

Analysis of Preference of Using Tawarruq Contract in Retail Financing Products among Islamic Banks

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Retail financing products is one of the main banking facilities offered by conventional and Islamic banks in Malaysia. It consists of four types of products which are home financing, personal financing, vehicle financing and credit cards. Almost all banks which offer Islamic banking products and services in Malaysia today are using tawarruq contract widely in their retail financing products. This scenario is quite alarming since the banks will rely too much on tawarruq contract and neglect the other Shariah contracts. Thus, this study intends to analyse the preference of using tawarruq contract as compared to other contracts for retail financing products in the Islamic banks. This study also focuses on the opinion of the Muslim jurists towards the tawarruq's ruling which has become the basis for the tawarruq's preference in the banks. This study adopted the qualitative method where semi-structured interviews are conducted with four Shariah experts from four selected Islamic banks who involved directly with the Shariah Department. This study found that two full-fledged Islamic banks preferred to use the tawarruq contract while the other two Islamic subsidiary banks did not prefer to use the tawarruq contract based on their own reasons and judgement. It is recommended that the full-fledged Islamic banks which are using only tawarruq contract to apply the contract temporarily. At the same time, the banks should try to invent a new mechanism in order to limit the usage of the tawarruq contract to create healthy growth of Islamic banking industry.

Key words: *Preference, Tawarruq contract, Retail financing products, Islamic banks.*

Introduction

Bank Negara Malaysia (BNM) has announced the establishment of Bank Islam Malaysia Berhad (BIMB) as the first full-fledged of Islamic bank in Malaysia in 1983 with the ten years' allocation given to operate the business without the establishment of any other Islamic banks (Chauhan & Rasheed, 2015). Later in 1993, the second establishment of Islamic bank in Malaysia has pushed few conventional banks to start offering Islamic banking products by operating Islamic window in order to be aligned and are able to compete with other Islamic banks.

The main difference between conventional and Islamic banks is in its practices which is parallel with Shariah principles and guidelines while emphasizing the main prohibited elements which are *riba* (interest), *gharar* (uncertainty) and *maysir* (gambling). In order to ensure Islamic banks are in compliance with Shariah principles, BNM has established the Shariah Advisory Council (SAC) in 1997 as an authorized body in the matter of ascertainment of Islamic law as well as an advisor and reference body to BNM regarding the Shariah issues in Islamic finance (Bank Negara Malaysia [BNM], 2017).

Islamic banks started the operation with the offering of deposit products to the individual customers but nowadays, numbers of products have developed and presented to the consumers and businesses. Among the products offered are trade finance, working capital, corporate financing and retail financing products (Sole, 2007). Retail financing products is one of the main banking facilities offered by the Islamic Banks in Malaysia. It consists of four types of products which are home financing, personal financing, vehicle financing and credit card products. It plays an important role to the customers in facilitating the house, personal financing, vehicle and Islamic credit card.

Most of the Islamic banks in Malaysia are using *tawarruq* contract for their retail financing products. This favourable contract is actually deemed as one of the most controversial contracts due to the view of some scholars such as Ibn Qayyim on the impermissibility of *tawarruq* contract which believes that it is a fraudulent practice against Shariah and Allah (SWT) (Ahmed, Yahaya & Harashid, 2012). The author of *al-Mawsu'ah al-Fiqhiyyah* defined *tawarruq* as an action of purchasing the commodity on a deferred payment, and selling it back at a lower price on a cash basis to another person besides the initial seller, in order to obtain cash.

Tawarruq, in the beginning, was explored by the Islamic banks in Saudi Arabia and started its practice in October 2000 by Saudi British Bank (Dabu, 2007). According to Mohamad and Rahman (2014), *tawarruq* has become gradually popular in the United Arab Emirates (UAE), Saudi Arabia and Gulf Cooperation Council (GCC) countries in the current years. The

application of *tawarruq* in GCC countries is broader than the use of *bay' inah* due to the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI)'s and Fiqh Academy's resolution on the permissibility of using *tawarruq* but it must come with certain restrictions and tight control (Mohamad & Rahman, 2014).

