

INTERPRETIVE LETTER 90-6 (FEBRUARY 26, 1990)

Business may not use the term "merchant bank" in its corporate name if such use may mislead the public.

This is in response to your request for approval to use the corporate name "* Merchant Bank." As stated in your application, "* Merchant Bank" (the "corporation") would be a "merchant bank." The purpose of this corporation would be to provide financing for privately placed investments of companies and large individual investors and to act as mortgage brokers for large commercial real estate transactions and to invest theirs and others' capital in commercial and real estate enterprises. You stated in your application that the corporation would not take any deposits.

Section 46 of the Illinois Banking Act (Ill. Rev. Stat. 1987, ch. 17, par. 357) allows a "new or existing business not engaged in the business of banking and which does not hold itself out to the public in a manner implying that it does engage in the business of banking...." to apply to the Commissioner for permission to use the word "bank" in its corporate title. Section 46 requires the Commissioner to determine that "there is no substantial likelihood the public would be misled...." The "merchant bank" concept is not clearly defined, and the Commissioner is not aware of any "merchant banks" operating in Illinois. Although you indicated that the corporation would not be accepting deposits, many of the activities described in your application appear to be banking powers or activities associated with the general business of banking. Since the "* Merchant Bank" would be engaging in certain banking activities, is called a "bank" and the general public is not familiar with the "merchant bank" concept, the possibility of confusion exists, and there is a substantial likelihood the public would be misled as to the nature of the corporation's business.

Based on the foregoing, it is the position of this Agency that the determination required to be made under Section 46 cannot be made. Therefore, this Agency will not approve the use of the name "* Merchant Bank" in Illinois.