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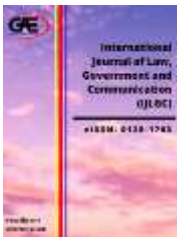

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ISLAMIC CREDIT CARD: RECENT DEVELOPMENT FROM A SHARIAH PERSPECTIVE

Mirzan Mohideen Bathusha[1]*, Mohamad Yazid Isa[2]

[1] Islamic Business School, University Utara Malaysia, Sintok Kedah
Email: meerzan@hotmail.com
[2] Islamic Business School, University Utara Malaysia, Sintok, Kedah
Email: yazid@uum.edu.my
* Corresponding Author

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Abstract:

Islamic Credit Card (ICC) have emerged as a highly preferred payment method among consumers, primarily due to its foundational principles that aim to avoid prohibited elements under shariah. However, despite their growing popularity, ICC is not without challenges. The contractual structures underpinning the product has raised concerns regarding its compatibility with shariah principles. In particular, both *tawarruq*-based and *ujrah*-based ICC models are fraught with multiple issues, warranting a thorough and rigorous review by relevant stakeholders. This study employed qualitative research design through which case study is analysed using content analysis related to policy documents, issuers' fine prints, articles and journals to fully understand the concept of *tawarruq* and *ujrah* as an underlying contract for the ICC. The *tawarruq*-based and *ujrah*-based ICC structures appear to conflict with core shariah principles, thereby necessitating regulatory intervention for potential enhancement and restructuring. However, this study is limited by the absence of formal endorsement and approval from SAC of BNM, shariah committees and advisors, which constrains a comprehensive articulation of both ICC underlying applications. Therefore, future research should seek direct interpretation and guidance from the aforesaid experts to ensure greater clarity and alignment with shariah compliance.

Keywords:

Islamic Credit Card, Tawarruq, Ujrah, Islamic Banking, Malaysia

Introduction

Malaysia operates under a Dual Banking Leverage Model (DBLM), in which Islamic banking, built on the exclusion of *riba* (usury), *gharar* (uncertainty), and *maysir* (gambling) functions alongside conventional interest-bearing banks. Since its inception over four decades ago,

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Islamic banking has shown steady market traction, with *shariah*-compliant financing annual growth rate has risen profoundly at 10.8% in 2022, compared to 1.3% for the interest-bearing sector (Parker, 2023).Islamic credit card (ICC) which is an alternative to the conventional credit card (CCC) has made its entrance in Malaysia in 1992 with a controversial *bay'al-inah* (sale and buy back) contract (Bathusha & Isa, 2024). Nevertheless, with an introduction of *tawarruq* (monetization) in 2005 by the shariah advisory council (SAC) of Bank Negara Malaysia (BNM), the contentious contract has gradually dissipated (Bathusha & Isa, 2024). Subsequently, in 2008, the BNM has introduced a new contract for the ICC known as *ujrah* (fee) with the aim of diversifying from *tawarruq* concentration on many of Islamic financial products and service (Bathusha & Isa, 2024). Currently, there are eleven Islamic banks (IBs) acting as issuers in producing ICC as depicted in Table 1.

Table 1: Ujrah and Tawarruq ICC Issuers

No	Licensed Islamic Banks, International Islamic Bank and DFIs in Malaysia	Ownership: Local (L) Foreign(F)	ICC underlying contract
1	AmBank Islamic Berhad	L	*Ujrah*
2	CIMB Islamic Bank Berhad	L	*Ujrah*
3	HSBC Amanah Malaysia Berhad	F	*Ujrah*
4	Maybank Islamic Berhad	L	*Ujrah*
5	Public Islamic Bank Berhad	L	*Ujrah*
6	RHB Islamic Bank Berhad	L	*Ujrah*
7	Bank Simpanan Nasional	L	*Ujrah*
8	Bank Islam Malaysia Berhad	L	*Tawarruq*
9	Bank Muamalat Malaysia Berhad	L	*Tawarruq*
10	Bank Kerjasama Rakyat Malaysia Berhad	L	*Tawarruq*
11	AFFIN Islamic Bank Berhad	L	*Tawarruq*

Source*:* BNM (n.d.)

Table 1 depicts eleven ICC issuers with the two primary underlying contracts namely *ujrah* and *tawarruq*. Obviously, *ujrah*-based ICC is widely used by the issuers as compared to the *tawarruq*-based ICC following its operational simplicity (Balarabe & Abdullah, 2020). HSBC Amanah which is a foreign entity bank, was the first issuer to apply *ujrah* as its underlying contract in 2008 (Noor & Azli, 2009). Since *ujrah*-based ICC does not entail selling commodities via commodity broker exchanges, they are considered relatively easy to be executed. Though, some IBs have made a proactive move by developing ICC in order to seize the advantages of becoming pioneers in the realm of *shariah*-compliant credit card, shariah issues remain the chief hindrances particularly matters related to underlying contracts (Al-Shagdari & Adeyemi, 2020). Despite the permissibility by the SAC of BNM, these two contracts have been embroiled in unending shariah issues which may classify the plastic card as controversial (Asni, 2022; Bathusha & Isa, 2024). This mechanism of *ujrah* and *tawarruq*, while designed to provide simplicity and liquidity within a shariah framework, has attracted scholarly debate due to its perceived resemblance to conventional interest-bearing loans. The element of *qard* in *ujrah*-based ICC has induced several shariah issues namely *bay' wa salaf* (combination of sale and loan in a single contract) (Abd Razak, 2015; Mahmud et al., 2018;

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Bathusha & Isa, 2024), time value of money (Bathusha & Isa, 2024) and cashback where exchanging cash with a different countervalue (Susilawati & Hartawan, 2023; Bathusha & Isa, 2024). Conversely, the *tawarruq*-based ICC has been shrouded in shariah non-compliance (SNC) issues such as non-existence of a subject matter (Ibrahim & Mohamed, 2023), *wakalah* (delegation) (Asni, 2022) and excessive debt (Aprianto & Nazilah, 2023), among others. The high profit and fee imposed by the issuers as a result of non-payment by the due date, late payment and unjustified fees have associated the ICC's operational with its mainstream interest-bearing CCC (Abd Razak, 2015; Abozaid & Khateeb, 2022).

