



State of Michigan
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Department of Consumer & Industry Services
Kathleen M. Wilbur, Director

Office of Financial and Insurance Services
Frank M. Fitzgerald, Commissioner

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February 22, 2002

XXXXX
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Dear ZZZZZ:

I am writing in reply to your December 21, 2001 letter requesting that the Office of Financial and Insurance Services provide a written "no objection" determination on the proposed use of the brand name "YYYYY Corporate & Investment Bank" in Michigan.

Your letter states that the proposed brand name would be used by XXXXX, YYYYY, and other YYYYY entities that service institutional clients to market products and services to corporate and institutional customers of YYYYY. The brand name would appear, "alongside the respective corporate names of the existing entities" on advertising, print materials and some signage. I understand that YYYYY affiliates that target services to individual customers will not use this brand "in connection with such services."

Your letter correctly notes that Michigan's Banking Code of 1999 restricts the use of the word "bank" in the conduct of business in Michigan.

"The use of the word "bank", "banker", or "banking" or any foreign language words of similar meaning as a designation or name, or part of a designation or name under which business is or may be conducted in this state, is restricted to a national bank, a bank subject to this act, an out-of-state bank, a bank holding company registered under the bank holding company act, a foreign bank agency, a foreign bank branch, a savings and loan holding company as defined in 12 C.F.R. 583.20, or a savings bank that is lawfully conducting business in this state, unless that designation or name, taken as a whole, would not imply a banking business. Use of the term "mortgage banker" or "mortgage banking" in the name or assumed name of a licensee or registrant under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, does not violate this section." MCL 487.11106

Under these parameters, YYYYY, as a national bank clearly has authority to conduct business under a designation that includes "bank". In your letter, you conclude that because the activities "that will use the new brand come within the plain meaning of "corporate banking" or "investment banking",. . . there is no reasonable possibility for confusion with a banking business by the general public."

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That MCL 487.11106 makes specific exception for the terms “mortgage banker” and “mortgage banking” demonstrates a recognition by Michigan’s Legislature that a product or market designation accompanying the word “bank” could be sufficient to meet the test of the statute. Thanks to the Glass-Steagall Act, in business circles the phrase “investment banking” has a long history of distinction from commercial banking. Thus, we believe that the proposed brand name would not imply to a business clientele “a banking business.” MCL 487.11106 does not distinguish between corporate entities and the general public in setting forth the condition that a name, “taken as a whole, would not imply a banking business.” However, to the extent that the general public is not exposed to the proposed brand name, it could not infer “a banking business”.

In conclusion, the Office of Financial and Insurance Services determines that the proposed brand name “YYYYYY Corporate & Investment Bank” does not imply a banking business when targeted exclusively to a business clientele. The Office of Financial and Insurance Services will raise no objection to the use of the proposed brand name in connection with marketing the products and services identified in your letter in the manner described in your letter so long as the brand name does not appear in exterior signage or in advertisements in newspapers or other publications of general circulation.

Sincerely,

/ss/

Peggy L. Bryson, Deputy Commissioner
Bank and Trust Division

cc: