaimi, he said that the purpose to customer look into the subject matter is mainly to fulfill Shariah requirement in contract of sale especially when it involves *ribawi* items like gold to avoid any disputes after the contract of sale is executed between both parties. Opening a gold account-i in KFH means the customer is buying the gold from KFH with the selling price and one of the pillars in contract of sale in Islam is the subject matter must be in existence during the contract which is the gold itself.

The presence of subject matter at the time of contract of sale is based on the Hadith of the Prophet (p.b.u.h) (Securities Commissions Malaysia, 2009):

“Do not sell what you do not posses.”

(Reported by al-Tarmidhi, n.d.)

Thus, by having the physical gold as the subject matter in the contract of sale between the customer and KFHMB has made the contract valid and free from the element of *Gharar* (uncertainty) which is strictly prohibited in Islam. The same thing happens if the customer who is the gold account-i holder wants to withdraw his gold in the form of physical gold he is able to do so because of the existence of the physical gold. The customer can keep his gold at KFH and at the same time will be given evidence and the right of *tasarruf* (managing) in the form of certificate of entitlement to a quantity of gold (purchased). We can see that there are slightly different in term of subject matter (physical gold). It can be proven via the physical gold appeared in time of transaction in Kuwait Finance House but not in Public bank. Public bank just recorded every transaction in their passbook without the physical gold.

Refer back on Muzakarah by Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia, issues which relates gold and *Riba* is specifies by such conditions are typical for gold that consist of *ribawi* items, such as gold bullion and gold coins. This requirement does not include gold jewellery because it is excluded from the *illah ribawi*. Based on article “Sistem Mata Wang Dinar Emas: Analisa dari Perspektif Hukum Fiqh Muamalat” by Muhammad Nasri Md Hussain et.al (2010), in order to avoid the transaction of gold influence in *Riba*, the specification features of *Taqabudh* and the transaction by on the spot is as follow:

Firstly, *Taqabudh* which the payment can be done through cash payment, payment through banker's cheque, payment by personal cheque, payment by debit card or transferring money from saving account or current account. In side of *Uruf*, all form of payment method exclude of payment by personal cheque; it is treated as a cash payment by the seller. Payment by credit card is still considered as cash because the seller will get the full sales price of the issuing credit card. If there is any debt, it is only between the cardholder and the card issuer rather than seller of the goods.

Secondly, the transaction must happen on the spot and cannot be deferred. The deferment of the price is not allowed to cover the whole debt purchase. After three days, the delivery of gold is not justified at all. The Dialogue noted that there are differing views of scholars in this regard. However, Muzakarah is more likely to adopt the opinion which is not allowed the transaction even less than three days. In other word, gold submission must be done without any delay which contrasts with the issues of foreign exchange. But practically, the seller will deliver the gold after the amount of the payment is made by cheque and credited into account after three working days. In dealing with the period, the seller and the buyer can follow the rules such as the buyer only made an order to the seller with specific type and weight of gold that he wanted to buy, followed by the remittance to seller account.

At this stage, the contract of sale of gold has not happen yet. The money in the account of the seller still does not belong to the seller. It still owned by the buyer and held in

trust by the seller. So, in this case it is better if the seller can open a special account (trust account). The buyer can still cancel the orders placed and the seller must return the money to the buyer. However, if the actual loss is due to cancellation, so it must be borne by the purchaser.

For example, a buyer places an order with a price of 999 gold 100gm RM20, 000. Currently, the seller has to keep the gold and sell it to others who were willing to buy it. After three days, when the seller is willing to make a sale contract and thus give the gold to the buyer, the buyer cancels his order. During the day the price of gold has fallen to RM19, 000. In other words, the seller will lose RM1, 000 if sold to another party. In this case, the actual loss of is RM1000.

When the money order has been given clearance by the bank, then the contract of sale has to be done. Money in the trust account (if any) shall be transferred to the account of the seller and the gold to be delivered to the buyer.

4.9 CONCLUSION

As conclusion, gold investment is exposed to market forces and volatility. The investor may sustain substantial losses on the investment if market conditions move against their favour and due to unforeseen market movements. The global gold market price is very much based on prediction rather than stock market, which can be observed through the technical analysis to learn the movement. The customer can make capital gains if the gold price appreciates above the initial purchase since the price of the gold price fluctuates in daily. However, there is no assurance that the gold price will go up and it may even fall. The investor should clearly understand of gold price and choose the right bank such bank that comply Shariah concept in order with pureness our gain.

