

Towards Banking Jurisprudence: Understanding Islamic Banking Products in Malaysia

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Abstract

Since product of Islamic banking is among the factors that are able to create customers' satisfaction to the system, it is extremely important to bring understanding to the customers on the products. Good understanding the customers have and good quality products the banks offer will bring success to the bank. However, with the emergence of so many banking institutions introducing the Islamic banking products and services, the amount of the products are not well in knowledge, different terminologies and principles in Sharia used by different banking institutions lead to confusion within the customers. Thus this study is trying to analyze the Islamic banking products offered and the mechanisms employed by all Islamic banks in Malaysia. It is believed that by highlighting the products and the mechanisms applied, customers' perception and attitude towards Islamic banking products will change from negative to positive and it is also believed that, it will bring adequate knowledge to the customers in understanding Islamic banking products and give trust to them when dealing with Islamic banks in Malaysia.

Keywords: Islamic Banking, Islamic Products, Sharia mechanisms, Sharia Principles

1. Introduction

In 2000, Islamic banking products have been introduced by 2 Islamic banks namely Bank Islam Malaysia Berhad (BIMB) and Bank Muamalat Malaysia Berhad (BMMB), 17 commercial banks, 5 merchant banks, seven discount houses and 4 foreign-owned banks (Ahmad & Haron, n.d.) to fulfill customers' needs. Indirectly, shows the growing interests on their part towards Islamic products. Another study indicates that Islamic banking products and services are represented by 9 Islamic banks and 18 conventional banks currently in Malaysia (Dusuki &

Abdullah, 2007). In 2007, there is a significant growth of Islamic banking system in Malaysia where the number of Islamic bank participation increases. Islamic banking products and services were introduced by 11 full fledged Islamic banks instead of 2, 8 commercial banks which were offering Islamic window, 4 Islamic investment banks and 5 development institutions (Bahari, 2009).

However, BNM has included EONCAP Islamic Bank Berhad to be considered in the list. So that, in 2011, the total of Islamic banks offering Islamic banking products is about 17. Of that 17, Islamic banking products in Malaysia are produced by some foreign Islamic banks like Al Rajhi Banking and Investment, Kuwait Finance House, HSBC Bank Malaysia Berhad, OCBC Bank Malaysia Berhad and Standard Chartered Bank Malaysia Berhad. Banks such as RHB Islamic Bank and Hong Leong Islam Bank Berhad were given licenses by Bank Negara Malaysia (BNM) to develop Islamic subsidiaries.

With the emergence of so many banking institutions introducing the Islamic banking products and services, the amount of the products offered are not well in knowledge, the different terminologies and principles in Sharia have been widely used by different banking institutions leading to confusion among the customers. Sometimes the lack of observation and regulation from certain authorities, the products are simply entering the market, causing doubtful and negative perception in people's minds (Samad, 2004). Looking at this deficiency, this study is to give a description on the Islamic banking products to avoid confusion among the customers as well as to explain the terms and terminologies of products utilized by each bank. This is because study on Islamic banking services and products and their mechanisms remains scarce until this present.

Customers should have insight and awareness on products and understand the concepts. It is interesting to mention that one of the significant determinants of Malaysian customers selection of Islamic banks is that knowledgeable staffs regarding Islamic products and services (Dusuki & Abdullah, 2007) that can give related information to them. This finding shows the customers need that kind of information which this study is in intention to provide. In addition to that, Naser et al. (2005) in his study on customers' bank selection criteria suggested that education on products and services need to be conducted by Islamic banks for attaining success because well knowledge on products and services will increase the satisfaction in customers. This study comes to put an effort of retelling people on the products and mechanisms so that they have knowledge and awareness of the products and mechanisms.

2. Discussions

2.0 Sharia Mechanisms Applied In Islamic Banks In Malaysia

Mechanisms applied in supporting the Islamic banking products generally can be classified into three categories such as trading, participation and supporting principles (Khir, Gupta, & Shanmugam, 2008).

2.1 Trading Principle

As for the trading principles, the mechanism is based on selling and buying assets. The trading mechanisms that are often applied by Islamic banks in developing products are *bai' murabahah* (cost plus), *bai' wadiah*, *bai' salam*, *bai' istisna* (sale by order), *bai' bithaman ajil* (deferred payment sale), *bai' inah* and *ijarah* (leasing).

