Fiduciary Liability Coverage

COVERAGE HIGHLIGHTS

Fiduciaries be aware – your personal assets are at risk.

Why you and your organization need protection

If your company sponsors a retirement or health plan for its employees and you are involved in any way with the management of that plan, you are likely considered a fiduciary. This means you can be held personally liable for what happens to the plan under ERISA law. As standard Directors & Officers and Employment Practices Liability policies exclude claims for ERISA violations, you cannot rely on those policies for protection in case of litigation.

Defending a claim – even if it is without merit – is expensive and time consuming. According to the latest Tillinghast Survey, the average cost of a paid claim was $994,000, with an average reported defense cost of approximately $365,000.[1] As a fiduciary, you cannot wholly transfer your liability to another party, such as a professional investment firm or third-party plan administrator.

Coverage highlights

For many employers, offering an employee benefit plan is a way to attract and retain workers. But this will mean nothing if your business collapses under staggering litigation costs. The individual fiduciary can be held personally liable and their assets at risk if they do not carry out their obligations of:

- Acting in the best interests of the plan participants for the purpose of providing benefits;
- Acting with the care, skill and diligence that a prudent person would use in a similar situation;
- Diversifying plan assets; and
- Following the plan document.

Travelers Fiduciary Liability coverage is critical to the well-being of your company – particularly given the growing exposures in today's volatile climate. It covers your company's benefit plans and helps protect its directors, natural person trustees, officers and employees from costly litigation.

More than 9,000 ERISA lawsuits are filed each year on average, as plan participants regularly sue claiming denial of benefits in violation of plan documents.[2]

Claim scenarios

Delayed transfer balance – $1,250,000

A group of employees alleged that the newly selected plan administrator improperly delayed transferring fund balances in the plan from one investment option to another, as directed by the participants. Subsequently, the employees sued the plan trustees to recover more than $1,000,000 in lost investment income. Defense expenses were $250,000.

Failure to monitor investments – $858,000

Legal action brought by employees alleged the wrongful elimination of a profitable investment option, improper selection of another and failure to monitor the actions of the outside investment manager. Defense costs were $358,000 and the court awarded the plaintiffs $500,000 in damages.

[1] Towers Perrin Tillinghast Survey

[2] USCourts.gov (2007-2011)

Fiduciary vs. EBL vs. ERISA bond

It can be difficult to determine the difference between a fiduciary liability policy, an employee benefits liability policy (EBL) and an ERISA bond. All provide some type of coverage in connection with employee benefit plans, but fiduciary liability policies are markedly broader than EBL, and neither of them provides the same coverage as an ERISA bond. Here is a quick overview of each of these coverages:

Employee benefits liability

EBL coverage is generally limited to administrative errors and omissions. Administration includes handling records in connection with any plan; enrolling, terminating or cancelling employees under any plan; and interpreting plan benefits. In general, claims involving administrative errors and omissions are frequent, but not severe.

Fiduciary liability

In contrast to EBL coverage, a fiduciary liability policy not only covers administrative errors and omissions, but also your personal liability for a breach of a fiduciary duty in connection with an employee benefit plan.

ERISA bond

An ERISA bond is first-party coverage that pays the plan for any loss from theft of plan assets. By law, every plan is required to have an ERISA bond.

Risk management service included at no additional cost

As part of your coverage, membership is included to *Risk Management Plus Online*®, an online resource that provides a useful set of tools to help protect your organization from costly litigation. To learn more visit rmplusonline.com.

Why Travelers

- We've provided effective insurance solutions for more than 150 years and address the needs of a wide range of industries.
- We consistently receive high marks from independent ratings agencies for our financial strength and claims-paying ability.
- With offices nationwide, we possess national strength and local presence.
- Our dedicated underwriters and claim professionals offer extensive industry and product knowledge.

Travelers knows Fiduciary Liability Coverage.

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