

CHUBB®

Multiemployer Plan Fiduciary Liability Policy Guidebook





Health



Welfare



Defined
Contribution



Pension



Other
Benefit Plans

Protecting Trustees and Employees of Multiemployer Plans

Trustees of health, welfare, defined contribution, pension, and other benefit plans hold a significant and often complex role in managing these plans. The Employee Retirement Income Security Act of 1974 (ERISA) imposes extraordinary responsibilities on trustees of multi-employer plans. While governmental plans are not subject to ERISA, trustees of these plans must also be vigilant as state laws governing their conduct can be equally stringent. Fiduciary coverage for trustees of both ERISA plans and Non-ERISA plans is paramount due to the personal liability they face.

As a provider of specialized fiduciary liability insurance, Chubb developed the **Multiemployer Plan Fiduciary Liability Policy** to offer critical protection to multiemployer plans and their trustees and employees. The policy can also be tailored for **Public Sector Plans** to address their unique exposures as well.

For more information, visit chubb.com.

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DECLARATIONS

FEDERAL INSURANCE COMPANY

Policy Number:

Incorporated under the laws of _____, a stock insurance company, herein called the Company

**THIS IS A DEFENSE WITHIN LIMITS POLICY
DISTRICT OF COLUMBIA DISCLAIMER NOTICE
COMMERCIAL LINES DEREGULATION**

THIS POLICY IS ISSUED TO AN EXEMPT COMMERCIAL RISK. THE RATE AND POLICY ARE NOT SUBJECT TO THE FILING, REVIEW, AND APPROVAL REQUIREMENTS OF THE COMMISSIONER OF THE DISTRICT OF COLUMBIA DEPARTMENT OF INSURANCE AND SECURITIES REGULATION.

**COLORADO DISCLAIMER NOTICE
COMMERCIAL LINES DEREGULATION**

THE RATES, RATING PLANS, RESULTING PREMIUMS, AND THE POLICY FORMS FOR THIS POLICY ARE EXEMPT FROM THE FILING REQUIREMENTS UNDER COLORADO INSURANCE LAW AND THE RULES OF THE COLORADO INSURANCE COMMISSIONER

THIS IS NONPARTICIPATING WITH REGARD TO PAYING DIVIDENDS TO POLICYHOLDERS.

NOTICE: THIS IS A CLAIMS MADE POLICY, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD", INCLUDING ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY "LOSS" WILL BE REDUCED, AND MAY BE EXHAUSTED, BY "DEFENSE COSTS", AND "DEFENSE COSTS" SHALL BE APPLIED AGAINST THE RETENTION AMOUNT. THE COMPANY SHALL NOT BE LIABLE FOR ANY AMOUNT INCLUDING "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT, UPON EXHAUSTION OF THE APPLICABLE LIMIT OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY.

Item 1. **Insurance Representative:**

Item 2. **Plans:**

Item 3 **Policy Period:** From:
To:
At 12:01 A.M local time at the address shown in Item 1.

Item 4. **Limit of Liability:**

- (A) Each **Claim:**
- (B) Each **Policy Period:**

Item 5. **Sublimits of Liability:**

- (A) HIPAA/HITECH Penalties:
- (B) PPACA Penalties:
- (C) Section 4975 Excise Tax:

(D) Section 502(c) Penalties:

(E) Section 203 Penalties:

(F) Voluntary Compliance and
Fiduciary Correction Program
Coverage Insuring Clause B:

NOTE: The Sublimits of Liability shown in (A) and (F) above, are part of, and not in addition to, the Limits of Liability shown in Item 4 above.

Item 6. **Retention:**

Insuring Clause I.(A):

Insuring Clause I.(B):

Insuring Clause I.(C):

Item 7. **Extended Reporting Period:**

Additional Premium: _____ of Annualized Premium

Additional Period:

Item 8. **Pending or Prior Proceedings Date:**

Item 9. **Total Premium:**

Item 10: Policy Form and Endorsement Editions Attached at Issuance:

See attached Schedule of Forms.

In witness whereof, the Company issuing this Policy has caused this Policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

FEDERAL INSURANCE COMPANY

Secretary

President

Date

Authorized Representative

In consideration of payment of the premium, in reliance upon the Application, and subject to the Declarations and the limitations, conditions, provisions and other terms of this Policy, the Company and the Insureds agree as follows:

I. INSURING CLAUSES

(A) Fiduciary Liability Coverage

The Company shall pay, on behalf of an **Insured**, **Loss** on account of any **Claim** first made against the **Insured**:

- (1) during the **Policy Period** or, if exercised, the Extended Reporting Period for a **Wrongful Act** by an **Insured** or by any **Insured Person** for whose **Wrongful Acts** the **Insured** is legally liable; or
- (2) that is a **Pre-Claim Investigation** or **Benefit Claim Denial** first made against the **Insured** during the **Policy Period**.

(B) Voluntary Compliance and Fiduciary Correction Program Coverage

The Company shall pay, on behalf of an **Insured**, **Voluntary Program Loss** and **Defense Costs** on account of any **Voluntary Program Notice** first given to the Company during the **Policy Period**; provided that the Company's maximum liability for all **Voluntary Program Loss** and **Defense Costs**, combined, for the **Policy Period** shall be the Sublimit of Liability set forth in Item 5(F) of the Declarations.

