

Evaluating Responsible Lending Framework Through Suitability and Affordability Assessment in Malaysia

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Abstract

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 industries are regulated separately. This study employs a doctrinal legal research methodology and content analysis 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. This study identifies an inconsistency in the Malaysian consumer credit industry's approach to responsible lending, as banking institutions supervised by the Central Bank of Malaysia are required to adhere to the GRF, while others 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 deliberating the most effective way to impose a duty and obligation on all credit providers to engage in responsible lending practices.

Keywords: Financial Consumer Protection, Consumer Credit, Responsible Lending, Suitability and Affordability Assessment, Credit Consumer Industry

Introduction

Securing a loan from any credit provider can be a huge relief as long as the loan is paid on time and according to the conditions of the contract (Malbon, 2011) Regardless of their financial situation, all consumers require financial aid for a variety of reasons (The World Bank, 2017). Consumers usually take out loans for emergency purposes, to cover educational expenses, to buy a house, to buy a car, and to pay off current debts (World Bank Group, 2017). Some of them apply for loans from quick credit organisations that provide a little amount of credit to help them cover their everyday expenses.

Consumers, without a doubt, benefit from having access to credit. It is sometimes referred to as "the lubricant of economic life" (Commission, 2002) and "one technique of lowering income disparity and poverty" (Scott, 2010). When consumers are unable to repay their loans, however, consumer credit can have disastrous effects. Consumers who currently have financial troubles may be able to acquire loans, particularly from non-banking entities, to pay off their existing debts. While lenders' services allow borrowers to resolve their financial troubles, there is a pressing need to provide safeguards for such transactions (Rahman, 2007). In essence, certain lenders, particularly in the non-banking sector, profit on borrowers who are in extreme need (Abdullah & Hanafi, 2007).

In response to the global financial crisis in 2008, Malaysia implemented the Guidelines on Responsible Financing (GRF) in January 2012 through Bank Negara Malaysia (BNM). This guideline aims to protect borrowers' interests by allowing them to borrow only as much as they can afford to repay over the course of their repayment period, as well as to prevent borrowers from becoming financially distressed as a result of an excessive debt burden, which could lead to foreclosure. However, the GRF, which is administered by BNM, only applies to the banking business, while the non-banking sector is not covered by any conventional approach to responsible lending. The banking industry is required by the GRF to verify that consumers' income after statutory deductions, necessary expenditures, and all other obligations are sufficient to satisfy debt repayment before granting any loan application. This phase ensures that the borrowers can continue to service the loan and have the financial resources to cover their living expenses, as well as deal with any future cost and financing rate fluctuations.

As a result, responsible lending, through the implementation affordability and suitability assessment, is critical in preventing over-indebtedness. The loan will only be disbursed to consumers who are financially qualified once all assessments have been completed at an earlier stage. As a result, the consumer will be able to meet his or her payback obligations as set forth in the legally completed credit agreement. This notion is based on the idea that "lenders should analyse whether individuals are likely to be able to repay, not just whether lenders would collect their money, as well as to ensure that a credit product is not unsuitable for the consumer" (Ramsay, 2010). The Financial Stability Board goes on to say that the common goals of responsible lending practises are to avoid over-indebtedness, ensure that consumers have the ability to repay, and safeguard consumers from unfair sales practises.

Indeed, implementing a responsible lending regime in consumer credit in Malaysia is critical in order to prevent the problem of consumer over-indebtedness from becoming more serious. Other than training consumers in financial management and borrowing behaviour, a responsible lending regime based on required affordability and suitability assessments could be one of the viable tools for protecting consumers. Prior to giving loans to clients, the credit provider must comply with the provisions of the responsible lending system under this regime. It is intended that by using this strategy, the incidence of over-indebtedness and its negative consequences will be reduced.

The Origin of Responsible Lending

One of the substantial factors of the global financial crisis is the concept of responsible lending. Many consumers of credit markets, such as the United States of America (USA), the

United Kingdom (UK), and Australia, have suffered severe consequences as a result of imprudent lending during this crisis (Tuffin, 2009). Although individuals are expected to borrow responsibly, credit providers have a serious commitment to avoid consumer over-indebtedness. Credit providers' marketing methods frequently contradict consumer rationality, psychologically compelling consumers to purchase products or services that are not necessary.

While it may appear that responsible lending is most important in low-income and low-capacity environments, high-income countries also require effective responsible lending legislations (The World Bank, 2012). As a result, several legislators and regulators have begun to establish various forms of financial consumer protection, including responsible lending, in order to safeguard consumers from issues such as reckless lending and excessive debt (The World Bank, 2013). Because there were no internationally recognised norms on responsible lending, some countries put the onus primarily on credit providers to analyse the loan's suitability for each client (The World Bank, 2013). As a result, several authorities began to consider a variety of approaches to define the rule of over-indebtedness in order to achieve the goal of prohibiting over-indebtedness (The World Bank, 2013). The World Bank (2012) indicated in a global assessment on financial consumer protection that 80 out of 114 nations had some type of responsible lending regulations, demonstrating unequivocally that the issue of over-indebtedness is critical (The World Bank, 2012).

Consequently, a number of suggestions on responsible lending have been proposed to address these concerns. Many academicians have proposed systems, laws, and proposals for a responsible lending regime that can assist the government in slowing down the over-indebtedness situation (The World Bank, 2012). Given the numerous problems connected with reckless lending and over-indebtedness, responsible lending practises, with varied degrees of concentration on preventing over-indebtedness, have been a focal point among regulators around the world to promote financial consumer security (Organisation for Economic Co-operation and Development, 2011).

The Justification for Responsible Lending

Access to credit has become a critical concern for credit users in recent years, as the majority of goods, products, and services are now available on credit terms. In promoting credit as the lubricant of economic life, housing loans, personal loans, hire purchase agreements, credit sales, credit cards, and other types of credit offered by the sector have been widely marketed to consumers (Tuffin, 2009). Nonetheless, it is undeniable that those credit products will have a negative impact on consumers, particularly if they have a negative behaviour of living beyond their means (Ahmed et al., 2010). Exposure to credit often entices individuals into excessive credit and costly debt, with disastrous consequences for consumers and their families.

Furthermore, many consumers encounter hardship as a result of being persuaded to overcommit owing to sales or promotional strategies' flattery, and eventually default on their repayment when confronted with unanticipated catastrophic situations such as illness or unemployment (Parker, 1990). Although economists argue that consumers are homo economicus, meaning they should act rationally to maximise utility, commercial organisations' marketing strategies may overcome their rationality, psychologically pushing

them to acquire things or services outside their requirement circle (Cvjetanovic, 2000). As a result, despite the many elements that contribute to over-indebtedness, irresponsible lending practises is one of the most significant contributors. In addition, reckless lending has negative external consequences, affecting the consumer credit markets as a whole (Micklitz, 2013). Irresponsible lending practises may erode consumer confidence in financial systems and result in financial instability (Cherednychenko & Meindertma, 2019).

As a result, responsible lending has emerged as an essential issue, notably in the banking sector. This issue has arisen because of credit industry failures, particularly during the global financial crisis, when many countries discovered financial market imbalances and concerns about rising indebtedness in various countries, therefore prompting policymakers, practitioners, donors, and investors to pay greater attention to the issue of responsible lending (German Federal Ministry for Economic Cooperation and Development, 2011). The goal of responsible lending is to improve financial service providers' accountability in marketing their goods to credit consumers. To avoid any potential harm, such as over-indebtedness, it is critical to implement consumer protection at the entry level (Mckee et al., 2011).

