

PRIVATE CHOICE PREMIER<sup>SM</sup> – FIDUCIARY LIABILITY COVERAGE ANALYZER

Coverage for the complex challenges that fiduciary claims bring.



### HELPING YOU CHOOSE THE RIGHT POLICY TO PROTECT YOUR BUSINESS

Fiduciary liability insurance provides coverage for claims alleging a breach of fiduciary duty as defined by the Employee Retirement Income Security Act of 1974 (ERISA). ERISA is a federal law that was created to help protect the interests of pension and employee benefit plan beneficiaries.

Depending on plan documentation, control and other factors, your managers, directors, officers, employees and trustees may have to comply with ERISA. This is important because plan fiduciaries may be held *personally liable* for a breach of their responsibilities in plan management under ERISA.

If your company is owned by an ESOP (Employee Stock Ownership Plan), you may have heightened liability from claims brought by employee shareholders for investment decisions and changes to plan value.

#### Protect your company and fiduciaries with The Hartford.

Considering the potential cost to defend against such allegations, fiduciary liability insurance is critically important. Are you protecting your company, its plans and all of your plans' fiduciaries?

No two fiduciary policies are alike. The Hartford's Private Choice Premier fiduciary liability insurance:

- Includes some of the most critically important coverage features
- Is designed to help protect privately-held companies of all sizes and their plans' fiduciaries against allegations of a breach of fiduciary duty



### WHICH POLICY IS BEST FOR YOUR COMPANY?

The chart on the next page can help you decide which policy can best protect your company in the event of a fiduciary liability-related claim.

## HOW DO OTHER FIDUCIARY LIABILITY INSURANCE CARRIERS COMPARE TO THE HARTFORD? FILL OUT THE CHECKLIST.

FIDUCIARY LIABILITY INSURANCE COVERAGE FEATURES	CRITICAL CONSIDERATIONS	The Hartford	Other Carrier
<p><b>Coverage for voluntary settlement programs.</b> Includes \$100,000 sublimit (part of and not in addition to the limit of liability) for settlement program fees. An optional higher sublimit up to \$250,000 may be available for additional premium.</p>	There are programs administered by the U.S. governmental bodies to encourage compliance with applicable laws by self-reporting and self-correction. If you discover a problem and want to resolve it early, this coverage may provide protection.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><b>Coverage for certain civil penalties under ERISA, HIPAA and even relevant UK laws.</b> Includes coverage for civil penalties of: up to 5% for civil penalties of ERISA Section 502 (i) or up to 20% for civil penalties of ERISA Section 502 (l) and up to \$50,000 for failure to provide required ERISA plan documents pursuant to Section 502 (c). Such coverage is part of and not in addition to the limit of liability.</p>	ERISA Sections 502 (i), 502 (l), and 502 (c) are provisions of ERISA law. Insurance policies may exclude coverage for many taxes, fines and penalties imposed by law. Exceptions for certain civil penalties provide additional protection for certain insured parties.		
<ul style="list-style-type: none"> <li>Coverage may be available for civil penalties imposed under HIPAA, with an available sublimit of liability starting at \$25,000 and ranging to \$250,000. Additional premium may apply.</li> </ul>	The Health Insurance Portability and Accountability Act (HIPAA) of 1996 was established to protect the privacy of individually identifiable health information. Insurance policies may exclude coverage for many taxes, fines and penalties imposed by law. Again, exceptions are key!	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Includes coverage for civil penalties imposed under the English Pension Scheme Act of 1993, the English Pension Act of 1995 and the Pensions Act of 2004 and 2008.</li> </ul>	Increasingly, even local businesses are exposed to liability internationally through foreign expansion. Confirm that your client's policy responds to claims brought outside the U.S. and for the complex exposures of a global economy.		
<ul style="list-style-type: none"> <li>Patient Protection and Affordable Care Act (PPACA) fines/penalties and section 4975(a) and 4976(a) IRS penalties up to 15% subject to a \$250,000 maximum sublimit.</li> </ul>	The introduction of the Affordable Care Act in 2009 further exposes businesses to fines and penalties assessed for benefit administration. Many policies may exclude fines and penalties. Look for the exceptions to ensure your client is protected.		
<p><b>Defense for claims related to a change in value of an insured plan or accounts of a participant in an insured plan.</b> Provides defense cost coverage for claims alleging loss to insured plans or the accounts of participants in insured plans by reason of a change in value of investments held by the insured plan.</p>	With market volatility and the importance of retirement planning, plan participants may attempt legal action if the value of investments change within an insured plan.	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Coverage exclusions – personal profit and fraud.</b> Personal profit and fraud exclusions are only applicable when a nonappealable final adjudication establishes such an act occurred.</p>	Not all policies are equal and the exclusionary language may vary greatly from one carrier to another. Pay close attention to how and when exclusions apply.	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Coverage that grows with your company.</b> In the event of a mid-term merger, acquisition or creation of a new subsidiary, the insured must notify The Hartford of such change within 90 days of the transaction date, but The Hartford cannot change terms/conditions of the policy or charge an additional premium during the policy period.</p>	Some policies include provisions that if mergers, acquisitions or new subsidiaries increase the overall size of the company beyond a certain threshold, the insurance carrier will have the ability to change terms/conditions or charge additional premium mid-term. Would your carrier charge additional premiums during the policy period?	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Optional ESOP coverage for qualified risks.</b> A coverage extension for qualified risks to protect the client who faces added liability from employee shareholders. Coverage may carry an additional premium and restrictions may apply.</p>	ESOP coverage isn't automatically provided within many fiduciary liability insurance policies. If your client has an ESOP, ask if this optional protection is available for your client.	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Terminated plan coverage.</b> Provides coverage for loss resulting from a wrongful act involving any terminated insured plan, including post-termination wrongful acts.</p>	Especially in challenging economic times, some businesses face the difficult decision of terminating retirement and benefit plans.	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Definition of insured plan.</b></p> <ul style="list-style-type: none"> <li>Includes both ERISA and non-ERISA plans</li> <li>Includes coverage for specified ERISA and non-ERISA plans offered by the insured entity</li> </ul>	Some plans offered by employers, such as simple IRA's, aren't subject to Title 1 of ERISA. Look to see how your policy defines "insured plan."	<input type="checkbox"/>	<input type="checkbox"/>

**LEARN MORE.** Contact your agent from The Hartford today or visit us at [thehartford.com/premier](http://thehartford.com/premier).



This document outlines in general terms the coverages that may be afforded under a policy from The Hartford. All policies must be examined carefully to determine suitability for your needs and to identify any exclusions, limitations or any other terms and conditions that may specifically affect coverage. In the event of a conflict, the terms and conditions of the policy prevail. All coverages described in this document may be offered by one or more of the property and casualty insurance company subsidiaries of The Hartford Financial Services Group, Inc. Coverage may not be available in all states or to all businesses. Possession of these materials by a licensed insurance producer does not mean that such producer is an authorized agent of The Hartford. To ascertain

such information, please contact your state Department of Insurance or The Hartford at 1-888-203-3823. All information and representations herein are as of November 2016.

**In Texas, insurance is underwritten by Hartford Fire Insurance Company and Twin City Fire Insurance Company.** In California, insurance is underwritten by Twin City Fire Insurance Company.

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