



Fiduciary Liability Insurance for Private Companies and Non-Profit Organizations

Fiduciary liability risks and exposures are rapidly evolving in today's legal environment. Fiduciaries of retirement plans of all sizes are facing a growing barrage of lawsuits which are disrupting the protections for private and non-profit organizations. Ongoing developments and evolving case law are testing historical standards of conduct for plan sponsors and other fiduciaries in their oversight and administration of employee benefit plans. Navigating this evolving landscape can be daunting for corporate and individual plan fiduciaries and plan sponsors.

AIG provides market-leading Fiduciary Liability Insurance solutions designed to protect plan fiduciaries, employee benefit plans, and plan sponsors with industry-leading defense for claims alleging breach of fiduciary duty to the plan, its participants, and its beneficiaries. This includes the fiduciary responsibilities of plan oversight requirements which can lead to errors and omissions in the administration of employee benefit plans. Insureds are supported by AIG's decades of claims experience and expertise to provide clients a consistent and unparalleled claims experience and the best possible outcomes from evolving claim trends.

Coverage Details

- Provides coverage to employers/plan sponsors, their plan fiduciaries, and the plan for 1) breaches of fiduciary responsibility under Employee Retirement Income Security Act (ERISA), Non-ERISA, or other applicable fiduciary laws, 2) negligence for errors in the administration of a plan, 3) Department of Labor (DOL) and Internal Revenue Service (IRS) voluntary compliance programs, and 4) coverage for certain regulatory fines and penalties
- Protects against claims alleging mismanagement of plan assets, failure to follow ERISA rules for the management of plan assets and the payments of benefits, improper advice or counsel to plan participants, imprudent investment decisions or the selection or monitoring of third-party service providers, and challenges to settlor functions
- Coverage for any fact-finding investigation or pre-claim investigation costs
- Coverage for claims by plan participants and beneficiaries, plan fiduciaries, and government enforcement or regulatory agencies, such as the DOL, Pension Benefit Guarantee Corporation, or Securities and Exchange Commission (SEC)
- Protects when plaintiffs allege violations of the Labor Management Relations Act along with ERISA breaches in connection with collectively bargained plans

Market-Leading Underwriting and Appetite

- More than six decades of industry knowledge, resources, and data enable AIG to offer tailored, sustainable coverage solutions
- Dedicated underwriters across the U.S. and Canada focus on providing best-in-class service to clients and brokers
- Broad appetite for private and non-profit organizations of any size across industry sectors, including any employee benefit plan, including single-employer, multiple-employer, multi-employer governmental, and church plans
- Multinational capabilities with rapid turnaround to help protect clients wherever they operate

Exceptional Claims Support

- Integrated claims model combining underwriting and claims expertise provides clients with exceptional service and a smooth, collaborative claims process
- Claims and legal expertise dedicated solely to managing ERISA, non-ERISA and employee benefits claims help clients achieve best possible outcomes in the most efficient manner
- Claims professionals empowered with claims authority to make decisions in a timely manner
- Network of the nation's premier law firms with established expertise and success defending ERISA and other employee benefits-related litigation provides clients with optimal litigation management

Claims Scenarios

Industry: Labor Organization

Plan Type: Multi-Employer Plan

Plan Size: \$365 million plan assets, 10,300 participants

An insured was notified by the Department of Labor (DOL) of an investigation into participants missing from its multi-employer pension plan. The notification included a request and subpoena for certain plan information and missing plan participants required for the investigation. The insured reported the notification to AIG, who engaged a panel counsel defense firm to review the insured's exposures and respond to the DOL's requests. The investigation ultimately identified 12 missing participants, and the insured made immediate actions to correct. The DOL confirmed its intent to close the investigation, noting their satisfaction with the detailed responses by the client and defense counsel, with no penalties assessed and no formal legal action taken. The AIG policy paid more than \$200,000 in legal fees.

Industry: Environmental

Plan Type: Private Company Group Benefit Plan

Plan Size: \$17 million in plan assets, 7,800 participants

The widow of an insured's former employee filed a complaint against the company's life insurance plan and its third-party administrator (TPA) after being denied her husband's life insurance benefits. In the complaint, the widow noted that her husband left the employment of the insured due to a health diagnosis and had since passed. Following his death, her application for his life insurance benefits was denied due to termination of his coverage at the time his employment terminated. The widow alleged that the plan and the TPA failed to inform her husband of his right to convert the policy from the group policy to an individual policy, which would have preserved his benefits coverage. The widow brought claims under ERISA for denial of benefits and breach of fiduciary duty and additionally sought legal fees. The insured reported the matter to AIG and given their inexperience with these matters, requested that AIG operate under the policy's duty to defend and assign counsel. AIG engaged a panel counsel firm to lead the suit. Following mediation, the matter settled for \$125,000, approximately half of which was paid by the TPA. Defense costs and fees totaled more than \$75,000. The AIG policy reimbursed the insured for amounts paid above their \$15,000 retention.

Industry: Healthcare

Plan Type: Health and Welfare Plan

Plan Size: \$315 million in plan assets, 7,800 participants

An administrative employee of an insured hospital filed suit against the hospital's welfare benefit plan, alleging that she was misled into believing on two separate occasions that her newborn child had been properly added to her health insurance plan by the hospital. Upon receiving a substantial invoice for birth-related medical services, the employee discovered that her child had not been added as believed and the window to do so had passed. The employee filed suit for recovery of benefits, equitable relief, and civil monetary penalty. The insured reported the matter to AIG and worked closely together to determine the best course of action. Through AIG's expertise in similar matters, a settlement was reached for one-fourth of the original demand to cover the employee's medical bills and legal fees. The AIG policy paid approximately \$200,000, including defense costs.

Industry: Manufacturing

Plan Type: Private Company Group Benefit Plan

Plan Size: \$250 million in plan assets, 7,000 participants

An insured non-profit affordable housing developer and its CEO were brought in as third-party defendants to an action between a property owner and general contractor. The plaintiffs alleged fraud and civil conspiracy, citing an undisclosed relationship between the insured, who was hired as a developer for the project, and another professional they hired to work on the same project. AIG worked closely with the insured to understand the nature of the allegations and determine risks and benefits to proceeding with litigation or settling the matter. With a strong defense strategy, both parties agreed to proceed with a trial. A jury ultimately returned a verdict in favor of the insured, with no damages owed. The AIG policy covered approximately \$900,000 of defense costs.

AIG has more than six decades of experience providing management liability solutions for private and non-profit organizations and their directors, officers, and employees. Our extensive experience, expertise, and insights enable us to tailor solutions that meet our clients' individual needs. Coverage is backed by AIG's financial strength, integrated claims model, and proven claim expertise, ensuring that we are there for our clients when they need us most.

Contact

For more information, please contact your local Financial Lines Private Non-Profit Accounts underwriter or email FinancialLines@aig.com.



The scenarios described herein are offered only as examples. Coverage depends on the actual facts of each case and the terms, conditions and exclusions of each individual policy. Anyone interested in the above products should request a copy of the standard form of policy for a description of the scope and limitations of coverage.

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