1- *Bai' murabahah*

Murabahah is a sale with a markup price. A seller sells a commodity by mentioning the cost of the commodity and some profit to the client. The payment could be done either through cash or deferred payment. In Islamic banking, the practice of *murabahah* applies in the manner that a bank purchases a commodity on behalf of the client. The client will approach the bank for financing his need with a specific description. The bank will purchase the described commodity from the third party and sell to the client with a cost price and additional price as a profit. It is worth mentioning that, this concept is the most widely used concept in Islamic banks for financing the customer needs (Tahir, 2006). In addition it is about 66% through which investment transaction is done worldwide (Usmani, 2002).

2- *Bai' Wadiah*

Al-wadiah concept refers to a trusteeship relation whereby a person appoints another man to safe keep his custody for a period of time. Here, the element of *amanah* (trust) comes to exist. In Islamic banking the concept applies when a customer deposits some amount of money in Islamic bank and gives permission to the bank to utilize it for profit and all risks regarding the deposits are left with the bank. Meaning that, all damages resulting from the bank during the safekeeping are within the responsibility of the bank unless the damage is beyond the banks' control.

3- *Bai' salam*

Bai' salam is a sale whereby the purchased commodity is delivered in future date while the price paid at spot. It is worth noting that *Bai' salam* is allowed to fulfill the urgent need of people thus it is required to paid in full payment. If it is paid not in full, the basic purpose of *Bai' salam* will not be achieved adding to selling debt (commodity with future delivery) by debt (deferred payment) which is prohibited. To avoid *gharar* (uncertainties), the date and place for delivering the commodity must be specified otherwise renders invalidity.

4- *Bai' istisna* (Sale by order)

Bai' istisna is a sale with the item to be purchased is not yet come into existence. The purchaser will order a commodity with specific description from a manufacturer. The manufacturer will then manufacture the commodity using his own material, sold with a fix price and the purchaser may make the payment either in advance or installment. If the commodity is not according to the required specification, the purchaser may cancel the contract. Other than this situation, the purchaser could also cancel the contract at any time he wants given that the commodity is not yet manufactured by the manufacturer and if the manufacturer fails to deliver the commodity after the appointed time. In Islamic banking practice, *istisna* has broadly been used for house financing.

5- *Bai' bithaman ajil* (deferred payment sale)

Bai bithaman ajil is a term used for a sale on deferred payment basis. The deferred payment is considered a debt payable to the bank by the client. This kind of transaction is allowed in Sharia given that the agreed price which is inclusive of cost and profit is not changed in the future when the payment is not made on the due date. In addition, it is allowed in Sharia to increase the price on deferred higher than the cash price for profit (Zuhayli, 2003). Its application in this modern Islamic banking are like financing assets such as vehicles, houses, shop lots and shares (Manan & Kamaluddin, 2010).

7- *Bai' al 'inah*

Bai' al 'inah involves two kinds of sales where it is first done on cash basis and the second one is on deferred payment. The seller will sell a commodity to a buyer with immediate payment and normally in cash and after that the buyer will sell back to the original seller in deferred payment with a price higher than the first sale. It is often applied in Islamic overdraft, Islamic bonds, Islamic personal loan and Islamic credit card (Manan & Kamaluddin, 2010).

8- *Ijarah* (leasing)

Ijarah (leasing) can be defined as transferring the usufruct of a commodity to another person at an agreed period and at an agreed price. The person the usufruct is transferred to is called lessee and the person who transfers the usufruct is called lessor. The ownership of the commodity once its usufruct is transferred remains with the owner i.e the lessor. So, all liabilities emerge from the commodity are borne by the lessor not the lessee. However, the lessee is liable for the harm that is contributed to his misuse, negligence and ignorance. The harm that caused out of the lessee's control is not liable to the lessee but the lessor.