Therefore, the *ujrah*-based ICC and *tawarruq*-based ICC need to be meticulously reviewed as these shariah issues have precipitated the ICC operationality to be similar to the interest-bearing CCC. This gap in both academic discourse and market practice indicates the need for in-depth examination of whether the contractual structures of ICC adequately meet the *maqasid al-shariah* (higher objectives of shariah) while remaining competitive with conventional offerings.

Literature Review

Credit cards form a significant role in alleviating cardholders for the downpayment in big ticket items particularly homes and cars on top of electrical appliances like refrigerators, computers and washing machines. Apart from gravitating towards payment method by the credit card in the growing cashless environment, it helps the cardholder to manage expenses in an efficient way as well as ramping up economy vigour (Popper, 2016). In addition, with a substantial credit history, it is much easier for the cardholder eyeing for big purchases such as mortgages to be financed by the banks (Popper, 2016). Similarly, the ICC underpinned by contractual structures that preclude *riba*, *gharar* and *maysir*, serves as a shariah-compliant alternative, particularly for Muslim consumers seeking ethical and socially responsible financial products. Historically, Bank Islam Malaysia Berhad (BIMB) was the first Islamic banking established in Malaysia in 1983 to promote financial products and services which consonant to shariah principles.

Table 2: Financing Disbursed by ICC and CCC

Year	Total Financing/loan (RM Billion)	Conventional Credit Card (RM Billion)	Market Penetration (%)	Yearly Growth	Islamic Credit Card (RM Billion)	Market Penetration	Yearly Growth
						(%)	(%)
2018	143,537.00	135,077.00	94	-	8,460.00	6	-
2019	150,702.70	140,922.70	94	4.33	9,780.00	6	15.6
2020	133,212.90	123,247.90	93	-12.5	9,965.00	7	1.89
2021	146,299.90	134,365.80	92	9.02	11,934.10	8	19.8
2022	213,487.10	197,884.50	93	47.3	15,602.60	7	30.7
2023	230,411.30	208,953.40	91	5.6	21,457.90	9	37.5

Source: Bathusha & Isa, 2024

Table 2 illustrates the disparity in credit card financing between ICC and CCC. The CCC segmentation commands RM230 billion, representing 91% of the market, while the ICC accounts for only RM21 billion, or less than 10%. Despite this modest share, the ICC has demonstrated strong momentum since 2020, achieving a compound annual growth rate

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(CAGR) of nearly 30% compared with 19.24% for CCC. This trajectory suggests that ICC facility increasingly aligned with banks' 'Islamic First' strategy, which emphasizes social responsibility and compliance with shariah principles through the avoidance of prohibited elements. Despite overwhelming momentum, the adoption of ICC remains limited (Fozi, 2020) compared to the well-established CCC market which has its presence in Malaysia since the 1970s (Loke, 2007). Given the aforesaid, a critical underlying factor lies in the shariah contracts that form the operational backbone of ICC in Malaysia structured around *bayʿ al-tawarruq* and *ujrah*. While these contracts aim to preserve shariah compliance, questions remain over their transparency, customer understanding, and operational implementation.

***Tawarruq*-based ICC**

Tawarruq, also known as commodity *murabaha*, refers to a financial transaction in which a commodity is purchased on a deferred payment basis and subsequently sold to a third party at a lower spot price (Sallahuddin & Ghani, 2023). The structure involves two distinct contracts: first, the seller transfers the commodity to the purchaser on a deferred cost-plus-profit arrangement; second, the purchaser appoints the seller as an agent to dispose of the commodity to a third party on a spot, cash basis at a lower price, with the proceeds deposited into the purchaser's account. Linguistically, *tawarruq* originates from the Arabic terms *warq*, *wariq*, and *waraqa*, which denote silver money, dirham, or silver metal (Aprianto & Nazilah, 2023). However, the term *tawarruq* itself, along with its root derivations, is not directly traceable in the Arabic language; rather, it is believed to have been coined by earlier scholars to describe a transaction intended for the acquisition of *al-wariq* (money) (Usmani, 2009). The BNM has defined *tawarruq* as "*an arrangement that involves sale of an asset to the purchase on a deferred basis and subsequent sale of the asset to a third party on a cash and spot basis*".

In regard to the ICC, the *tawarruq* arrangement is done through commodity brokers and exchange (CBE) namely Bursa Souq al-Sila (BSAS), MyAngkasa Shoraka, Sedania as-Salam Capital, Eiger trading and AbleAce Raakin, among others. As BSAS is governed by Bursa Malaysia Islamic Services Sdn Bhd (BMIS), a wholly-owned subsidiary of Bursa Malaysia, it has become one of the most sought-after CBE by the IBs with staggering participants of 373 in 2024 of which 77.7% composed of domestic participants, a 5% increased year-on-year (Bursa Malaysia, 2024). The *tawarruq* arrangement is to be explained as follows:

Figure 1: BSAS Framework

Source: Author's Own

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Figure 1 depicts BSAS framework in which Bank A buys a CPO worth RM10,000 (generally, IBs purchase in bulk to cater for all the products trading on that particular day) from commodity supplying participant (CSP) A which is registered in the BSAS platform on cash. On that particular day, Bank A must sell back the CPO bought from CSP A to BMIS for the constancy of price levels. Subsequently, BMIS will sell the CPO bought from Bank A to CSP B as to avoid selling the commodity back to the same CSP. In this regard, *tawarruq* arrangement is perceptible during the ICC application where the customer needs to agree with the *aqad* (obligation) specifying terms which allows the customer to purchase by way of *wa'd* (promise) the commodity from the bank at the selling price (price exceeds RM10,000 depicted in Figure 3) and to appoint the bank as a sole agent to sell the commodity to any third party purchaser at the purchase price.

