

ABSTRACT

Solikin. 092200. 2013. The Problem of 'Aqd *Wakâlah* Inclusion on *Murâbahah* Financing Products, Syariah Law Business Department, Syariah Faculty, The State Islamic University Maulana Malik Ibrahim Of Malang. Supervisor: H. Khoirul Anam, Lc. M.H.

Key Words: *Wakâlah*, *Murâbahah*, and Causes.

One product that is commonly used in Islamic Banking is *Murâbahah* financing. In the development of Islamic Banking, the product is modified and produced along with the inclusion of *Wakâlah* contract. Many studies conclude that with the inclusion of these wakalah contract, the implementation of *Murâbahah* financing product is not in accordance with the provisions of Shari'ah. Nevertheless, this kind of financing product is still applied in Islamic banks. Therefore, it is necessary to conduct research on the causes of inclusion of *wakâlah* on *murâbahah* financing products. This study focuses on the implementation of inclusion of *wakâlah* on *murâbahah* financing products.

This study is empirical research. This study relies on two data sources, primary data and secondary data that are analyzed using descriptive analysis. The primary data are obtained by interview with employees of Islamic Bank BRI Malang. From the interviews, the writer obtained data on the system of *murâbahah* financing products applied in Islamic Bank BRI division Malang. Meanwhile, secondary data are obtained from books, written reports of the company, and other literatures which are in accordance with the purposes of writing.

From this study, it can be concluded that Islamic Bank BRI Malang always includes contract *wakâlah* on *murâbahah* financing products. This practice is not in accordance with the provisions of islamic jurisprudence that prohibits using two transactions in one transaction (*bay'atayn fî bay'atin*). Besides, in the inclusion of *wakâlah* contract, the procurement of goods uses clients names directly. Thus, substantially, as the seller, the bank sells goods that do not belong to it. This case is also contradictory to the fatwa DSN No.04 about *murâbahah*. Nevertheless, Bank BRI Syariah still include wakalah contract with the reasons as follow: the lack of employee to buy items needed for the customers, and complicated administrative processes.