Over-indebtedness is encouraged by irresponsible lending's permissive attitude. Over-indebtedness slows economic growth, and the accompanying reduction in accessible financial flows generates increased social stratification and deterioration of chances for the most vulnerable (H.-W. Micklitz, 2015). In terms of politics, regulatory failure to regulate over-indebtedness can embarrass political processes as well as financial supervisors if the problem becomes widespread. Irresponsible lending practises also have negative external implications, posing a threat to the entire consumer credit sector (H.-W. Micklitz, 2015). Thus, unethical lending practises can erode consumer confidence in financial markets and contribute to financial instability (Cherednychenko & Meindertma, 2019).

Suitability and Affordability Assessment as A Mechanism of Responsible Lending

To safeguard consumers against reckless lending and over-indebtedness, the majority of jurisdictions implement a responsible lending framework that includes a variety of consumer assessments, including an assessment of suitability and affordability. The National Consumer Credit Protection Act 2009 (NCCPA) in Australia mandates suitability assessments on consumers' ability to repay and aligning the product with the consumer's objectives. For lenders to assess affordability, they must be sure that the borrower will be able to make the payments under the agreement without suffering undue hardship. They must be able to satisfy all their financial responsibilities, including everyday expenses.

Meanwhile, the credit provider is required to conduct a mandatory pre-agreement evaluation under section 81 of the National Credit Act 2005 (NCA) in order to determine the suitability of a loan for a prospective borrower. The credit provider will evaluate the prospective consumer's overall comprehension and awareness of the risks and costs of the proposed credit, as well as the consumer's rights and obligations under the credit agreement. The following step is to look at the prospective consumer's credit agreement loan repayment history. Following that, the present financial means, prospects, and commitments of the prospective consumer must be evaluated. Furthermore, the borrower has a responsibility to

avoid imprudent lending by providing answers fully and truthfully to any information requests made by the credit provider during the evaluation prescribed under section 81 of the NCA. It is also suggested that this assessment be incorporated into the relevant legislation on financial consumer protection, which provides remedies for financial consumers who suffer from the negative effects of irresponsible lending (International Financial Consumer Protection Organisation, 2014). The review aiming at safeguarding the consumer credit business would benefit both customers and the government as a whole. Furthermore, in addition to having a good impact on a country's market and financial stability, strengthening a responsible lending regime is crucial to prevent the issue of over-indebtedness. Hence, it is vital to practise responsible financing in order to improve consumer protection (Mckee et al., 2011), as well as create a stable credit market that contributes to financial and macroeconomic stability (Musa, 2015). Consequently, the interests of consumers and financial institutions will be balanced in order to benefit everyone in the long run.

Overview of Consumer Credit Industry in Malaysia

The Malaysian financial system is primarily dominated by banking institutions, which are divided into two categories: conventional and Islamic. Non-bank institutions have complemented banking institutions by offering consumers alternative financial services. In general, banks are the leading financial institutions, while non-bank credit intermediaries play a supporting role in the provision of financial services.

Malaysia's loan business contributes significantly to economic progress at all stages of the country's development. The traditional banking industry, which has existed since the 1900s, continues to play an important part in the Malaysian economy. In Malaysia, there are currently eight local conventional banks and 19 international conventional banks operating, offering a variety of financial products such as mortgages, vehicle loans, personal loans, and credit cards (Bank Negara Malaysia, 2012). Table 1 depicts the major players of the consumer credit industry, the regulators, and the applicable laws.

Table 1

The list of credit provider type in the Malaysian consumer credit industry, and the regulators, laws, and guidelines applicable for each type

Malaysian Consumer Credit Industry		Ministry	Law and Guideline
Banking Institution	Bankers	Ministry of Finance	Financial Services Act 2013 (FSA) & Guidelines on Responsible Financing 2012 (GRF)
Non-banking Institution	Moneylenders	Ministry of Housing and Local Government	Moneylenders Act 1951 (MLA)
	Pawnbrokers	Ministry of Housing and Local Government	Pawnbrokers Act 1972 (PA)

	Hire-purchase	Ministry of Domestic Trade and Consumer Affairs (MTDCA)	Hire Purchase Act 1967 (HPA)
	Credit Sale	Ministry of Domestic Trade and Consumer Affairs (MTDCA)	Consumer Protection (Credit Sale) Regulation Act 2017 (CPR)
	Cooperative	Ministry of Entrepreneur Development and Cooperatives (MEDAC)	Cooperative Society Commission Act 1993 (CSCA) and Guideline on Credit Facility for Cooperatives (GCFC)

Source: Author

General Consumer Protection Law in Malaysia

The Consumer Protection Act 1999 (CPA) is the cornerstone legislation in terms of fundamental Malaysian consumer protection, as it does not distinguish between consumer and financial customers. The Consumer Protection Act (CPA) was enacted on 15 November 1999, to offer statutory protection for consumers (Ministry of Domestic Trade and Consumer Affairs, 2022). According to section 3 of the CPA, a consumer is "a person who acquires or uses goods or services of a kind ordinarily acquired for personal, domestic or household purposes, use or consumption; and does not acquire or use the goods or services, or hold himself out as acquiring or using the goods or services, primarily for the purpose of resupplying them in trade; consuming them in the course of a manufacturing process; or, in the case of goods, returning them." It also establishes the National Consumer Advisory Council (NCAC) and the Consumer Claims Tribunal (TCC). Close examination indicates that the CPA contains no provisions for responsible lending, implying that service providers are not required to assess prospective consumers' suitability and affordability for various credit products.

Responsible Lending Framework Governing Banking Industry in Malaysia

This section examines applicable legislation and guidelines vis-à-vis responsible lending in the banking industry in Malaysia.

The Financial Services Act 2013

Policies that safeguard the interests of consumers of financial products and services help households manage risk better, create a more competitive financial market, and improve overall financial stability (FSB, 2011). The Financial Services Act 2013 (FSA) was implemented in June 2013 in order to ensure effective and comprehensive financial consumer protection. This Act, which is regulated by BNM, was designed to ensure that major financial institutions in Malaysia, including banks, are subjected to uniform, systematic, and rigorous supervision. The Financial Services Act 2013 (FSA) oversees the banking and insurance industries, as well as the payment system and foreign exchange issues. The Act is hailed as a comprehensive law with the primary purpose of promoting financial stability and assuring, among other things, financial institutions' equal, responsible, and professional conduct (Ilias, 2018a). It also strives to safeguard financial customers' rights and interests. In achieving the goal of the FSA to foster financial stability in Malaysia, Bank of Malaysia (BNM) plays an important role in protecting

the rights and interests of consumers of financial services and products offered by banking institutions (Gumis & Tan, 2021).

In this regard, the power granted to the BNM to create a standard encompassing assessment of suitability or affordability of financial services or products delivered to financial consumers, as stated in section 123(2) of the FSA, has given responsible lending a higher priority. In terms of responsible lending, BNM has implemented the GRF which requires all banks to abide by responsible lending standards. Section 272(2)(b) of the FSA considers non-compliance with the GRF to be a criminal offence. In the event of a breach, BNM may also seek administrative or civil action under section 234 of the abovementioned act.

The Guidelines on Responsible Financing

In general, the bank tightened lending standards because people rely heavily on credit to buy what they want (Musa, 2015). BNM must implement effective strategies to reduce undesirable consequences such as reckless consumption, which can lead to consumer over-indebtedness. BNM aims to fortify consumer protection by addressing information gaps between financial institutions and consumers and "setting clear expectations on fair, responsible, and transparent practises by financial institutions in their dealings with consumers" by regulating and supervising the market conduct of financial institutions (Musa, 2015).