Subject Matter

In the realm of Islamic banking, the *mahallul 'aqdi* (subject matter) of a transaction plays a pivotal role in determining the validity of a contract. For a transaction to be shariah-compliant, the subject matter must fulfil several conditions established in *fiqh al-muamalat* (Islamic jurisprudence concerning commercial transactions) (Ali & Hassan, 2020). First, it must be *halal* (lawful), excluding prohibited goods and activities such as alcohol, pork, gambling, or interest-based dealings. Second, it must exist at the time of contract, with limited exceptions in contracts such as *salam* (future sale with upfront payment) and *istisna'* (manufacturing contract) where forward sales are permitted under strict conditions. Third, the seller must have full ownership and legal authority over the subject matter, ensuring legitimacy of disposal. Fourth, the subject matter must be deliverable and accessible, thereby avoiding *gharar*. In addition, it must be clearly defined in terms of quantity, quality, and specifications to eliminate ambiguity and potential disputes. Finally, it must hold shariah-recognized value (*mutaqawwim*), meaning it provides lawful and beneficial utility. These principles are reflected in Islamic banking products such as *murabaḥa* (cost plus profit sale) where tangible assets form the subject matter; *ijarah (leasing)*, which involves the usufruct of assets; and *mudarabah* (profit sharing) or *musharakah* (partnerhip) in which capital is the subject of the contract. Collectively, these requirements safeguard the integrity of transactions and ensure compliance with shariah objectives.

Wakalah

In Islamic banking, *wakalah* (agency) is a contract in which *muwakkil* (principal) appoints *wakil* (agent) to act on its behalf in a specific matter that is permissible under shariah (ISRA, 2015). The agent executes transactions or manages affairs within the scope of authority granted, and the contract may be either with or without *ujrah* (fee). In practice, *wakalah* is widely applied in Islamic financial products and services. For instance, in investment accounts, customers may appoint the bank as an agent to invest funds in shariah-compliant ventures, with the expectation that profits, if any, will be returned to the principal. Similarly, *wakalah* is employed in *takaful* (Islamic insurance) operations, where the operator manages participants' contributions as an agent and receives a *wakalah* fee. The contract emphasizes transparency, trust, and accountability, as the *wakil* must act in accordance with the terms of agency and in the best interest of the principal. Its versatility has made *wakalah* a key instrument in bridging customer needs with shariah-compliant financial solutions. In regard to the ICC's *wakalah* execution, the cardholder through the application form has irrevocably appointed the bank to be their representative/agent to sell the commodity to any third party at the purchase price for the purpose of the ICC.

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The *wakalah* contract, recognized as a permissible arrangement in Islamic jurisprudence, derives its legitimacy from the Holy Quran, the Sunnah, and the *ijma' (consensus of Muslim scholars)* (BNM, 2016). The Holy Quran indirectly endorses the principle of agency in matters of trade, as seen in the story of the companions of the cave (Quran18:19) *"So send one of you with this silver coin of yours to the city, and let him see which food is purest, and bring you provision from it"*. Similarly, the Sunnah or the Prophetic tradition provides explicit precedents, such as the report that the Prophet Muhammad (peace be upon him) himself employed agents to conduct business on his behalf, and permitted others to appoint representatives in commercial dealings (reported by Al-Bukhari). Classical jurists across the major schools of thought affirmed the validity of *wakalah*, albeit with nuanced interpretations. The Hanafis regard it as a *tafwid* (contract delegation) enabling the transfer of authority, while the Shafies emphasize its foundation in *Amanah* (trust) and its revocability. The Maliki and Ḥanbali schools of *fiqh* similarly recognize *wakalah* as a facilitative mechanism rooted in *maṣlaḥah* (public interest). Within contemporary Islamic banking, *wakalah* plays a central role in structuring agency-based transactions particularly in investment accounts and *takaful* operation, thereby aligning modern financial practices with the *maqasid al-shariah* (higher objectives of shariah).

Profit Eligibility

In Islamic jurisprudence, the theory of profit is grounded in the notion that *al-ribh* (profit) is a legitimate return only when it arises from risk-bearing, liability, and effort within lawful commercial activity (Rosly, 2010). This conceptualisation distinguishes profit from *riba*, which is prohibited as it represents a predetermined return without exposure to ownership risk or productive effort. The jurisprudential foundation of this theory is expressed through two well-established legal maxims: *al-kharaj bi al-ḍaman* (entitlement to gain is contingent upon assuming liability) and *al-ghunm bi al-ghurm* (profit is justified only through risk).

The maxim *al-kharaj bi al-ḍaman* underscores the principle that financial returns can only be lawfully claimed if the contracting party assumes ownership risk and liability over the subject matter (Waemustafa & Suriani, 2016). For example, in *murabaḥah* financing, the bank is entitled to a profit margin only because it momentarily assumes ownership and the associated risks of the asset prior to resale. Similarly, in *ijarah* contracts, rental income is permissible because the lessor retains liability for the leased asset during the rental period. Profit, therefore, is not derived from mere passage of time but from the bank's assumption of risk attached to ownership or liability.

The second maxim, *al-ghunm bi al-ghurm*, further reinforces this principle by asserting that one may only enjoy profit if one simultaneously bears the possibility of loss (Abdul Razak & Saupi, 2017). This is particularly evident in equity-based contracts such as *musharakah* and *muḍarabah*, where profit-sharing ratios are pre-agreed but losses must be absorbed in proportion to capital contributions. Here, the entitlement to profit is not guaranteed but contingent upon the success of the underlying venture, thus ensuring that financial gain remains inherently tied to risk and uncertainty.

