

## Press Releases

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February 3, 2006

### OTS 06-003 - Federal Financial Regulatory Agencies Issue Interagency Advisory On External Auditor Limitation of Liability Provisions

#### Office of Thrift Supervision

FOR RELEASE at 10:00 A.M. EDT

For further information

Friday, February 3, 2006

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OTS 06-003

202/906-6677

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#### Joint Release

Office of Thrift Supervision  
Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation  
National Credit Union Administration  
Office of the Comptroller of the Currency

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### Federal Financial Regulatory Agencies Issue Interagency Advisory On External Auditor Limitation of Liability Provisions

WASHINGTON, D.C. (February 3, 2006) -- The federal financial regulatory agencies today announced the issuance of a final advisory that addresses safety and soundness concerns that may arise when financial institutions agree to limit their external auditors' liability. The agencies' primary concern is that limiting the liability of external auditors in engagement letters may reduce the reliability of audits.

The *Interagency Advisory on the Unsafe and Unsound Use of Limitation of Liability Provisions in External Audit Engagement Letters* informs financial institutions that they should not enter into external audit engagement letters that incorporate unsafe and unsound limitation of liability provisions with respect to audits of financial statements and internal control over financial reporting. Generally, this includes provisions that: (1) indemnify the external auditor against claims made by third parties (including punitive damages); (2) hold harmless or release the external auditor from liability for claims or potential claims that might be asserted by the client financial institution; or (3) limit the remedies available to the client financial institution. The advisory does not treat provisions that waive the right of financial institutions to seek punitive damages against their external auditors as unsafe and unsound.

The advisory is effective for audit engagement letters executed on or after the date it is published in the Federal Register. The advisory does not apply to previously executed engagement letters. Nevertheless, the agencies encourage any financial institution subject to a multi-year audit engagement letter containing unsafe and unsound limitation of liability

provisions to seek to amend its engagement letter to be consistent with the advisory for periods ending in 2007 or later.

The agencies may take appropriate supervisory action if unsafe and unsound limitation of liability provisions are included in external audit engagement letters executed on or after the date the advisory is published in the Federal Register. The advisory is attached and will be published in the Federal Register shortly.

*Interagency Advisory on the Unsafe and Unsound Use of Limitation of Liability Provisions in External Audit Engagements* - <http://www.occ.gov/static/news-issuances/ots/press-releases/ots-pr-2006-03a.pdf>

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The Office of Thrift Supervision, an office of the Department of the Treasury, regulates and supervises the nation's thrift industry. OTS's mission is to ensure the safety and soundness of, and compliance with consumer protection laws by, thrift institutions, and to support their role as home mortgage lenders and providers of other community credit and financial services. OTS also oversees the activities and operations of thrift holding companies that own or control thrift institutions. Copies of OTS news releases and other documents are available at the OTS web page at [www.ots.treas.gov](http://www.ots.treas.gov).