The use of *tawarruq* in Malaysia by Islamic banks such as BIMB started in 2006 with the products namely *Tawarruq* Commodity Undertaking, Commodity *Murabahah* Profit Rate Swap and Commodity *Murabahah* Forward. Until now, *tawarruq* has become the most favourable contract to use in comparison to any other types of contracts by the Islamic banks. Table 1.1 below shows the application of *tawarruq* contract in retail financing products among local Islamic banks in Malaysia.

Table 1.1: Application of Tawarruq in Retail Financing Product among Local Islamic Banks in Malaysia

<i>Tawarruq</i> Contract Local Islamic Banks in Malaysia	Home Financing Product	Personal Financing Product	Credit Card Product	Vehicle Financing Product
Bank Islam Malaysia Berhad	Yes	Yes	Yes	No
Bank Muamalat Malaysia Berhad	Yes	Yes	-	No
RHB Islamic Bank Berhad	Yes	Yes	No	No
Ambank Islamic Berhad	Yes	No	No	No
Hong Leong Islamic Bank Berhad	Yes	Yes	-	No
Maybank Islamic Berhad	Yes	Yes	No	No
CIMB Islamic Bank Berhad	Yes	Yes	No	No
Public Islamic Bank Berhad	No	No	No	No
Affin Islamic Bank Berhad	Yes	Yes	-	No
Alliance Islamic Bank Berhad	Yes	Yes	No	No

Sources: Website of respective Islamic Banks

Referring to the table 1.1, there are two Islamic banks that are not following the *tawarruq* conversion trend. Currently, these two Islamic banks are using *bay' bithaman ajil* (BBA) (deferred payment sale), *musharakah mutanaqisah* (MM) (diminishing partnership), *bay' 'inah* (sell and buy back sale) and *ujrah* (fee based) contracts for their retail financing products.

According to Ahmed, Yahaya and Harashid (2012), the *shubuhah* (doubts) did exist in the contract's products of *bay' 'inah* and *tawarruq*. Ahmad et al. (2017) found that there are contradictory views on the usage of *tawarruq*. Yusof (2015) states that there are a few operational issues related to the *tawarruq* arrangement that are still being debated. Among them are the issues of the fluctuating price, discrepancies of terms, delay in transactions, *qard* (loan) in *tawarruq*, single-agency, dual-agency and, last but not least, issues of physical delivery of the commodities. Those mentioned issues actually can be found the *tawarruq* policy document issued by Bank Negara Malaysia (BNM, 2015). Yusof (2015) also discusses on the intention of *tawarruq* contract which is to create debt and eventually will contribute to the huge portion of debt rather than equity trading.

A big effort needs to be deepened in replacing *tawarruq* with products that will serve the public interest and be Shariah compliant in every sense. One of the suggestions is to employ equity-based instruments in order to enable banks manage liquidity efficiently (Fa-Yusuf, 2017). Besides that, *al-muqassah* (rebate) model which is an alternative shariah compliant Islamic credit card has been introduced and was suggested to replace the contemporary practice of Islamic credit card in Malaysia which is currently using *bay' 'inah*, *tawarruq* and *ujrah* contracts (Bilal, 2015).

Additionally, there are a few alternative instruments in Islamic personal financing that can replace the contemporary practices which is using *bay' 'inah* and *tawarruq* contract (Yusoff et al., 2016). The new alternative instruments suggested are *hibah* (gift)-sale based financing, *hibah* for a reward financing and *salam* (forward sale) personal financing.

Ali (2017) states that eventually certain parameter and limitation in the use of *tawarruq* should be established by the Malaysian authorities and Shariah committees due to address the Shariah compliance concerns and operational encounters surrounding the application of *tawarruq* in Islamic banks. There are other Shariah contracts that can be explored as alternatives to *tawarruq* such as *ijarah al-khadamat* (lease of future services) and *salam* (forward sale).

