Coverage Insights

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Fiduciary Liability Policies

Employee benefits are a key piece of the job market today. To employers, excellent benefits like health care and retirement funding are an essential for attracting committed, quality workers.

Sometimes though, problems arise even when programs are set up with the best of intentions. Whether a shaky market shrinks funds or bad investment advice leads to sudden loss, companies need to know what kind of protection they provide their fiduciaries.

Fiduciary Liability Basics

Fiduciary liability got its start in 1974 with the passing of the Employee Retirement Income Security Act (ERISA). In short, the act made companies accountable for the security of their employees' retirement fund. ERISA's goal was to have money put into retirement funds treated like money in a savings account rather than money invested in the market. Since workers are not responsible for the decisions made, they should not be punished for foolish investing.

Although the government requires that all employers secure the funds of their workers through fidelity bonds, they do not require that companies take any precautions against fiduciary liability. While some aspects of fiduciary risk could be covered by directors' and officers' (D&O) or commercial general liability insurance, this is rare. Fiduciary liability resembles these other forms of insurance, but resides in its own distinct category.

Fiduciary Liability: What it's Not

Fiduciary coverage protects a company's designated retirement fund managers from allegations of irresponsibility. Having this specific role, it complements other policies but does not extend over them.

Employee benefit liability (EBL) protects benefit managers from mistakes and omissions made in the administration of various employee programs. Such policies cover the typically minor issues that arise over proper filing and enrollment, but do not protect against lapses in how a manager does investing. EBL is largely meant to watch over company paperwork.

As stated above, fidelity bonds are requirements of the government to ensure workers get the retirement money they deserve. These bonds may only be used to aid the retirement plan and its members; they may not be used for any purpose the fiduciaries or their departments deem necessary. Charges may be brought against a fiduciary regardless of the coverage provided by bonds.

D&O liability, which protects from improper behavior by company executives and managers, typically does not provide coverage for actions pertaining to ERISA.

Protecting the Company

Due to the complex communication, advisements and stock market risks inherent to the role of a fiduciary, liability for retirement funds is often shared unfairly or misplaced entirely. Poor recommendations made by third-party financial advisors and sudden swings in a turbulent market can leave responsibility solely on even the best of fiduciaries. Fiduciary liability coverage can help defend a company's reputation and the reputation of its management.

Since a business's assets and managerial experience can vary widely, fiduciary insurance must be tailor-made for each company. A close discussion with a skilled agent can guarantee that your company and its fiduciaries get the protection they need. Contact Garland-Sturges & Quirk to learn more about fiduciary liability and coverage.

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