

Is Your ERISA Fiduciary Liability Insurance Up to Date?

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ERISA fiduciary liability insurance policies protect fiduciaries and trustees of ERISA plans from personal liability. As fiduciary liability law changes, it is important to make sure that such policies cover the appropriate risks and to evaluate whether the coverages are sufficient and complete. Newer and more comprehensive policies not only cover breaches of fiduciary duty and administrative errors, but settlor and non-fiduciary functions and regulatory penalties as well. Companies should evaluate their policies and consider, depending on their needs, whether the following items are covered and/or should be covered under their policies:

- Coverage for costs and expenses of DOL and other regulatory audits/investigations.
- Coverage for claims involving settlor/non-fiduciary functions.
- Coverage for failures to comply with certain ERISA disclosure requirements.
- Coverage for ERISA 502(a)(3) equitable-relief claims.
- Coverage for non-exempt prohibited transactions under ERISA and the Internal Revenue Code.
- Coverage for plan benefit overpayments.
- Coverage to pay for costs involved in corrections under the EPCRS/Voluntary Compliance Program and Voluntary Fiduciary Correction Program.
- Coverage for penalties for violations under the Patient Protection and Affordable Care Act.
- Coverage for penalties for violations and breaches under HIPAA/HITECH.
- Coverage for losses and expenses sustained as a result of a data breach/cyber attack.