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The principle of maalat in dealing with the issue of tawarruq overuse in Islamic banking in Malaysia

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Abstract

Purpose – This study aims to apply the principle of maalat in analysing the issue of overusing tawarruq contracts in the Islamic banking industry in Malaysia. Even though tawarruq has been widely considered by Islamic finance players as a practical solution to controversial practices such as bay' al-Inah, wadiah and rahn, using this contract too much may lead to negative impacts. Thus, it is vital to analyse this issue by applying the principle of maalat, as it serves as a guideline for considering consequences from the perspective of Shariah. **Design/methodology/approach** – This study is designed based on the qualitative research approach, in which its data are obtained from

semi-structured interviews conducted with Shariah committee members from selected Islamic banking institutions in Malaysia. The findings are presented thematically before analysing this issue based on the principle of maalat. Findings – Tawarruq has contributed to the development of Islamic banking operations in terms of efficiency and providing liquidity. However, overusing this contract could lead to potential mafasadah, including reputation risk, Shariah non-compliant risk and anti-innovative culture within the industry. Through the principle of maalat, tawarruq should not be prohibited except with strong justification and proven mafsadah, which is not the case now. Nevertheless, this principle also emphasises the potential mafsadah that is likely to occur if no actions are taken. Thus, efforts to diversify Islamic banking products should be carried out, but with a gradual approach. Research limitations/implications – The finding of this study may not be generalised in all aspects, as its data is limited to the Shariah committee's experience and their view regarding the issue, not all involved parties within Islamic banks. Practical implications – This study provides insight for Islamic banking players to weigh between maslahah and mafsadah in their banking activities. As tawarruq overuse may lead to negative impacts, they should seriously explore potential alternatives. As for the regulator, the principle of maalat can be part of their approaches to exercising their authority. Social implications – This study exposes Islamic banking institutions' challenges in ensuring Shariah compliance and sustainability in their business operations. Originality/value – Applying the principle of maalat on the issue of overusing tawarruq creates a robust and comprehensive analysis from Shariah perspective instead of literally relying on particular texts of the Quran, Hadith or fatwas. In addition, as the data of the fieldwork is based on the perspective of Shariah committees, it creates a fresh discussion and a practical recommendation because of their significant position within Islamic banking institutions in Malaysia. © 2020 Emerald Publishing Limited

Author keywords

Islamic banking; Islamic banking in Malaysia; Maalat; Maslahah; Tawarruq

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