9-*Ijarah Thumma al Bai'* (leasing followed by sale and purchase or AITAB)

It is a leasing contract whereby the lessor will sell the leased commodity to the customer after expiry of leasing period. Under this principle, two contracts will be entered to. Firstly, the contract of leasing between the lessor and the lessee at an agreed rental for certain period, and secondly, a contract of sale and purchase which will be concluded after the leasing period is over. It is commonly used in Islamic banking to lease purchase assets such as plants and machinery (Manan & Kamaluddin, 2010).

10-*Bai' al Dayn* (Sale of Credit)

Bai' al dayn is a sale of debt by the debt holder back to the debtor himself or to any third party. The Sharia allows the selling of debt at its equivalent amount by way of *hiwalah* (transfer of debt to another party). This debt trading is accepted by all mazhab provided that it is paid in full and gives no benefit to the purchaser. It is widely used in trade financing and factoring (Manan & Kamaluddin, 2010).

2.2 Participation Principles

Under this category, the mechanism is based on profit and loss sharing whereby the banks and customers become a partner in business rather than become a creditor. Profit will be shared equally according to the pre agreed ratio while loss will be shared by the capital provider and entrepreneur according to the percentage of capital contribution. Thus, the former will lose the money while the latter will suffer lost in terms of energy, time and etc. The most common used mechanisms are *musharakah* and *mudarabah*.

1- *Musharakah*

Under Islamic jurisprudence, *Musharakah* means a joint enterprise formed for conducting some businesses in which all partners share the profits and loss according to the capital contribution. It is divided into two namely *Shirkat-ul-mulk* (partnership by joint ownership) and *shirkat-ul-'Aqd* (Partnership by contract). The former means joint of ownership by two or more persons in a particular property whilst the latter means joint venture by a mutual contract or can be seen as 'joint commercial enterprise'. This kind can be divided into three

categories namely *shirkat-ul-amwal* (partnership in capital), *shirkat-ul-amil* (partnership in delivering services) and *shirkat-al-wujuh* (sharing the profits after buying some commodities by deferred payment and sold them at spot) (Usmani, 2002).

2- *Mudarabah*

Under a *Mudarabah* contract, a bank provides the capital needed for a project while the entrepreneur offers labour and expertise. The profits and losses from the project are shared between the bank and the entrepreneur at a fixed ratio. Financial losses are assumed entirely by the bank, the liability of entrepreneurs is limited to their time and effort. In cases of proven negligence or mismanagement by entrepreneurs, however, they may be held responsible for the financial losses (Khir et al., 2008).

A partner will provide capital who is called *rabbul mal* (capital provider) and the other partner will be responsible for management who is called *mudarib* (entrepreneur). Profits generated from the investment are shared according to the agreed ratio.

There are two types of *mudarabah* namely *al-mudarabah al-muqayyadah* (restricted *mudarabah*) and *al-mudarabah al-mutlaqah* (unrestricted *mudarabah*). The former gives right to the capital provider to assign specific business and place for the entrepreneur while in the latter; the capital provider gives full freedom to the entrepreneur to run the business according to what is common in business.

2.3. Supporting Principles

In the category of supporting principles, the mechanisms applied in Islamic banks are *rahnu* (mortgages), *kafalah* (guarantee), *wakalah* (agency), *qard hassan* (benevolent loan), *hiwalah* (transfer of debt), *tabarru'* (donation), *hibah* (gift) and *ibra'* (rebate).

1- *Rahnu* (mortgages)

Al-rahnu is an Islamic principle where a person pledges a security to another person as a collateral security for debt settlement. A person who pledges is called pledger and the receiver of pledge is called pledgee. All liabilities are borne by the pledgee whenever there is less and lost in value and amount caused by fault on the pledgee's behalf. On the other hand, if the pledger does not pay the full payment of his debt, the pledgee has the right to sell the pledge to cover the outstanding debt. If it is paid in full payment, then the pledgee is obliged to return the pledge to the pledger.

2- *Kafalah* (Guarantee)

Al-kafalah is a contract of guarantee where the contracting parties or any third party guarantee the performance of contract entered by contracting parties. Under this contract, a third party becomes guarantor for the payment of debt. It is a pledge given to the creditor that the debtor will pay the debt.

