SECTION 10 CODE OF PRACTICE FOR SHARIAH GOLD

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SECTION 10 CODE OF PRACTICE FOR SHARIAH GOLD

10.1 Scope and application

10.1.1 Scope

This section establishes the Shariah requirements and best practices for entities operating within the Malaysia gold industry. The requirements apply to activities throughout the gold value chain, including refining, wholesale and trading, manufacturing, assaying and hallmarking, retail, financial and investment products linked to gold, and gold-backed micro-financing.

Compliance with the requirements of this section, together with successful completion of the applicable conformity assessment and certification processes, forms the basis for recognition as a Shariah-compliant entity under the MGIP Certification Scheme.

10.1.2 Application

Certification under this section shall be applicable only to organisations that demonstrate compliance with:

a) Section 1 (General Requirements);

b) Section 2 (Governance Requirements);

c) the requirements specified in this section; and

d) the requirements of the relevant business-specific section(s) applicable to the organisation's gold-related activities.

The applicable business-specific section(s) shall be determined based on the organisation's products, services and scope of activities.

10.2 Shariah governance requirements

The requirements in this clause adopt the Shariah-based management system approach of MS 1900and establish the governance framework necessary to ensure that gold-related activities are planned, implemented, monitored and continually improved in accordance with applicable Shariah requirements.

10.2.1 Understanding the organisation and its context

The organisation shall determine external and internal issues that are relevant to its purpose and strategic direction and that affect its ability to achieve conformity with the applicable Shariah requirements relating to its gold-related activities.

The organisation shall determine, monitor and review information relating to these external and internal issues.

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The organisation shall consider, where applicable:

a) applicable Shariah principles, rulings, resolutions and fatwas;

b) statutory, regulatory and legal requirements;

c) the nature, scale and complexity of its gold-related activities;

d) the products and services offered;

e) market practices and technological developments;

f) risks associated with Shariah non-compliance; and

g) factors that may affect the integrity and credibility of its Shariah compliance system.

Documented information on the relevant issues shall be maintained as appropriate.

10.2.2 Understanding the needs and expectations of interested parties

The organisation shall determine the interested parties that are relevant to its Shariah-based management system and the applicable requirements of those interested parties.

Interested parties may include:

a) customers;

b) investors;

c) shareholders;

d) regulatory authorities;

e) Shariah advisory bodies;

f) certification bodies;

g) business partners;

h) employees; and

i) the public.

The organisation shall determine which of these requirements are applicable as compliance obligations and shall monitor and review any changes to those requirements.

10.2.3 Determining the scope of the Shariah-based management system

The organisation shall determine the boundaries and applicability of the Shariah-based management system to establish its scope.

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When determining the scope, the organisation shall consider:

a) the issues referred to in 10.2.1;

b) the requirements referred to in 10.2.2;

c) the nature of its gold-related activities; and

d) the products and services provided.

The scope shall:

a) identify the activities, products and services covered;

b) identify the organisational units and locations included;

c) identify any justified exclusions; and

d) be maintained as documented information.

10.2.4 Shariah-based management system and its processes

The organisation shall establish, implement, maintain and continually improve a Shariah-based management system for its gold-related activities.

The organisation shall determine the processes needed for the Shariah-based management system and shall:

a) determine the inputs and outputs of the processes;

b) determine the sequence and interaction of the processes;

c) establish criteria and methods necessary to ensure effective operation and control;

d) determine the resources required;

e) assign responsibilities and authorities;

f) address risks and opportunities relating to Shariah compliance;

g) monitor, measure and evaluate process performance; and

h) implement actions necessary to achieve the intended outcomes and support continual improvement.

The organisation shall maintain documented information necessary to support the operation of the processes and retain documented information as evidence that the processes are carried out as planned.

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10.2.5 Shariah governance

10.2.5.1 General

The organisation shall establish, implement and maintain a Shariah governance framework to ensure that gold-related activities are conducted in accordance with applicable Shariah requirements.

The Shariah governance framework shall include:

a) Shariah policy;

b) Shariah objectives;

c) defined roles, responsibilities and authorities of parties involved;

d) management commitment;

e) competent Shariah oversight and advice;

f) monitoring and reporting mechanisms; and

g) continual improvement processes.