BNM has released a number of rules relating to prudential matters that apply to banking institutions under its jurisdiction in order to maintain financial stability in our country. The Guidelines on Responsible Financing (GRF) was issued on 18 November 2011, and went into effect on 1 January 2012, to govern responsible lending. The major goals of this guideline are to guarantee that financial service providers use cautious, responsible, and transparent financial practises, that consumers make smart borrowing decisions, and that financial service providers give better disclosure and guidance.

The GRF also attempts to protect financial consumers from over-indebtedness and to provide guidelines to Malaysian banks on how to deal with responsible financing. Since consumers have access to a wide range of financial services and products, they may make poor decisions that have major consequences on their financial situation in the future (Musa, 2015). Hence, the GRF plays a role in assisting families to reduce risk and maintain long-term control over household debt levels.

The GRF establishes six policy requirements to ensure that financial services do not exploit consumers when promoting their products and services. Suitability and affordability assessments, marketing and disclosure, fees and charges, monitoring and recovery, avenues and recourse for assistance, and compliance requirements are all examples of such requirements. To improve financial institutions' financial responsibility, the bank must carry out all policy requirements for each financial service and product. However, in this study, focus is given to two out of the six requirements, namely suitability and affordability assessment as well as compliance, which are extensively investigated.

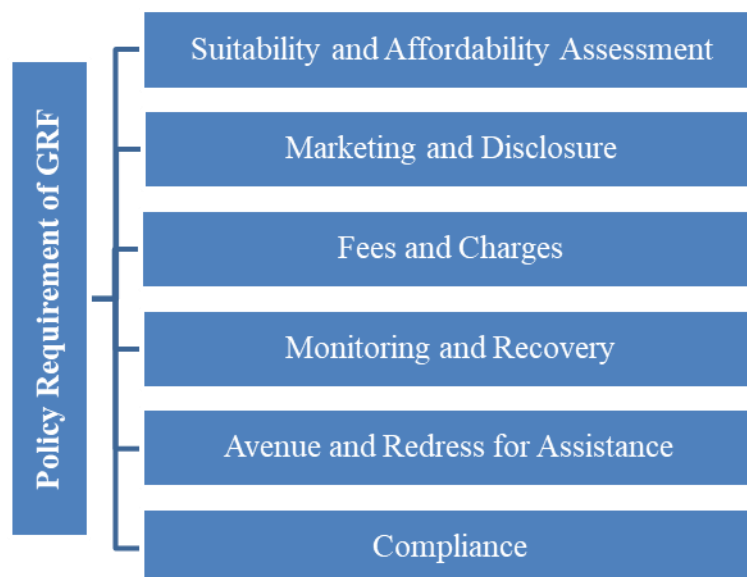


Figure 1: The Policy Requirements of the GRF Issued by BNM.

Mandatory Suitability and Affordability Assessment

All banking institutions must undertake a suitability and affordability evaluation for each new and extra credit facility they offer under the GRF (Ilias et al., 2019). All financing products, including home financing, personal financing (including overdraft facilities), vehicle financing, credit and charge card products, and financing products for the purchase of securities (with the exception of share margin financing, which is governed by Bursa Malaysia rules), may only be granted to the retail consumer after the bank has completed this mandatory assessment (Bank Negara Malaysia, 2012).

To reduce credit risks and losses, proper suitability and affordability assessments must be done, according to GRF item 6. Other than providing customers the proper and adequate information about the financial service, determining acceptable financial products and services is critical. As a result, the consideration should be based on their potential to meet the repayment obligation in the future.

BNM further recommends that financial institutions take necessary measures in examining the suitability and affordability of each financing product offered to their customers under this guideline. A consumer is required to make a sound borrowing decision that is in line with their obligations only after receiving sufficient information. The bank must ensure that the consumers are financially viable and will be able to meet their repayment commitments in full during the financing period, without the need for debt relief or significant hardship (Ilias et al., 2019).

Furthermore, financial institutions are required to examine the consumer's ability to repay the loan using a reasonable Debt Service Ratio (DSR). The DSR is commonly employed by Malaysian banks to determine if a borrower is eligible for a loan, with each bank having its own technique for calculating income, commitment, and the various maximum DSR criteria (Alzahari, 2019). In terms of protection, the maximum deduction levels are 60% of the borrower's monthly income, including loan repayment, statutory, and other requirements (Bank Negara Malaysia, 2014). The DSR is made up of two key components: commitment and

income, and it represents a consumer's monthly debt payback obligation (Alzahari, 2019). As a result, it is critical for the financial service provider to evaluate the right financing products as well as the consumer's ability to repay their loan by using DSR, which is calculated using the following formula: -

DEBT SERVICE RATIO (DSR)	all outstanding debt repayment obligations (including those not covered by Central Credit Reference Information System (CCRIS))
	income after statutory deduction (including tax, EPF, SOCSO, etc.)

Figure 2: The Formula for Debt Service Ratio (DSR).

Moreover, financial institutions will gain access to the consumer's repayment history and credit scores by making appropriate inquiries into the consumer's income after statutory tax deductions, Employment Provident Fund (EPF) contributions, and current and future debt repayment obligations in the banking and non-banking industries. Other than observing the history of the consumer's repayment obligation, the financial institution has the obligation to check on CCRIS of the consumer's outstanding debt obligation of either secure and unsecured debt from other entities that provide them with credit facilities in order to accurately compute DSR (Musa, 2015).

CCRIS, which was founded in 2001, is a credit reporting system and credit score system used in the Malaysian banking industry to obtain precise information on borrowers and previous credit transactions (Saari, 2019). Section 47 of the Central Bank of Malaysia Act 2009 authorises CCRIS to collect credit information (including information relating to the rejection of any cheque by reason of insufficient fund in the account); to disclose credit information collected to a financial institution for the purpose of assessing the creditworthiness of its existing and potential consumer or to assess the eligibility of the consumer to maintain or open a current account, the borrower for the purpose of verifying that accuracy of the credit information and registered credit reporting agency for the purpose of providing credit reporting or credit assessment services; as well as to protect the BNM against any legal action (Saari, 2019). Furthermore, CCRIS credit reports contain both positive and negative credit information about consumers, with summary credit reports, full credit reports, consumer supplementary reports, and motor vehicle records among the reports generated (Saari, 2019).

Specific questions should be asked about the consumer's financing that is not covered by the CCRIS, and the consumer should be reminded of his responsibility to provide complete and accurate information when applying for banking products. Where discounted interest/profit rates are applicable early in a financing arrangement, the highest applicable rate should be employed in the DSR formula.

To calculate DSR, financial institutions must investigate the sources and amount of income, which can be calculated using the consumer's six-month salary and must be supported by reliable proofs. Nevertheless, when there is fluctuating income, the financial institution must

examine the variable for at least the previous three months’ income and only use an average prudent percentage in their evaluation.

Otherwise, if there is any discrepancy after considering all factors, the financial institution shall perform additional verification or refuse the consumer's application. The financial institution must also allow sufficient buffers for expenditures and contingencies, taking into account the consumer's relevant circumstances, such as the nature of employment, the number of dependents, the location of residence, and other relevant factors that may affect the consumer’s level of expenditure. The bank, on the other hand, should not rely only on collateral when granting credit to a customer who has been determined to be unable to afford the loan for a variety of reasons.

In terms of financing tenure, financial institutions may extend it in order to improve affordability. However, this measure will increase the consumer’s financial burden, thus putting them at greater risk in the long run (Ilias et al., 2019). Despite the fact that the loan term can be prolonged, the GRF specifies that vehicle financing is restricted to nine years, whereas housing and personal financing can be extended for up to 35 and ten years, respectively. Furthermore, when the financing term is extended until the financing payback at retirement, financial institutions must examine the rate of EPF accumulation, pension provisions, and contract annuity payments.

Additionally, the GRF's compliance is delegated to the senior manager and board of each financial institution, with the BNM acting as the enforcement agency. In the event of non-compliance with the GRF's requirements, the financial institution must have a plan in place to address the problem.

