

Licensed Moneylending Industry as an Alternative Financial Service in Malaysia

Daljit Kaur Sandhu¹, Afida Mastura Muhammad Arif²
 Elistina Abu Bakar³, Husniyah Abd. Rahim⁴

^{1,2,3,4}*Department of Resource Management and Consumer Studies, Faculty of Human Ecology, Universiti Putra Malaysia, Serdang, Selangor, Malaysia*

Alternative financial services are commonly accessed by low income borrowers who are excluded from mainstream lenders. The borrowers are declined due to low or irregular income, need of urgent funds or failure to fulfil formal banking credit worthiness ratings (Infosys BPO, 2008). Alternative financial service in Malaysia constitutes part of the shadow banking system (Borneo Post, 2016). Also recognized as licensed moneylending, it provides a new breath of credit links to borrowers who otherwise have no option of formal credit. Notably, the lower income group comprised forty per cent of the total Malaysian population of 12.4 million in 2016. The total Malaysian population composition is at a median age of 28 years, which indicates that there is a pool of young potential borrowers (Department of Statistics, 2016). More attention needs to be paid to the licensing of moneylending. This is important as this industry has grown over the years as presented in Table 2.

EVOLUTION OF MONEYLENDING IN MALAYSIA

Moneylending in Malaysia began informally before independence with the Nattukottai Chettiars pillared by their temple institution, and the Punjabi Sikh community supported by their motherland Punjab (Lal, 2003; Manjit, 1991). It was spearheaded by mutual trust between lenders and borrowers using hand written or verbal IOUs. Borrowers were primarily adult males seeking funds to conduct businesses, resulting in prompt repayments. It is unfortunate that due to the Japanese occupation of Malaya in 1942 to 1945, and the implementation of the requirement of having Malaysian citizenship to practise licensed moneylending with the passing of Moneylenders Act 1951, the Chettiars perished in what started as a noble trade (Ummadevi, 2013). However, moneylenders continue to survive due to the shortage of access for certain groups such as ad-hoc labourers who

¹Correspondence: gs46591@student.upm.edu.my

are unable to provide proof of fixed income as required by formal financial services (Bernama, 2016).

LICENSED MONEYLENDING OBJECTIVE

In 1951, the primary purpose of establishing a licensing system for moneylending was to protect the interest of borrowers (Arif, 2009). The Malaysian Moneylenders Act 1951 (Act 400) and regulations underwent two major amendments in 2003 and in 2011 to curb illegal moneylending. To participate in legitimate moneylending, application for a licence is required by the Ministry of Housing and Local Government (MHLG). Under the ministry, a specific section is tasked to monitor the licensing together with the enforcement of moneylending activities according to the said Act.

Table 1 provides a brief overview of the role of the three key players in the moneylending industry in Malaysia, comprising MHLG, licensed moneylenders and borrowers.

The issuance of moneylending licences has been on the increase as presented in Table 2, indicating a steady demand from Malaysian borrowers. As of 30 June 2017, there were 3,642 licensed moneylenders throughout Malaysia, highlighting the paramount role of licensed moneylenders in the Malaysian economy, a role which is left unfulfilled by the formal financial

Table 1
The Three Key Players in Moneylending in Malaysia

Ministry of Housing and Local Government (MHLG)	Enacted the Moneylenders Act 1951 (Act 400), which was amended in 2003 and 2011. Has included Sabah and Sarawak since 2008.
Licensed moneylenders	Governed by the Moneylenders Act 1951 (MLA) and conduct moneylending business in compliance with MLA and MHLG guidelines. Business advertisement of services are restricted as per MHLG rules and regulations. Offer loans with or without collateral. Interest rates at 12% with collateral per annum. Moneylending contract as per Schedule K and First Schedule of the MLA. Interest rates at 18% without collateral per annum. Moneylending contract as per Schedule J and First Schedule of the MLA. Repayment method and duration is to be discussed between the borrower and the lender, which is stated in the moneylending contract. Transaction is conducted in a physical office.
Borrowers	Any eligible Malaysian above 18 years.

Source: Moneylenders Act 1951

services. Notably, limited research has been conducted on the issues in the moneylending industry.