3- *Wakalah* (Agency)

It is a contract where a person (principal) authorizes another person (agent) to do something on his behalf with some fees. Normally, the principal must be capable to do it in person and the agent also capable to do what he is authorized to do. In Islamic banking practice, the bank always acts as an agent of a companies' or an individual's behalf for example in Letter of Credit, hire purchase agency and etcetera. Under a letter of credit, a customer will approach a bank to open letter of credit and then deposits the price of the

imported good. Then the bank (agent) will pay the negotiating bank and then releases the import documents with some charges. When the bank acts as an agent in hire purchase, the bank will provide a customer with the asset the customer targets to buy (Kamil, 2006).

4- *Qard hassan* (Benevolent loan)

Qard Hassan is a benevolent loan provided by Islamic banks to the customers. Under this Sharia principal the borrower is required to pay only the principal amount of the loan. However, the borrower in his or her discretion is allowable to pay more than the principal amount to the lender on the bank's kind consideration in giving a loan. It is applied when there is an urgent need for cash from the customers in which the lack of it will render bad impact to the customers.

5- *Hiwalah* (Transfer of debt)

Conceptually, *hiwalah* refers to an agreement of transferring a debt from a responsibility of a person to another (Zuhayli, 2003). Meaning that, it is an agreement of transferring a debt from a debtor's account to another debtor claiming a debt on the latter by a creditor. It has been widely used in Islamic banking in transferring a debt from a debtor's account to a creditor's account. Besides, it always been used for remittance that is transferring an amount of money from a depositor's account to a receiver's account. Through this practice, a commission should be charged for such service.

6- *Tabarru* (Donation)

Tabarru' derived from the Arabic word (*Tabarra'*) which means gives something voluntary to others without requiring any exchange. It is a donation or gift without consideration for the purpose of welfare or service in the name of God and not for commercial purposes given in the present or future. The donation is based on love and care to others and does not generate income (Ahcene Lahsasna, 2012).

7- *Hibah* (Gift)

Basically *hibah* is a gift awarded to a person without consideration. It could be in different forms either tangible such as materials or intangible such as rights, benefits, etc. Normally, banks give Islamic savings account holders *hibah* as an appreciation for keeping their money with the bank.

8- *Ibra'* (Rebate)

Ibra' can be defined as an act of surrendering one's right over other person. For example a creditor who has the authority to get repayment from a debtor, writes off the debt of the debtor. It also can be understood as reducing the outstanding balance of debt of a debtor during his early settlement. However, *ibra'* is depending on the terms and condition stipulated by banks.

To surmise, the table below illustrates each category of mechanisms applied in Islamic banking.

Table 1:

List of Shari'ah Principles supporting the Islamic banking operations and activities in general

Category	Mechanism
Trading Principles	1-Bai' murabahah (cost plus) 2-Bai' Wadiah 3-Bai' salam 4-Bai' istisna (sale by order) 5-Bai' bithaman ajil (deferred payment sale) 6-Bai' istijrar (Supply or wholesale financing) 7-Bai' inah 8-Ijarah (leasing)
Participation Principles	1-Murabahah 2-Musharakah
Supporting Principles	1-Rahnu (Mortgages) 2-Kafalah (Guarantee) 3-Wakalah (Agency) 4-Qard hassan (benevolent loan) 5-Hiwalah (Transfer of debt) 6-Tabarru (Donation) 7-Hibah (Gift) 8-Ibra (Rebate)

In Malaysia, not all mechanisms listed here are adopted by the Islamic banks to support their products. According to a study conducted by Haron (1998), only 14 mechanisms are adopted by Islamic banks in Malaysia.

3.0 Islamic Banking Products

The usage of Islamic banking products in Malaysia does not reach to the true satisfaction level of the Islamic banking managers. A study on Islamic banking products shows that the total deposit of Islamic banks is only RM31 billion at the end of 2000 indicating that Islamic banking products are not well accepted by the customers compared to the conventional system whose total deposit is RM381 billion (Ahmad & Haron, n.d.). This situation shows that there is a need of effort to increase the percentage of usage among Malaysian customers. A study on Islamic banking products reveal that an alternative to enhance Islamic banking products usage should be done in terms of promoting and advertising the new products as well as existing products (Metawa & Almosawi, 1998). Effective promoting and advertising strategies on products is among the important factors contributing to good performance of Islamic banking and considered factor in influencing customers to use the Islamic banking products.

