



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
DAVID C. HOLLISTER, DIRECTOR

LINDA A. WATTERS
COMMISSIONER

June 18, 2004

To the Chief Executive Officer of the State-Chartered Bank, Savings Bank, or Credit Union Addressed:

Attached is a copy of my June 18, 2004, Declaratory Ruling No. 04-053-M in which I conclude that the Insurance Code of 1956 does not regulate the sale of debt cancellation contracts (DCCs) or debt suspension agreements (DSAs) in connection with extensions of credit by depository institutions.

It is the policy of the Office of Financial and Insurance Services to ensure state-chartered banks, savings banks, and credit unions conduct their business in a safe and sound manner, conserve their assets, maintain the public confidence in their business, and protect the public interest and the interests of depositors, creditors, and shareholders.

Regarding the sale of DCCs and DSAs, I concur with the Comptroller of the Currency that:

A . . . bank must manage the risks associated with debt cancellation contracts and debt suspension agreements in accordance with safe and sound banking principles. Accordingly, a . . . bank must establish and maintain effective risk management and control processes over its debt cancellation and debt suspension agreements. Such processes include appropriate recognition and financial reporting of income, expenses, assets and liabilities, and appropriate treatment of all expected and unexpected losses associated with the products. A bank also should assess the adequacy of its internal control and risk mitigation activities in view of the nature and scope of its debt cancellation contract and debt management suspension agreement programs. [12 CFR 37.8.]

By his regulation at 12 CFR part 37, a copy of which is attached, the Comptroller of the Currency set forth standards, including required disclosures and prohibited practices, for the offering of DCCs and DSAs by national banks.

To Chief Executive Officer
June 18, 2004
Page 2

State-chartered depository institution seeking to engage in DCCs and DSAs should:

1. Conduct preliminary and ongoing due diligence reviews of program vendors.
2. Evaluate the substance of a program as well as the form in which it is presented.
3. Thoroughly analyze the compliance, legal, supervisory, and public policy issues set forth in 12 CFR Part 37 in determining whether to offer or continue to offer debt cancellation contracts and debt suspension agreements.
4. Obtain guidance from competent legal counsel.

DCCs and DSAs offered by State-chartered depository institutions in connection with extensions of credit that comply with the standards identified in 12 CFR Part 37, will be deemed by my office to be provided in a safe and sound manner.

Please direct any questions or inquiries to Deputy Commissioner Peggy L. Bryson, Director of the Bank & Trust Division at 517-373-9950 or Deputy Commissioner Roger W. Little, Director of the Credit Union Division at 517-373-6930, as appropriate.

Linda A. Watters
Commissioner

Link to 12 C.F.R. Part 37:
<http://www.occ.treas.gov/fr/cfrparts/12CFR37.htm>