The financial institution must have suitable and appropriate documentation to support the decision, which will make internal risk management and supervisory reviews easier afterwards. Any financing choice must be adequately documented and supported by the relevant documentation that back up the decision to provide or refuse financial services and products. Table 2 provides a summary of mandatory suitability and affordability assessment under the GRF.

Table 2
Summary of Mandatory Suitability and Affordability Assessment under the GRF.

Elements of the Assessment	There are five main elements of the assessments which include: a. Debt Service Ratio (DSR) by ascertaining i) Debt Repayment Obligation; ii) Income Verification; b. Financing Decision; and c. Tenure of the Financing.
Types of Credit Products	This assessment must be conducted on each type of service and product offered by the banks such as: a. Home Financial Products; b. Personal Financing Product (include overdraft facilities); c. Vehicle Financing Products; d. Credit and Charge Products; and

	e. Financing Products for the purchase of securities (except share margin financing governed by Bursa Malaysia rules).
Obligations of the Consumers	The consumer's duty and obligation include: <ul style="list-style-type: none"> a. To make sound borrowing decision that fits their obligations and ability to repay the loan; and b. To disclose essential and correct information of their current financing to the bank if required.
Obligations of the Banks	The bank has the obligation to make sure that: <ul style="list-style-type: none"> a. The consumers can afford and reasonably meet the repayment obligations in full throughout financing tenure without recourse to debt relief or substantial hardship; b. An assessment of the consumer's ability to afford the financing has been evaluated based on DSR; c. The consumer's repayment history and credit scores have been conducted; d. The consumer's debt repayment obligation has been analysed and considered appropriately to determine the consumer's ability to afford the repayment obligation in the future; e. Income verification of each consumer has been evaluated and proved by reliable evidence and documentation; f. Sufficient buffers for expenditure and contingencies are considered for the consumer by taking into account their circumstances; g. There must be proper and appropriate documentation that supports the financing decision; and h. The financing tenure has been decided according to the types of the credit products and the consumer's circumstances.
Compliance	The compliance of the GRF relies on the BNM as the enforcement agency and delegates the duty to the senior manager and the board of the bank to conduct sufficient actions and plans to resolve any issue that arises within their power.
Effect of Non-Compliance	In the event of any non-compliance, the financial institution itself must have an action plan to rectify the issue. In cases of GRF non-compliance by the bank, action will be taken by the BNM as mentioned in the relevant provision under FSA 2013.

Source: Author

Compliance with the Guidelines

In cases where the GRF is violated, BNM may use appropriate enforcement powers (Ilias et al., 2019). To demonstrate compliance with these requirements, the bank must be able to establish that its systems and procedures, including risk management and internal control, are in proper working order. Any material non-compliance should be reported to Senior Management and the Board of Directors, along with action plans to correct the problem.

As a result, financial institutions are responsible for ensuring that their intermediaries follow the standards and that reasonable measures are taken to address non-compliance, misconduct, and undesirable practises by their employees. In exchange, the Board has the

ultimate duty to ensure that any shortcomings in the conduct of the financial service provider's retail financing business that may expose them to larger financial and reputational risks are addressed (Musa, 2015).

Analysis on The Impact of The Grf in The Malaysian Banking Industry

The GRF's mandatory suitability and affordability assessment has caused concerns among bank consumers, who must go through a rigorous screening procedure before their loan applications can be granted (Isa et al., 2016). The implementation of the GRF in 2012 had an impact on the majority of financial goods and services. Due to enhanced documentation and greater diligence on the part of financial institutions in processing personal financing, a number of personal loan approvals have been denied (Sik, 2012). Personal financing is profitable for financial organisations since it offers a high profit margin (Musa, 2015). The criteria also had an influence on automotive financing, since car sales decreased as credit conditions tightened (Isa et al., 2016). The home loan is also impacted early on since the borrowers are more likely to be less affluent, with lower income and disproportionately higher expenditures (Musa, 2015).

The GRF is the present system that protects consumers from falling into the trap of excessive debt. According to BNM, the GRF's implementation serves to protect individuals' interests by allowing them to borrow funds within their capacity to repay the loan throughout its term (Bank Negara Malaysia, 2016). Aside from that, the GRF's impact minimises the danger of borrowers accumulating an unsustainable debt burden, which could lead to financial difficulties (Bank Negara Malaysia, 2016). According to the GRF's policy criteria, financial institutions must determine the borrower's income after statutory deductions, necessary expenditures, and other duties in order to meet debt repayment obligations. This is necessary to ensure that borrowers can continue to pay their loans and have adequate financial reserves to cover living expenses as well as deal with any increases in financing rates and prices. To avoid erroneous evaluation outcomes, reliable sources of income must be proven, and avoiding sole reliance on customers' self-certification, as stated by the GRF, is desirable (Ilias et al., 2019).

However, since the whole debt obligation of DSR cannot be fully determined by CCRIS, several questions arise about the statutory requirements of suitability and affordability evaluation (Ilias et al., 2019). The major objective of CCRIS is to synthesise consumer credit information into standardised credit reports, although the system does not include data on debt obligations from organisations outside of its scope, particularly non-bank institutions. As a result, a thorough investigation must be carried out to estimate the debt obligation outside of bank institutions, although the veracity of the information provided remains suspect.

Moreover, the GRF's compliance is delegated to the senior manager and board of each financial institution, with the BNM acting as the enforcement agency. The GRF does not give any remedies to any financial consumer who suffers losses as a result of irresponsible lending, and the power of the court or alternative dispute resolution is also not mentioned in relation to the agreement and the financial duty of the consumer. It is viewed that this may not adequately protect the interest of the consumers.

Responsible Lending Framework Governing Non-Banking Industry in Malaysia

There are a variety of consumer credit providers which are categorised under the non-banking industry. Each of them is governed by different laws and regulations. For example, the moneylending activity is governed by the Moneylenders Act 1951 (MLA), the Hire Purchase Act 1967 (HPA) was enacted to govern hire purchase transaction, pawnbroking activity is regulated by the Pawnbroking Act 1967, the Consumer Protection (Credit Sale) Regulation Act 2017 (CPR) is introduced to govern credit sale transaction and the cooperative credit activity is governed by Cooperative Society Commission Act 1993 (CSCA). Most of the legislations have their separate regulation and guideline which should be read conjunctively. Each of these legislations is administered by different ministries and a specific enforcement department is set up to enforce the law.

Moneylenders Act 1951

Generally, there is no legal requirement on moneylenders or currently known as community credit companies to conduct suitability or affordability assessment under the MLA. Hence, the community credit companies can freely conduct their credit offerings without assessing consumers' creditworthiness as long as they are in line with their business strategies and financial risk. The MLA, by virtue of section 16(1), does require the moneylenders and consumers to sign the moneylending agreement and the agreement be duly stamped before delivery to the borrower and before lending the money to them. Thus, the moneylenders are subjected to sign the agreement with all parties to the contract prior to it being stamped and delivered to the consumers. Only after the consumer received the agreement duly stamped, can the consumers obtain their credit according to the agreement from the moneylender. In the event of contravention with this section, section 16(2) of the MLA mentioned that such moneylender shall be guilty of an offence and thus shall be liable to a fine not exceeding RM10,000 or imprisonment for a term not exceeding 12 months or to both. Even though section 16 of the MLA does provide a simple step before the consumer can get the credit from moneylenders, it is not sufficient to prove that the consumer is able to repay the loan in the future. Thus, there will be huge risks for the consumer to fall into over-indebtedness and eventually become bankruptcy cases.

