



**Federal Deposit Insurance Corporation**  
550 17th Street NW, Washington, D.C. 20429-9990

**Financial Institution Letter**  
**FIL-41-2005**  
**May 10, 2005**

## **EXTERNAL AUDIT ENGAGEMENT LETTERS**

### **Unsafe and Unsound Use of Limitation of Liability Provisions and Certain Alternative Dispute Resolution Provisions**

**Summary:** The federal banking, thrift and credit union regulatory agencies are seeking public comment on the attached proposed "Interagency Advisory on the Unsafe and Unsound Use of Limitation of Liability Provisions and Certain Alternative Dispute Resolution Provisions in External Audit Engagement Letters." Comments are due by June 9, 2005.

**Distribution:**

FDIC-Supervised Banks

**Suggested Routing:**

Chief Executive Officer  
Chief Financial Officer  
Board of Directors  
Audit Committee

**Related Topics:**

Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations

Federal Deposit Insurance Act, Section 36,  
Part 363 of the FDIC's Regulations

**Attachment:**

Proposed Interagency Advisory

**Contact:**

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**Note:**

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202-416-6940).

**Highlights:**

- The attached proposed interagency advisory alerts financial institutions' boards of directors, audit committees, management, and external auditors to the safety and soundness implications of provisions that limit the external auditor's liability in a financial statement audit.
- The proposed advisory would apply to all financial institution external audits, regardless of the size of the financial institution, whether the financial institution is public or not, and whether the external audit is required or voluntary.
- Limitation of liability provisions may weaken the external auditor's objectivity, impartiality and performance and, thus, reduce the regulatory agencies' ability to rely on the external audit.
- Limitation of liability provisions may not be consistent with the auditor independence standards of the U.S. Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the American Institute of Certified Public Accountants.
- As proposed, the inclusion of limitation of liability provisions in external audit engagement letters and other agreements related to financial statement audits will generally be considered an unsafe and unsound practice.
- The FDIC encourages all institutions to review the attached *Federal Register* notice, and to comment on the proposed advisory and the questions in the notice about the proposal and its effects.

