

UNIVERSITI TEKNOLOGI MARA

**A RESPONSIBLE LENDING
REGULATION IN MALAYSIA AND
AUSTRALIA WITH SPECIAL
REFERENCE TO SUITABILITY AND
AFFORDABILITY ASSESSMENT**

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Thesis submitted in fulfillment
of the requirements for the degree of
Master of Laws

Faculty of Law

June 2023

ABSTRACT

In recent times, irresponsible lending practices have become a major concern for many countries globally. Literature proves that lack of control of this practice will lead to negative ramifications on the individual consumer who will suffer the adverse impact of over-indebtedness and threaten the country's financial stability as well. Thus, the purpose of this study is to assess the Malaysian consumer credit industry's current responsible lending policy which includes banking, pawnbroking, hire-purchase, moneylending, credit sale, and cooperatives, as the industries are subjected to fragmented regulation. This study employs qualitative research methodology. Secondary data in the form of primary and secondary sources of law, including the Financial Services Act 2013, the Moneylenders Act 1951, the Pawnbrokers Act 1972, the Hire Purchase Act 1967, the Consumer Protection (Credit Sale) Regulations Act 2017, the Cooperative Society Commission Act 1993, the Guideline on Responsible Financing and the Guideline on Credit Facility for Cooperatives were rigorously analysed. A comparative study has also been adopted by comparing the responsible lending regulation in a selected jurisdiction namely Australia as this country is reputed for their consumer protection regime. A series of interviews were conducted with industry players to investigate their affordability assessment practice. The data was triangulated with literature and views of regulators, consumer associations and representatives from Credit Counselling and Debt Management Agency. This study identifies an inconsistency in the Malaysian consumer credit industry's approach to responsible lending. Banking institutions supervised by the Bank Negara Malaysia are required to adhere to the Guideline on Responsible Financing. Cooperatives are likewise required to do so pursuant to the Guideline on Credit Facility for Cooperatives. Other non-banks are not legally required to conduct mandatory suitability and affordability assessments. To avoid the issue of inconsistency, this study proposes some recommendations which will assist policymakers in implementing the most effective way to impose a duty and obligation on all credit providers to engage in responsible lending practices. One of the implications of this study is that the relevant regulators will give priority to devising a feasible suitability and affordability assessment regulation encompassing all consumer credit industries in Malaysia to protect the consumer against over-indebtedness. Finally, it is submitted that responsible lending practices will provide strong financial consumer protections in the Malaysian consumer credit industry.

ACKNOWLEDGEMENT

The researcher is delighted to express gratitude to The Almighty, Allah SWT, for His blessings in easing the research journey from the beginning to the end. I could not successfully produce this research paper without His help and guidance throughout the project.

I wish to genuinely express my greatest appreciation to the Ministry of Higher Education (MOHE) and the Faculty of Law, University Teknologi MARA (UiTM) for allowing me to conduct the research for my Master of Laws from 2020.

I wish to thank my lovely supervisor, Dr. Ibtisam @ Ilyana Ilias, the most helpful and resourceful lecturer, for spending countless days and nights consulting and guiding me until this research is completed. Each discussion was very insightful and I immensely appreciate it. Her contribution cannot be paid by money but surely, Allah will grant Jannah for her kindness and patience.

Furthermore, having a robust family system is very important for me to complete this study. A special thanks to my family especially my father, _____ and my mother, _____ for encouraging me every time I falter in my research journey. My greatest cheerleader is my husband, _____ who has been very understanding and always given moral and financial support towards the master's journey since the very first moment I mentioned about continuing my study by mode of research.

Lastly, special thanks to the UiTM administration, staff and librarian for the guidance and support to finish this study. I am delighted to thank everyone involved throughout this journey, either directly or indirectly in this research. I hope that this project paper could at least improve our existing law for a better financial system in the future.

This piece of victory is dedicated to all of you, Alhamdulillah.

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