

ForeFront Portfolio 3.0SM

Fiduciary Liability Insurance

CHUBB[®]



If your officers and fiduciaries just spoke about a possible conflict of interest, *stop talking.*

The Employee Retirement Income Security Act of 1974 (ERISA) established strict standards of fiduciary conduct. As such, any fiduciary who breaches any of the responsibilities, obligations, or duties imposed by ERISA may be personally liable to compensate the plan for any resulting losses.

Furthermore, in today's evolving legal environment, employers and plan fiduciaries are increasingly being held accountable for their actions in administering the benefit plans they offer employees. Not to mention that recent settlements have made this complex area of litigation more attractive to the plaintiffs' bar.

That's why Chubb created ForeFront Portfolio 3.0SM Fiduciary Liability Insurance specifically for private companies like yours.

Why Your Company Needs Fiduciary Liability Insurance

- A breach of ERISA may be a personal liability.
- Participants and beneficiaries can sue a plan's fiduciaries to enforce or clarify their rights under ERISA and the plan.
- The Department of Labor (DOL) may bring a claim against plan fiduciaries to enforce the provisions of ERISA and fiduciary standards of conduct.

Even if a judgment is obtained in your favor, defending yourself from any alleged breach of fiduciary obligations could result in losses of hundreds of thousands or even millions of dollars in defense costs.

- Delegation of fiduciary responsibility to an outside service provider requires prudent selection and monitoring by your company's fiduciaries. Failure to do so could expose them to personal liability
- Even if your company wishes to indemnify its fiduciaries, it may not be able to do so, or it may be prohibited from doing so by law. Relying on corporate indemnification as your sole protection as a fiduciary may be placing your personal assets at risk.

If your company ever reduces or eliminates some employee benefits, or if it plans to be involved in a major acquisition or merger or to sell part of a business, it increases its fiduciary liability risk.

Policy Highlights

- When Chubb has the duty to defend for covered claims, we provide you with access to expert counsel.
- 100% defense costs coverage is available in most circumstances for covered claims.
- Voluntary settlement program coverage for programs administered by the IRS, DOL, or any similar program administered by a governmental authority located outside of the United States.
- Coverage for HIPAA civil penalties and 502(c) civil penalties, where allowed.

Key Features

- Enhanced reporting provision when renewed with Chubb.
- Worldwide coverage written on a claims-made basis with retroactive coverage available for qualified accounts.

ForeFront Portfolio 3.0SM Fiduciary Liability Insurance responds to allegations including:

- Wrongful denial or improper change in benefits.
- Error or omission in plan administration.
- Improper advice or counsel.
- Fiduciaries engaging in a prohibited transaction.
- Failure to administer the plan according to plan documents.
- Conflict of interest.
- Imprudent investment of assets or lack of investment diversity.
- Imprudent selection and failure to monitor third-party service providers.

With additional advantages:

- Our private company underwriters are positioned throughout the United States and are experienced in a broad spectrum of industries
- Access to Fiduciary Liability loss prevention services
- A Chubb special report: Who May Sue You and Why: How To Reduce Your ERISA Risks, and the Role of Fiduciary Liability Insurance

ForeFront Portfolio 3.0SM Fiduciary Liability Enhancement Endorsement

For qualifying customers, Chubb's Fiduciary Liability Enhancement Endorsement offers many features to address the evolving needs of private companies and their fiduciaries, including amendments to provide greater flexibility in managing the claim-reporting process.

Definition of Wrongful Acts -

Expanded to include acts, errors or omissions solely in an Insured's settlor capacity with respect to establishing, amending, terminating, or funding a trust or sponsored plan.

Pre-Claim Investigation Reporting -

Insureds now have the option to report a fact-finding investigation commenced by the U.S. Department of Labor (DOL), Pension Benefit Guaranty Corporation (PBGC) or similar governmental

authority located outside of the U.S. prior to any allegation of a wrongful act in writing.

Benefit Claim Denial Reporting

- Insureds may also report, at their option, an appeal of an adverse benefit determination prior to a wrongful act allegation.

Definition of Insured - Amended to include past employees or executives retained as a fiduciary or plan consultant to the sponsored plan.

Loss - Broader definition expanded to include:

- Claimant attorney fees awarded by a court pursuant to Section 502(g) of ERISA.
- Reasonable fees and expenses of an independent fiduciary retained to review a proposed settlement of a covered claim.
- Interview Coverage - We cover

defense costs incurred by an Insured person when contacted by an enforcement unit during the policy period with respect to an interview by the enforcement unit. These enforcement unit interviews are not claims.

- Defense Costs - Defined as reasonable charges incurred in defending or investigating claims. Deductible is waived for the first \$50,000 in defense costs incurred for e-discovery specialist services on account of a claim.
- Claim** - Expanded to include:
- Regulatory proceeding against an Insured person fiduciary by an enforcement unit including a Wells notice, target letter or search warrant.
 - Written requests upon Insured persons for witness testimony commenced by the service of a subpoena or other similar documents in connection with a wrongful act.

Additional Enhancements

Pollution - Exclusion is deleted.

Clean-up costs are excepted from loss. Other insurance is modified to stipulate policy is excess of any environmental, pollution liability or general liability policy.

Defense and Settlement -

- The policy advances defense costs to Insured persons if the organization

refuses in writing to indemnify or fails to do so within 60 days of the Insured person's written request for indemnification.

- The policy allows full settlement within the retention without prior consent for reported claims.
- The policy allows Chubb, at its sole discretion, to consider payment under the policy for defense costs incurred

within 90 days prior to tender of the claim to Chubb.

- Chubb remains liable only for loss incurred with its prior written consent.

Liberalization - Liberalization with respect to state amendatory cancellation/termination and ERP timeframes.

Why ForeFront Portfolio 3.0SM?

A long-time leader in providing insurance to private companies, Chubb created ForeFront Portfolio 3.0SM Fiduciary Liability Insurance as one of a suite of nine insurance solutions under ForeFront Portfolio 3.0SM.

The coverage parts in ForeFront Portfolio 3.0SM work as standalone policies or seamlessly together in order to minimize gaps and reduce overlaps in insurance coverage.