CHAPTER FIVE

5.0 RECOMMENDATIONS AND CONCLUSION

5.1 INTRODUCTION

This chapter concludes the whole study which examines the comparison of gold investment Account between two banks which are Kuwait Finance House Malaysia Berhad and Public Bank Berhad. As mentioned before, gold investment account is long term investment which allow customer to buy gold in their behalf and invest it for many years. Discussion and analysis of the findings presented in order to form a comprehensive summary. Research suggestions have been given as the guideline in order to enhance research studies in the future.

5.2 CONCLUSION BASED ON RESEARCH QUESTIONS

In a nutshell, the study has answered the questions of this research as follows:

- i. As for the first research questions which regard to “What are Islamic views about gold investment?” was answered in chapter two and chapter four. Researcher uses the main Islamic sources which is Al-Quran and *Sunnah* and also based on Fatwas Parameter established from Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia in 96th conference on 13-15 October 2011. From Al-Quran, there are stated that Quranic verses about Riba which relates to gold transaction is Haram if the transaction is not base on same weight and not happen by on the spot. Regarding to fatwa, it state that the case of gold

transaction, there are four conditions to be followed. First, the gold or the subject matter must exist, wholly owned by the seller who can deliver to the purchaser within the *uruf* (custom) period. Next, the subject matter must be known its physical, weight and originality either by looking its physical form or through purchase order. Third, the value of the gold must be made known and agreed by both parties' seller and buyer during *aqd* (contract). Lastly, the contract must be executed based on mutual consent. Since gold have a closed relation with a *Ribawi* items, so there are strictly mentioned that the gold transaction must be on the spot and cannot be deferred. Otherwise, there is also having a number of conditions in term of *Sarf* concept as explained in chapter four.

- ii. Second research question which ask about “What are the comparison of gold investment account between Kuwait Finance House Malaysia Berhad and Public Bank Berhad?” was answered in chapter four via analysis and take out from result of interview with the informants by both banks. So far, there are a few differences from their operation in transaction of gold. The important manner is the existence of subject matter (physical gold) in time of transaction. Apart from that, issues of *Riba* and *Gharar* may counterpart when there is non-existence of subject matter.
- iii. As third research question, which ask on “What is advantage and issues of both banks?” also was answered in chapter four. From analysis, it seems like both bank have their own advantage to attract customer or investor to invest in gold

investment account. In such transaction, issues arise when KFHMB follow all the instruction as line by Shariah whereas Public bank not perfectly follow Shariah guideline. It is because; Public bank is operated under conventional concept. However, other Islamic bank should take this opportunity to offer gold investment account product as Public bank which have many branches and spontaneously it makes the transaction easiest. So, Kuwait Finance House Malaysia Berhad whereas fully Islamic should open many other branches to make Islamic customer especially easy to make a transaction.

5.2 RECOMMENDATION AND SUGGESTION

Alternatively, this study recommends four points:

- i. Gold saving account by Kuwait Finance House Malaysia Berhad is exactly based on Shariah compliance. So that, many of investor trusted with KFHMB to join this product. Unfortunately, KFHMB has a very limited branch and it may difficult to investor to go to KFHMB. So far, researcher suggests if KFHMB can open many other branches in various states. It will easier to investor to get their gold saving account and researcher believe that many other customer would like to open gold saving account with KFHMB.
- ii. Since both bank are not have many differences, researcher suggest if Public bank can applies their Public Bank Islamic to render gold investment account based on Shariah compliance. It is because, this product is still new in market and Public

bank actually having a great potential to render such product base on Islamic. As we know, branches of Kuwait Finance House are very limited. As public bank have many branches, why not they just offer gold investment account based on Shariah compliance.

- iii. It is better if both banks can send a reminder letter to customer to pay *Zakat* by their own. It is because; bank will not pay *Zakat* to customer whose open gold investment account. So, it is proper if banks can do so.

- iv. It would be great if there are a lot of gold unit trust funds in Malaysian market. This product may apply the concept of unit trust investment in the gold instruments. Gold unit trust funds are normally invested in gold derivatives such as gold futures and options, Gold ETFs, gold structured products and/or gold equities. Currently, there are two local unit trust funds in Malaysia, OSK-UOB Gold and General Fund and Am Precious Metal that fall into Lipper's Equity Sector Gold and Precious Metal fund category. Both funds invest in companies that are involved in the precious metal production such as gold, silver, platinum and others, with the latter being an Islamic fund. Unlike passively managed ETFs, actively managed funds are not correlated to the spot price of gold. This means that while the price of gold trends up, the fund may lose value. The historical performance of MIDAS Mutual Fund, which is based in the US, and the spot price of gold show an occasional negative correlation. This is because the fund invests in gold equities.