Hire Purchase Act 1967

A specific legal provision obliging suitability and affordability assessment is absent in the HPA. Section 4A to 4G of the HPA merely provides the criteria of the agreement and the motor vehicle that must be declared and properly documented. However, there is no further provision that specifies the action that must be taken by the credit provider to evaluate the financial status of the consumers prior to the agreement.

The impact of not having such provision can be observed on the practice of hire-purchase transactions that provide the loan for the consumer who cannot afford to repay the loan. The absence of the assessment has encouraged consumers to borrow from non-banking credit providers despite their financial standing as it is an easy way to obtain a loan (Ilias et al., 2019). Even though hire-purchase loans offered by the non-banking industry do help the consumers and the economy as a whole, the absence of proper assessments of the consumers will contribute to the case of over-indebtedness. The debt spiral will continuously occur since the non-banking credit providers will extend the hire-purchase facility to consumers who are disqualified to get loans from the banking institution.

Pawnbrokers Act 1972

Pawnbroking transaction is one of the frequently sought-after credit facilities offered by the pawnbrokers whereby consumers are required to pledge valuable items such as gold as securities. The PA is the legislation that governs this activity. The PA imposes a requirement on the pawnbrokers to get their licence legally before starting their business. This type of credit transaction is popular for consumers who need fast cash since it involves less formality and documentation.

Regarding the lending activities, there is also no legal requirement that imposes the duty to the pawnbroker to conduct any credit assessment of the consumer prior to extending the loan. The PA does not have a specific provision imposing the obligation on pawnbrokers to evaluate the consumers on their ability to repay the loan as stipulated under the agreement. Even though there is a security under this agreement, it is still important to assess the consumers on their affordability and suitability of the credit taken by them in making sure that they are able to pay the loan without pawning their assets. At least, their assets will be returned to them after they have settled their loan and fulfilled all other requirements under the contract. Therefore, the PA should be revised particularly on the responsible lending provision to avoid any issues and problems occurring during the transaction.

Consumer Protection (Credit Sale) Regulation Act 2017

Currently, credit sale has become one of the popular means of obtaining goods without the need to have adequate cash in hand since the price can be paid on an instalment basis. Various companies offer consumers the option to buy their product through mobile applications such as Seng Heng Sdn Bhd, Singer (M) Sdn Bhd, and Parksons Credit Sdn Bhd where the consumers may pay for the items through the service of credit sale. The most common credit sale in Malaysia involves the purchase of home appliances, furniture, and electrical items with a seller or credit facility provider.

Regulation 4 of the CPR provides that before the credit agreement is duly signed by all parties, the credit provider needs to inform orally and in written form in a specific document during the course of making an offer to the consumer as the purchaser on the following information (Christina Chia Law Chambers, 2016): -

- (a) the cash price of the goods (Regulation 4 of the CPR);
- (b) the interest rate imposed (Regulation 6 of the CPR);
- (c) the period of instalments (Regulation 15 of the CPR);
- (d) the monthly amount payable (Regulation 15 of the CPR);
- (e) the total price of the goods inclusive of interest (Regulation 6 of the CPR);
- (f) the ancillary charges (Regulation 13 of the CPR);
- (g) the delayed payment charge and its formula of calculation (Regulation 14 of the CPR);
- (h) the formula for calculation of rebate (Regulation 17 of the CPR);
- (i) whether the purchase of goods is subject to a rebate when the goods are promotional goods or when other goods are offered to as a prize for the goods sold] (Regulation 17 of the CPR); and
- (j) the date of delivery of the goods (Regulation 4 of the CPR).

Even though the CPR imposes the obligation to the credit provider to provide all relevant information to the purchaser, the consumers' affordability to repay is not required to be assessed. The CPR does not provide a detailed lending regulation, thus there is a risk of non-payment on the part of the consumer.

Cooperative Society Commission Act 1993

The CSCA through section 51 allows the members of a cooperative to obtain any credit assistance from the cooperative they are registered to. It states that the cooperatives may grant credit facilities to their members and employees. Besides, there is a Guideline on Credit Facility for Cooperatives (GCFC) which should be read conjunctively with the CSCA (Suruhanjaya Koperasi Malaysia, 2009). The GCFC allows the credit products offered by the cooperative to be secured and unsecured credit. The GCFC also requires their members to furnish relevant documents which must be considered by the cooperative before they can obtain the credit (Suruhanjaya Koperasi Malaysia (SKM), 2009). Moreover, the GCFC also requires the cooperative to assess the consumers on their understanding, the purpose of borrowing, type of credit, and source of payment of the credit borrowed (Suruhanjaya Koperasi Malaysia (SKM), 2009).

The GCFC provides a brief guideline on lending procedures, albeit not comprehensive. There is no verification of income, which allows the consumer to merely bring documents that are related to the process of obtaining credit from the cooperative. On the part of the cooperatives, it is a prerequisite for the cooperative to have a credit score system and they are also required to analyse the consumers' debt obligation. Hence, it is viewed that the CSCA and GCFC should be revised. Additionally, even though the GCFC has listed a relevant lending practice, it is in the form of soft law. The GCFC itself does not provide any effect of non-compliance with the guideline.

Analysis on Responsible Lending Framework in The Non-Banking Industry in Malaysia

Briefly, uniform regulation for non-banking consumer credit industry to control responsible lending is not available. In the absence of such law, the credit providers are at liberty to conduct and practice it or otherwise. Thus, the issue of over-indebtedness and bankruptcy cases will continue to rise until an action is taken by the government to enact a single law on responsible lending for all consumer credit industry.

With regards to the MLA, there is the need for MLA to be amended in terms of lending practices of the moneylenders to protect consumers from the issue of over-borrowing. It is crucial to have a proper assessment of consumer financial status in order to prevent the moneylenders from providing credit to the consumers too easily especially to those who are blacklisted (Ilias et al., 2019). In addition, consumers will also benefit from a good lending activity as they can avoid the issue of fraud, misrepresentation, exploitation, and unfair business practices (Sivanandam and Tan, 2019). Thus, the revision will indeed benefit the moneylenders and also the consumers to create a healthy financial market and develop the trust for our current financial system.

Moreover, by virtue of regulation 19 of the CPR, a consumer is able to terminate the credit sale agreement and surrender the purchase of goods to the credit providers in the event of default. However, this case will not happen if an assessment of the purchaser's financial status

has been evaluated from the beginning. In the event of default, the credit provider will suffer loss as the value of goods may drop significantly especially when it involves electronic devices. Therefore, the CPR is considered as not comprehensive especially on the responsible lending provision and thus it should be revised by the authority.

For cooperative companies offering credit products, it is viewed that the CSCR and GCFC should be revised. Even though the GCFC has listed a relevant lending practice, it is in the form of soft law. It is also not comprehensive and an amendment of the CSCR and GCFC is needed to provide an updated law that is comparable with current market practice. Furthermore, the GCFC itself does not provide any effect of non-compliance with the guideline and thus, this will be a huge issue in solving any dispute later on.

The preceding discussion exposes those laws and guidelines applicable for the non-banking industry offering credit facilities in Malaysia are scattered. It also reveals the absence of a uniform legal requirement to conduct suitability and affordability assessment as far as non-bank credit providers are concerned. The summary of the legal framework governing non-bank credit providers in relation to suitability and affordability assessment is depicted in Table 3.

Table 3

The Summary of the Legal Framework Governing Non-Bank Credit Providers in Relation to Suitability and Affordability Assessment.

