

REAPPRAISAL OF UNDERLYING CONTRACTS FOR ISLAMIC
PERSONAL FINANCING IN MALAYSIA



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3.0 INTRODUCTION

Islamic banking is not a new phenomenon. Various financing products are offered by Islamic banks which are undeniably growing in numbers not only in Malaysia but also internationally. Islamic bankers as well Shariah advisors play important roles in determining that the products offered in the market comply with Shariah principles. Since we aim at penetrating global market, it is pertinent to ensure that our product is recognized and well-accepted internationally. However there is a glitch in respect of personal financing products offered by Islamic banks in Malaysia mainly due the underlying contract used to structure the products namely *bai' al-' inah* and *tawarruq*.

This research will focus on individual financing thereby excluding financing for commercial or corporate purposes. The study will also be limited to Malaysia practices and not at the international area except for comparison purposes. It will not attempt to discuss on credit card, charge card or debit card although these are another mechanism of obtaining cash from bankers.

At the outset, this research explains on the general structure and modus operandi of this product. Subsequently, the research attempts to analyse the issues lingering the application of these contract as well as the product which can be divided into two main classification i.e. firstly the nature of the contract itself and secondly the defect in the implementation especially in terms of execution of legal documentation.

This research finally suggests some steps to rectify the issues addressed *inter alia* by employing less-conflict-ridden contract.