



Form PTO-1594  
(Rev. 03/01)  
OMB No. 0651-0027 (exp. 5/31/2002)  
Tab settings

RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

101741388

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):  
OLD KENT FINANCIAL CORPORATION  
6401  
 Individual(s)       Association  
 General Partnership       Limited Partnership  
 Corporation-State  
 Other \_\_\_\_\_  
Additional name(s) of conveying party(ies) attached?  Yes  No

2. Name and address of receiving party(ies)  
Name: FIFTH THIRD FINANCIAL  
Internal CORPORATION  
Address: \_\_\_\_\_  
Street Address: 38 Fountain Square Plaza  
City: Cincinnati State: OH Zip: 45263  
 Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State Ohio  
 Other \_\_\_\_\_  
If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)  
Additional name(s) & address(es) attached?  Yes  No

3. Nature of conveyance:  
 Assignment       Merger  
 Security Agreement       Change of Name  
 Other \_\_\_\_\_  
Execution Date: January 16, 2001

4. Application number(s) or registration number(s):  
A. Trademark Application No.(s)  
B. Trademark Registration No.(s) 1900878  
Additional number(s) attached  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: INTELLECTUAL PROPERTY GROUP  
Internal Address: WARNER NORCROSS & JUDD LLP  
\_\_\_\_\_  
\_\_\_\_\_  
Street Address: 900 OLD KENT BUILDING  
111 LYON STREET, N.W.  
City: GRAND RAPIDS State: MI Zip: 49503

6. Total number of applications and registrations involved: 1  
7. Total fee (37 CFR 3.41).....\$ 40.00  
 Enclosed  
 Authorized to be charged to deposit account  
8. Deposit account number:  
\_\_\_\_\_  
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.  
*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*  
Kimberly A. Johnson      [Signature]      May 29, 2001  
Name of Person Signing      Signature      Date

Total number of pages including cover sheet, attachments, and document:   

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patent & Trademarks, Box Assignments  
Washington, D.C. 20231

AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER

AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER, dated as of January 16, 2001 (including all schedules and exhibits attached hereto, this "Agreement"), by and among OLD KENT FINANCIAL CORPORATION, a Michigan corporation ("Old Kent"), FIFTH THIRD BANCORP, an Ohio corporation ("Fifth Third") and FIFTH THIRD FINANCIAL CORPORATION, an Ohio corporation and a wholly-owned subsidiary of Fifth Third ("Merger Sub").

WITNESSETH:

WHEREAS, Fifth Third and Old Kent entered into an Agreement and Plan of Merger, dated as of November 20, 2000 (the "Original Merger Agreement"), and they now desire to amend and restate the Original Merger Agreement to provide for the merger of Old Kent with and into Merger Sub, in accordance with Sections 1.1(b) and 8.3 of the Original Merger Agreement (it being understood that all references herein to "the date hereof" or "the date of this Agreement" refer to November 20, 2000, and all references to "the date of this Amended and Restated Agreement and Plan of Merger" refer to January 16, 2001);

WHEREAS, the Boards of Directors of Old Kent, Fifth Third and Merger Sub have determined that it is in the best interests of their respective companies and their stockholders to consummate the strategic business combination transaction provided for herein in which Old Kent will, subject to the terms and conditions set forth herein, merge with and into Merger Sub (the "Merger"), so that Merger Sub is the surviving corporation in the Merger (sometimes referred to in such capacity as the "Surviving Corporation"); and

WHEREAS, as a condition to the execution of the Original Merger Agreement, and simultaneously with the execution of the Original Merger Agreement, Old Kent and Fifth Third entered into a stock option agreement (the "Old Kent Option Agreement") in the form attached hereto as Exhibit A; and

WHEREAS, for Federal Income Tax purposes, it is intended that the Merger shall qualify as a reorganization under the provisions of Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"), and this Agreement is intended to be and is adopted as a plan of reorganization for purposes of Sections 354, 361 and 368 of the Code; and

WHEREAS, the parties desire to make certain representations, warranties and agreements in connection with the Merger and also to prescribe certain conditions to the Merger.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

otherwise and whether due or to become due) that, either individually or in the aggregate (including if considered together with liabilities incurred in the ordinary course of business consistent with past practice since December 31, 1999), has had or will have a Material Adverse Effect on Old Kent.

3.18 Environmental Liability. There are no legal, administrative, arbitral or other proceedings, claims, actions, causes of action, private environmental investigations or remediation activities or governmental investigations of any nature seeking to impose, or that could reasonably result in the imposition, on Old Kent of any liability or obligation arising under common law or under any local, state or federal environmental statute, regulation or ordinance including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, pending or threatened against Old Kent, which liability or obligation will, either individually or in the aggregate, have a Material Adverse Effect on Old Kent. To the knowledge of Old Kent, there is no reasonable basis for any such proceeding, claim, action or governmental investigation that would impose any liability or obligation that will, individually or in the aggregate, have a Material Adverse Effect on Old Kent. Old Kent is not subject to any agreement, order, judgment, decree, letter or memorandum by or with any Governmental Authority or third party imposing any liability or obligation with respect to the foregoing that will have, either individually or in the aggregate, a Material Adverse Effect on Old Kent.