Credit providers	Ministry	Law and/or Guideline	Mandatory Suitability and Affordability Assessment	Effect of non-compliance
Moneylenders	Ministry of Housing and Local Government	Moneylenders Act 1951 (MLA)	The relevant legislation does not make it mandatory to perform suitability and affordability assessment.	Non-compliance is not an offense under the governing laws.
Pawnbrokers	Ministry of Housing and Local Government	Pawnbrokers Act 1972 (PA)	The relevant legislation does not make it mandatory to perform suitability and affordability assessment.	Non-compliance is not an offense under the governing laws.
Hire-purchase	Ministry of Domestic Trade and Consumer Affairs (MTDCA).	Hire Purchase Act 1967 (HPA)	The relevant legislation does not make it mandatory to perform suitability and affordability assessments.	Non-compliance is not an offense under the governing laws.
Credit Sale	Ministry of Domestic Trade and Consumer Affairs (MTDCA)	Consumer Protection (Credit Sale) Regulation Act 2017 (CPR)	The relevant legislation does not make it mandatory to perform suitability and affordability assessment.	Non-compliance is not an offense under the governing laws.
Cooperative	Ministry of Entrepreneur Development and Cooperatives (MEDAC)	Cooperative Society Commission Act 1993 (CSCA) and Guideline on Credit Facility for Cooperatives (GCFC)	The relevant legislation does not make it mandatory to perform suitability and affordability assessment.	Non-compliance is not an offense under the governing laws.

Source: Author

Comparison Between Responsible Lending Framework in Bank And Non-Bank Industry

There are several differences between the lending practices between the bank and non-banking industry. Even though both of them are offering credit products to the consumers, the method to evaluate the financial status of the consumers is different. The detail of the comparison can be summarised in Table 4 below.

Table 4

The Comparison Between Responsible Lending Framework for Banking and Non-Banking Institution

Subject	Banking Institution	Non-Banking Institution
Types of credit products	Home financial products, personal financing products, vehicle financing products, credit and charge products, and financing products for the purchase of securities.	Personal loan, hire-purchase, moneylending, pawnbroking, credit sale, and housing loan.
Law and guideline on responsible lending	The GRF are applicable for lending practices.	No specific and standard law regulates responsible lending activity.
The procedure of the assessment	All banks must conduct the procedure of the assessment as follows: a. Debt Service Ratio (DSR); b. Debt Repayment Obligation; c. Income Verification; d. Financing Decision; and e. Tenure of the Financing.	No mandatory suitability and affordability assessment.
Duty of credit provider	The credit provider must perform mandatory suitability and affordability assessment and other lending guidelines by virtue of the GRF.	All applicable law does not require the credit provider to conduct a suitability and affordability assessment before granting any credit products.
Enforcement	Non-compliance is an offence under section 272(2)(b) of the FSA and BNM may pursue administrative or civil action in the event of a breach as laid down under section 234 of the FSA.	Non-compliance is not an offence under the governing laws.

Source: Author

The Lacunae and The Way Forward

This section will explore the flaws in our present responsible lending framework, as well as suggestions and recommendations for improvement. The explanation above has clearly demonstrated that the GRF is the only set of standards that can be used to govern a bank's credit transactions through six key requirements, including suitability and affordability assessments, as well as compliance with the guidelines. The effectiveness of GRF is hampered due to several shortcomings. Firstly, there is a lack of coverage by CCRIS. CCRIS is a credit reporting system used by banks to synthesise consumer credit information into standardised

credit reports; however, data on debt commitments from institutions outside of its coverage, most notably non-bank institutions, is not included in the system. As a result, the overall debt service ratio (DSR) cannot be accurately calculated when consumers have one or more loans from non-banking institutions and do not disclose them to the bank during the evaluation. Even if a consumer is obligated to pay only 30% of his monthly salary towards a banking institution's debt, he is still eligible for a bank loan, despite having a 30% of his monthly salary of loan to service from a non-banking institution. The bank is unable to verify the authenticity of the consumer's credit information due to weaknesses in the CCRIS system.

In addition, BNM as the enforcement agency is entrusted with GRF compliance, which is outsourced to each financial institution's senior manager and board of directors. When it comes to imprudent lending, the GRF offers no protection to financial consumers who have suffered damages. As a result, excessive debt and bankruptcy will continue to be a problem. Furthermore, the jurisdiction of the court or alternative dispute resolution (ADR) to hear cases on irresponsible financing due to non-observance of mandatory suitability and affordability assessment is not specified in relation to the agreement and the financial obligation of the consumer. There is also no legal consequence against consumers for supplying wrong information resulting to improper assessment.

Furthermore, Malaysia's present law, regulation, and guidelines for non-banking institutions do not include a responsible lending framework. Non-bank credit providers such as moneylenders, pawnbrokers, firms that offer hire purchase, organisations that offer credit sales, and cooperatives that give financial goods to their members are free to perform responsible lending or vice versa. None of the applicable regulations compel the credit providers to do a proper evaluation, such as a mandatory suitability and affordability assessment or any other assessment, before choosing whether to approve or reject a consumer's loan request. Furthermore, the applicable legislation makes no mention of the consequences of non-compliance with any responsible lending framework, hence non-compliance is not a crime for non-banking institutions. When non-banking credit providers advertise their credit services to people who are not suitable or cannot afford it, the problem will become much worse. As a result, the lack of a responsible lending framework in non-banking entities will have a significant impact on customers, credit providers, and the country as a whole, and this will persist if authorities do nothing.

Thus, this study is highlighting four main recommendations. To begin with, Malaysia should establish a standard regulation on responsible lending. Regulators and policymakers must play crucial roles in protecting consumers' interests, ensuring fair and good practise among industry actors, and boosting market trust in all credit products offered in Malaysia in order to prevent cases of over-indebtedness among Malaysian credit consumers. The introduction of a standard regulation for responsible lending would significantly advance the consumer empowerment agenda outlined in BNM's Financial Sector Blueprint 2011-2020, which aims to strengthen consumer protection to prevent them from becoming over-indebted as a result of irresponsible lending (Ilias, 2018b; Ilias & Amin, 2016). To ensure consumer financial safety in our country, the regulator must enact a legal and regulatory instrument that can be implemented by an enforcement authority to oversee responsible lending practises for all credit providers, including banking and non-banking companies (Ahmed & Ibrahim, 2018). Currently, Malaysia only has the GRF, which is a non-legislative instrument that regulates all

responsible lending practises for banking institutions. However, the GRF is a sort of soft law; authorities should adopt a hard law to provide stronger legal binding on credit transactions between parties. A simple guideline is insufficient because the GRF does not specifically state the legal consequences of the banking institution's non-compliance. Meanwhile, the lack of uniform norms, laws, or recommendations in our non-banking sector is the primary reason Malaysian regulators should implement a responsible lending policy. Because there is no law requiring them to do so, the applicable regulations for the non-banking business have demonstrated that they are free to issue a loan to a consumer with or without any single responsible lending practise. To avoid incidents of over-indebtedness, bankruptcy, unfair market practises, and misleading credit agreements between customers and credit providers, the regulator should implement a single act on responsible lending practises.

Second, in any responsible lending regime, adequate credit reporting is critical. BNM, which regulates banking institutions, has implemented a credit reporting system known as CCRIS. This system enables all banks to examine a customer's financial information and obtain information about the customer's current debt with banks. Apart from studying the history of their repayment responsibilities, this system can assist bankers in checking on consumers' outstanding debt obligations from either secure or non-secured firms that offer them credit facilities. CCRIS, however, cannot properly determine the consumer's overall debt responsibility and payback history. The major purpose of CCRIS is to synthesise consumer credit information into standardised credit reports; however, data on debt commitments from institutions outside of its coverage, particularly non-bank institutions, is not included in the system. As a result, the accuracy of the information provided by the consumer remains in doubt. As a result, the government should implement a new system or a more comprehensive credit reporting system that can be accessed by all credit providers to analyse consumers' credit ratings and compute sensible DSR before giving them loans. This approach will indeed assist credit providers in determining a consumer's financial obligation in order to determine a credit product's eligibility and affordability.