10.2.5.2 Shariah policy

Top management shall establish, implement and maintain a Shariah policy that:

a) is appropriate to the purpose and context of the organisation;

b) supports the strategic direction of the organisation;

c) provides a framework for establishing Shariah objectives;

d) includes a commitment to comply with applicable Shariah requirements;

e) includes a commitment to prevent Shariah non-compliance;

f) includes a commitment to uphold the principles of *Maqasid al-Shariah*;

g) includes a commitment to continual improvement of the Shariah-based management system; and

h) is communicated, understood and applied within the organisation.

The Shariah policy shall be maintained as documented information.

10.2.5.3 Shariah compliance objectives

The organisation shall establish Shariah compliance objectives at relevant functions and levels.

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The Shariah compliance objectives shall:

a) be consistent with the Shariah policy;

b) be measurable, where practicable;

c) take into account applicable Shariah requirements and compliance obligations;

d) be monitored;

e) be communicated throughout the organisation; and

f) be reviewed and updated as necessary.

When planning how to achieve its Shariah compliance objectives, the organisation shall determine:

a) what will be done;

b) what resources will be required;

c) who will be responsible;

d) when the objectives will be achieved; and

e) how the results will be evaluated.

10.2.5.4 Roles, responsibilities and authorities

Top management shall ensure that responsibilities and authorities for relevant roles are assigned, communicated and understood within the organisation.

The organisation shall assign responsibility and authority for:

a) ensuring conformity with applicable Shariah requirements;

b) identifying and managing Shariah compliance risks;

c) ensuring the implementation and effectiveness of Shariah controls;

d) reporting on Shariah compliance performance;

e) addressing Shariah non-conformities and corrective actions;

f) maintaining documented information relating to Shariah compliance; and

g) ensuring the integrity of gold-related activities covered by this Code.

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10.2.5.5 Management commitment

Top management shall demonstrate leadership and commitment with respect to the Shariah-based management system by:

a) taking accountability for the effectiveness of the Shariah-based management system;

b) ensuring that the Shariah policy and objectives are established and compatible with the strategic direction of the organisation;

c) integrating Shariah compliance requirements into business processes;

d) promoting awareness of Shariah compliance throughout the organisation;

e) ensuring the availability of adequate resources;

f) supporting personnel in contributing to the effectiveness of the Shariah-based management system;

g) promoting continual improvement; and

h) ensuring that Shariah compliance risks are appropriately managed.

10.2.5.6 Appointment of Shariah expert

The organisation shall appoint, engage or have access to at least one competent Shariah expert to provide advice and guidance on matters relating to Shariah compliance.

The Shariah expert shall:

a) possess appropriate qualifications, knowledge and experience in Shariah, particularly in *fiqh muamalat*;

b) possess knowledge of gold-related activities relevant to the organisation;

c) provide guidance on the interpretation and application of Shariah requirements;

d) review and advise on Shariah compliance matters, including new products, services and business practices;

e) provide recommendations on Shariah non-compliance and corrective actions; and

f) support the continual improvement of the organisation's Shariah governance framework.

The organisation shall maintain documented information demonstrating the competence, appointment and involvement of the Shariah expert.

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10.2.6 Shariah compliance risk management

10.2.6.1 General

The organisation shall establish, implement and maintain a process to identify, assess, evaluate, control and monitor risks associated with Shariah non-compliance in its gold-related activities.

The organisation shall consider risks arising from:

a) products and services;

b) transactions and contracts;

c) business practices;

d) outsourcing arrangements;

e) information technology systems;

f) personnel competence;

g) third-party service providers; and

h) changes affecting Shariah compliance.

10.2.6.2 Risk assessment

The organisation shall establish criteria for evaluating the significance of Shariah compliance risks.

The assessment shall consider:

a) the likelihood of occurrence;

b) the potential impact of non-compliance;

c) the extent of exposure;

d) the effectiveness of existing controls; and

e) the potential impact on stakeholders and the organisation's credibility.

10.2.6.3 Risk treatment

The organisation shall implement controls to eliminate, reduce, transfer or otherwise manage identified Shariah compliance risks. Controls may include:

a) approval processes;

b) segregation of duties;

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c) transaction reviews;

d) Shariah advisory reviews;

e) system controls; and

f) personnel training.

