

# FIDUCIARY LIABILITY

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**Fiduciary Liability** protects both the institutions and its employees against allegations of errors, omissions, or breaches of fiduciary duties surrounding the establishment, administration, dissolution, or settling of employee benefit plans offered by the bank. Coverage also extends to violations of ERISA regulations or any common or statutory law relating to any employee benefit plan.

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## KEY COVERAGE ADVANTAGES

### FIDUCIARY ENDORSEMENT

- **Pre-Claim Labor Investigatory Costs** | Covers certain expenses incurred in connection with the preparation for and response to a pre-claim labor investigation commenced by the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation, or any similar governmental authority.
- **Voluntary Correction Fees** | Covers fees, fines, penalties or sanctions assessed by a governmental authority pursuant to a Voluntary Correction Program for allegations of statutory non-compliance by an Employee Benefit Plan.
- **Broad Definition of Claim includes**
  - an arrest, return of an indictment, or a request for extradition with respect to criminal proceedings
  - written notice of a Benefit Claim Denial
  - investigations of insured persons commenced by receipt of a Wells Notice or similar target letter or search warrant
  - written request of an insured person for witness testimony or document production.
- **HIPAA Civil Money Penalties** | Covers civil money penalties levied as a result of a violation of the privacy provisions of the Health Insurance Portability and Accountability Act.

### FIDUCIARY ENHANCEMENT ENDORSEMENT

- **PPA Penalties** | Covers civil money penalties levied as a result of an inadvertent violation of Section 507 of the Pension Protection Act.
  - **PPACA Penalties** | Covers civil money penalties levied as a result of an inadvertent violation of the Patient Protection and Affordable Care Acts.
  - **Section 502(c) Penalties** | Covers civil money penalties levied for the failure to provide plan documents to plan participants as required by ERISA Section 502(c).
  - **Section 4975 Taxes** | Covers taxes imposed as a penalty for executing a prohibited investment transaction under the Employee Benefit Plan, as determined by IRS Code Section 4975.
  - **One-Time Limit Reinstatement** | Your fiduciary sublimit will be reinstated subsequent to the first paid claim.
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## CLAIMS EXAMPLES

- A new employee completed the necessary forms to participate in the company's 401K plan and submitted them to Human Resources. HR personnel incorrectly entered the wrong contribution percentage in the 401K provider's online enrollment system. At the end of the year, the employee claimed he lost out on investment gains and tax benefits. A settlement was reached for the difference in percentage amounts plus interest.
- The bank was assessed a \$2,000 penalty for each day the bank was late in filing annual report Form 5500 by the Department of Labor under ERISA Section 502(c).
- An employee sued the bank for unpaid medical bills as a result of the bank switching medical insurance carriers. The new carrier's plan provided less coverage than the previous plan, and the bank did not notify the employee of the reduction in coverage.
- A class action lawsuit was brought against the bank's pension plan trustee committee on behalf of 200 plan participants alleging that they breached their fiduciary duties under ERISA by failing to adequately diversify the plan's investment portfolio, resulting in a devaluation of the plan's assets.