Meanwhile, according to Ali (2017), *tawarruq* has become a trending phenomenon in the Islamic finance and banking industries. It is believed that the changing of Shariah contract in Islamic banking products to the *tawarruq* contract has become widespread. The pressure on

the Islamic banks to comply with the certain Shariah Standards for contracts stated in the policy documents issued by BNM has forced the Islamic banks to move to the *tawarruq*-based product without the fear of being “non-compliant” to the policy documents requirements (Yusof, 2017).

Furthermore, referring to (BNM, 2017), one of the requirements stressed under the Islamic Financial Services Act (IFSA) 2013 is dual compliance which means legal and Shariah compliance simultaneously. The application of Shariah contracts must be reflected within the nature and conceptual features of the contract or known as *muqtadha al-‘aqd*. Any actions which do not comply with the Shariah requirements will be imposed with heavy penalties by BNM. By having to comply with the Shariah requirements has actually forced Islamic banks to have *tawarruq*-based products.

Most of the reasons behind the changes to *tawarruq* contract are due to the legal and operational issues arise in the previous contracts. One of that is upon the circular on *bay’ inah* issued by the BNM which practically strict and hard for Islamic banks to align it with their practices (Lahsasna, 2014). Instead of facing the hardship, most of the Islamic banks change to *tawarruq* contract which is deemed as the easiest alternative to other contracts. Therefore, the main purpose of this study is to analyse the preference of using *tawarruq* contract as compared to other contracts for retail financing products in the Islamic banks. This study also focuses on the opinion of the Muslim jurists towards the *tawarruq*’s ruling which has become the basis for the *tawarruq*’s preference in the banks

Methodology

Qualitative methodology is reliant to this kind of research due to the lack of published materials regarding the preference of *tawarruq* contract in retail financing products. Most of the information is gained from the primary data. There are two methods of data collection for research. This study adopted both two methods which are primary data and secondary data.

Primary data comprises of questionnaire, survey or interview with individual or small group (Naufel, 2013). This study has applied interview method as the main method due to the limited amount of published materials on the topic of the preference of using *tawarruq* contract. The interviews were conducted on selected respondents whom want to remain anonymous and they are labelled as Respondent 1 until Respondent 4. The selected respondents have extensive Shariah background and some of them have served in the Islamic banking industry for more than 10 years. Below is the table 1.2 of the details of selected respondents.

Table 1.2: Detail of Respondents

Preference to Use Tawarruq in Retail Financing	Interviewee	Designation	Bank	Date of Interview Conducted
Prefer	Respondent 1	Assistant General Manager, Deputy Chief Shariah Officer, Shariah Division	A	14 November 2017
Prefer	Respondent 2	Shariah Committee	B	9 November 2017
Not Prefer	Respondent 3	Independent Non-Executive Director, Shariah Committee	C	7 December 2017
Not Prefer	Respondent 4	Head, Shariah Research and Advisory	D	6 November 2017

The interview method is divided into three major categories that are standardized interview, unstandardized interview and semi standardized interview. This research adopted semi standardized interview which is focusing on face to face interview to collect extensive data regarding the preference of using *tawarruq* contract in retail financing products among Islamic banks. In the beginning, the standardized interview was adopted but due to some questions raised during the interview session, it became semi standardized interview.

A few of selected respondents from 4 Islamic banks in Malaysia were telephoned and emailed asking for their permission to conduct the interviews with them. All of the selected respondents have agreed to be interviewed according to their free time which took place on 6th of November until 7th of December 2017 at the pre-agreed places that were located in Kuala Lumpur, Malaysia.

During the journey of the interviews, the questions were emailed to the respondents at first before the genuine face-to-face interview took place. The respondents were asked regarding the emailed questions during the interview sessions and are required to answer them with more explanation when necessary. These interviews were conducted in English and Bahasa Malaysia for the convenience of the respondents. For every respondent, the interviews were conducted once and were audio taped.



The interesting part of this method was that sometimes the respondents came out with the new issues which aided tremendously towards the information on research area. Besides that, the information on preference of using *tawarruq* contract is also gained through the seminars on current issues of Islamic finance in Malaysia.