From the perspective of the *maqaṣid al-shariah*, the theory of profit performs both an economic and ethical role. Economically, it incentivises entrepreneurship, risk-taking, and wealth creation while discouraging rent-seeking behaviour. Ethically, it ensures distributive justice by linking financial returns to real economic activity and prohibiting unearned gains. Thus, the

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Islamic theory of profit establishes a framework where lawful profit is permissible only when it emerges from risk, liability, and productive engagement, in accordance with the abovementioned guiding maxims of *al-kharaj bi al-ḍaman* and *al-ghunm bi al-ghurm*.

***Ujrah*-based ICC**

Under *ujrah* model, the issuers provide services, benefits and privileges in return for a fee with a pre-loaded credit limit. According to Public Islamic (2024), the *ujrah* model "*works on the premise that the bank is providing a payment mechanism for purchases via a credit card and that the bank will receive a fee in return for the service*". In this regard, the mechanism of buying and selling by way of *tawarruq* which apparently the most preferences method used by the IBs for the financing purposes as mentioned earlier did not transpire as the IBs recognize its profit thru the utilization of the credit limit given to cardholders by way of services, benefits and privileges which has not been fully settled by the due date. The *ujrah* must be charged as a fixed fee that is intrinsically linked to the type of ICC namely silver, gold or platinum and must not in any way entwined with the credit limit (BNM, 2019). Owing to its structure, where elements of trade financing are not strictly evident, the *ujrah* contract has gained popularity among IBs particularly in relation to ICC facilities, with the *ujrah*-based ICC serving as a prominent example as illustrated in Table 1. This development partly reflects BNM's directive to diversify contractual applications rather than rely heavily on a single structure. In this context, the *ujrah* model represents a fee levied by issuers in exchange for services, benefits, and privileges.

In general, issuers generate profit through the imposition of *ujrah*, which is charged in exchange for the services, benefits, and privileges provided, contingent on the cardholder making at least the minimum payment by the due date. The cardholders are granted a 20-day grace period to settle the outstanding balance in full, provided no prior month's balance remains. This grace period, however, applies exclusively to retail transactions. Should the cardholder fail to make full payment by the due date, a three-tiered pricing structure prescribed by BNM is applied, ranging between 15% and 18% per annum. It is noteworthy that under the *ujrah*-based ICC model, two contracts operate in tandem namely *ujrah* and *qard* (loan)—with the latter typically associated with retail transactions and cash withdrawal services (BNM, 2019).

Credit Shield

Credit shield or credit card protector is a takaful plan that covers outstanding balances upon cardholder's death or total and permanent disability. In general, the cardholder who opted for the plan has to pay a certain amount of fee should the outstanding balances emerge. This plan allows the cardholder to be covered up to the age of 65. Among the issuers which offer the plan are BSN, RHB Islamic Bank (RHB Islamic), Maybank Islamic and Bank Muamalat Malaysia Berhad (BMMB), among others. In regard to the *ujrah*-based ICC, such service is given as an optional to the cardholder to write-off his/her outstanding balances for the triggering of unfortunate events aforesaid. In the event of the cardholder's passing, the outstanding balances will be immediately write-off and their next of kin will no longer have to deal with the nightmarishly of the outstanding debt which may precipitate a horrendous suffering. For instance, CIMB Islamic Bank (2023) through its PDS distinctly mentioned "*These terms and conditions are binding on their heirs, personal representatives, estate and successors-in-title of the cardholder and on the successors-in-title and assigns of the bank*".

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Overlimit Fee

An overlimit fee refers to a charge imposed on a cardholder who exceeds the credit facility granted by the issuer. As of this writing, there are three issuers namely AmBank Islamic Bank, RHB Islamic Bank and Public Islamic Bank, levy an overlimit fee of RM50, as disclosed in their respective Product Disclosure Sheets (PDS). However, effective December 2024, AmBank Islamic revised its fee from RM50 to RM9 (AmBank Islamic, 2024), while Public Islamic and RHB Islamic retained the existing charge. RHB Islamic (2024) has further stipulated in its fine print that cardholders intending to utilise funds beyond their approved facility limit must notify the bank in advance, after which the bank may permit the transaction and impose an excess limit fee of RM50. Any fee levied under the *ujrah* model must be firmly anchored to an actual service rendered by the issuer, such as additional administrative processing, system override, or manual approval costs incurred in allowing transactions beyond the credit limit. To ensure compliance, the fee must be fixed, transparent, and not linked to the excess amount utilised. Consequently, some Islamic financial institutions opt to either prohibit transactions that exceed the credit limit or absorb the additional costs internally, thereby avoiding shariah non-compliance concerns while maintaining the integrity of the *ujrah* contract.

Merchant Category Code

Merchant Category Code (MCC) is a four-digit code assigned to businesses by card networks namely Visa or Mastercard to classify the type of goods or services provided (Motola, 2023). In the context of ICC, MCC plays a crucial role in ensuring compliance with shariah principles, particularly in filtering *ḥaram* (prohibited) transactions (Abdul ‘Ali et al, 2014). ICC issuers embed MCC screening mechanisms into their systems to restrict card usage at merchants engaging in non-compliant activities such as gambling, alcohol sales, nightclubs, or other industries deemed impermissible. When a transaction request is initiated, the system cross-references the merchant’s MCC with the bank’s compliance database. If the MCC is flagged as shariah non-compliant, the transaction is automatically declined.

In essence, this application serves two functions. First, it safeguards cardholders from inadvertently engaging in prohibited transactions, thus preserving the shariah integrity of the credit card product. Second, it reinforces the bank’s fiduciary responsibility to align its offerings with the ethical standards of Islamic finance. Notwithstanding, challenges arise due to variations in MCC assignments across jurisdictions and the possibility of merchants operating multiple business lines under a single MCC, which may result in over- or under-blocking of transactions. Hence, while MCC is a critical mechanism in the operationalization of ICCs it must be supported by continuous monitoring, updated merchant databases, and complementary shariah governance frameworks to ensure consistent and reliable compliance.

