

June 1, 2005

FFIEC Program Coordinator
3501 Fairfax Drive
Room 3086
Arlington, VA 22226

Re: FFIEC Interagency Advisory on the Unsafe and Unsound Use of Limitation of Liability Provisions and Certain Alternative Dispute Resolution Provisions in External Audit Engagement Letters

Gentlemen:

People's Bank ("People's"), a state-chartered bank headquartered in Bridgeport, Connecticut with assets of approximately \$11 billion, wishes to provide the following comments to the above referenced Interagency Advisory (the "Proposed Advisory"). People's stock is presently traded on the NASDAQ Stock Market; its market capitalization is approximately \$4 billion. Since going public in 1988, People's has had a national accounting firm as its external auditor. People's is required to have an outside auditor pursuant to federal statutes and regulations.

People's wishes to lend its unqualified support to the Proposed Advisory. As a public company, Peoples is cognizant of and sympathetic to the pressures facing external auditing firms in the era subsequent to the corporate scandals of Enron, Worldcom and others and the passage of the Sarbanes-Oxley legislation in 2002. At the same time, People's has viewed with concern and alarm the diminution of the number of so-called "national accounting firms." Whatever the cause for the reduction in the number of national accounting firms, the fact that only four are left has created a de facto oligopoly in this portion of the accountancy industry. This development is especially important for public companies such as People's; both investors and securities analysts who follow People's stock have come to expect that its outside auditors will be a member of the so-called "Big Four."

Prior to the publication of the Proposed Advisory on May 10, 2005, People's was aware of the limitation of liability provisions and alternative dispute resolution provisions discussed in the Proposed Advisory. It should be clear that such provisions do not emanate from clients, but rather from the outside auditing firms. Indeed, it is difficult to imagine a situation where a public company seeking an outside auditor would suggest limitation of liability provisions and alternative dispute resolution provisions that would

deny the client issuer access to the courts. The inequality of bargaining power between national accounting firms and the banks that they audit is such that the limitation of liability provisions discussed in the Proposed Advisory approach what would be known in the arena of consumer law as contracts of "adhesion." For these and other reasons, the provisions of the Proposed Advisory are especially welcome.

In the Proposed Advisory, the FFIEC poses seven questions and seeks comments on those questions. Included below are People's Bank's responses:

1. *The advisory, as written, indicates that limitation of liability provisions are inappropriate for all financial institution external audits.*
 - a. *Is the scope appropriate? If not, to which financial institutions should the advisory apply and why?*
 - b. *Should the advisory apply to financial institution audits that are not required by law, regulation, or order?*

Response: People's believes that the scope of the Proposed Advisory is appropriate.

2. *What effects would the issuance of this advisory have on financial institutions' ability to negotiate the terms of audit engagements?*

Response: As noted above, the trend toward oligopoly among the national accounting firms has led to a growingly unequal playing field between accounting firms and their clients. The Proposed Advisory, while not placing external auditing firms and public companies on equal footing, helps to prevent further slippage of negotiating leverage on the part of clients.

3. *Would the advisory on limitation of liability provisions result in an increase in external audit fees?*
 - a. *If yes, would the increase be significant?*
 - b. *Would it discourage financial institutions that voluntarily obtain audits from continuing to be audited?*
 - c. *Would it result in fewer audit firms being willing to provide external audit services to financial institutions?*

Response: It is difficult to predict whether the existence of the provisions of the Proposed Advisory would result in an increase in external audit fees. Presumably, if all external auditing firms and all insured institutions were required to abide by the Proposed Advisory, the economics of pricing decisions made by external auditors would not be artificially affected by such limitation of liability provisions. It is clear that today, some issuers have been required to abide by the limitation of liability provisions discussed in the Proposed Advisory while others have not. It would be interesting to discover whether there are any pricing differentials in audit fees that reflect whether a client is subject to such limitations.

4. *The advisory describes three general categories of limitation of liability provisions.*

- a. *Is the description complete and accurate?*
- b. *Is there any aspect of the advisory or terminology that needs clarification?*

Response: People's believes that the three general categories are relatively complete and accurate, notwithstanding the fact that there might be variations attributable to a specific accounting firm.

5. *Appendix A of the advisory contains examples of limitation of liability provisions.*

- a. *Do the examples clearly and sufficiently illustrate the types of provisions that are inappropriate?*
- b. *Are there other inappropriate limitation of liability provisions that should be included in the advisory? If so, please provide examples.*

Response: While not described in Appendix A, People's believes that the language regarding alternative dispute resolution agreements and jury trial waivers included elsewhere in the release should be an important part of the mosaic of limitation language of concern to the Agencies. While, as the agencies state, "ADR procedures and jury trial waivers may be efficient and cost-effect tools for resolving disputes in some cases," language in engagement letters that is unilaterally inserted by auditing firms of greater bargaining power than the banks that they audit are as problematic as those clauses that specifically limit the monetary liability of the accounting firm.

6. *Is there a valid business purpose for financial institutions to agree to any limitation of liability provision? If so, please describe the limitation of liability provision and its business purpose.*

Response: It is possible that there are some circumstances, though extremely limited, where such limitation of liability provisions would have a valid business purpose. Specifically, for the protection of the Banking Agencies and deposit insurance funds, one can envision a situation in which a financial institution has appropriately terminated its relationship with its outside auditor and finds itself in a "troubled" financial condition and in need of an auditor. In such an instance, the agencies may believe that to further the safety and soundness of the institution at issue, it would be in everyone's best interest to have a qualified outside auditor audit the institution's financial statements. If the provisions of the Proposed Advisory were to apply in such a circumstance, it may be difficult, if not impossible, for such a troubled institution to engage a qualified auditing firm. In such a circumstance, it would perhaps to be advisable for the Agencies to waive the provisions of the Proposed Advisory upon application on a case by case basis, in order to induce a qualified public accounting firm to audit the financial statements of the institution in question.

7. *The advisory strongly recommends that financial institutions take appropriate action to nullify limitation of liability provisions in 2005 audit engagement letters that have already been accepted. Is this recommendation appropriate? If not, please explain your rationale (including burden and cost).*

Response: The Proposed Advisory is suggested by the Banking Agencies at a point in time in an audit year where many, if not the majority, of publicly-held institutions have already negotiated their 2005 engagement letters. In light of the reported widespread practice amongst accounting firms seeking to impose the limitation provisions described in the Proposed Advisory upon public companies, it may be difficult to undo the provisions of such executed engagement letters. Similarly, given the difference in negotiating power between certain accounting firms and publicly-held institutions, it would seem inappropriate for the Banking Agencies to place additional pressures on insured institutions (that is, the responsibility to undo an agreement they felt forced to enter into in the first place), when the limitations provisions emanated originally from the accounting firms themselves. For these reasons, the Proposed Advisory ought to be made prospective in application.

In summary, People's once again supports wholeheartedly the concepts underlying the Proposed Advisory. People's wishes to thank the Banking Agencies for the opportunity to comment on the Proposed Advisory.

Any questions with respect to this letter should be addressed to the undersigned. My telephone number is 203-338-4585 and my fax is 203-338-3600. My email address is bill.kosturko@peoples.com.

Very truly yours,

William T. Kosturko

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