



## Fiduciary Liability Insurance Edge<sup>®</sup> For PortfolioSelect<sup>SM</sup>

Extensive legislation, complex litigation and an evolving economy are among the forces shifting the landscape for companies providing 401(k), pension, or welfare plans for employees. An inadvertent error in the administration of an employee benefit plan, or even the appearance of wrongdoing, can trigger litigation alleging breach of fiduciary duty against the company, directors, officers, and other employees who are responsible for plan administration.

Fiduciary Liability Insurance Edge<sup>®</sup> protects against the personal liability imposed upon directors, officers and employees who oversee pension and other benefit plans as well as the company that sponsors such plans. With flexible notice features, coverage for penalties under the Affordable Care Act, and expanded coverage relating to voluntary governmental compliance programs and more, Fiduciary Liability Insurance Edge gives business executives and plan fiduciaries state-of-the-art coverage in response to the unprecedented level of risk they face today.

### Key Coverage Advantages

- Provides advancement of loss within the retention, stepping in on covered claims when a company or plan refuses or fails to indemnify its directors and officers or employee fiduciaries for any reason
- Does not allow recovery by the insurer of amounts previously paid if an allegation that triggered coverage is later disproven
- Explicitly covers the alleged improper selection of third party service providers, including managed care service providers, with no sublimits and no exclusion for self-administered plans
- Protects when plaintiffs allege violations of the Labor Management Relations Act along with Employee Retirement Income Security Act (ERISA) breaches in connection with collectively bargained plans
- Provides flexibility in reporting governmental fact-finding investigations<sup>1</sup> and internal appeals of benefit denials<sup>2</sup> – without the risk that failure to report might trigger a denial for late notice
- Includes HIPAA<sup>3</sup> penalty coverage of \$1.5 million, addressing the substantially increased potential penalties of the HITECH Act<sup>4</sup>
- Affords generous coverage for penalties under the Affordable Care Act
- Built in coverage for Pension Protection Act, ERISA Section 502(c) and IRS Section 4975 penalties
- Grants non-rescindable coverage for insured persons' non-indemnified loss
- Includes full severability of all exclusions for all insureds
- Broadens voluntary compliance loss protection by paying not just fines, penalties, sanctions, fees, and expenses related to a governmental voluntary compliance program, but also costs related to the assessment or correction of a plan's non-compliance
- Ensures that the most favorable terms and conditions from local AIG policies are applied to claims in foreign jurisdictions

<sup>1</sup> Prior to incurring defense costs for which coverage is being sought or before the investigation becomes a litigated matter.

<sup>2</sup> Prior to any allegation of investment loss within a plan or prior to incurring defense costs for which coverage is being sought.

<sup>3</sup> Health Insurance Portability and Accountability Act

<sup>4</sup> Health Information Technology for Economic and Clinical Health Act



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## PortfolioSelect<sup>SM</sup>

PortfolioSelect is a modular policy form that delivers a flexible and efficient insurance solution. Clients can now combine Management Liability, Cyber Liability, and specific Professional Liability coverages to fit their individual needs, conveniently delivered in one policy including:

- Public Company D&O Liability
- Private Company D&O Liability
- Non-Profit D&O Liability
- CyberEdge®
- CrimeGuard Choice®
- Employment Edge®
- Fiduciary Liability Insurance Edge®
- Kidnap and Ransom Liability
- Corporate Counsel Premier®
- Bankers Professional Edge<sup>SM</sup>
- Insurance Company Professional Edge<sup>SM</sup>

### Claims Scenarios\*

Type of Claim:	401(k) Excess Fee (Public Company)
Description:	The complaint contained allegations of revenue sharing, imprudent selection of investment options including offering retail mutual funds, and a unitized stock fund.
Resolution:	A judgment for the plaintiffs in the amount in excess of \$300,000. AIG paid its policy limit of \$15 million in defense costs.
Type of Claim:	ESOP (Private Company)
Description:	Employees filed a class action complaint alleging that the conversion of a public company to a company held 100% by an ESOP created debt that crippled the company.
Resolution:	Settlement of \$32 million. AIG paid its policy limit with a \$5 million contribution towards the settlement and \$5 million in defense costs.
Type of Claim:	Department of Labor Investigation (Taft Hartley Plan)
Description:	The Department of Labor (DOL) is investigating the prudence of an investment made by trustees of a Taft-Hartley plan who are now retired. The DOL's investigation into the actions by the fund's trustees has necessitated the retention of three defense firms: one to represent the interests of the current union trustees; another for the current employer trustees; and a third to represent the interests of the retired trustees who allegedly authorized the investment at issue.
Resolution:	At this writing the investigation is in its early states. In addition to defense costs, in this instance, investment loss could be covered by the policy.

*\*The scenarios summarized above are offered only as examples and are not intended to represent an actual claim or insured. Coverage depends on the actual facts of each case and the terms, conditions and exclusions of each individual policy.*

To learn more about Fiduciary Liability Insurance Edge For PortfolioSelect:

E-mail: [FinancialLines@aig.com](mailto:FinancialLines@aig.com)

Visit: [www.aig.com/us/PortfolioSelect](http://www.aig.com/us/PortfolioSelect)

Contact: Your insurance broker



Bring on tomorrow

American International Group, Inc. (AIG) is a leading international insurance organization serving customers in more than 130 countries. AIG companies serve commercial, institutional, and individual customers through one of the most extensive worldwide property-casualty networks of any insurer. In addition, AIG companies are leading providers of life insurance and retirement services in the United States. AIG common stock is listed on the New York Stock Exchange and the Tokyo Stock Exchange.

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