Finally, the issue of non-compliance can be heard in court or through alternative dispute resolution (ADR). It is evident that by adopting the GRF, BNM has made a significant effort to provide a better solution to the problem of customer over-indebtedness. The GRF's compliance relies on the BNM as the enforcement agency and delegated the responsibility to each financial institution's senior manager and board. The GRF does not give any remedies to financial consumers who suffer losses as a result of irresponsible lending, and the power of the court or alternative dispute resolution is also not mentioned in relation to the agreement and the financial duty of the consumer. As a result, the GRF's compliance is only focused on the function of each financial provider, with no protection for the consumer. Therefore, Malaysian regulators and policymakers should think about and focus on this issue in enforcing an enforceable regulation that allows consumers to take action against credit providers in the event of non-compliance with responsible lending and gives the court the authority to adjudicate the cases. With the creation of our Tribunal for Consumer Claims and Financial Ombudsman Scheme, we should improve their enforcement capacity to address the issue of non-compliance.

Under the Australian NCCPA, non-compliance with the act or code will result in civil actions, criminal actions, and penalties. In Australia, a consumer who has suffered loss or harm as a

result of a violation may seek damages and other compensation orders. Regardless of whether the parties have a contractual relationship, remedies can be pursued against a relevant licensee right away. Australian Securities and Investments Commission (ASIC) may also suspend or cancel a licence if it has reasonable grounds to believe that the licensee is likely to breach a licence obligation, is not a fit and proper person to engage in credit activities, or that the licence application was false in a material particular, materially misleading, or omitted a material matter. ASIC may take these factors into account when assessing whether or not to issue a banning order preventing a person from engaging in credit operations (or specified credit activities). As a result, as Malaysia's current legislation lacks any civil, criminal, or penalty provisions for non-compliance with the responsible lending framework, a reference to Australia's NCCPA should be made. Regulators should impose enforceable damages, restitution, penalties, and legal measures against those who violate the responsible lending regulation.

Finally, there must be a legal consequence for untruthful disclosure by consumers, particularly during the credit provider's assessment. Some consumers may mislead or withhold information about their financial situation in order to avoid being denied a loan, which will be difficult to repay later. A reference may be made to the South African NCA whereby if found supplying wrong information, the consumers are deprived from the option of taking action against the credit providers for granting reckless lending. Hence, they cannot later on claim compensation due to reckless lending since they have, in the first place, been reckless in providing correct information on their financial background. Thus, the law seems to be fairly balancing the interests of both parties and not consumers alone.

Significance of Research

This study will be a significant endeavour in serving a useful reference for the regulator or policymaker in establishing a comprehensive legal framework governing responsible lending in Malaysian consumer credit industry. The proposed legal framework will be in the form of a new legislation which will cover both bank and non-bank credit providers. Besides, this study would have a potential impact in reducing the cases of over-indebtedness among Malaysian consumers due to irresponsible lending practices. This also will support one of the critical efforts of the Malaysian Department of Insolvency in reducing the number of bankrupts in Malaysia. This research is likewise aimed to uphold the spirit of consumer empowerment agenda embedded in BNM's Financial Sector Blueprint 2011-2020 which aims at strengthening protection of consumers to avoid them from being over-indebted due to irresponsible lending.

In addition, the implementation of the recommendation would increase the trust of the market and eventually contribute to financial stability and economic growth as a result of the strengthening of the security of financial consumers. This implementation will also provide a fair and good practice among industry players consisting of various credit providers. Moreover, this study will enrich the literature on the protection of financial consumers in the consumer credit sector in Malaysia, especially with regards to the responsible lending system, which is not widely covered in current literature. Therefore, this research, which will introduce a new responsible lending framework for consumer credit industry in Malaysia, is timely and in tandem with the needs of the existing and future government policies.

Based on the theoretical contexts, this study can be related to the paternalism theory. The theory of paternalism in consumer credit industry may allow the interference of the government to protect consumer from any harmful effect. Even though the theory of paternalism will restrict consumer choices, however, this theory is important to protect the interest of the consumer and mitigation the problem of irresponsible lending (Tuffin, 2009). In certain ways, the concept of freedom of choice would not be of full benefit to vulnerable and disadvantaged credit consumers, since this group of consumers may be denied access to any financial product due to low incomes, limited financial education and other financial circumstances. Thus, this theory is ideal to be implemented in consumer credit industry since irresponsible lending is not only having a direct effect the consumers themselves but also have negative economy impact as responsible a whole.

In the perspective of a borrowing theory, it is generally argued that paternalistic control should not be necessary as consumers can take greater responsibility for their own borrowing behaviours. It is proposed that consumers must have an obligation to borrow responsibly, to educate themselves in financial literacy and to take appropriate financial decisions (Cvjetanovic, 2000). However, it must be acknowledged that there are classes of vulnerable and disadvantaged consumers who are unable to protect themselves financially and making a poor borrowing decision regardless of the information available to them (International Financial Consumer Protection Organisation, 2014). Lenders may intentionally target, exploit and manipulate them through psychological manipulation, misuse of legal loopholes, and utter fraud (Tuffin, 2009). Consumers do not, however, behave out of free will as predatory lenders may rely on their naivety of their financial knowledge.

In view of the significant disparity of power between the lender and the borrower, as well as the negative effects of bad loans affecting both the lender and the consumers, the balance between the economy and other consumers must be on the side of the enforcement of the legislation, even if this may place some restrictions on the consumer's choice (Tuffin, 2009). In this situation, paternalism is necessary and justified for the greater interests of society, not only of the consumers concerned. Therefore, an appropriate regulation on responsible lending may be implemented to encourage a better consumer protection, financial stability and promoting economic efficiency in consumer credit industry.

Conclusion

In order to consolidate Malaysia's financial stability, BNM's efforts to provide a better solution to the problem of consumer over-indebtedness should be recognised. The good impact on responsible lending in the banking industry may be shown through several pieces of evidence after nearly a decade of implementation of the GRF. For example, the GRF has encouraged prospective borrowers to make informed borrowing decisions in order to improve their interactions with financial institutions. Meanwhile, financial institutions will assist consumers in assessing their ability to make their payment obligations, thereby reducing the risk of them facing any significant hardship.

On the other hand, the non-banking sector must play a critical role in addressing the critical issue of over-indebtedness. Non-banking institution legislation and guidelines, at the moment, do not provide any kind of responsible lending framework for credit providers to review and assess the consumer's present financial obligations. This problem will become

more serious if non-banking credit providers conduct meticulous marketing to sell credit products to consumers who are not suitable or cannot afford such credit products. This problem will have a significant impact on individuals, credit providers, and the country as a whole.

Hence, the government should enact a uniform rule that can be applied to all service providers in the future to ensure a more responsible lending framework. Among the proposed aspects to promote responsible lending in our country are encouraging credit providers to use cautious and responsible lending methods, protecting consumers' well-being, and promoting more coordinated and consistent oversight procedures for credit providers. This will contribute to our country's long-term growth and financial stability, as well as assist financial institutions in reducing risks or losses that may arise in the future.

