EXECUTIVE RISKS

Fiduciary Liability Insurance

Protect yourself from liability due to mismanagement of your employee benefits plans

Small businesses have a lot to lose.

You're trying to do the right things for your employees. You've set up a benefits program, a retirement plan, and brought on a third party to help you manage these programs.

But what if...

You weren't paying attention to the changes in your employee benefits plan. The fees increased, you made an error in plan administration, or you forgot to disclose information to your employees. Or what if you trusted the wrong fund manager who didn't invest retirement plan assets in the best interests of your employees?

Then the worst happened: your employees decided to sue you for this negligence — yes, they can do that!

There are so many things that can go wrong.

Any organization that offers benefits plans (retirement, health, etc.) could make an error leading to a potential claim or litigation with a significant financial impact. Fiduciary Liability Insurance is the best form of risk management for protecting the interest of your organization and employees in these situations.

Nearly half of the small businesses that don't intend to have Fiduciary Liability insurance think they're too small to need it.[1]

However, any organization with an employee benefits plan is at risk of a potential Fiduciary Liability claim. Typically, small businesses lack dedicated resources to oversee plan management and may be at greater risk.

In today's litigious world, you could be personally liable as a fiduciary of your business.

The Employee Retirement Income Security Act of 1974 (ERISA) holds benefit plan sponsors and their trustees or fiduciaries personally liable for losses to the company's benefit plan if they breach their fiduciary duties.

Fiduciary Liability Insurance is designed to help protect you, your fiduciaries, and your business against the financial impact of potential claims of negligence, mismanagement, or actions that could be deemed to be not in the best interest of your employees' benefit plans.

[1] Source: Online survey of 1,000 insurance decision-makers at companies of 1-250 employees (2021). Wakefield Research.

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What is covered by Fiduciary Liability Insurance?

Fiduciary Liability Insurance offers financial protection against damages and defense costs arising from the administration and management of employee benefits and pension plans, including:

What is covered by Fiduciary Insurance?

- ☑ **Negligent administration/management** such as failing to appoint a trustee in a timely manner
- ☑ **Administrative errors and omissions** such as not processing employees' requests correctly
- ☑ **Conflicts of interest / prohibited transactions** such as choosing an investment strategy benefitting a fiduciary
- ☑ **Imprudent selection or failure to monitor third-party service providers** such as selecting a plan operator who fails to make timely contributions based on employee withholdings
- ☑ **Poor investment decisions / negligent investment practices** such as lack of investment diversity
- ☑ **Improper use of retirement funds** such as leveraging your employees' funds for other investments
- ☑ **Charging excessive fees** such as failure to note a higher fee change
- ☑ **Wrongful denial / improper change in benefits** such as decreasing an employee's hours to avoid paying benefits
- ☑ **Improper advice or counsel** such as poor guidance leads to missed enrollment deadlines

What are some risks that are *not* covered by Fiduciary Insurance?

- x **Non-benefit-plan-related violations** such as promising benefits to employees to discourage union support (a violation of the National Labor Relations Act)
- x **Discrimination not governed by ERISA** such as employment laws regarding wrongful termination or employer retaliation
- x **Criminal acts and intentional wrongdoing** such as intentional embezzlement of fidelity bonds or any other corporate funds
- x **Benefits due to a beneficiary** or claims related to payment of benefits owed to a plan participant

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Real-world claims examples

Fiduciary Liability coverage protects a company and its fiduciaries from claims of a breach in fiduciary duties. Here are examples of actual claims brought against employers.

Industry: Transportation/Logistics
Employer size: <10 employees
Revenue: <$5M

A logistics company paid approximately $150,000 to resolve claims alleging that the fiduciaries failed to remit its employees' contributions to their 401K accounts. The company was also required to pay for the cost of an independent fiduciary to administer the plan and distribute benefits.

Industry: Manufacturing
Employer size: 21-50 employees
Revenue: $5-10M

Employees brought claims alleging that the company failed to remit its employee's contributions to their 401K accounts. This manufacturing firm paid more than $70,000 to resolve the dispute.

Industry: Technology
Employer size: <10 employees
Revenue: <$5M

A television service provider paid approximately $50,000 to resolve claims alleging that the company failed to remit its employees' contributions to their 401K.

Industry: Construction
Employer size: 10-20 employees
Revenue: <$5M

Unfortunately, the company's sole owner and plan trustee passed away. Because the company failed to appoint a successor trustee for their employees' retirement plan, they faced litigation for negligence and mismanagement. This resulted in a distribution of more than $1 million for the plan participants.

Industry: Professional Services
Employer size: 50-100 employees
Revenue: <$5M

The U.S. Department of Labor alleged that the plan's fiduciaries violated their ERISA duties of loyalty and prudence by investing plan assets in two companies in which the fiduciaries had significant ties. When one of those companies fell drastically in value, the plan lost millions of dollars. The company paid more than $2M to settle the claim.

Why choose Coalition for Fiduciary Insurance?

Coalition is the leading provider of Active Insurance, combining comprehensive insurance coverage and cybersecurity tools to help small and midsize businesses manage and mitigate digital risks.

Active Insurance combines technology and traditional coverage to provide continual risk assessment, protection, and response to address risks that move at digital speed. Active Executive Risks Insurance is designed to help businesses navigate a new world of digital risk.

When disaster strikes, there are claims team members standing by to quickly assist you and comprehensive insurance coverage to help protect against losses.

Policyholders receive access to our Coalition Control platform, which provides automated alerts, expert guidance, and tools to help organizations proactively manage risk.

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It's our mission to help protect the unprotected

Manage and mitigate Executive Risks with comprehensive coverage in addition to Fiduciary Liability:

Directors & Officers (D&O) Insurance provides coverage for legal defense fees, settlements, and other costs from liability claims made against an organization's owners, directors, and other officers for alleged wrongful acts or decisions.

Employment Practices Liability (EPL) Insurance provides coverage for employee lawsuits and lawsuits from external parties, such as third-party harassment. The most frequent claims are related to discrimination, harassment, or wrongful termination.

Crime Insurance provides coverage to protect your organization from the financial impacts of a wide variety of criminal activities perpetrated by employees or external actors.

Ready to better protect yourself, your business, and your fiduciaries?

Learn more at **www.coalitioninc.com**

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