- v. Furthermore, the objective of an (actively managed) gold mutual fund is to give investors alpha (the excess return of the fund relative to the return made by its benchmark). MIDAS Mutual Fund is the largest gold-related fund in the US and invests at least 65% of its total assets in securities of companies primarily involved in the business of mining, fabricating, processing, distributing or dealing in precious metals or other natural resources. The fund is also invested in gold, silver and platinum bullion.

- vi. Malaysian market should also consider the other gold instruments such as gold shares and Gold ETFs. These two types of gold investment are available in international market, but are yet to be offered in Malaysia. Gold shares refer to shares of companies that generate their incomes primarily from extracting and producing gold. In the US, there are over 300 listed gold mining companies with a global market capitalization of over US\$220 billion. Like the shares of any company, gold shares are subject to the perils associated with investing in equities. With the great potential of some local companies such as Public Gold that currently dominates the production and trading of gold bars and coins in Malaysia, the idea of having this type of gold investment instrument in the local market should be provide a great momentum to the gold market and may attract investors who previously were only active in general stock market trading.

- vii. There are some potential to have Gold ETFs in the Malaysian market as the instrument aims to mimic the price of spot gold as closely as possible. In this instrument, when investors invest in a Gold ETF, the fund manager will use that fund to buy gold. The fund managers will constantly buy and sell the metal to ensure that the price of spot gold and ETF closely correlates and there are minimal arbitrage opportunities. Gold ETF is one of the best ways to get on the exposure and ride the appreciation of gold as the benefits of ETFs stack up against owning physical gold, namely low minimum investible amount, no storage fees or security concerns and the units being more liquid compared to the physical gold.

5.4 CONCLUSION

There are many differences in the operation of gold investment account in KFHMB and Public Bank Berhad especially in terms of their *modus operandi*, types of gold, purchasing price of gold and Shariah compliance. On the other hand, the similarities between gold investment account in KFHMB and Public Bank Berhad cover the aspect of the price of gold and its payment method, *sighah*, *hibah* and the exposure to market forces and volatility.

Based on this study, it can be implied that the best option in gold investment account is KFHMB. The main reason is KFHMB involves the real physical gold during the transaction and at the same time it fulfils the Shariah requirement. In contrast, Public Bank Berhad does not provide the physical gold during the transaction and hence, it is

against Shariah requirements. Nevertheless, the existence of real gold during the transaction will enhance the customer's trust towards their investment. It is recommended that this kind of research could be extended to study on the customer awareness or acceptance towards the practices of gold investment account in Islamic and conventional banks in Malaysia.

Gold is a popular metal and investment instrument that believed to be a stable way of preserving wealth, hedging inflation, storing intrinsic value, and generating high level of return. Malaysia offers investors a unique platform of gold investment instead of the traditional way of buying the physical gold. This method of investment has a great potential to overcome the issues of security and storage. In light of the gold issue, we explored and discussed the challenges and prospects of gold investment by describing different ways of gold investment in Malaysia, weighing the pros and cons of each option.

The Shariah compliance issues have also been discussed due to the status of Malaysia as a country that practices a dual financial system, and a hub for Islamic finance in the world. Out of seven banks, only one bank offer Shariah approved gold savings accounts. We propose for BNM to impose a requirement of Shariah screening on gold savings accounts offered by banks. Recent trend shows that Malaysians are increasingly turning to gold investment as one of the Shariah compliant mechanisms to protect wealth. This study thus shall benefit investors, especially Malaysians.

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APPENDIX

Interview Protocol Form

Faculty Interview Protocol

Institutions: Kuwait Finance House, Penang

Interviewer (Title and Name): Nor Syafika Ridzuan

Interviewee 1: Norafiza Ani Abdullah (Personal banking manager)

Interviewee 2: Ahmad Suhaimi Bin Yahya (Regional Head Shariah , KFHMB, K.L), (telephone interview)

Date: 3 April 2014

Time: 3 pm

Location: Kuwait Finance House (Malaysia) Berhad, No. 25 Jalan Todak 6, Pusat Bandar Seberang Jaya 13700 Perai, Penang

Survey Section Used:

- ✓ A: Interview Background
- ✓ B: Assessment Products

Other Topics Discussed: Gold price and constraints

Documents Obtained: Gold saving account application form, pamphlets of Gold saving account and specimen signature card

Research questions:

- 1) What are Islamic views about gold investment?
- 2) What are the comparison of gold investment account between Kuwait Finance House and Public Bank Berhad?
- 3) What is the advantage and issues of gold investment account from both banks?