Methodology

This study adopted a qualitative research approach through the application of a case study design to explore the phenomenon under investigation. Within this framework, qualitative content analysis (QCA) was employed, whereby data are organized into categories developed through close and systematic reading (Morgan, 1993). Hsieh and Shannon (2005) described QCA as “a research method for the subjective interpretation of the content of text data…”. QCA is particularly valuable for examining complex forms of data that have been transformed into textual form (Zhang & Wildemuth, 2009). As Patton (2015) implied, when data are derived from existing texts, the selection of content should be aligned with the researcher’s objectives.

Accordingly, this study applied relational analysis, a branch of content analysis, which, as Robinson (2011) stated, focuses on examining the interconnections among concepts, themes, or categories within a text to produce a coherent and rational synthesis. By integrating these categories and concepts, the analysis sought to uncover meaningful relationships and provide a cogent representation of the phenomenon under study.

Table 3: Relational Analysis

No.	Category	Source
1	*Tawarruq*	BNM Policy Document
2	*Ujrah*	BNM Policy Document
3	*Wakalah*	BNM Policy Document
4	Profit	Journals
5	Overlimit fee	Journals, PDF
6	Credit shield	Journals, PDF
7	MCC	Journals
8	Subject matter	Journals, PDF

Table 3 presents the categories employed in the relational analysis, which explores the interconnections among concepts. Each category was subsequently cross-examined to gain deeper insights into the relationships, thereby facilitating a more comprehensive understanding of the *tawarruq*-based ICC and the *ujrah*-based CC.

Results and Discussion

Issues of Subject Matters

Subject matter of a contract plays a central figure in thwarting *gharar*. This is in line with Prophetic narration in which Hakim ibn Hizam (peace be upon him) "*I bought some food and made food and made a profit on it (by selling it) before I took possession of it. I came to the Messenger of Allah and told him about that and he (saw) said 'Do not sell it until you take possession of it*'" (reported by An-Nasa'i). In relation to the unverified subject matter chosen by the IBs for its customers, it is unbecoming for the former to sell the commodity without actually explicating to the latter before proceeding for the sale to the commodity trader. Such practice by the IBs is against the Prophetic traditions and *fasid* (unlawful) in nature (Ali & Hassan, 2020). Shafii et al. (2016) argued that it is crucial for the customer to critically observe the subject matter as the former is procuring cash (financing) out of buying and selling and the latter is deemed to be a *rukn* for the validation of the commercial transaction. Therefore, Shafii et al. (2016) and Abbasi and Aziz (2023) asserted that, it is utterly important for the subject matter to be recognizable and identified before proceeding of the sale as it may warrant the contract *fasid*, i.e., 'Mr A, the owner of an apartment says to Mr B that he will sell the apartment to the latter without explicating the type, unit, location and so forth to the latter, and this entire transaction is unlawful. The term "*I also understand that by taking delivery of the commodity, the financing amount shall not be credited into my financing account*" (AFFIN Islamic, 2023),

In relation to the ICC, BMMB (2023) has arbitrary mentioned on the subject matters in the PDS but unspecified on the specific commodity which deemed inconsistent with the BNM guideline. The issuer fails to outline the exact commodity for the transaction which is categorically incongruence with shariah law. Conversely, Bank Rakyat does not mention on the commodities for the ICC financing except for the "*I hereby agree to offer the purchase of*

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the commodity from Bank Rakyat under the basis of Murabaha with deferred sales price upon the purchase of the said community by the bank from the dealer" (Bank Rakyat, 2024). By not specifically mentioned of the commodity (commodities) for the financing transaction, the issuer has clearly violated the fundamental *rukn* (pillar) of the contract and may resemble *gharar*. According to Ahmad (2021), should the commodity not be highlighted to the customer precisely, how would they opt for the delivery of the commodity or alternatively for inspection visitation. The BNM has clearly highlighted in the policy document that *"In the event where the asset is not present at the majlis al-'aqd (contract session), the seller shall provide the purchaser with a specific description of the asset".* The BNM's shariah standards emphasize transparency and clarity in asset-based contracts to ensure shariah compliance. The rationale is to avoid *gharar*, which is prohibited in Islamic finance. As such, when the asset isn't physically present, a detailed and specific description helps ensure the buyer knows exactly what they're agreeing to. Further, the Accounting and Auditing Organization for Islamic Financial institution (AAOIFI) (2010) has emphasized on the contract's validity which is largely depended on the clarity, lawfulness, and legitimacy of its subject matter, as this ensures fairness, transparency, and compliance with *fiqh muamalat*.

Therefore, in a commodity *murabaha* contract, the commodity being sold must be clearly identified, lawful, and deliverable and must not be fictitious or involve circular sales.

Issues of Wakalah

The application of *wakalah* contracts in ICCC structures has gained prominence as financial institutions seek shariah-compliant alternatives to conventional credit mechanisms. While *wakalah* offers a legitimate framework under Islamic jurisprudence, its implementation in the ICC presents several ethical, legal, and operational challenges that merit scholarly attention. Truth be told, all the *tawarruq*-based issuers have implied the customers to irrevocably appoint the banks to be their representative or agents to sell the commodity (commodities) to any third-party purchaser for the purpose of opening the ICC. This is categorically a contradiction in terms with AAOIFI standard. According to AAOIFI (2010) standards:

- *An agent should not conduct deals with himself or with his son or daughter who is still under his guardianship or his partner in the same contract.*
- *The agent should not act for both parties to the contract.*

Furthermore, The AAOIFI (2010) has in its standard clarified on the prohibited measures by the bank to appoint itself as an agent for customer or vice versa as follows:

- *4/7 The client should not delegate the institution or its agent to sell on his behalf a commodity that he purchased from the same institution and similarly, the institution should not accept such a delegation. However, if the regulation does not permit the client to sell the commodity except through the same institution, he may delegate the institution to do so after he might have actually or impliedly received the commodity.*
- *4/8 The client should not arrange a proxy of a third party to sell the commodity on behalf of the client that purchased it from the institution.*
- *4/10 The institution should provide the client with the information that he or his appointed agent may need in order to sell the commodity.*

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By inserting such clause has made the entire contract organized and controlled by one party and seemingly accentuated a bogus trade which is highly denounced by scholars (Kahf & Habbani, 2019). The structure while permitted by the BNM, resembles a guaranteed profit, contradicting the fundamental shariah principle that profit must be linked to risk-bearing. These issues highlight the need for greater transparency, proper contractual structuring, and strict adherence to shariah standards with the aim of preserving the shariah legitimacy of *wakalah* contracts. The incorporation of the *wakalah* element into the *tawarruq* contract has led to its deviation from the original framework, resulting in varied legal interpretations of *tawarruq munazzam* (Mohamad & Ab Rahman, 2014). In addition to AAOIFI's prohibition, fatwa body such as *Majma' Fiqh al-Islami* (IIFA, 2009) has rejected the inclusion of *wakalah*, arguing that it was not an inherent requirement but introduced to streamline the contract, mitigate risks, and secure profits. These institutions contend that *wakalah* serves as a mechanism to generate returns exceeding the initial capital, thereby resembling riba (usury) (Umar, 2016).

While *wakalah* provides a viable mechanism for structuring Islamic credit cards, its practical application requires rigorous adherence to Shariah principles. Financial institutions must ensure that fees are justified, roles are clearly defined, and transparency is maintained throughout the contractual process. The Holy Quran stipulates in the verse (16:90) "*Indeed, Allah commands justice, grace, as well as generosity to close relatives. He forbids indecency, wickedness and aggression. He instructs you so perhaps you will be mindful*".

Issues of Prearrangement

By and large, IBs are not engulfed in risks for the commodity *murabaha* trading be it a supply risk or a price risk as the CBEs in particular the BSAS has a host of commodities suppliers to which any short of supply of one commodity can be replaced instantaneously with others without delay (BNM, 2022). Besides, the transactions are conducted on a spot basis with a fixed price tagged without fluctuations from the beginning until end of the day and ultimately pave a safe passage for the IBs to conduct trading without exposing to the extreme price volatility. Remarkably, IBs are able to trade using the same commodities more than once for different transactions within a day as the transactions are done almost immediately. In organized *tawarruq*, the IBs arrange a series of sales in which a client purchases a commodity from the bank on deferred payment terms and subsequently the commodity is immediately sold to a third party (often pre-arranged) for cash. The client receives liquidity, and the bank earns a profit margin without bearing significant risks. This structure is often executed through *wakalah*, with minimal physical possession or market exposure by the client. Consequently, profit margins derived from such arrangements are viewed as disconnected from the underlying principles of risk-sharing that form the ethical foundation of Islamic finance, thus resembling an interest-based transaction in substance rather than form.

The IBs earn profit without bearing the risk of ownership or market fluctuation, violating *al-kharaj bi al-dhaman*. In addition, the client gains liquidity without engaging in genuine trade or risk, contravening *al-ghunm bil al-ghurm*. These process mimics conventional interest-based lending under the guise of trade, reducing shariah compliance to mere formality which is similar to a synthetic transaction. Prominent scholars and Shariah boards have criticized organized *tawarruq* for being *makruh* (reprehensible) and ethically questionable (Ayub, 2007; Zuhayli et al., 2007). The Islamic Fiqh Academy (OIC) has expressed reservations, warning against its misuse as a substitute for interest-based loans. The absence of risk-sharing and genuine asset transfer erodes the tenets of *maqasid al-shariah*, particularly justice and

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economic equity. This indeed may result *tawarruq* contract into *shubuhat* (doubtful) following disharmony perspectives among jurists. Qardawi (1989) stated that *shariah* has defined *shubuhat* as matters with unclear description and stark differentiation among jurists. The conflict of views among scholars, religious councils and the authorities for the *tawarruq* recognition following a contradiction between substantial evidence and devoid of clarities have created a *shubuhat* path in this setting (Ahmed et al., 2012; Alkhan & Hassan, 2019; Ahmed et al., 2020). Ahmed et al. (2014) asserted that *shubuhat* matters palpably exist in the IBs parameter particularly in the Islamic subsidiary banks as compared to the full-fledged IBs. In Ahmed et al. (2020), the authors reported that *shubuhat* is alluding to a non-transparency transaction which closely assembled or identical to the CBs that has been categorically rejected by the *shariah* law. Apparently, there are elements of fraud and *shubuhat* in the *tawarruq* practice by the IBs as the prearrangement paradigm has raised a ruckus to the extent that the OIC has declared *tawarruq* as *haram* (Umar, 2016; Yusoff et al., 2016; Ali & Hassan, 2020; Elias, 2020; Smolo & Musa, 2020).

Issues of Overlimit Fee

The imposition of overlimit fees in Islamic credit cards has been a subject of scholarly debate, as it raises questions concerning its compliance with *Shari'ah* principles. Conventional credit cards typically charge overlimit fees as a form of penalty for exceeding the approved credit limit, which in essence generates income without any underlying service or countervalue. From an Islamic finance perspective, such a charge risks resembling *riba* (usury), as it involves a monetary gain that is not directly linked to risk-taking, asset-backing, or the provision of a legitimate service. According to Shari'ah standards, fees imposed by Islamic financial institutions must be justified on the basis of actual services rendered or costs incurred, rather than serving as punitive measures. While some Islamic banks have attempted to justify overlimit fees by framing them as *ujrah* (service fees) for administrative purposes, critics argue that the absence of a tangible service undermines this claim, rendering the practice questionable. This issue highlights the broader challenge of balancing risk management and profitability with *Shari'ah* compliance in structuring Islamic credit cards. In the context of *ujrah*-based ICC, the imposition of an overlimit fee has been a subject of shariah scrutiny. Unlike in CCC where such a fee is commonly charged as a punitive measure for exceeding the prescribed credit limit, shariah principles prohibit any charge that resembles *riba* or functions as an unjust penalty. Instead, the imposition of charges must be backed by a legitimate cause, grounded in shariah laws.