The Moneylenders Act 1951 in Malaysia is comprehensive in listing out the responsibility of borrowers to be vigilant in taking out personal loans

Table 2
 Active Moneylender Licences by State in Malaysia from 2012 to 2017

State	2012	2013	2014	2015	2016	2017*
Johor	306	283	289	293	296	293
Kedah	154	138	137	137	139	138
Kelantan	16	13	14	12	11	12
Melaka	102	95	98	105	104	107
Negeri Sembilan	129	119	116	121	116	117
Pahang	105	94	96	102	103	100
Perak	280	269	260	259	257	258
Perlis	13	8	9	9	10	11
Pulau Pinang	374	326	322	312	310	298
Sabah	-	417	442	515	627	765
Sarawak	-	381	441	490	513	395
Selangor	601	615	624	634	666	672
Terengganu	26	25	25	26	28	30
Kuala Lumpur	458	433	443	437	445	439
Labuan	-	5	5	5	5	5
Putrajaya	2	2	2	2	2	2
TOTAL	2566	3223	3323	3459	3632	3642

Source: Ministry of Housing and Local Government* as at June 2017

with or without collateral. The interest rate for personal loans with collateral is 12% per annum and for those without collateral, it is 18% per annum. There is a gap in the law as to how borrowers are to ensure that they are charged the stipulated interest rates in the actual moneylending transactions. In addition, licensed moneylending businesses must abide by three important requirements in the MLA, that is, have a valid operating licence, permanent account books and updated borrowers' statements (Legal Aid Department, n.d.).

LICENCE

Section 15 of MLA clearly states that

only those with a moneylending licence can lend money for the purpose of moneylending. The duration of the licence is two years and application for renewal must be submitted to MHLG sixty days prior to the expiration date. A valid licence should be displayed in a prominent location in the moneylender's office for ease of borrowers' viewing.

PERMANENT ACCOUNT BOOKS

According to Section 18 of MLA, moneylenders are obligated to keep an original copy of moneylending contracts and accounts in permanent books. The contracts must be stamped and attested

by MHLG approved attesters. A copy is to be given to the borrowers.

STATEMENTS

Section 19 of MLA states the obligation to supply information as to the state of the loan and copies of the First Schedule to the borrower. Monthly repayment receipts should be provided by the moneylender to the borrower upon each repayment.

Table 3, based on the Moneylenders Act 1951, Arif & Parry (2008) illustrates the execution of borrowers' rights to information, rights to receive a copy of the moneylending agreement, duty to make repayment regularly and duty

to discharge expenses and charges. In addition, the borrower has the obligations to furnish valid information on his or her identity, contact number, latest pay slips and correct address to the moneylender.

MONEY LENDING CONTRACT

The money lending contract is an agreement made in writing between a moneylender and a borrower for the repayment, in lump sum or instalments, of money borrowed by the borrower from the moneylender (Moneylenders Act 1951). In successful execution of the contract, both parties comprising

Table 3

Borrower's and Moneylender's Obligations as in Moneylenders Act 1951

No. Borrower's Rights	No. Moneylender's Rights
1. Right to information.	1. Right to charge simple interest in cases of default.
2. Right to receive a copy of the moneylending agreement.	2. Right of action
No. Borrower's Duties	No. Moneylender's Duties
1. Duty to make repayments regularly.	1. Duty to have a valid moneylender's licence.
2. Duty to discharge expenses and charges.	2. Duty to provide a moneylending agreement in a prescribed form.
	3. Duty to display licence at all times.
	4. Duty to keep accounts accurately.
	5. Duty to supply information.
	6. Duty to charge authorised expenses only.
	7. Duty to provide receipt.
	8. Duty to regard to security.
	9. Duty to serve documents.
	10. Duty not to fraudulently induce any person to borrow.
	11. Duty to comply with relevant written law.

Source: (Arif & Parry, 2008)



the moneylender and the borrower have rights and duties to accomplish. Table 3 illustrates a heavier obligation on the moneylender than on the borrower in complying with the Moneylenders Act 1951. The borrower has the essential responsibility to perform the two rights and two duties. The requisite for the moneylender is to comply with two rights and eleven duties. However, the rise in complaints in the Malaysian media of non-compliance during the execution of contracts indicates a gap in the implementation of the said Act.

MONEYLENDERS' DUTY TO BORROWERS

In ensuring a satisfied loan contract outcome, a licensed moneylender is expected to be honest and the same is applied to a good borrower. Moneylenders are required to comply with the duties as indicated in the Moneylenders Act 1951. In addition, the perception of a reliable moneylender also depends on from whom the viewpoint is derived. From the perception of the moneylender himself, it is having met the minimum requirements in conducting business as per the authoritative guidelines. From the borrower's point of view, it is the ability of obtaining funds at the soonest, lowest interest rates, securing a minimum and longer re-payment period.

During the lending process, the licensed moneylender must provide the

documents as per section 16 of MLA. The moneylender is required to provide the exact amount of payment to the borrower as per agreement stipulated in section 17A. In the case of borrowers repayment default, the moneylenders are to appoint legal means and not harass borrowers in reclaiming the given money. Muhammad (2015) deliberated the point that formal financial institutions in Malaysia need to apply empathy and fair treatment on their defaulters who are ill. Similar empathy could be proposed on the licensed moneylending industry. The challenge is when the licensed moneylender has to deal with borrowers who intentionally disappear or deny taking the loan in the press.