Introduction

You have been selected to speak with us today because you have been identified as someone who has a great deal to share about the details transaction of gold investment account. My research project as a whole focuses on the transaction of gold investment account either it is following Shariah rules or not since the features of gold is specify relates to Ribawi items. Yet, my study also needs to know how does modus operandi of other bank in particular of gold investment account are really follow the Shariah rules as your bank.

We have planned this interview to last no longer than one hour. During this time, we have several questions that we would like to cover. If time begins to run short, it may be necessary to interrupt you in order to push ahead and complete this line of questioning.

A. Interviewee Background

- 1) How long have you been?

About 5 years

- 2) Present position?

Personal banking manager

3. What is your highest degree and what is your field of study?

Degree of Business Administration in Marketing at UITM Shah Alam.

B. Assessment products

1) What is gold saving/ investment account?

Gold savings account is a long term investment base on gold. Gold investment account allows the investors to buy and sell gold without the hassles associated with the transfer of actual physical gold.

2) What is the contract/Shariah concept use for this kind of products?

KFH use Bai' As-Sarf and Qardh Hassan

Probes: What is Bai' as-sarf and qardh?

Bai' as-Sarf refer to the exchange of one monetary form for another in the same or different form on a spot basis, where in this case it refers to the exchange of the money with gold. Under this contract, investor will buy the gold from KFH in gram at the selling price determined by KFH. Meanwhile, *Qardh* refers to benevolent 'loan' or interest-free 'loan' whereby KFH as the borrower is only required to return the commodity or principal borrowed. Under this contract, the gold bought by investor will be deposited into the gold account with KFH as the debtor (*Muqtaridh*) and the investor as the creditor (*Muqridh*).

3) What are the benefits of KFH Gold Account-i?

- Convenient and secure
- More options
- Ease of purchase/sale
- Affordable initial deposit

Probes: What do you mean by ease of purchase sale?

Customer can purchase the gold in form of bar gold at time of transaction. If the customer wants to sell back the physical gold to the bank, the bank will repurchase the physical gold at KFH's quoted buying price at the time of purchase provided that the packaging and security seal of the physical gold remains intact, and the serial number and the barcode printed on the face of the packaging of the physical gold must match KFH's record.

4) What are the risks when apply this product?

The KFH Gold Account-I is neither a protected product nor a profit bearing account. The capital gained from the account depends on fluctuations of gold prices. The returns on customer deposits in gold are uncertain and customer might be exposed to the risk on possibility of incurring losses. This product is not insured by PIDM.

Probes: Why this product not insured by PIDM?

Because the price of gold is fluctuate. PIDM only will insure for static price.

5) What are the pillars of gold investment account?

First, the gold or the subject matter must exist, wholly owned by the seller who can deliver to the purchaser within the uruf (custom) period. Next, the subject matter must be known its physical, weight and originality either by looking its physical form or through purchase order. Third, the value of the gold must be made known and agreed by both parties' seller and buyer during aqd (contract). Lastly, the contract must be executed based on mutual consent.

6) How to purchase the gold?

For individual, initial purchase of gold is 10gm in multiple of 1gm. For non-individual, initial purchase of gold is 50gm while for junior, initial purchase of gold is 5gm. Bank will provide the bar gold and it is depend to customer either to buy the gold for every month or by lump sum at initial.

Probes: Who is eligible to open this account?

Male and female individual who have attained the age of 18 years old can open this account. Otherwise, there should be a Malaysian citizen and permanent resident or non-resident. Meanwhile for junior account, customer below 18 years old requires a guardian to open the account. It is also eligible to non individual such as associations, societies, companies or other business entities that KFH Malaysia find suitable or acceptable.

7) Is it permissible to use jewellery to open the account?

No, bank will not accept any jewellery. It does not include gold jewellery because it is excluded from the illah ribawi.

8) What are the obstacles in implementation the gold investment account?

Bank need to build a trustworthy among customer because many of them still confuse either KFH is really Shariah or not. Another things, there may a problem if the gold price drop and customer do not understand about gold price. They are willing to withdraw gold early than expected. So, they do not see how much profit they should get is.