The reason of Islamic banking products are not widely acceptable among the customers might be varied. The use of different names and terms is one of the reasons. It is claimed that various names used for a single product cause misunderstanding among the customers. Therefore, using the name that much more acceptable to all customers is advisable to all Islamic banks in Malaysia to reduce the misunderstanding (Abdul Hamid Abdul Halim & Nordin, n.d.).

Another reason is that Islamic banks in Malaysia are currently producing hybrid basis products where its legitimacy is sometimes questionable. This is because hybrid products seem to contain 'ilah (legal device) to permit forbidden things and forbid permissible things.

It seems also to escape from obligations required for fulfilling one contract. For example AITAB (leasing and promise to purchase) which consists of leasing and purchase arises with so many questions on its legitimacy. Leasing with promise to buy is not allowed in Islam since it is like a condition to one another so that it is made permissible through AITAB where a person can have what he wishes by leasing but instead of he promises to buy, the lessor promises to sell to the lessee. This is in line with what have ruled out by AAOIFI that there should not have any option of purchase given to lessee but a promise to sell is stipulated on the lessor so that the lessee could buy the leased item at the end of lease period.

Generally, Islamic banks in Malaysia first introduced deposit product based on profit sharing, followed by financing which is based on sale like *murabahah*, *ijarah*, *salam* and *istisna*, and then *Bai' dayn* and *Bai' inah*. From that, BIMB has introduced about 50 products for customers (Siddiqi, 2006).

There is a need to know the products of Islamic banks in order to analyze which product is similar to one another and which product is specific to a particular Islamic bank. The wide range of Islamic banking products if becoming universally and globally accepted will contribute to the growth of Islamic banking products and will pave the way of establishing Malaysia as a center for Islamic banking.

4.0 Mechanisms Used In Islamic Banking Products

Mechanisms that are utilized by Islamic banks in producing their products are diverse and the number is also varied from one Islamic bank to another. All of the mechanisms can be classified into four categories shown in the table 4 below:

Table 4:

List of Sharia Mechanisms applied in Malaysian Islamic Banks

Category	Mechanisms
Profit loss sharing principles	1- <i>Musharakah</i> 2- <i>Mudarabah</i>
Fees based principles	1- <i>Murabahah</i> 2- <i>Bai' bithaman ajil</i> 3- <i>Bai' al-dayn</i> 4- <i>Al-ijarah</i> 5- <i>Al-ijarah thumma al-Bai'</i> 6- <i>Al-wakalah</i> 7- <i>Al-kafalah</i> 8- <i>Al-hiwalah</i> 9- <i>Al-ujr</i>
Free based principles	1- <i>Qard Hassan</i>
Additional principles	1- <i>Al-rahn</i> 2- <i>Al-wadiyah yad dhamanah</i>

The table concludes that there are 14 mechanisms employed by Islamic banks in Malaysia which is deemed sufficient to facilitate all banking modern products and services. It is worth to disclose here the number of mechanisms applied in each Islamic bank in Malaysia in delivering their products considering the fact that not all Islamic banks apply all the 14 mechanisms in their banking operation. Some Islamic banks do employ some mechanisms and the others do not.

High number of mechanisms is applied by both foreign Islamic banks in Malaysia namely Kuwait Finance House and Al Rajhi Banking and Investment Corporation. It is due to the fact that the banks are foreign and the products are based on the international Sharia standard for compliance.

The mechanisms used by all Islamic banks in Malaysia are different in terms of terminologies especially between the international and local Islamic banks. Among the local banks, the terminologies are basically the same except that those of used by the international Islamic banks in Malaysia. For example the mechanisms utilized by Kuwait Finance House is different whereby the terms like *mudarabah mutlaqah*, *bai' al sarf*, *ijarah muntahiyah bi al tamleek*, *ijarah mausufah fi zimmah* and *qard* are always been adopted whilst it is not the case of local banks. Most of the local banks use terms such as *mudarabah*, *ijarah*, BBA, AITAB and *murabahah* in introducing their products. Some banks especially those from outside Malaysia have their own specific terms for the mechanism used.

