



Travelers Wrap+ Fiduciary Liability Coverage

Fiduciaries beware — your personal assets are at risk. If your company sponsors a retirement or health plan for the employees and if you are involved in any way with the management of that plan, you are likely considered a “Fiduciary” and can be held personally liable for what happens to the plan (under ERISA law). Since standard D&O policies exclude claims for ERISA violations, you cannot rely on that policy for protection in the case of litigation against you or your company.

Defending a claim, even if it is without merit, is expensive and time consuming. According to the latest Tillinghast Survey*, the average cost of paid claims was \$994,000, with an average reported defense cost of approximately \$365,000. As a fiduciary, you cannot wholly transfer your liability to another party, such as an insurance company, professional investment firm or third party plan administrator, so you need to protect your personal assets as well as those of your company. Travelers Wrap+ Fiduciary Liability covers your company’s benefit plans and protects its directors, natural person trustees, officers and employees from costly litigation. And coverage automatically extends to newly acquired or created plans.

Claim scenarios

Delayed transfer balance – \$1,250,000

A group of employees alleged that the newly selected outside 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.

Failure to provide information – \$350,000

Two employees approaching retirement age discovered they had never enrolled in the company’s 401(k) plan. The employees sued the company and plan trustees, alleging the plan administrators failed to properly advise them how to enroll and the enrollment was not automatic. The value of the alleged lost benefits exceeded \$150,000, and defense expenses were in excess of \$200,000.

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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 the coverages:

Employee benefits liability

EBL coverage is 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 PLUS+ Online[®]

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To learn more about Risk Management PLUS+ Online, visit rmlplusonline.com.

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** Assistance is not intended to replace your company's attorneys. Assistance provided exclusively to Fiduciary Liability policy holders.

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