For the secondary data, researchers referred to the reliable sources such as BNM Policy Documents, Resolutions issued by SAC of BNM, Islamic banks' website and AAOIFI Standards in order to gain information and better understanding regarding *tawarruq* topic. Besides that, some of the information was gathered through library works. There are a lot of books discussed about Shariah issues in *tawarruq*. Among of them are Shariah Issues in Islamic Banking and Finance written by Amir Shaharuddin and Shariah Issues and Resolutions in Contemporary Islamic Banking and Finance written by AHCENE LAHSASNA. In addition, a lot of understanding on *tawarruq* area also gained from the dissertations of master's degree and PhD students of University Malaya (UM) and International Islamic University Malaysia (IIUM).

Analysis on the preference of using *tawarruq* contract in retail financing products are identified from the interviews with the selected respondents of selected Islamic banks along with the related reading materials. The analysis on the preference is written and classified in this research-based opinion and facts faced by the 4 Islamic banks. Besides that, the operational and regulatory issues arise while conducting the interview is checked and referred to the Shariah Standard in the policy document issued by BNM together with the AAOIFI's Shariah Standard.

As this study used open ended questions for the interviews, the content analysis method is the suitable method to use. In the beginning, the data was transcribed into text after the researcher had listened to the recorded interview a few times. In order to study the similarities and differences of the respondents answered, the text was arranged according to the questions given.

The criticism for being biased and subjective was open regarding to the qualitative research (Cavana et al, 2001). The contribution of qualitative research is actually highly useful to information and data. Conducting the investigation in the utmost ethical manner can ensure the dependability and credibility in qualitative research which is suggested by Merriam (2002). Besides, instead of conducting pilot test for the questions, the researcher referred to the expertise in Islamic banking industry in order to ensure the validity of the questions. Furthermore, the questions were emailed in advance to the selected respondents and no critic has been made regarding it. Thus, the questions given are valid to this study.

Findings and Analysis

Analysis of Preference of Using Tawarruq Contract in Retail Financing Products Bank A's perspective

Based on the interview conducted with Respondent 1 from Bank A, the main reason why Bank A moves to *tawarruq* contract for the retail financing products is due to the problem in complying with the Shariah Standards in the new policy document of the previous contracts issued by BNM. For example, in *istisna'* (manufacturing sale) contract where bank is responsible for the goods to be delivered to the customer, the delivery was hard to be implemented due to the nature of bank itself which is a financier. Hence, bank cannot comply with the policy document issued by BNM.

Bank A emphasizes that for home financing product, *tawarruq* contract is replacing the previous contract which is BBA *'inah* contract temporarily due to the problem in complying with the *bay' inah* Standard. The problem arose when the customer signs the contract of reselling an underlying asset to the bank first, followed by the contract of selling an asset from the bank to the customer. Hence, the transaction was not done in a proper sequence which means that it may be void according to the Shariah perspective. However, Bank A planned to come up with a new contract for home financing product though the development of a new contract will take some time. In order to produce a new contract, bank needs to take into consideration of a few conditions which are; the legal documents need to be approved by the Shariah committee first and only then can be proceed to obtain the approval by BNM.

Earlier, Bank A is using *bay' inah* contract for Islamic credit card, but since BNM issued the circular on *bay' inah* on 1 January 2013, Bank A has moved to *tawarruq* contract. In that circular, it was stated that banks cannot make inter-conditionality by making promises with the customer to resell and repurchase again the underlying asset of sale and the sale and purchase transaction must be executed orderly. It means that the sale transaction must be done first followed by the resale transaction later on. Thus, this mentioned standard is actually difficult for the bank to comply with and eventually forced bank to change to *tawarruq* contact.

Whereas, for a personal financing product, Bank A did not retain the Cash Note product which is using BBA and *bay' al-sarf* contract due to the undesirable of the market. Later on, this product became unsuitable anymore to be continued for Bank A along with the raised issue of inter-conditionality.