In reality, the Fixed Management Fee (FMF) which is known as fixed *ujrah* in *ujrah*-based ICC is already preset at the outset of the contract based on the card types. However, the issuer is granting a rebate for the non-utilization of the card and if the cardholder is paying in full by the due date. Therefore, the outstanding balances must be in the scope of the FMF and not based on three-tiered pricing mechanism, ranging from 15% to 18% per annum which is known as Effective Management Fee (EMF) or actual *ujrah* (Bathusha & Isa, 2024). Truth be told, the overlimit fee if implemented, should be based on actual cost as to avoid resembling *riba* following its nature which constitutes *qard*. Further, once the facility limit has been exhausted, a new FMF must be formulated to legitimize the *ujrah*. Lamentably, the issuers have failed to conduct such execution and have imposed charges for exceeding the facility limit.

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Conversely, Fozi (2020) argued that the imposition of EMF is legit as the issuer is using the EMF as a determination for rebate calculation and not as a mode of profiting. The BNM (2019) has stated in the PD guideline "*The ujrah (fee) must be fixed amount and shall not be based on the credit limit*" and "*For services related to the provision of loan, delay in loan settlement and cash back services, the issuer is only allowed to charge the direct costs incurred in providing such services. Among the services in this category are cash withdrawal services and retail services*". The imposition of *ujrah* with regard to the *shariah* guideline made by the BNM is utterly in violation of the conduct. There are two distinct violations of which the first is; *ujrah* can only be imposed by way of fixed amount and must not be based on the credit limit and secondly, the charges imposed for the retail services and cash withdrawal services must be strictly based on direct costs incurred by the issuer during the *qard* process. As such, the direct cost must not be known as *ujrah* as it may resort to *bay' wa salaf* which is utterly prohibited as underscored by Bathusha and Isa (2024). In addition to that, the Council allows the issuer to impose direct costs for the services related to the delay in loan settlement. Rosly (2005) argued on the veracity in determining the direct costs as to what justification does an issuer apply, was it based on opportunity cost or any other mechanism used? Should the issuer base the calculation for the direct costs firmly on the opportunity cost, then it would tantamount to *riba*. Moreover, should the issuer impose the direct costs through the cost of operation for the delay in loan settlement, then it becomes a benefit to the lender which is *riba*. The Prophet (saw) said "*Every loan which generates benefit is one of the many types of riba*" (reported by Al-Baihaqi). Therefore, the overlimit fee must be ceased to operate as its operation is similar to the interest-bearing CCC for which *riba* is the central figure of its operationality.

Issues of Credit Shield

The introduction of credit shield facilities in the ICC has raised considerable shariah concerns, particularly in relation to the prohibition of *gharar* and *riba*. In CCC, credit shield is essentially a form of insurance or protection plan that settles the outstanding balance in the event of death, permanent disability, or critical illness of the cardholder, in exchange for a monthly premium. Within the Islamic framework, however, such arrangements risk falling into the category of *ta'min tijari* (conventional insurance), which is widely rejected by shariah scholars due to its elements of *gharar*, *maysir*, and *riba*. Proponents argue that credit shield could be restructured under the concept of *takaful*, whereby contributions are pooled into a cooperative risk-sharing fund rather than being profit-driven, thus aligning with Islamic principles. Nonetheless, the practice remains contentious, as in many cases IBs simply adopt the conventional structure with minor modifications, raising doubts about its true shariah compliance particularly by RHB Islamic. This reflects a broader issue within Islamic financial innovation, where the pursuit of market competitiveness may compromise adherence to foundational shariah principles.

Among the coverages given are to cover cardholders' outstanding balances should the cardholder pass away following triggering events such as sickness, accidental death or grapple with temporary total and permanent disability. In this regard, to the best of the researcher knowledge, BSN and RHB Islamic are the two issuers engage with this facility. While BSN has engaged with takaful provider for the ICC coverage, RHB Islamic remains with insurance provider. In reference to RHB Islamic credit shield facility, the cardholder has to pay RM0.28 per RM100 of the total outstanding balance and the contribution is to be payable on a monthly

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basis as long as the outstanding balance remains unsettled (RHB Insurance, 2025). For the avoidance of doubt, had the cardholder be in debt of RM1000, the contribution for the month would be RM2.80 until fully settled. The issuer stated that out of RM0.28 paid by the cardholder [for outstanding balance only], 15% will be earn by the issuer as a commission. In this regard, RM0.42 will be recognized as a bank's income for RM2.80 payment. It is pertinent to note that the underwriter for the facility is 'RHB Insurance' which is a general insurance business arm under RHB Group whose products and services are literally conventional in nature. According to Mahmood (n.d.), insurance products regardless of life, general or even promoting and marketing of the products are classified as *haram* following prohibition elements embedded in the insurance fundamental.