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References

- Abdullah, Nurhidayah Hanafi, H. (2007). A Comparative Approach of Money Lending Activities Practiced by The Financial Institution and "Ah Long" in Malaysia. Law Conference 2007, 257–267. <http://eprints.um.edu.my/id/eprint/13509>
- Ahmed, H., & Ibrahim, I. R. (2018). Financial Consumer Protection Regime in Malaysia: Assessment of the Legal and Regulatory Framework. *Journal of Consumer Policy*, 41(2), 159–175. <https://doi.org/10.1007/s10603-018-9369-0>
- Ahmed, Z. U., Ismail, I., Sohail, S. M., Tabsh, I., & Alias, H. (2010). Malaysian Consumers' Credit Card Usage Behavior. *Asia Pacific Journal of Marketing and Logistics*, 22(4), 528–544.
- Alzahari, S. Z. (2019). Determinants of Mortgage Repayment Affordability Among Middle Income Household in Penang [Universiti Utara Malaysia]. In Universiti Utara Malaysia. https://etd.uum.edu.my/8689/2/s819973_01.pdf
- Bank Negara Malaysia. (2012). Guidelines on Responsible Financing. 0–21.
- Bank Negara Malaysia. (2014). Financial Stability and Payment Systems Report 2013(ENG). Bank Negara Malaysia, 1984(March), 1–135. available@www.bnm.gov.my
- Bank Negara Malaysia. (2016). Responsible Lending Guidelines Ensures Borrowers' Affordability. Central Bank of Malaysia, 1–2. www.bnm.gov.my/index.php?ch=en_press&pg=en_press&ac=4253&lang=en
- Cherednychenko, O. O., & Meindertsmas, J. M. (2019). Irresponsible Lending in the Post-Crisis Era: Is the EU Consumer Credit Directive Fit for Its Purpose? *Journal of Consumer Policy*, 42(4), 483–519.
- Christina Chia Law Chambers. (2016). Credit Sale vs Hire Purchase : A Comparison. CCLC: The Legal Link. <https://www.cclc.com.my/legallink/credit-sale-vs-hire-purchase-comparison/>
- Commission, T. E. (2002). Proposal for a Directive of the European Parliament and of the Council on the Harmonisation of the Laws, Regulation and Administrative Provisions of the Member States Concerning Credit for Consumers. *Official Journal of the European Communities*, 331 E, 200–248.
- Cvjetanovic, M. (2000). Consumer Sovereignty : The Australian Experience. 67–91.
- FSB, F. S. B. (2011). Consumer Finance Protection with Particular Focus on Credit. Basel:

- Financial Stability Board, October.
- German Federal Ministry for Economic Cooperation and Development. (2011). A Stock-Taking of Strategies and Approaches among Development Agencies and Development Finance Institutions. *Advancing Responsible Finance for Greater Development Impact*.
- Gumis, S., & Tan, P. (2021). Malaysia 's New Omnibus Financial Legislation. *Skrine*, June 2013, 1–4.
- Ilias, I. @ I. (2018a). Enhancing Financial Consumer Protection in Consumer Credit Industry In Malaysia by Establishing a Single Regulatory Body. *International Islamic University Malaysia*.
- Ilias, I. @ I. (2018b). Enhancing Financial Consumer Protection in Consumer Credit Industry in Malaysia by Establishing A Single regulatory Body (Issue September).
- Ilias, I. I., Hingun, M., Hassan, R., Kassim, S., & Abu Bakar, E. (2019). Tackling Responsible Lending Obligation in Malaysia : A Diverse Approach. *International Journal of Advance Science and Technology*, 28(8), 314–321.
- Ilyana Ilias, I., & Amin, N. (2016). A Study on the Financial Consumer Protection in Malaysia with Specific Reference to the Financial Services Act 2013. *Malaysian Journal of Consumer and Family Economics*, 19, 1–13.
- International Financial Consumer Protection Organisation. (2014). *FinCoNet Report on Responsible Lending: Review of Supervisory Tools for Suitable Consumer Lending Practices*. International Financial Consumer Protection Organisation (FinCoNet), July. <http://www.finconet.org/FinCoNet-Responsible-Lending-2014.pdf>
- Isa, M. Y., Yahya, M., & Hussin, M. (2016). The Impact of BNM Guidelines on Household Loans on Commercial Bank and Islamic Bank Performances. 6(11), 377–387. <https://doi.org/10.6007/IJARBS/v6-i11/2406>
- Malbon, J. (2011). *Consumer Credit and Banking. Project on Strengthening Technical Competency for Consumer Protection in ASEAN*, December, 1–115.
- Mckee, K., Lahaye, E., & Koning, A. (2011). *Responsible Finance: Putting Principles to Work*. CGAP Focus Note, 73(1), 1–16.
- Micklitz, H.-W. (2015). Herd Behaviour and Third Party Impact as A Legal Concept: On Tulips, Pyramid Games, and Asset-Backed Securities. In S. Grundmann, F. Möslin, & K. Riesenhuber (Eds.), *Contract governance: Dimensions in law and interdisciplinary research*. OUP Oxford.
- Micklitz, H. W. (2013). *Herd Behaviour and Third Party Impact as A Legal Concept–On Tulips, Pyramid Games and Asset-Backed Securities*. *Contract Governance: Dimensions in Law and Interdisciplinary Research*. Oxford: Oxford University Press. Forthcoming.
- Ministry of Domestic Trade and Consumer Affairs. (2022). *Consumer Protection*. Official Portal Ministry of Domestic Trade and Consumer Affairs. <https://www.kpdnhep.gov.my/en/consumerism/consumer-rights/consumer-protection.html>
- Musa, M. A. (2015). The Role of Bank Negara Malaysia in Limiting Imprudent Consumption. *Intellectual Discourse*, 23, 475–494.
- Organisation for Economic Co-operation and Development. (2011). *G20 High-Level Principles on Financial Consumer Protection*. Organisation for Economic Co-Operation and Development, October, 1–7. <http://www.oecd.org/daf/fin/financial-markets/48892010.pdf>
- Parker, G. (1990). *Getting and Spending: Credit and Debt in Britain*. Avebury Aldershot.
- Rahman, A. S. A. (2007). Development of Consumer Credit Laws in Malaysia. *Journal of*

- International Commercial Law and Technology, 2(2), 68–75.
- Ramsay, I. (2010). Regulation of Consumer Credit. In D. Howells, Geraint Whilhelmsson, Thomas Ramsay, Iain Kraft (Ed.), Handbook of research on international consumer law. Edward Elgar Publishing.
- Saari, R. (2019). CCRIS and its Role in Promoting Financial Stability. Bank Negara Malaysia, August. <https://www.bnm.gov.my/documents/20124/813312/STS-564-Rosnizam+Saari.pdf/561af9d9-de37-7620-96b2-7ac67e1ae223?t=1584092431751&download=true>
- Scott, C. (2010). Handbook of Research on International Consumer Law (G. G. Howells, I. Ramsay, & T. Wilhelmsson (eds.)). Edward Elgar Publishing Limited.
- Sik, C. (2012). BNM Measures Taking Effect on Personal Loans. The Edge Financial Daily, 1–7.
- Sivanandam, H., & Tan, R. (2019). Govt to Create Consumer Credit Law to Protect Borrowers. Star Online, July 23, 2019–2020. <https://www.thestar.com.my/news/nation/2019/07/23/govt-to-create-consumer-credit-law-to-protect-borrowers>
- Suruhanjaya Koperasi Malaysia (SKM). (2009). Gp6 : Garis Panduan Mengenai Kemudahan Kredit oleh Koperasi. 51(1), 1–29.
- The World Bank. (2012). Good Practices for Financial Consumer Protection. World Bank.
- The World Bank. (2013). Responsible Lending Overview of Regulatory Tools. THE WORLD BANK Washington, DC, October, 1–54.
- The World Bank. (2017). Good Practices for Financial Consumer Protection. International Bank for Reconstruction and Development.
- Tuffin, J. (2009). Responsible lending laws: Essential Development or Overreaction. Queensland U. Tech. L. & Just. J., 9, 280–310.
- World Bank Group. (2017). Financial Inclusion in Malaysia. Financial Inclusion in Malaysia, May.