The effectiveness of implemented controls shall be periodically reviewed.

10.2.7 Shariah Critical Control Points (SCCP)

10.2.7.1 General

The organisation shall identify and establish Shariah Critical Control Points (SCCP) within its gold-related activities where failure to comply with Shariah requirements may result in Shariah non-conformity.

10.2.7.2 Identification of SCCP

The organisation shall identify SCCPs relevant to its activities, products and services. Examples of SCCPs may include:

a) product structuring;

b) contract approval;

c) execution of gold transactions;

d) payment and settlement processes;

e) possession (qabd) verification;

f) safekeeping and custody arrangements;

g) gold-backed financing activities;

h) pawnbroking transactions; and

i) investment product administration.

10.2.7.3 Control and monitoring

For each SCCP, the organisation shall establish:

a) control measures;

b) monitoring methods;

c) acceptance criteria;

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d) responsibilities and authorities;

e) escalation procedures; and

f) corrective action requirements.

The organisation shall retain documented information demonstrating effective control of SCCPs.

10.2.8 Competence, awareness and training

10.2.8.1 Competence

The organisation shall determine the competence requirements for personnel whose work affects Shariah compliance.

The organisation shall ensure that such personnel are competent on the basis of:

a) education;

b) training;

c) skills;

d) knowledge; and

e) experience.

Appropriate documented information shall be retained as evidence of competence.

10.2.8.2 Awareness

Personnel shall be aware of:

a) the organisation's Shariah policy;

b) applicable Shariah requirements;

c) their contribution to Shariah compliance;

d) the consequences of Shariah non-conformity; and

e) the importance of ethical conduct in gold-related activities.

10.2.8.3 Training

The organisation shall establish and implement a training programme to ensure continuing competence in Shariah compliance.

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Training shall address, where applicable:

a) principles of *fiqh muamalat*;

b) gold-related Shariah requirements;

c) relevant laws and regulations;

d) organisational procedures; and

e) emerging Shariah issues affecting the gold industry.

10.2.9 Internal Shariah Audit

10.2.9.1 General

The organisation shall conduct internal Shariah audits at planned intervals to determine whether the Shariah-based management system:

a) conforms to the requirements of this Code;

b) conforms to the organisation's own requirements; and

c) is effectively implemented and maintained.

10.2.9.2 Audit programme

The organisation shall establish, implement and maintain an audit programme taking into consideration:

a) the significance of processes;

b) identified Shariah risks;

c) previous audit results;

d) changes affecting the organisation; and

e) complaints or reported non-conformities.

10.2.9.3 Audit conduct

Auditors shall be objective and impartial.

Where appropriate, auditors shall possess knowledge of Shariah principles applicable to the organisation's gold-related activities.

Audit results shall be documented and reported to relevant management.

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10.2.10 Management review

10.2.10.1 General

Top management shall review the Shariah-based management system at planned intervals to ensure its continuing suitability, adequacy, effectiveness and alignment with applicable Shariah requirements.

10.2.10.2 Review inputs

Management review shall consider:

a) status of actions from previous reviews;

b) changes in internal and external issues;

c) changes in applicable Shariah requirements;

d) audit results;

e) customer complaints and feedback;

f) Shariah non-conformities and corrective actions;

g) performance of SCCPs;

h) achievement of Shariah objectives;

i) competency and training matters;

j) risk management performance; and

k) opportunities for improvement.

10.2.10.3 Review outputs

Outputs from management review shall include decisions and actions relating to:

a) opportunities for improvement;

b) changes to the Shariah-based management system;

c) resource requirements; and

d) actions necessary to enhance Shariah compliance performance.

Documented information shall be retained as evidence of management reviews.

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10.2.11 Non-conformity and corrective action

10.2.11.1 General

When a Shariah non-conformity occurs, the organisation shall:

a) react to the non-conformity;

b) take action to control and correct it;

c) address any consequences arising from the non-conformity;

d) evaluate the need for corrective action; and

e) prevent recurrence.

10.2.11.2 Corrective action

The organisation shall:

a) investigate the cause of the non-conformity;

b) determine whether similar non-conformities exist or could occur;

c) implement corrective actions appropriate to the effects of the non-conformity;

d) verify the effectiveness of corrective actions; and

e) update risks, controls and procedures where necessary.