Therefore, by promoting the insurance coverage for the outstanding balance of the ICC is utterly unacceptable and void as according to Mahmood (n.d.), the insurance's cardinal *'aqad* is hinged upon *gharar*, *riba* and *maysir* which led to its prohibition. This is in line with the Hadith by Prophet Muhammad (saw) that said "*Seeking the lawful is a duty upon every Muslim*" (reported by Al-Tabarani). AAOIFI (2010) in its Standards explicitly prohibits conventional insurance contracts, while permitting only *takaful* models that are based on mutual risk-sharing and donations. Similarly, the Islamic Financial Services Board (IFSB, 2009) underscores that credit protection products must adhere to *takaful* principles to ensure shariah compliance. In this regard, credit shield could theoretically be restructured as a *takaful*-based mechanism, whereby participants' contributions are pooled into a risk-sharing fund, thus aligning with Islamic cooperative principle. A Hadith by the Prophet Muhammad (saw) that said "*The honest and trustworthy merchant will be with the Prophets, the truthful and the martyrs*." (reported by Al-Tirmizi). The Holy Quran, affirms the importance of equitable conducts in the verse (4:29) "*O believers! Do not devour one another's wealth illegally, but rather trade by mutual consent. And do not kill each other or yourselves. Surely Allah is ever Merciful to you*".

This raises doubts about the extent of shariah compliance and reflects a broader challenge in Islamic financial engineering; the tension between market competitiveness and strict adherence to foundational principles. Unless properly restructured under genuine *takaful* frameworks, credit shield in ICC risks undermining the very essence of Islamic finance, as it may inadvertently replicate the prohibited features of conventional insurance.

Issues of Merchant Category Code

Issues of miscoding or wrongly tagged MCC, have caused a huge blow for the issuers in granting the cardholder's admittance (Mandal, 2023). Given the aforementioned, acquiring banks assign MCC to merchants according to the business activities (Stripe, 2023a). In normal circumstances, transaction may be allowed should a cardholder swipe the ICC according to the permitted MCC but the transaction will not be honoured in view of the restricted MCC by the issuer. The issuers have explicitly exemplified on the restricted MCC for the cardholder as a guideline for the utilization approval. The principle of *sadd al-zarai'* (blocking the means) which necessitates a vital mechanism in blocking unlawful and *shariah*-non compliant

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utilization for the cardholder in the presence of MCC has insulated the ICC from accessing such malicious and harmful activities. Therefore, it shall hinder the consumption of malicious intents at the prohibited premises, online transactions, foods and all utilizations that are deemed impermissible by *shariah* (Billah, 2022). Inevitably, the IBs principle's foundation do not permit the segregation between religious matters and temporal (Siddiqi et al., 2019). This is in line with the Prophet Muhammad (saw) noble Hadith that said "*Verily, what is halal is clear and clear, and what is forbidden is clear and clear, and between these two things are doubtful matters than an ambiguity that most people don't know about. Whoever takes care of doubtful matters, he has indeed purified his religion and his dignity. And whoever falls into a matter of doubt, then he has fallen into a forbidden matter*," (reported by Muslim).

Therefore, the onus lies on the merchants in particular Muslim merchants to provide a clear and legit business operation to the acquirers for the enforceability of the ICC and not concealing or manipulating business operation activity for the sake of worldly possession which is fundamentally forbidden. In addition, the entire schemes including issuer and acquirer have to be meticulously observant on the legitimacy of the MCC's application. According to Ibrahim and Mohamed (2023), AFFIN Islamic bank and BIMB were two of the IBs detected of having associated with *shariah* non-compliant (SNC) events for receiving commissions for the card business in the form of interchange fee from the merchants which involved in non-*shariah* activity. In BIMB (2023), the annual report mentioned on the commissions of RM22,055.73 received from SNC merchants of card business. Obviously, it is perceived that despite of the MCC restriction, the ICC is still utilizable at the restricted premises.

Conclusion

Shariah law has a unique characteristic formulated by the Creator which aims to perpetuate ethical-based values for His creature in particular mankind. In all scope of matters irrespective of *ibadah* (act of worship) or *muamalat*, are aiming at specific moral objectives (Auda, 2022). Freedom to contract, therefore needs to be intertwined with the elements of fairness, transparency, equity, honesty and high morality which must be in accordance with the Divine laws (Kamali, 2017; Suzuki & Miah, 2020; Rofiq & Hosbi, 2022). Despite receiving regulatory approval, *tawarruq*-based and *ujrah*-based ICC models continue to raise concerns regarding their alignment with shariah compliance standards. It is, therefore, a new contract which is in harmony with shariah should be discovered by the regulator to accommodate the ICC.

This study offers a significant contribution to the ongoing discourse surrounding the implementation of *tawarruq*-based and *ujrah*-based ICC in Malaysia. At present, the contractual foundations of these two underlying contracts do not accurately reflect their operational structures, largely due to extensive imitation and benchmarking against CCC models. Therefore, a comprehensive review is warranted particularly by key stakeholders such as the SAC of BNM and the management teams of issuing institution with the aim of enhancing clarity and transparency in ICC practices. Moreover, it is imperative that cardholders are assured of the distinct nature of ICC compared to the CCC particularly in terms of subject

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matters, *wakalah* arrangements, pre-contractual structuring, overlimit charges, credit shield mechanisms and MCC formations. In this regard, the study aims to provide valuable insights and perspectives that can empower consumers with a clearer understanding of the actual execution of *tawarruq*-based and *ujrah*-based ICC by Islamic banks.

Notwithstanding, there is a limitation in this study especially on the endorsement and inputs form the SAC of the BNM, shariah committees and shariah advisors from the respective issuers in particular and IBs in general. As such, future researchers may delve into this parameter for extensive deliberation on the *tawarruq*-based and *ujrah*-based ICC. However, the analysis is constrained by the lack of formal endorsement from SAC of BNM, shariah committees and advisors, which limits the depth of interpretation regarding the shariah validity of both ICC applications. To address this gap, future research should actively engage with authoritative bodies with the aim of having direct and nuanced interpretations of the *tawarruq*-based and *ujrah*-based ICC. Such engagement would not only enhance the credibility of future studies but also contribute to a more harmonized and transparent framework for Islamic financial products in Malaysia.

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