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## SALES AND PURCHASE OF PHYSICAL GOLD ACCORDING TO ISLAMIC MUAMALAT: THE JAKIM PERSPECTIVE

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## Introduction

In January 2012, Mr. Shahril Ehsan as the Fatwa Management Council officer from the Malaysian Department of Islamic Development (*Jabatan Kemajuan Islam Malaysia – JAKIM*) has been appointed to lead a group consisting of officers from the fatwa management division and research division, both under JAKIM. He was asked by the director of JAKIM to examine the gold trading transaction in the country and to select a number of companies to be used as samples (because of different gold transaction). The parameters/guidelines for the sales and purchase transaction of physical gold from the perspective of Islamic *muamalat* have been released by the fatwa (ruling) division of JAKIM in October 2011. This detailed investigation needs to be performed since there are still unclear transactions and there is a need to improve the procedures and provide extra information for the community. This is because a large part of the Islamic community has been involved in many transactions with companies, whether they would be for the intent to hold the gold for safe-keeping, to invest the gold, or even to make the physical gold as the instrument for exchange.

It is pertinent for further investigation into this matter because Islamic *muamalat* is very particular about all aspects of the transactions that are performed, which must be free from any vestiges of *riba* (interest), *gharar* (uncertainty), and gambling. Additionally, gold is considered as *ribawi* goods that are clearly stated in the Hadith of the Prophet Muhammad (peace be upon him), which includes the six types of usurious (*ribawi*) goods.

## The Fatwa Management Division of JAKIM

The Malaysian Department of Islamic Development (*Jabatan Kemajuan Islam Malaysia – JAKIM*) began as the Islamic Affairs Division, Prime Minister's Department. In the beginning, this division played the role of a secretariat within the Prime Minister's Department. Official name for them was the National Committee Secretariat for the Malaysian Islamic Affairs (*Urusetia Majlis Kebangsaan Bagi Hal Ehwal Agama Islam Malaysia*). This Secretariat was established by the Committee of Kings (*Majlis Raja-Raja*) in 1968. Many important tasks were to this National Committee for Malaysian Islamic Affairs. As the main agency of reference for the management of Islamic affairs at the federal level as well as to fulfil the role of the secretariat for the National Committee for Malaysian Islamic Affairs (*Majlis Kebangsaan Bagi Hal Ehwal Uagama Islam Malaysia – MKI*), JAKIM implements and maintains three main functions, which are as follows:

Function 1: Formulation and standardisation of Islamic Shari'ah Laws

Function 2: Coordination and administration of Islam

Function 3: Coordination and Development of Islamic Education

The Fatwa Management Division (*Bahagian Pengurusan Fatwa*), during the early stages, was established administratively on 2 January 2009 with the name of Fatwa Management and Ijtihad Development Division. On 15 June 2009, JAKIM had obtained a designation warrant, the JAKIM Rebranding Proposal Phase 1, effective on 1 June 2009, thus this division officially exists under the name of the Fatwa Management Division (BPF).

The BPF was established with its main task being the Secretariat for the MKI, which was established in early 1970, under Article 11 of the MKI Regulations. This committee is the body that plays the role of discussing and giving opinions regarding the Islamic laws at the national level. Since its inception, this

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