In terms of products, generally, Islamic banking products offered by Islamic banks can be categorized into deposits, investment, financing, trade financing and card services.

1-Deposits and investment products and the mechanisms

Basically, the deposit taking products offered by Islamic banks in Malaysia can be classified into two major categories that are saving account and investment account which are governed by two prominent mechanisms namely *wadiah* and *mudarabah* accordingly. Other than these two products, Islamic banks do offer another deposit taking product such as fixed deposit using commodity *murabahah* for example those offered by Kuwait Finance House (KFH) Malaysia, Maybank Islamic, RHB Berhad and OCBC Al Amin Bank Berhad.

All Islamic banks in Malaysia offer three types of deposit taking products, i.e savings accounts, current accounts and investment account. There is no standardization among Islamic banks in the usage of Sharia mechanisms in delivering deposit taking products. All Islamic banks use the concept of *wadiah*, *wadiah yad damanah* and *mudarabah* in delivering the deposit products except Kuwait Finance House Malaysia that use the principles of *mudarabah mutlaqah* and *qard* in saving, current and investment accounts.

2-Financing products and mechanisms

Financing products are offered by Islamic banks is to cater the various needs of customers. It is ranging from personal financing, home financing, hire purchase and vehicle financing. Basically, the Sharia concepts used by all Islamic banks in the financing products are similar to each other except that the terms given to each financing product are varied depending on the Islamic bank's interest.

Kuwait Finance House (KFH) Malaysia for instance, utilizes certain Sharia concepts when naming their product which is different from the rest of the banks. It is important to stress here that all the financing products even if distinguished by their name, the purpose of introducing the financing products is similar that is to cater the need of the customers in terms of personal, home, property and vehicle as well as to attract the customers to deal with them.

The above list of Islamic banking financing products is also governed by Sharia mechanisms for compliance. Based on the data obtained, the mechanisms adopted by Islamic banks in producing the products are BBA, AITAB, *murabahah*, *ijarah*, *tawarruq*, *bai' Inah* and *istisna*. These are the terms that are commonly used by all Islamic banks in Malaysia in delivering the financing products. All the financing products offered are approximately 45 products.

3-Trade Financing

Trade financing products generally designed to cater the consumer needs especially those of corporate clients. A typical trade financing products offered by Islamic banks in Malaysia include letter of credit, shipping guarantee, bank guarantee, accepted bill, trust receipt and bills for collection to facilitate international trade. Other trade financing products offered by Islamic banks are shown in the table 7 below:

Table 7:

Trade Financing Products offered by Islamic banks

Trade Financing Products	Mechanisms applied
1-Letter of Credits	<i>Bai' al Dayn, wakalah, musharakah and murabahah</i>
2-Shipping guarantee	<i>Kafalah, Damanah</i>
3-Bank Guarantee	<i>Kafalah</i>
4-Accepted bill	<i>Murabahah, bai' al dayn</i>
5-Trust receipt	<i>Murabahah</i>
6-Bills for collection	<i>Wakalah</i>
7-Commercial papers	<i>Mudarabah, bai' al Dayn</i>
8-Working capital financing	<i>Tawarruq, murabahah, bai' al Dayn</i>
9-Bills of exchange purchase	<i>Bai' al dayn</i>

All the mechanisms used by Islamic banks in Malaysia in delivering the trade financing products are seven namely *bai' al Dayn, tawarruq, murabahah, mudarabah, wakalah, kafalah* and *musharakah*. All the mechanisms are in Arabic terms and the products even though similar in mechanisms are different in the terminologies used to describe the nature of products. For example some banks like Kuwait Finance House, Asian Finance Bank Berhad, Maybank and OCBC Al Amin Bank Berhad use the Sharia concept to show the nature of letter of credits such as *Murabahah* letter of credit and *wakalah* letter of credit. As for the shipping guarantee and bank guarantee, the principle of *kafalah* is the only principle used by all Islamic banks in Malaysia. To surmise, the number of trade financing products offered by Islamic banks in Malaysia is nine and basically each and every Islamic bank does offer letter of credit, shipping guarantee, bank guarantee, trust receipt and bills of purchase.

