

Auditing: Commission issues Recommendation on limiting audit firms' liability (see MEMO/08/366)

The European Commission has issued a Recommendation concerning the limitation of auditors' civil liability. Its main purpose is to encourage the growth of alternative audit firms in a competitive market. The Recommendation responds to the increasing trend of litigation and lack of sufficient insurance cover in this sector. It aims to protect European capital markets by ensuring that audit firms remain available to carry out audits on companies listed in the EU. The Recommendation leaves it to Member States to decide on the appropriate method for limiting liability, and introduces a set of key principles to ensure that any limitation is fair for auditors, the audited companies, investors and other stakeholders. This initiative arises from a mandate in the 2006 Directive on Statutory Audit to examine the issue of limitation of financial liability and to present recommendations to Member States where appropriate.

Internal Market and Services Commissioner Charlie McCreevy said: “After in-depth research and extensive consultation, we have concluded that unlimited liability combined with insufficient insurance cover is no longer tenable. It is a potentially huge problem for our capital markets and for auditors working on an international scale. The current conditions are not only preventing the entry of new players in the international audit market, but are also threatening existing firms. In a context of high concentration and limited choice of audit firms, this situation could lead to damaging consequences for European capital markets.”

The Recommendation proposes three examples as possible methods but any other equivalent method might be used. The selected method should best suit the Member State's legal environment.

The Recommendation also introduces key principles to be followed by Member States when they select a limitation method:

- The limitation of liability should not apply in the case of intentional misconduct on the part of the auditor;
- A limitation would be inefficient if it does not also cover third parties;
- Damaged parties have the right to be fairly compensated.

The Recommendation is available at:

http://ec.europa.eu/internal_market/auditing/liability/index_en.htm