10.2.11.3 Documented information

The organisation shall retain documented information relating to:

a) the nature of the non-conformity;

b) actions taken;

c) investigation results;

d) corrective actions implemented; and

e) verification of effectiveness.

10.2.12 Continual improvement

The organisation shall continually improve the suitability, adequacy and effectiveness of the Shariah-based management system.

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The organisation shall identify opportunities for improvement through:

a) internal Shariah audits;

b) management reviews;

c) corrective actions;

d) customer feedback;

e) stakeholder feedback;

f) risk assessments;

g) Shariah advisory recommendations; and

h) monitoring and measurement activities.

Improvement initiatives shall be planned, implemented, monitored and evaluated to ensure sustained Shariah compliance and enhanced organisational performance.

10.3 Shariah principles

10.3.1 General

10.3.1.1 The organisation shall ensure that all activities involving gold comply with the applicable Shariah requirements specified in this Code.

10.3.1.2 The organisation shall establish and implement controls to promote fairness, honesty and integrity throughout the gold value chain.

10.3.1.3 The organisation shall ensure that all gold-related transactions, including sale and purchase, investment, and pawnbroking activities, comply with the applicable Shariah requirements, including the essential elements (*rukun*) of the relevant contract ('*aqd*). Transactions that do not fulfil the required Shariah elements shall not be recognised as Shariah-compliant.

10.3.2 *Maqasid al-Shariah*

10.3.2.1 The organisation shall conduct its gold-related activities in accordance with the objectives of Shariah (*Maqasid al-Shariah*). The organisation shall establish, implement, and maintain policies, procedures, and controls to ensure:

a) protection of wealth (*hifz al-mal*);

b) justice in commercial transactions;

c) promotion of public interest (*maslahah ammah*);

d) prevention of harm (*mafasadah*);

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e) transparency and accountability; and

f) prevention of exploitation.

10.3.2.2 The organisation shall establish and implement controls to prevent unfair, deceptive or exploitative business practices.

10.3.3 Fundamental shariah principles

10.3.3.1 Justice (*al-'adl*)

The Organisation shall establish policies and procedures to ensure fair and equitable treatment of customers and stakeholders.

Business practices shall not exploit customers, suppliers or any other stakeholders.

Pricing mechanisms shall be transparent and shall not intentionally mislead customers.

10.3.3.2 Trustworthiness (*amanah*)

The organisation shall conduct all activities with honesty, integrity and responsibility.

Gold purity, weight, origin and quality shall be accurately represented.

The organisation shall not make false declarations regarding any gold product or service.

10.3.3.3 Transparency (*al-wuduh*)

The organisation shall provide customers with sufficient and accurate information to enable informed purchasing decisions.

Information disclosed shall include, where applicable:

a) gold purity;

b) weight;

c) hallmark information;

d) price;

e) applicable fees and charges (if any);

f) ownership arrangements and customer rights relating to the gold;

g) storage, custody and logistic arrangements;

h) buy-back policy, where offered; and

i) redemption conditions.

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Information shall be communicated in a manner that is accurate, complete and not misleading.

10.3.3.4 Accountability (*mas'uliyyah*)

The organisation shall be accountable for all decisions and activities relating to gold products and services.

Responsibilities for Shariah compliance shall be clearly assigned within the organisation.

The management shall demonstrate commitment towards maintaining continual compliance with this Code.

10.3.3.5 Public interest (*maslahah ammah*)

The organisation shall consider the potential impact of its activities on customers, stakeholders and society.

The organisation shall contribute towards:

a) sustainable economic development;

b) responsible sourcing;

c) consumer protection;

d) ethical investment; and

e) responsible stewardship of natural resources.

10.4 Prohibited elements

The organisation shall ensure that their business activities are free from elements prohibited under Shariah.

These include, but are not limited to:

a) *riba* (interest or usury);

b) *gharar* (excessive uncertainty);

c) *maysir* (gambling);

d) fraud;

e) deception (*tadlis*);

f) bribery and corruption (*risywah*);

g) unjust enrichment;

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h) market and/or price manipulation;

i) pyramid and ponzi scheme; and

j) transactions involving unlawful ownership or unlawful sources of funds.