4-Card Services

All the cards offered by Islamic banks in Malaysia can be classified into credit and debit cards. There are however slight variations in the names given to debit and credit cards, the number of cards offered and the functions of the cards among Islamic banks in Malaysia

There is similarity among Islamic banks in Malaysia in adopting Sharia mechanisms in delivering this service; *tawarruq* and *bai' al Inah*. The difference between *tawarruq* and *bai' al Inah* could be traced through two aspects; the parties involved and the return of the object sale. While the former involves third party to whom the object sale will be returned at the end of the transaction, the latter involves two parties and the object sale will be returned back to the original owner.

Ambank Islamic offers the highest number of cards with the various functions. Some of the banks use their own name for the cards to be exclusive from others' for instance CIMB Islamic Bank, Amlslamic Bank, Hong Leong Islamic Bank and Maybank Islamic.

In conclusion, there are some differences in application of the mechanisms by the Islamic banks. This could be seen in terms of number of Sharia mechanisms adopted for products and the use of terminologies for each product. The mechanisms used by each bank are basically similar to another except that those used by the international Islamic banks include some mechanisms which are not applied by Malaysian Islamic banks. However, the number of mechanisms applied in each bank is not the same. In terms of terminologies used for products, it shows differences. No universal term followed by Islamic banks in Malaysia to introduce the products to the public. Some Islamic banks maintain Arabic terms for illustrating the product and some use conventional terms. Most conventional terms that are widely used by Islamic banks are incorporated with an alphabet *i* in naming the products in order to differentiate the Islamic concept products and the conventional one for example hire purchase for conventional and hire purchase-*i* for Islamic bank, house financing-*i*, personal financing-*i* and etcetera. This illustrates the Islamic banking products are seemingly similar with the conventional products which should be avoided as to present the uniqueness of Islamic banking products and to prevent resemblance.

Despite of the differences, the current operation of Islamic banks in Malaysia is similar whereby all the Islamic banks apply the credit sale for financing instead of sharing profit and loss. Although the prohibition of *riba* has been the main rationalization for Islamic banks in Malaysia, the Islamic bank products seem to have that element when it is based on the application of credit sale such as *murabahah*, BBA, AITAB, financial leasing, etc in financing. In credit sale financing, a feature of loan is maintained added with other features like selling and buying to adopt with the conventional modes of financing and to cater customers' current needs. This credit based sale and financial leasing seems to be deeply rooted from conventional products that resembles a loan (Manan & Kamaluddin, 2010; Rosly & Bakar, 2003).

Besides that, the Islamic banking products have been argued on its legitimacy since the true contract being utilized is considered controversial in Sharia. For example the BBA based product, it is arguable due to the difficulty in determining the subject matter which is regarded essential in a sale contract. Furthermore, BBA is arguable due to *Bai' Inah* is ambiguous in terms of ownership of the subject matter. It is controversial of the reason that the ownership risk of the object sale is not in existence. In sale transactions, it requires that all sellers to own the object of sale before having the sale in order to avoid injustice between the contracting parties and so as to obtain lawful profit because profit comes together with risk. Apart from that, BBA seems to lower the risk of financier due to the short moment of the purchase and sale indicating no risk attributed to ownership of the property (Bakar & Ali, 2008).

5. Conclusion

In Islam no matter what Islamic products Islamic banks want to produce, elements such as risk taking, (*ghurm*), value added (*kasb*) and liability (*daman*) should be taken into account otherwise it renders invalid. This is to ensure a sense of justice and equity in business transaction indirectly shows Islamic banking system is greater than the conventional system. All the products offered are strong Islamic if the objectives of Sharia is achieved in the form and substance and this could be realized through profit and loss sharing concept that is through *musharakah* and *mudarabah*.

With all the claims and arguments, one should not however reject the Islamic banking products since Islamic banks with all the effort are trying to escape from operating on interest

basis and their establishment is actually to improve the Muslim communities. Thus, support from the people is really in need and this is considered as one of the ways to gain Allah blessing (Haron & Ahmad, 1998). Islamic banks need times to fully adhere with Islamic principles, hence continuous support especially from Muslims is severe important for survival.

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