9) What are the issues arise?

Issues of gold price and Riba. However, Majlis Fatwa Kebangsaan Malaysia has stated a number of situation and the principles to make it gold valid.

10) Is bank having any security box to keep the gold?

Of course, bank has a security box to keep the gold and each of gold has a serial number. An extra gold will be keep in headquarter bank, Kuala Lumpur.

11) Is there any physical gold appeared in time of transaction?

Yes, the customer who wants to open gold account-i is given chance to look and check whether the gold is the real gold of 995.0 gold which is in form of wafer.

The customer also are given chance to make a choice either to keep the gold by themselves or give a trust to bank to keep that gold.

12) What are the conditions to make the gold as line to Shariah?

The transaction of gold must be done by on the spot and cannot be deferred. Gold is existed in time of transaction.

Probes 1: How if the gold is missed or bank do not have the stock at time of transaction? The transaction without physical gold is valid or not?

Since gold and money is specifies as Ribawi items with the same illah, so there are additional conditions regarding to transaction of sale and purchase of gold:

- *Taqabudh must be happen in both items which is price and gold, and it must be transact before the contracting parties spread from the contract.*
- *Gold trading must be carried on the spot and cannot be deffered.*

Probes 2: What is taqabudh?

Taqabudh is a payment can be done through cash payment, payment through banker's cheque, payment by personal cheque, payment by debit card or transferring money from saving account or current account. Hence, the transaction must happen on the spot and cannot be deferred. The deferment of the price is not allowed to cover the whole debt purchase. The delivery of gold which delay over the three days after the contract of sale is not justified at all.

13) Is bank charge any additional amount to keep the gold?

No. bank will not impose any additional charge to keep the gold.

14) Account holder need to pay zakat or not?

Yes, account holder must pay zakat by their own when enough haul. Bank cannot pay for them because bank has many other tasks to do.

15) What is your opinion about gold investment account among banks? (extra question)

So far, there just same which is bank should follow gold price as stated by BNM, but the method payment might be have some different amount. In KFHMB, we provide a real physical gold but I think another bank does not provide it.

----- End of Interview Session-----

Interview Protocol Form

Faculty Interview Protocol

Institutions: Public Bank (Jitra Branch)

Interviewee 1: Najmi Bin Ahmad (Customer Service Representative)

Interviewee 2: Sree Dewi A/P Chellappan (Senior Financial Executive)

Interviewer: Nor Syafika Ridzuan

Date: 10 April 2014

Time: 3 pm

Location: Public Bank Jitra Branch, 9 & 10 Kompleks Jitra, 06000 Jitra, Kedah

Survey Section Used:

- ✓ A: Interview Background
- ✓ B: Assessment Products

Other Topics Discussed: Gold price and constraints

Documents Obtained: Gold saving account application form, pamphlets of Gold saving account and specimen signature card

Research questions:

- 1) What are Islamic views about gold investment?
- 2) What are the comparison of gold investment account between Kuwait Finance House and Public Bank Berhad?
- 3) What is the advantage and issues of gold investment account from both banks?

Introduction

You have been selected to speak with us today because you have been identified as someone who has a great deal to share about the details transaction of gold investment account. My research project as a whole focuses on the transaction of gold investment account either it is following Shariah rules or not since the features of gold is specify relates to Ribawi items. Yet, my study also needs to know how does modus operandi of other bank in particular of gold investment account are really follow the Shariah rules as your bank.

We have planned this interview to last no longer than one hour. During this time, we have several questions that we would like to cover. If time begins to run short, it may be necessary to interrupt you in order to push ahead and complete this line of questioning.

A. Interviewee 1 Background

- 1) How long have you been?

About 22 years

- 2) Present position?

Customer Service Representative

- 3) What is your highest degree and what is your field of study?

Degree of Management in major management at UUM

Interviewee 2 Background

1) How long have you been?

About 3 years

2) Present position?

Senior Financial Executive

3) What is your highest degree and what is your field of study?

Degree of Business Administration in Marketing at UKM.

B. Assessment products

1) What is gold saving/ investment account?

Gold investment account is an account of long term investment which allows you to purchase or sell the purest available gold commodity in 99.99% fineness at daily prices quoted in Ringgit Malaysia (RM) per gram and all the purchase and sale transaction will be recorded in a passbook.

2) What is the contract/Shariah concept use for this kind of products?