Appropriate internal controls shall be established to identify, monitor and prevent such prohibited practices.

10.5 Classification of gold products

For the purposes of this Code, the classification of a gold product shall be determined based on its nature, intended use, contractual structure and applicable Shariah rulings, as such classification may affect the Shariah requirements governing the transaction.

10.5.1 Classification of *ribawi* gold products

The organisation shall establish and implement criteria for the classification of gold products to determine the applicable Shariah requirements governing the transaction. The classification shall be supported by documented information.

Gold products classified as *ribawi* items shall be subject to the Shariah requirements applicable to *ribawi* transactions, including the requirements relating to *bay' al-sarf, taqabudh* (possession), equality of exchange where applicable, and spot settlement.

The organisation shall classify the following, where applicable, as *ribawi* gold products:

a) gold bullion;

b) gold bars;

c) gold wafers;

d) investment-grade gold;

e) gold coins;

f) gold allocated for investment purposes;

g) digital, tokenised, electronic or account-based gold representing ownership of physical gold; and

h) any other gold product intended primarily as a store of value, investment asset, medium of exchange or commodity for trading purposes based on documented classification criteria established by the organisation.

The organisation shall ensure that transactions involving *ribawi* gold products comply with all applicable Shariah requirements governing ribawi items and gold trading.

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10.5.2 Classification of non-*ribawi* gold products

The organisation shall identify gold products that are not treated as *ribawi* items for the purpose of the applicable transaction and shall apply the relevant Shariah requirements accordingly.

Gold products may be classified as non-*ribawi* gold products where their primary purpose is adornment, artistic use, cultural use or personal consumption rather than investment, wealth preservation or monetary exchange. Such products may include:

a) gold jewellery intended for adornment;

b) customised gold ornaments;

c) decorative gold articles; and

d) other gold products recognised by the applicable Shariah rulings as not subject to the trading requirements applicable to *ribawi* gold products.

The organisation shall maintain documented justification for the classification of a gold product as non-*ribawi* where such classification affects the applicable Shariah requirements.

NOTE. Applicable fatwas (decrees?) and Shariah resolutions in Malaysia recognise that certain forms of gold jewellery intended for adornment may not be subject to the same trading requirements applicable to *ribawi* gold products.

10.5.3 Transaction review

The organisation shall establish and maintain procedures to review gold products and transactions prior to execution in order to determine the applicable Shariah requirements.

The review process shall include, where applicable:

a) identification of the gold product;

b) determination of whether the product is classified as a *ribawi* or non-*ribawi* gold product;

c) identification of the applicable Shariah contract (*'aqd*);

d) assessment of ownership, possession (*qabd*) and transfer arrangements;

e) assessment of payment and settlement arrangements;

f) assessment of any agency, custody, financing or investment arrangements; and

g) verification of compliance with applicable Shariah requirements.

The organisation shall retain documented information relating to the transaction review process and its outcomes.

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Where a transaction involves multiple contracts or arrangements, the organisation shall assess the overall structure to ensure that the transaction does not result in prohibited elements such as *riba, gharar, maysir*, deception or unjust enrichment.

10.5.4 Shariah consultation

The organisation shall establish and maintain a process for obtaining Shariah advice where classification, contractual arrangements or transaction structures may give rise to uncertainty regarding Shariah compliance.

Shariah consultation shall be obtained where:

a) a new gold product is introduced;

b) a new business model or transaction structure is proposed;

c) a gold product cannot be clearly classified as *ribawi* or non-*ribawi*;

d) conflicting Shariah opinions may affect the transaction;

e) a significant Shariah non-conformity is identified; or

f) interpretation of a fatwa,Shariah resolution or regulatory requirement is required.

The organisation shall ensure that Shariah consultation is conducted by a competent Shariah expert in accordance with Clause 10.2.5.6.

The organisation shall maintain documented information relating to:

a) the issue raised;

b) the Shariah advice obtained;

c) decisions made; and

d) actions implemented.

Decisions arising from Shariah consultation shall be communicated to relevant personnel and incorporated into the organisation's Shariah governance framework, policies, procedures and controls, as appropriate.

