

SOME IMPORTANT SHARIAH RULINGS ON GOLD AND PRODUCTS STRUCTURING

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Important Hadith Dealing with Gold

الذَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالْبُرُّ بِالْبُرِّ وَالشَّعِيرُ بِالشَّعِيرِ وَالتَّمْرُ بِالتَّمْرِ وَالْمِلْحُ بِالْمِلْحِ مِثْلًا بِمِثْلٍ سَوَاءً بِسَوَاءٍ يَدًا بِيَدٍ فَإِذَا اِخْتَلَفَتْ هَذِهِ الْأَصْنَافُ فَبِيعُوا كَيْفَ شِئْتُمْ إِذَا كَانَ يَدًا بِيَدٍ

- ▶ Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt; like for like, in equal amounts, hand to hand; and If these types differ, then sell as you wish as long as the payment is made hand to hand
- ▶ It establishes two main principles:
 - ▶ Same type: equal amount and immediate delivery
 - ▶ Different types: immediate delivery

What Are the Effect of These Principles

- ▶ Exchange of Gold with Gold must be in equal amount
- ▶ Exchange of Gold with Silver, or other currencies, must always be done on immediate delivery basis.
- ▶ Effect of this:
 - ▶ All the products to be structured must fulfill the requirement of immediate delivery, physically or constructively.
 - ▶ Potential to have a non physical delivery of Gold, like Gold Account, ETF (or other gold funds), online purchase, Sukuk or even cryptocurrency backed by gold
 - ▶ Not possible to have non-immediate delivery
 - ▶ No futures, no forward

Other Important Rulings

- ▶ Constructive possession is realized by:
 - ▶ i- a proof of ownership, e.g holding of a certificate, serial numbers, etc.
 - ▶ ii-The gold must be identified and specified, allocated and distinguishable from others.
 - ▶ Not allowed for unallocated.
 - ▶ iii- Enable the physical possession at his request.
 - ▶ iv-enabling the buyer to dispose of it.

Cont'd

- ▶ Can be owned by joint ownership, whereby each partner owns an undivided share of a specified percentage in the pool of gold.
 - ▶ Entails joint right and liability
- ▶ Gold can be used as capital in *Musharakah*, *Mudharabah* and Investment *Wakalah*
- ▶ Investment in Gold based companies. It is permissible to buy the shares of a company that operates in extraction of gold provided that the relevant Shari'ah parameters are complied with

Potential Product Structuring

- ▶ Spot gold purchase
- ▶ Gold Account, with or without loan (qard)
- ▶ ETF Gold on allocated and specified basis
- ▶ Gold funds
- ▶ Gold Sukuk
- ▶ Gold base cryptocurrency
- ▶ ETC.

THANK YOU
WASSALAM