According to Respondent 1, the impact of using *tawarruq* contract is that the bank is having a lot of assets because the retail business actually contributing about 70% to them while the largest portion comes from home financing products. Meanwhile, the charge of the brokerage

fee which is about RM 15 for every RM 1 million financing when trading at BSAS platform is borne by bank.

As *tawarruq* is actually for the purpose of monetization, there is no risen issue related to the excessive usage of *tawarruq* contract in Islamic banking products. It also acts as a contract that can be replaced *bay' inah* contract. In terms of the operational issues in *tawarruq* contract, it can be solved by referring to the *Tawarruq* Policy Document. One of the operational issues raised and already resolved is regarding the delivery of the commodity. According to this policy document, it is stated that customers can take a physical delivery of the commodity. Bursa Malaysia Islamic Services (BMIS) will carry out the delivery within seven days from the purchased date of commodity if customer wants it to delivered.

Islamic banks nowadays are becoming more of a *tawarruq* bank, Respondent 1 from Bank A respond that Islamic banks actually did try to find other alternatives to avoid from using too much of *tawarruq* contract in their products, aligned with the BNM's statement which is circumventing from using too much *tawarruq* contract. Respondent 3 also mentioned that the application of *tawarruq* is not suitable for some product such as deposit product due to the needs to trade daily at BSAS platform and the brokerage fee that has to be borne by the bank. Hence, this type of contract is not practical to be used in deposit product.

Bank B's perspective

Based on the interview conducted with Respondent 2 from Bank B, the reason behind the preference of using *tawarruq* contract is due to the risen issues of previous contracts used which is *bay' inah*. The practice of *bay' inah* for home financing product triggered an issue in the case of non-existence house whereby bank is selling the right of the house or the non-existence house. The trading of non-existence good is considered as *bay' ma'dum* (sale of non-available goods) which is not permissible according to Shafie scholar. Originally, Bank B comes with 6 alternatives to replace *bay' inah* but seems like all these options also triggered issues which is eventually resulted to use *tawarruq* contract. The alternatives proposed are Parallel *Istisna'*, *Ijarah Muntahiya Bittamlik* (lease to own), MM and BBA.

For personal financing, the same problem is faced by bank upon the circular on *bay' inah* which marked the bank's difficulty to comply with it, instead, they would change to the *tawarruq* contract.

One of real operational practices of *bay' inah* is a stipulated condition in the document or in the 'aqad that customers have to resell the underlying asset to the bank. This practice is known as inter-conditionality. Hence, this 'aqad will be considered as a back door to the *riba*. In *bay' inah*, the item of sale is made to be existed only to fulfil the requirements of contract

(‘aqad) as the buyer has no intention to use the object of sale (*mahallul ‘aqdi*). In this situation, the parties are actually not interested in transferring the ownership of property instead they want the transferring of cash to be paid later at a mark-up price. Hence, this statement is parallel with the legal maxim *al-‘ibrah fil ‘uqud lil-maqasid wal-ma’ani laa lil-alfaz wal-mabani* (what is considered in an agreement is its meaning, not the utterance). Nevertheless, the property is deemed as legal trick in *bay’ ‘inah* transaction.

In addition, the practices of *bay’ ‘inah* contain elements of prohibition which is two transactions taking place in one transaction. This practice can be seen when the sale transaction and repurchase transaction occurred simultaneously. Thus, the sequence in signing the sale and repurchase documents is need to be done accordingly.

Bank B has come out with a few ideas in order to solve this sequence issue. The first one is by stapling the documents correctly, second is by differentiating the coloured paper of sale and purchase documents and lastly by having a special system which only allow the repurchase transaction take place when the signing of the sale transaction is done. The first two ideas are still triggered the sequence issue while this system’s idea cannot be done by the bank because a new system would be very costly and it takes time to develop and complete. All of these issues would evidently force the bank to change to *tawarruq* contract.

According to Respondent 2, the impact of having too much *tawarruq* contract can be seen when the foreigners living in Malaysia especially from GCC and Middle East countries are unsatisfied with our practices. They refused to use *tawarruq* contract because it is believed same as *bay’ ‘inah*.