BORROWERS' DUTY TO MONEYLENDERS

Consumer money borrowings from licensed moneylenders are divided into planned and unplanned. According to licensed moneylenders, there is a higher tendency of planned borrowing during festivities (The Star Online, 2018). The findings of a study in Malaysia show that there is two times more tendency for expenditure during Hari Raya Aidilfitri especially among the women folk (Mohamad, 2016). It highlights the spur of last-minute purchasing as the main cause of over-spending that may lead to an increase in money borrowing.

Unplanned borrowing occurs due to unexpected death, loss of income,

mishaps or increase in exchange rates for supporting children's overseas education fees. Whatever the situation that triggers the money borrowing, it is the duty of the borrower to ensure repayment ability and pay the contract stamp duty charges.

BORROWERS' LIFE CYCLE OF MONEY BORROWING

A "borrower" in this context is a person to whom money is lent by a moneylender (Moneylenders Act 1951). The process of borrowing starts with the intention or a cause that leads to an act of wanting to borrow. "Peer pressure" in this context refers to wanting to own gadgets such as the latest smartphones and designer bags. The push factor comes from the pressure of having a lack of money and the pull factor is from the perceived easy access to funds. As a responsible borrower, financial knowledge on disposable income and planning is vital in ensuring the ability to fulfil repayments. However, many people tend to borrow way above their means and get entangled in repeated borrowing. Malaysians are said to be borrowing too much and not saving enough, according to Khazanah Research Institute (The Star Online, 2016a).

An emerging trend among consumers in Malaysia is that the high dependence on credit to purchase what they desire (Muhammad, 2015), is causing formal banks to scrutinize their

lending. As an alternative, borrowers source other avenues for funds in order to make payments for services, purchase consumer goods as well as buy a low-cost home. According to Malaysian Punjabi Licensed Moneylenders Association or MPLMA, borrowers choose a licensed moneylender based on referrals from family members, colleagues and friends who have experience dealing with the licensed moneylender (MPLMA, 2016). Furthermore, borrowers are the ones who willingly seek the licensed moneylender and not the other way around as perceived by many people. Based on MPLMA, their borrowers can be categorized to be from the government sector, the private sector and businesses.

PRUDENT BORROWERS

Borrowing money has changed since the early days from responsible needs-infused borrowing to the present impulsive wants borrowing. A prudent borrower is careful to scrutinize the available options, to take time in making the decision to borrow from a licensed moneylender and is likely to consider ability to make on time repayment. A borrower must be able to distinguish between a legitimate and an illegal moneylender. A licensed moneylender usually has a fixed phone line (MHLG, 2018). One challenge faced by the borrower is the inability to understand the terms of the agreement and repayment obligation, leading to unwise decisions (Xiao, 2015). The borrower has the right to read



thoroughly the terms and conditions of the contract and seek clarifications from the licensed moneylender to avoid dissatisfaction in the future.

BAD DEBTS BORROWERS

Poor financial planning is cited as the main reason for a borrower's difficulty in repayment of debts. The number of people participating in the Debt Management Programme shot up by 1,819 per cent to 156,892 as at end July 2016 from 2007, (The Star Online, 2016b). There is a concern that moneylenders' bad debts borrowers are neglected from receiving financial advice through the Credit Counseling and Debt Management Agency.

UNETHICAL BORROWERS

Normally, a borrower without a collateral repays a loan in a timely manner with the intention of gaining future financial access (Bond, 2009). Nevertheless, there are borrowers who default, where the borrower seeks money with the intention of non-repayment to the licensed moneylender. In some cases, the borrower complains to non-governmental organizations to avoid paying their personal loans. It is imperative that before taking up such cases, non-governmental organizations screen each complainant's credit history thoroughly with the assistance of the Central Credit Reference Information System (CCRIS) and Credit Tip-Off Service (CTOS).

BORROWERS' RIGHT TO ACCESS KNOWLEDGE

Knowledge is the depth and understanding of an individual's rights as a borrower in selecting the right moneylender and being responsible in knowing how to make timely repayments. MHLG has introduced the Electronic Money and Pawn Broker System (eMAPS) which is an online information portal for borrowers to view information regarding licensed moneylenders and decide their best option (MHLG, 2018).

PROPOSED SUGGESTIONS

Borrowers should reflect on the need, urgency, resources and whether that is the best available option to commit to. The accessibility of the printed pamphlets by MHLG can be broadened to include the general public and they should be advertised on buses, in public spaces and broadcast by the media. It is proposed that the said printed pamphlets be placed at strategic counters at the licensed moneylenders' offices, for prospective borrowers to be made aware that they are protected by the law. Another option is to seek the assistance of financial institutions in directing unsuccessful loan applicants to legitimate moneylenders. Similarly, licensed moneylenders should have an avenue in MHLG to complain and seek redress on cases of bad debts or unethical borrowers that provide incorrect personal information. This initiative will rid habitual borrowing among

Malaysians and highlight the plight of licensed moneylenders in managing non-collateral personal loans loans. ■

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