3.19 Intellectual Property. Except as would not reasonably be expected to have a Material Adverse Effect on Old Kent, to the knowledge of Old Kent: (a) Old Kent and each of its Subsidiaries owns, or is licensed to use (in each case, free and clear of any liens), all Intellectual Property (as defined below) used in or necessary for the conduct of its business as currently conducted; (b) the use of any Intellectual Property by Old Kent and its Subsidiaries does not infringe on or otherwise violate the rights of any person and is in accordance with any applicable license pursuant to which Old Kent or any Subsidiary acquired the right to use any Intellectual Property; (c) no Person is challenging, infringing on or otherwise violating any right of Old Kent or any of its Subsidiaries with respect to any Intellectual Property owned by and/or licensed to Old Kent or its Subsidiaries; and (d) neither Old Kent nor any of its Subsidiaries has received any written notice of any pending claim with respect to any Intellectual Property used by Old Kent and its Subsidiaries and no Intellectual Property owned and/or licensed by Old Kent or its Subsidiaries is being used or enforced in a manner that would result in the abandonment, cancellation or unenforceability of such Intellectual Property. For purposes of this Agreement, "Intellectual Property" shall mean trademarks, service marks, brand names, certification marks, trade dress and other indications of origin, the goodwill associated with the foregoing and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application; inventions, discoveries and ideas, whether patentable or not, in any jurisdiction; patents, applications for patents (including, without limitation, divisions, continuations, continuations in part and renewal applications), and any renewals, extensions or reissues thereof, in any jurisdiction; nonpublic information, trade secrets and confidential information and rights in any jurisdiction to limit the use or disclosure thereof by any person; writings and other works, whether copyrightable or not, in any jurisdiction; and registrations or applications for registration

of copyrights in any jurisdiction, and any renewals or extensions thereof; any similar intellectual property or proprietary rights.

3.20 State Takeover Laws; Old Kent Rights Agreement. (a) The Board of Directors of Old Kent has approved this Agreement and the Old Kent Option Agreement and the transactions contemplated hereby and thereby for purposes of rendering inapplicable to such agreements and transactions the Michigan Control Share Acquisitions statute (Chapter 7B of the MBCA), Section 780 of the MBCA, the Old Kent Rights Agreement, Article XII of the Old Kent Articles and, to the best knowledge of Old Kent, any similar "takeover" or "interested stockholder" law (all such laws, including the Michigan Control Share Acquisitions statute (Chapter 7B of the MBCA) and Section 780 of the MBCA, "Takeover Statutes").

(b) Old Kent has taken all action, if any, necessary or appropriate so that the entering into of this Agreement and the Old Kent Option Agreement, and the consummation of the transactions contemplated hereby and thereby do not and will not result in the ability of any person to exercise any Old Kent Stockholder Rights under the Old Kent Rights Agreement or enable or require Old Kent Stockholder Rights to separate from the shares of Old Kent Common Stock to which they are attached or to be triggered or become exercisable. No "Triggering Event" or "Stock Acquisition Date" (as such terms are defined in the Old Kent Rights Agreement) has occurred.

3.21 Reorganization; Pooling of Interests. As of the date of this Agreement, Old Kent has no reason to believe that the Merger will not qualify as a "reorganization" within the meaning of Section 368(a) of the Code and as a "pooling of interests" for accounting purposes.

3.22 Opinions. Prior to the execution of the Original Agreement, Old Kent received an opinion from Merrill Lynch & Co. to the effect that as of the date thereof and based upon and subject to the matters set forth therein, the Exchange Ratio is fair to the stockholders of Old Kent from a financial point of view. Such opinion has not been amended or rescinded as of the date of this Amended and Restated Agreement and Plan of Merger.

3.23 Old Kent Information. The information relating to Old Kent and its Subsidiaries which is provided by Old Kent or its representatives for inclusion in the Joint Proxy Statement and the S-4, or in any other document filed with any other Regulatory Agency in connection herewith, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading. The Joint Proxy Statement (except for such portions thereof that relate only to Fifth Third or any of its Subsidiaries) will comply with the provisions of the Exchange Act and the rules and regulations thereunder.

3.24 Loan Losses. Since December 31, 1999, none of the bank Subsidiaries of Old Kent (the "Old Kent Bank Subsidiaries") has incurred any unusual or extraordinary loan losses which are material to Old Kent and the Old Kent Subsidiaries on a consolidated basis; to the best knowledge of Old Kent and in light of each of the Old Kent Bank Subsidiaries' historical loan loss experience and its management's analysis of the quality and performance of its loan portfolio, as of December 31, 1999, its reserves for loan losses are adequate to absorb

IN WITNESS WHEREOF, Old Kent Financial Corporation, Fifth Third Bancorp, and Fifth Third Financial Corporation have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

OLD KENT FINANCIAL CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

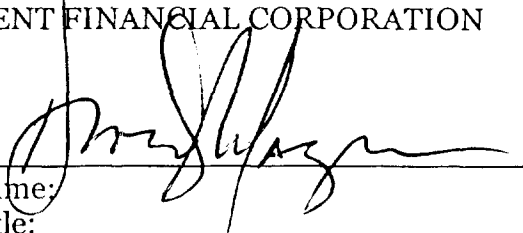
FIFTH THIRD BANCORP  
By: Neal Arnold  
Name:  
Title:

FIFTH THIRD FINANCIAL CORPORATION  
By: Neal Arnold  
Name:  
Title:

*Signature Page to Agreement and Plan of Merger*

IN WITNESS WHEREOF, Old Kent Financial Corporation, Fifth Third Bancorp. and Fifth Third Financial Corporation have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

OLD KENT FINANCIAL CORPORATION

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FIFTH THIRD BANCORP

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FIFTH THIRD FINANCIAL CORPORATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*Signature Page to Agreement and Plan of Merger*