

ABSTRACT

Yulia Putri Kusumaningtyas, Dymas. 09220055. 2013. *Malang Sharia Bank Response on The Religious Court's Authority in the Sector of Sharia Banking Dispute Resolution (Consideration of Article 55 of Law Number 21 of 2008 about Sharia Banking)*. Thesis. Department of Sharia Business Law. Faculty of Sharia, State Islamic University of Maulana Malik Ibrahim of Malang. Supervisor: Dr. H. Dahlan Tamrin, M.Ag.

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The dispute in Sharia Banking industry will be inevitable, and then, the Article 49 point (i) of Law Number 3 of 2006 on the Amendment of the Law Number 7 of 1989 on Religious Court's, Religious Court's grants the authority to be the only judicial power agency who is authorized to settle the sharia economics disputes which includes Sharia Banking activities as a court of first instance in the religious court because that agency considered has the law enforcement which understand the principles of Sharia. In line with this, Article 55 of Law Number 21 of 2008 on Sharia Banking also regulates the same substantially terms, but the authors found an issue about Sharia Banking dispute resolution which is demonstrated in the explanation of Article 55 clause (2) which indicates the inconsistency of the determination of the absolute authority of Religious Court's in Article 49 point (i).

The problems which are discussed in this thesis is a response from practitioners of Bank Muamalat Indonesia, Bank Tabungan Negara (BTN) Syariah, and Bank Negara Indonesia (BNI) Syariah about Sharia Banking dispute resolution that are summarized in Article 55 of Law Number 21 of 2008 and also the response of the intersection authority between Religious Courts and District Court's (General) as is summarized in the explanation of Article 55 clause (2). Furthermore, the type of research which used in this thesis is a field research that is supported by library research and based on the Law about Sharia Banking. And data collection through the observation, interviews, and documentation by using qualitative descriptions of data analysis.

At the end of the results in this thesis, the authors can conclude as follows. *First*, both Bank Muamalat Indonesia, Bank Tabungan Negara (BTN) Syariah, and Bank Negara Indonesia (BNI) Syariah respond well about Sharia Banking dispute resolution under Article 55 clause (1) and (2) of the Law Number 21 of 2008 about Sharia Banking because in performing they's functions as the national economy builder, Sharia Bank certainly want to obey every regulations which underpin the operational, business and institutional of the Bank. On the other side, Sharia Bank is also a financial intermediary institutions which oriented to benefit as much as possible to minimize the risk which there will be fixed priority

effectively and efficiently dispute resolution procedures. *Second*, regarding the intersection authority between Religious Court's and the District Court's (General) that arises from the Explanation of Article 55 clause (2), the Sharia Bank practitioners assumed that this case is because some factors: (1). The Religious Court's judges readiness still doubt the justice seekers; (2). The laws that support the transaction of Sharia Banking products are issued prior to the issuance of Law No. 3 of 2006 as Law Number 42 of 1999 About Fiduciary has not been adjusted; (3). That the dualism of authority caused by the persistence of the Sharia Business Unit (UUS) as a branch office of a Conventional Bank which wants to apply Islamic principles, in terms of the law are still guided by Conventional Bank entrusted the dispute resolution matters to the District Court's (General); (4). That the dualism of authority arranged for the Customer freedoms to select a trusted remedy. Where it is in the opinion of the author because the Sharia Bank enthusiasts not only Muslims but also from non-Muslims, while still there is no unification of law and the same legal certainty for all segments of society.