ABSTRACT


Keywords: Comparison, Concept, Sharia Factoring, Fatwa of DSN-MUI, Hiwalah Contract, Bank Indonesia Circular Letter

Sale and purchase with debt at first is so susceptible of default, so the seller and the buyer transfers to the other party or to the finance companies such as sharia factoring based on the fatwa of DSN-MUI and to the Islamic banking services through the product services with hiwalah contract which is technically described in Bank Indonesia Circular Letter. The formulations of the problem raised in this study are: 1) How is the concept of sharia factoring in fatwa of DSN-MUI with the concept of Hiwalah contract in Bank Indonesia Circular Letter? 2) How are the similarities and the differences between the concept of sharia factoring in fatwa of DSN-MUI with the concept of Hiwalah contract in Bank Indonesia Circular Letter? While the purpose of this study is to discover the concept of sharia factoring in fatwa of DSN-MUI with the concept of Hiwalah contract in Bank Indonesia Circular Letter as well as the similarities and the differences between the concept of sharia factoring in fatwa of DSN-MUI with the concept of Hiwalah contract in Bank Indonesia Circular Letter.

This study uses normative juridical research with conceptual approach and statute approach. The sources of the legal materials use secondary data. The study of literature is as a method of collection of legal materials. The methods of legal materials analysis are editing, classifying, analysing, concluding and also describing to present research results.

There are two results of this study. First, the concept of sharia factoring in fatwa of DSN-MUI uses wakalah bil ujrah, and the concept of Hiwalah contract in Bank Indonesia Circular Letter is the concept of debt transfer with Hiwalah muthlaqah and Hiwalah muqayyadah. Secondly, there are similarities between the concept of sharia factoring in fatwa of DSN-MUI with the concept of Hiwalah contract in Bank Indonesia Circular Letter. Those are from the aspect definition, object, other types, agreement form to give a bailout (qardh) and get ujrah/fees, and its term in the Civil Code is cessie and subrogation. While the differences between the concept of sharia factoring in fatwa of DSN-MUI with the concept of Hiwalah contract in Bank Indonesia Circular Letter are the form of debt transfer and receivable transfer, the assignor, related institutions, object of transaction, and the differences with Hiwalah muqayyadah are not provide bailout and get ujrah, as well as the settlement of dispute.