It is undeniable that *tawarruq* is the last resort to other controversial contracts. Respondent 2 also suggested to use *tawarruq* temporary until bank can come out with the other alternative that can replace *tawarruq*.

Analysis of Preference of Using the Other Shariah Contracts in Retail Financing Products Bank C’s perspective

Based on the interview conducted with Respondent 3 from Bank C, *tawarruq* and *bay’ ‘inah* contracts seem to be no different as *tawarruq* is actually derived from *bay’ ‘inah* contract and BNM also has resolved the issue according to the legitimacy of *bay’ ‘inah* and reverse *tawarruq*. Although most of the Shariah scholars from GCC countries did not give permission to practice both contracts, Shariah Advisory Council of Bank Negara Malaysia has different opinions in giving permission to use both contracts with the conditions that the Islamic Financial Institutions (IFIs) must follow all the Standards and Guidelines of *tawarruq* and *bay’ ‘inah* in the policy documents.

Tawarruq is actually permissible in the Shafi'i school of law although there is no clear statement mentioned in their treatises on *tawarruq*. There is a small dispute concerning its ruling under the topic of *bay' inah* (Nawawi, 2017). Generally, it is permissible because both executed contracts are independent of each other as it involved two separate transactions. The first transaction is when the commodity is sold to the buyer on a credit basis while for the second transaction, the commodity is purchased back by the original seller on a credit or cash basis at a higher or lower or equal price.

Respondent 3, who is the chairman of the Shariah committees of Bank C, has given his opinion regarding the *tawarruq* conversion. He said that this matter is just the problem of choice. *Tawarruq* and *bay' inah* contracts are both having the same objective which is to obtain cash. As long as the Shariah contract's philosophy is not contradicting with the Shariah principles, he considered it as suitable to be used. According to him also, the preference to use *tawarruq* or *bay' inah* is not a Shariah issue because both are permissible to use.

Respondent 3 also informed that Bank C does not have any plan to change to *tawarruq* contract instead, they are moving towards sharing based contract namely smart partnership. The reason is that the operational practices of *tawarruq* is more complicated than *bay' inah*. One of it is when dealing with *tawarruq* contract, the trading must be using commodity *murabahah* house platform while *bay' inah* transaction just take place in the bank itself. *Tawarruq* is also comprises of the sales, purchase and sell back transactions which involves the third party namely broker while in *bay' inah*, sale and purchase transaction occur between bank and customer only. In addition, by using *bay' inah* contract, bank can save their money from paying the brokerage fee as in *tawarruq*.

Respondent 3 also emphasized the usefulness of the contract is relying on its spirit not on the technical itself. He also gave his opinion that Islamic banks should move from the Shariah-compliant products to the shariah-based products. He claimed that Shariah compliant products is basically a way to Islamize the conventional products by complying the conditions set up for each contract.

Bank D's perspective

Based on the interview conducted with Respondent 4 from Bank D, *tawarruq* contract is deemed as the easiest alternative contract compared to other contracts because it can be structured for any purposes as the objective of *tawarruq* contract is only to obtain cash. In terms of complying with the Shariah principles, it is also deliberated as the easiest contract. Although it has been stated as the easiest contract to be complied with Shariah principles,

banks should not optimize *tawarruq*'s practices and become a *tawarruq* bank. Nevertheless, it can be considered as a temporary contract besides developing new product that can be fully comply with Shariah as the developing process take time in order to be approved by SAC of BNM.

Tawarruq is possible to be used in any kind of products. For instance, Respondent 4 viewed that *tawarruq* is the most preferred contract for home financing product. It is replaced two previous contracts which are BBA that comprised issues with *bay' inah*; and MM that triggered issues with the property that is not completed.

