

U.S. Chamber of Commerce

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David Chavern
Director, Corporate Governance Initiative

June 9, 2005

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

RE: Proposed Interagency Advisory on
External Audit Engagement Letters

Dear Sir/Madam:

The U.S. Chamber of Commerce is the largest business federation in the world, representing the interests of some three million companies. We have reviewed the 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 and have serious concerns about its scope and effect.

First, as a matter of general principle, the government should not interfere with the right of private parties to contract unless there is a clear, compelling and proven public interest. The proposed Advisory seeks to limit the possible commercial terms of agreement between financially sophisticated parties and it does not provide a proven case of harm – only unsupported assertions about the possible negative effects of the described provisions. We believe that an equally compelling argument could be made that, in today's litigious environment, unlimited legal liability also has extremely negative effects on the policies and processes of external audit firms. The proposed Advisory is simply bad policy and should be withdrawn in its entirety.

Further, we are greatly concerned about the references to ADR and waiver of jury trial in the Advisory. ADR is a valuable method for businesses to address the costs and delays inherent in our current legal system. It should be strongly *encouraged*. The Advisory conveys the implicit message that ADR is fundamentally risky and against the public interest. If the FFIEC is going to address ADR at all, we would strongly suggest that it (i) encourage the use of ADR, and (ii) provide an acceptable sample form of ADR provision.

In general, while we understand that it is the intent of the FFIEC to provide guidance that supports the stability and soundness of our banking system, we view the proposed Advisory as unnecessary and overreaching.

Thank you,

A handwritten signature in black ink, consisting of a large, loopy oval shape with a small circle at the bottom right, followed by a horizontal line extending to the right.

David Chavem