

UNIVERSITI TEKNOLOGI MARA

***TAWARRUQ* IN PERSONAL
FINANCING: THEORY AND
PRACTICE**

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of the requirements for the degree of

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AUTHOR'S DECLARATION

I declare that the work in this thesis was carried out in accordance with the regulations of Universiti Teknologi MARA. It is original and is the results of my own work, unless otherwise indicated or acknowledged as referenced work. This thesis has not been submitted to any other academic institution or non-academic institution for any degree or qualification.

I, hereby, acknowledge that I have been supplied with the Academic Rules and Regulations for Post Graduate, Universiti Teknologi MARA, regulating the conduct of my study and research.

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ABSTRACT

Islamic personal financing is offered to cater to the needs of personal financing that complies with *Shariah*. Beginning with the concept of *Bay al-Inah*, its application has undergone several strong critiques that have prompted the introduction of *Tawarruq*. Even though this concept is more preferable than *Bay al-Inah*, its implementation by industry players has attracted the serious concerns of *Shariah* scholars in terms of its arrangement. If the arrangement is executed improperly, the contract may be rendered invalid, thus resulting in that it will not comply with *Shariah*. Hence, this study intends to examine the practice of the *Tawarruq* arrangement based on the practitioners' perspective. Also, this study aims to assess whether the current practice of the *Tawarruq* arrangement has been able to comply with the classical and contemporary *Shariah* rulings, Bank Negara Malaysia (BNM)'s guidelines and requirements; and the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) *Shariah* Standards. Questionnaires were distributed to the officers of the Malaysian Islamic banks who dealt directly with their customers as well as those of the operations side. The findings have suggested that the Islamic banks have executed the concept in accordance with the requirements stipulated by BNM in the *Shariah* resolution. However, in discussing the findings in the light of the AAOIFI *Shariah* Standards, this study have found that there were elements contradicting the standard particularly in appointing an agent for selling back the commodity to the market. In addition, discussion on the findings based on the classical and contemporary *Shariah* scholars, the arrangement of *Tawarruq* in the current practice has found the evidences of the *Tawarruq Munazzam* in its arrangement. Therefore, BNM as the authoritative body should initiate towards a stricter practice while harmonising the practice within the industry players.

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With the Name of Allah, the Most Beneficent, the Most Merciful.

All praise belongs to Allah who creates everything that we know and we do not know. He is the owner of knowledge and He is the one who teaches us what we do not know. I am asking His forgiveness in everything I did that is contrary to what He commands me to do which is due to my weaknesses and lack of awareness. Everything is impossible to do without His permission in doing so. Alhamdulillah, He permits me to finish what I have started. And, this journey will not stop here, but will continue until He invites me to the next phase of human creation.

Sincerely, many thanks to my husband who is always by my side every time I need someone to talk to. His busy career does not stop him from encouraging me and reminds me on the important mission that Allah has sent us for. His advice is always on the way I should solve my problem. *"Solve the problem with the religious practices made solely to Allah"*. Yes, Allah is the best place to resort our hope and assistance. *"You alone we worship, You alone we ask for help"* (Quran, 1:5).

My mother, she is so adorable and so strong in raising me alone since my father passed away. She always encourages me to seek knowledge since she does not have the opportunity to do so during her time. Not even having a primary formal education, she is indeed a fast learner by learning how to read and write by herself. Her spirit and enthusiasm motivates me to be as passionate as her in seeking knowledge.

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Zainor Nasrah Abdul Rahman, March 2013

CHAPTER ONE

INTRODUCTION

1.1 INTRODUCTION

As recorded in al-Quran, “when a (courteous) greeting is offered you, meet it with a greeting still more courteous, or (at least) of equal courtesy. Allah takes careful account of all things” (Al-Quran, 4:86).

This introductory Chapter gives an appropriate understanding of the background of the research highlighting the importance of *Shariah* in the Islamic finance industry because Allah takes careful account of all things. The researcher is attempting to discuss a particular problem in the industry of *Tawarruq* in personal financing in this research.

In subtopic, 1.5 and 1.6 the study has explained the research objectives and the research questions. Finally, yet more importantly, this study has outlined the conceptual framework, overview of the research process, significance of the study as well as the scope of the study.

1.2 BACKGROUND OF THE STUDY

Shariah is a crucial principle in the Islamic finance industry. The core aspect that forces the establishment of Islamic banking and finance is to cater for the needs of Muslims. Khnifer (2010) has once mentioned that respecting, understanding and implementing *Shariah* are the backbone of the trillion dollar Islamic finance industry. *Shariah* compliance and rectification process is necessary for every licenced Islamic bank authorized by Bank Negara Malaysia (BNM) under the Islamic Financial Services Act 2013. Any person who contravenes subsection (1) or (3) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding eight years or to a fine not exceeding twenty-five million ringgit or to both¹.

¹ Please refer to Appendix B for the detailed stipulated Act.