10.6 Shariah requirements for gold contracts

10.6.1 General

10.6.1.1 Gold transactions shall be conducted in accordance with the principles of Shariah and the applicable requirements governing *muamalat* (commercial transactions).

10.6.1.2 The organisation shall maintain adequate documentary evidence demonstrating compliance with the applicable contractual Shariah requirements.

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10.6.1.3 The organisation shall ensure that every contract involving gold complies with the relevant Shariah principles throughout the transaction lifecycle, including but not limited to contract formation, execution, settlement, transfer of ownership, delivery, custody and redemption.

10.6.1.4 The organisation shall establish documented policies and procedures to ensure that all gold-related contracts are reviewed and approved by a qualified Shariah expert prior to implementation of a new contract structure, product or transaction model.

10.6.1.5 Where multiple contracts are used within a single transaction, the organisation shall ensure that the contracts are structured in a manner that preserves the integrity and objectives of each individual contract and does not result in prohibited Shariah elements.

10.6.2 Sale contract (*bay'*)

10.6.2.1 General

A sale contract involving gold shall fulfil all essential elements (*Arkan*) and conditions (*Shurut*) prescribed under Shariah requirements/principles.

The organisation shall ensure that:

a) the contracting parties possess legal capacity to enter into the contract;

b) the subject matter of the sale is lawful, identifiable and owned by the seller;

c) the gold is clearly specified with respect to its type, purity, weight, quantity and condition;

d) the sale price shall be clearly specified and mutually agreed upon at the time of contract conclusion;

e) mutual consent exists between the contracting parties; and

f) the contract is free from coercion, deception or fraud.

The organisation shall ensure that no sale is concluded where ownership of the gold cannot be legally or beneficially transferred to the purchaser.

10.6.2.2 Ownership

10.6.2.2.1 The organisation shall ensure that legal ownership of the gold exists prior to selling the gold for sale.

10.6.2.2.2 The organisation shall not sell gold which it does not own or has no legal authority to dispose of.

10.6.2.2.3 Where an Islamic financial institution or other organisation acts as a *wakeel* (agent) in the purchase, sale, custody or redemption of gold, the *wakalah* arrangement shall be clearly documented, and the rights, responsibilities and ownership status of the parties shall be disclosed to the customer.

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10.6.2.2.4 Where the organisation acts solely as an agent, this relationship shall be clearly disclosed to customers.

10.6.2.3 Disclosure of gold

Prior to or at the time of contract conclusion, the organisation shall disclose, where applicable:

a) gold purity;

b) weight;

c) hallmark information;

d) origin, where declared;

e) applicable fees;

f) taxes;

g) storage arrangements; and

h) physical redemption terms and conditions.

Information provided shall be accurate, complete and not misleading.

10.6.3 *Al-sarf* transactions (sale and purchase of gold)

10.6.3.1 General

10.6.3.1.1 An organisation shall ensure that all transactions involving *ribawi* gold products, including gold bullion and gold coins, are conducted in accordance with the Shariah requirements for *bay' al-sarf*.

10.6.3.1.2 The transaction shall involve *taqabudh* (possession or delivery) of both countervalues before the contracting parties depart from the session of contract (*majlis al-'aqd*) and shall be executed on a spot basis without deferment.

10.6.3.1.3 The organisation shall ensure that:

a) the gold are clearly identified;

b) ownership of the gold exists prior to the transaction;

c) the gold are free from legal or contractual restrictions that prevent transfer of ownership;

d) possession (*qabd*) of the gold occurs in accordance with recognised Shariah principles; and

e) the transaction does not contain any element of *riba*, *gharar*, fraud or any other prohibited Shariah element.

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10.6.3.1.4 These requirements do not apply to gold jewellery where the applicable Shariah rulings exclude it from the *ribawi* classification.

10.6.3.2 Gold for gold

Where gold is exchanged for gold, the organisation shall ensure that:

a) the transaction is conducted on a spot basis;

b) both parties obtain possession of the exchanged gold at the time of the transaction in accordance with recognised Shariah principles;

c) where gold is exchanged for gold of the same purity classification, the weight and purity shall be equal;

d) the exchanged gold is clearly identified and capable of transfer to the receiving party; and

e) no deferment of delivery or possession occurs for either counter-value

Where the exchanged gold differs in purity, the organisation shall ensure that the exchange is conducted in a manner that complies with the applicable Shariah requirements and does not result in *riba al-fadl* or *riba al-nasi'ah*. Any adjustment in value arising from the difference in purity shall be determined and disclosed prior to the transaction.