The application of *tawarruq* for Islamic credit card products may not be done because the products itself is flexible. One of the usual tactics used by banks to retain customers is to increase credit given to the customer provided that the customer's income can support it rather than to lose the customer to other banks. So, when the bank wants to counter the customer to increase the credit limit, they have to call the customer and redo the 'aqad which makes the process looks repetitive. For *bay' inah*, bank has to prepare underlying asset while for *tawarruq*, the specific platform is already in existence. Nevertheless, similar issue is triggered where the involved parties must keep making the 'aqad and it is limited to certain number of years. Upon the maturity, for example 3 years, the 'aqad must be done again which gives an impact on constant monitoring for the 'aqad. Thus, all the issues mentioned above will be faced by the bank if they are using *tawarruq*. Therefore, Bank D prefer to use *ijarah* contract for their Islamic credit card product. In the future, Bank D does not have any plan to change to *tawarruq* contract for Islamic credit card product because they will encounter similar problems that they faced when they are using *bay' inah* although the method of 'aqad may be different but the operational issues would be similar.

Nonetheless, for personal financing, *tawarruq* contract conversion is not available at this moment and Bank D is having a slow progression towards it. One of the reasons is the 'aqad used in *bay' inah* is a verbal 'aqad which is in-house centralized; the person does not have to go outside to meet with the customer, instead they can just make a call to customer. Thus, this practice is easy and facilitate the bank rather than using *tawarruq* contract which required the commodity trading must be perform at the specific platform. Besides that, there is actually no such priority for Bank D to change to *tawarruq* contract for personal financing products as it involves an additional cost known as a brokerage fee. Furthermore, Bank D still can follow the circular on *bay' inah* issued by BNM. As long as bank can maintain the practices of *bay' inah*, bank can stay with it and no critical needs shall arise for it to be changed to *tawarruq* contract.

A Way Forward

It is recommended for Islamic banks which are into *tawarruq* contract to consider it as a temporary contract while developing a new non-debt-based contract in order to replace it. This is believed to promote the growth of the country and reduce the household debt generated from personal financing which is increasing year by year. By having too many debts, the economics of the county will not be in a good condition. Thus, it is vital for the Islamic banks to improve their practices by not only relying heavily on this type of contract.

BNM as a policy maker should monitor the application of *tawarruq* contract regularly since the issues arising from it are mostly from the operational practices and the existence of its modified contract such as the reverse *tawarruq* which is deemed as a complicated product to apply.

It is recommended to the future researcher to conduct a research on the topic of the alternative contracts that can replace the *tawarruq* contract. This topic is parallel with BNM's proposition in the meeting with Islamic banks about reducing the application of *tawarruq* contract. Thus, one of the solutions is to develop a new contract or apply the existing contracts.

Conclusion

Generally, Bank A and Bank B are categorized as the preferred bank in using *tawarruq* contract in retail financing products while Bank C and Bank D are categorized as the non-preferred bank in using *tawarruq* contract in retail financing products.

To conclude, the main reason why Bank A and Bank B preferred to use *tawarruq* contract which replaced the previous ones is due to the bank cannot complied with the Shariah Standard in the Policy Document issued by BNM of the previous contracts. Hence, *tawarruq* is deemed as an alternative or way out as its nature and conceptual features is to obtain cash thus it can be structured for any purposes. Besides that, *tawarruq* is also treated as a last resort due to the gap in its implementation that can be removed. Therefore, instead of having difficulties to comply with the Standards, banks chose to apply the easiest alternative, which is *tawarruq*.

To some extent, the non-preferred banks view that the application of *tawarruq* contract is actually triggering some problems in terms of the operational practices. The main reasons are due to the brokerage fee that is mostly borne by the banks and the complicated process of reverse *tawarruq*. Hence, the current contracts in retail financing products which are BBA, MM, *ujrah* and *bay' inah* become more favourable and easier to be practiced rather than



tawarruq contract. Thus, Bank C and Bank D are not really into the idea of retail financing products based on *tawarruq* contract in the future. Instead, they are choosing to remain with the current contracts.

On the other hand, *tawarruq* contract has a relation with *maqasid* Shariah. It is vital to take precaution in not using too much *tawarruq* contract because it is a debt-based financing contract and is considered harmful (*mafasiid*) in term of its nature itself based on the skyrocketing debt value in Malaysia. Thus, the economy is really in need of an innovative contract especially those which are asset-based financing and sharing-based financing.

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