

ABSTRACT

Baerin Octaviani, NIM 11220012, 2015. *Comparison of Sharia Factoring Concept In Fatwa of DSN-MUI With Hiwalah Contract Concept In Bank Indonesia Circular Letter*. Thesis. Department of Sharia Business Law, Faculty of Sharia, The State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: Dr. H. Mohamad. Nur Yasin, S.H, M.Ag.

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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 ujah*, 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.