Where one or both items involved in the transaction are classified as non-*ribawi* gold products, including gold jewellery intended for adornment, the requirements relating to equality of exchange and spot settlement applicable to *bay' al-sarf* shall not apply. The organisation shall ensure that such classification is supported by documented justification and is consistent with the applicable Shariah rulings.

The organisation shall establish controls to prevent transactions that result in *riba al-fadl* or *riba al-nasi'ah*.

10.6.3.3 Gold for currency

Where gold is exchanged for currency, the organisation shall ensure that:

a) the selling price is determined and agreed upon the conclusion of the transaction;

b) the amount of currency and the weight and purity of gold are clearly specified; and

c) possession of both gold and currency occurs on a spot basis either in the form of physical or constructive.

Documentary records are maintained to demonstrate compliance with the applicable Shariah requirements.

10.6.3.4 Electronic and digital gold transactions

Where gold transactions are conducted through electronic platforms, digital systems or other technology-enabled arrangements, the organisation shall demonstrate that:

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a) ownership of the gold can be established and verified;

b) possession (*qabd*) is achieved through physical possession (*qabd haqiqi*) or recognised constructive possession (*qabd hukmi*);

c) the gold is identifiable and, where applicable, specifically allocated to the customer;

d) customer entitlement to the gold is supported by contractual rights and relevant records;

e) transaction records are maintained and retrievable; and

f) settlement arrangement is conducted on a spot basis in real time comply with applicable Shariah rulings governing *al-sarf*.

Constructive possession (*qabd hukmi*) shall only be recognised where the gold is specifically identified, allocated to the customer and capable of being transferred or redeemed by the customer.

10.6.3.5 Payment and settlement

The organisation shall establish controls governing payment and settlement arrangements used for gold transactions, including cash, bank transfers, e-wallets, payment cards, and other electronic payment methods, approved under the organisation's Shariah governance framework.

Where electronic payment mechanisms are used, the organisation shall ensure that settlement arrangements comply with the requirements of *al-sarf* and *qabd*, including the requirement for spot exchange of counter-values where applicable.

Records of payment, settlement and ownership transfer shall be maintained and retrievable.

10.7 Possession (*qabd*)

10.7.1 General

The organisation shall ensure that possession of gold is established in accordance with recognised Shariah principles.

Possession may be:

a) physical possession (*qabd haqiqi*); or

b) constructive possession (*qabd hukmi*),

provided that the conditions prescribed under Shariah are fulfilled.

10.7.2 Physical possession (*qabd haqiqi*)

Physical possession shall occur where the purchaser has actual control over the gold.

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Evidence of physical possession may include:

a) collection by the purchaser;

b) delivery to the purchaser; and

c) authorised collection by an appointed representative.

10.7.3 Constructive possession (*qabd hukmi*)

Constructive possession may be recognised where the purchaser obtains effective control over the gold without immediate physical delivery.

The organisation shall demonstrate the following through documented evidance:

a) ownership has transferred;

b) the gold is specifically allocated;

c) the gold is identifiable;

d) the customer has full ownership over the allocated gold; and

e) the organisation cannot dispose of the allocated gold without customer consent.

10.8 Ancillary Shariah contracts

10.8.1 Agency contract (*wakalah*)

Where the organisation acts as an agent in relation to gold transactions:

a) the appointment shall be clearly documented;

b) the scope of authority shall be defined;

c) all fees and charges (if any) shall be clearly disclosed by the agent to the principal prior to execution of the transaction;

d) customer gold shall remain segregated from organisational gold and shall not be used without proper authority;

The agent shall act only within the authority granted by the principal.

10.8.2 *Wadi'ah*

Organisations providing gold custody services shall establish appropriate arrangements to ensure the security and integrity of customer assets.

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The organisation shall:

a) maintain accurate custody records;

b) segregate customer gold from organisational assets where applicable;

c) implement appropriate physical and information security controls;

d) establish procedures for receipt, storage and release of gold; and

e) maintain insurance or other risk mitigation arrangements where appropriate.