Public bank is a conventional banking and it does not apply any Shariah concept.

Probes1: How does Gold investment account work?

At first stage, customer investment amount is converted to gold holdings expressed in grams based on the bank's prevailing counter gold selling price and it will be recorded in a passbook.

Probes 2: How if customer want to sell the gold?

If customer wants to sell the gold, the gold will be converted to RM equivalent at the bank's prevailing counter gold buying price.

3) What are the benefits of Gold investment account?

- Gold is the best possible hedge against inflation
- Able to earn potentially higher return from appreciation in gold price
- Convenience to purchase and sell the gold at any PBB branches or via online
- Easy to monitor because it is recorded in passbook
- Affordable initial purchase and subsequent investment

Probes: What do you mean by ease of purchase sale?

PBB have created the transaction via online banking. So, customer can access at their fingertips whenever they want to purchase or sell the gold. It is available by surf to PBeBank.com at discounted price.

4) What are the risks involves when apply this product?

The returns on GIA are subject to the international gold price fluctuations and USD/MYR foreign exchange movement. Capital loss may incur as a result of untimely disposal of gold holdings under depressed gold price sentiments. Otherwise, this product is not insured by PIDM.

Probes: Why this product not insured by PIDM?

Because the returns on Gold investment account are subject to the gold fluctuation and USD MYR foreign exchange movements. PIDM only will insure for static price.

5) What are the pillars of gold investment account?

Since GIA in Public bank is based on conventional counterpart, so there are no pillars as stated by Islam. But, the subject matter which is gold is only existed at selected branch. But, normally in time of transaction, the gold are not appeared perhaps it is only recorded in passbook as a prove of transaction.

6) How to purchase the gold?

As 2013, Public bank has mandate that the minimum quantity of initial gold purchase is 5 grams rather than before, the initial gold purchase is 10 grams. While the minimum gold balance that need to be maintained in GIA is 2 grams

Probes 1: How much maximum amount that customer can invest?

It is actually depend on customer either to add their amount as they wish for every month or just invest at initially by lump sum.

Probes 2: Who is eligible to open Gold investment account?

It is open to any individuals (resident or non-resident) aged 18 years and above. Parent may open together with their children who are below the age of 18 years.

Probes 3: Is there are open to non-individual account such as associations?

No, GIA only available to individual.

7) Is it permissible to use jewellery to open the account?

No, bank will not accept any jewellery. Bank only accepts cash and then converted as gold price

8) What are the obstacles in implementation the gold investment account?

So far, the fluctuation of gold price sometimes makes a customer fear to invest in GIA. Actually, customer needs to clearly understand about price gold because with the right step they will get much profit. Since 2013, many customers join in GIA because that year, the gold price rise up. But, unfortunately on 2014 the gold price are slightly down rather than year before.

9) What are the issues arise?

Some customer does not know either this kind of investment is Shariah compliance or not. So, Public bank is conventional and if customer really wants GIA which based in Shariah compliance, they might seek another bank that applies Shariah concept. But, there are no interest imposed in GIA. Customer will get their profit based on gold price at day they want to withdraw.

Probes 1: Is there are any interest imposes to GIA?

GIA does not pay interest as it is not a deposit placement. Furthermore, bank keeps the gold with an authorized custodian bank.

Probes 2: Is GIA subject to withholding tax?

No, GIA is not subject to withholding tax as no interest is paid to the account.

10) Is bank having any security box to keep the gold?

No, bank will not provide security box to customer. If customer wants to earn the gold, they can carry the gold but with their self risk. Banks will not responsible if the gold is loss. There are only selected branch that have security box with terms and condition.

11) Is there any physical gold appeared in time of transaction?

Normally, there are no physical gold at time of transaction. It is only recorded in passbook. But, if customer wants to earn the gold, there can carry it but it is only available at selected branch with terms and conditions.

12) Is there any service fee imposed on this account?

Yes, an annual service fee of RM 10 will be debited from the designated deposit account if the GIA account balance falls below 10 grams as at 31 December of each year.

13) Account holder need to pay zakat or not?

Yes, account holder must pay zakat by their own when enough haul.

14) What your opinion about gold investment account among banks? (extra question)

Each of bank which offered Gold saving account usually just same whereby the price of gold is based on world gold price and checked by Bank Negara Malaysia. Investor should know how to play with the gold price and they will get a huge profit if they invest more than 5 years and they alert with the appreciation of gold price"

----- End of Interview Session-----