

Keabsahan akta perjanjian (akad mudharabah) yang dibuat oleh notaris pada bank syariah ditinjau dari hukum perikatan islam dan perikatan perdata = The validity of the deed of agreement agreement mudharaba notary islamic bank islam in the terms of engagement and engagement civil

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Abstrak

[ABSTRAK

Di Indonesia perkembangan kajian dan praktek ilmu ekonomi Islam juga berkembang pesat. Kajian-kajiannya sudah banyak diselenggarakan di berbagai Universitas negeri maupun swasta. Sementara itu pada prakteknya, ekonomi Islam telah berkembang dalam bentuk perbankan syariah dan lembaga-lembaga keuangan ekonomi Islam nonbank. Perbedaan paling utama antara sistem perbankan syariah dan perbankan konvensional terletak pada konsep riba. Untuk mengikuti pesatnya perkembangan perbankan syariah di Indonesia, maka perlu diikuti dengan kajian atau pengamatan tentang Akad Perbankan Syariah ditinjau dari segi Keabsahan Akadnya yang dibuat oleh notaris pada Bank Syariah ditinjau dari segi perikatan Islam dan Perikatan Perdata. Penelitian ini dilakukan dengan menggunakan metode penelitian normatif yang bersifat evaluatif terhadap Contoh Akta atau akad Perbankan Syariah (lampiran) serta data primer dan Sekunder, disebabkan karena pentingnya keabsahan suatu akta yang di pergunakan dalam berbagai transaksi syariah sebagai dasar dalam melakukan perbuatan hukum. Hasil pengamatan dan evaluasi terhadap akad perbankan syariah dalam contoh Akad Mudhabah yang dibahas, ternyata masih kurang sempurna dari ketentuan perikatan Islam khususnya, dan Notaris sebagai pejabat yang berwenang membuat Akta atau Akad Perbankan Syariah juga belum sepenuhnya mengerti ketentuan- ketentuan dalam perikatan Islam sebagaimana yang disyaratkan dalam pembuatan akad perbankan Syariah, karena itu masih diperlukan pemahaman yang lebih mendalam bagi notaris yang akan pembuat Akad-akad Perbankan Sayariah.

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ABSTRACT

In Indonesia, the development of the study and practice of Islamic economics is also growing rapidly. His studies have been many held in various public and private university. Meanwhile, in practice, Islamic economics has evolved in the form of Islamic banking and financial institutions, non-bank Islamic economics. The main difference between the system of Islamic banking and conventional banking lies in the concept of usury. To follow the rapid development of Islamic banking in Indonesia, it is necessary to follow the study or observations about Islamic Banking Agreement in terms of validity akadnya made by the notary on Islamic Bank engagement in terms of Islam and Civil Engagement. This research was conducted by using the method of normative evaluative research on the deed or contract Examples of Islamic Banking (attachment) as well as primary data and secondary, due to the importance of the validity of a deed that is in use in a variety of Islamic transactions as a basis for legal action. The observation and evaluation of the agreement of Islamic banking in the example discussed Mudhabah Agreement, it is still less perfect than the terms of the engagement of Islam in particular, and as the authorized official Notary Deed or Akad Islamic Banking is also not yet fully understand the provisions of the Islamic engagement as required in the

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