Where fees are charged, such fees shall be clearly disclosed to the customer and shall relate to the safekeeping service provided.

10.8.3 *Rahn*

10.8.3.1 Where gold is accepted as collateral:

a) ownership of the pledged gold shall remain with the pledgor (*rahin*) throughout the *rahn* arrangement;

b) the pledged gold shall be properly safeguarded;

c) valuation methods shall be clearly disclosed and consistently applied;

d) redemption conditions shall be disclosed; and

e) disposal of pledged gold shall only occur in accordance with the contractual terms and applicable Shariah requirements.

10.8.3.2 The pledgee shall not derive unauthorised benefit from the pledged gold.

10.8.3.3 In the event of default, the pledgee (*murtahin*) may realise the pledged gold only through a Shariah-compliant disposal process, including sale or auction, for the purpose of recovering the outstanding obligation.

10.8.4 *Qard*

Where gold is used in connection with a *qard* arrangement, the organisation shall ensure that:

a) no additional benefit is stipulated for the lender;

b) repayment obligations are clearly documented; and

c) any service fees shall reflect actual services cost provided.

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10.9 Gold investment and financing

10.9.1 Investment contracts

Organisations offering Shariah-compliant gold investment products shall ensure that:

a) the contractual arrangements is clearly defined and disclosed and shall be reviewed and approved by a qualified Shariah Expert;

b) the rights and obligations of all parties are properly documented;

c) the gold is identifiable;

d) ownership of the gold is clearly documented and disclosed to customers;

e) profit-sharing arrangements, where applicable, are clearly specified and disclosed to customers; and

f) relevant investment risks are disclosed to customers.

Investment products shall not contain elements of *riba, gharar* and *maysir*.

10.9.2 Gold-backed financing

Gold-backed financing arrangements shall be structured using Shariah-compliant contracts recognised by the relevant Shariah authority.

The organisation shall ensure that:

a) the contractual arrangement is fully documented;

b) ownership rights are preserved;

c) collateral arrangements are properly documented and disclosed to customers;

d) customer obligations are clearly disclosed;

e) valuation methods are objective and consistently applied; and

f) financing documentation is maintained throughout the financing period.

10.10 Prohibited practices

The organisation shall not engage in transactions involving:

a) sale of gold without ownership;

b) sale of unallocated gold where ownership cannot be established;

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c) transactions involving gold where ownership, allocation or underlying gold cannot be established;

d) any trading intended to manipulate market;

e) excessive speculation;

f) hidden charges or undisclosed contractual terms;

g) multiple sales of the same allocated gold to different parties;

h) transactions involving unlawful sources of funds; and/or

i) any arrangement prohibited under Shariah rulings.

10.11 Shariah requirements across the gold value chain

10.11.1 General

10.11.1.1 The organisation shall ensure that all activities throughout the gold value chain are conducted in accordance with the principles and requirements established under this Section.

10.11.1.2 The organisation shall establish, implement, maintain and continually improve processes to ensure that Shariah compliance is integrated throughout all operational activities.

10.11.1.3 The organisation shall identify and manage Shariah Critical Control Points (SCCPs) within its operations to prevent, detect and mitigate potential non-compliance with Shariah requirements.

NOTE. This approach is consistent with the Shariah governance principles promoted in MS 1900, which requires organisations to identify and control Shariah-critical processes.

10.11.1.4 Where an organisation undertakes multiple activities within the gold value chain, it shall comply with all applicable requirements specified in this Clause.

10.11.2 Refining

Refer Section 3 *Code of practice for refining*.

10.11.3 Wholesale and trading

Refer Section 4 *Code of practice for wholesale and trading*.

10.11.4 Manufacturing

Refer Section 5 *Code of practice for gold product manufacturing*.

10.11.5 Assaying and hallmarking

Refer Section 6 *Code of practice for assaying and hallmarking*.

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10.11.6 Retail

Refer Section 7 *Code of practice for retail*.

10.11.7 Financial and investment-linked to gold products

Refer Section 8 *Code of practice for financial and investment-linked gold products*.

10.11.8 Gold-backed micro-financing

Refer Section 9 *Code of practice for gold-backed micro financing*.

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