(C) Interview Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured Person** on account of an **Interview** first made during the **Policy Period**.

II. DEFINITIONS

When used in this Policy:

Administration means:

- (A) advising, counseling, failing to provide proper or timely notice, providing interpretations to, or calculating benefits of, participants or beneficiaries with respect to any **Plan**; or
- (B) handling of records or effecting enrollment, termination, or cancellation of participants or beneficiaries under any **Plan**.

Application means any application, including attachments, or any written information or representations, provided to the Company by, or on behalf of, an **Insured** during the negotiation of this Policy or for the purposes of the Company's underwriting of this Policy. **Application** shall also include all of the following documents whether or not submitted with or attached to any such signed application: (A) the audited financial statements for any plan, fund or program during the twelve (12) months preceding this Policy's inception date; and (B) the form 5500's for a **Plan** during the twelve (12) months preceding this Policy's inception date. **Application** shall also include, if applicable, any representation provided to the Company within the past three (3) years in connection with any policy of which this Policy is a renewal or replacement. All such applications, attachments and materials are deemed attached to, incorporated into and made a part of this Policy.

Benefit Claim Denial means an appeal by an **Insured** of an adverse benefits determination pursuant to the U.S. Department of Labor's claim procedure regulation 29 C.F.R. Section 2560.503-1(h) or any similar claim procedures pursuant to applicable law.

Civil Penalties means, to the extent such penalties are insurable under the law pursuant to which this Policy is construed:

- (A) the five percent (5%) or less, or the twenty percent (20%) or less, civil penalties imposed upon an **Insured** as a fiduciary under Section 502(i) or (l), respectively, of the Employee Retirement Income Security Act of 1974, as amended;
- (B) civil money penalties imposed upon an **Insured** for such **Insured's** violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, as amended and the HITECH Act of 2009 ("HIPAA/HITECH Penalties"), provided the Company's maximum limit of liability for all such HIPAA/HITECH Penalties on account of all **Claims** shall be the HIPAA/HITECH Penalties amount set forth in Item 5(A) of the Declarations;
- (C) civil money penalties imposed upon an **Insured** for violation of the Patient Protection and Affordable Care Act, as amended, and any rules or regulations promulgated thereunder ("PPACA Penalties"), provided the Company's maximum limit of liability for all such PPACA Penalties on account of all **Claims** shall be the PPACA Penalties amount set forth in Item 5(B) of the Declarations;
- (D) the fifteen percent (15%) or less excise tax imposed upon an **Insured** under Section 4975 of the Internal Revenue Code of 1986, as amended ("Section 4975 Excise Tax"), provided the Company's maximum limit of liability for such Section 4975 Excise Tax on account of all **Claims** shall be the Section 4975 Excise Tax amount set forth in Item 5(C) of the Declarations;
- (E) civil money penalties imposed upon an **Insured** as a fiduciary under Section 502(c) of the Employee Retirement Income Security Act of 1974, as amended, and any amendments pursuant to Section 507 of Title V of the Pension Protection Act of 2006 ("Section 502(c) Penalties"); provided the Company's maximum limit of liability for all such Section 502(c) Penalties on account of all **Claims** shall be the Section 502(c) Penalties amount set forth in Item 5(D) of the Declarations; or
- (F) civil money penalties imposed upon an **Insured** as a fiduciary under Section 203 of the Bipartisan Budget Act of 2013 ("Section 203 Penalties"), provided the Company's maximum limit of liability for such Section 203 Penalties on account of all **Claims** shall be the Section 203 Penalties amount set forth in Item 5(E) of the Declarations.

Claim means:

- (A) a written demand for:
 - (1) monetary or non-monetary (including injunctive) relief; or
 - (2) arbitration, mediation, or other equivalent alternative dispute resolution proceeding;
 against an **Insured** for a **Wrongful Act**, commenced by the first receipt of such demand by an **Insured**;
- (B) a proceeding, including any appeal therefrom, against an **Insured** for a **Wrongful Act**, commenced by:
 - (1) the service of a civil complaint or similar pleading or any foreign equivalent thereof;
 - (2) the filing of a notice of charges or the entry of a formal order of investigation in connection with a formal civil administrative or formal civil regulatory proceeding; or
 - (3) with respect to a criminal proceeding: (i) an arrest; (ii) the return of an indictment or information; or (iii) the receipt of an official request for **Extradition**;
- (C) a written notice of commencement of a fact-finding investigation by the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation, or any similar governmental authority located outside the United States, including the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Occupational Pensions Regulatory Authority, or any successor thereto, against an **Insured** for a **Wrongful Act**;
- (D) an investigation of an **Insured Person**, solely in his or her fiduciary capacity with respect to any **Plan**, for a **Wrongful Act**, commenced by the **Insured Person's** receipt of a written document, including a target letter or search warrant, from an **Enforcement Unit** identifying such **Insured Person** as the target of an investigation;

- (E) a written request upon an **Insured Person** for witness testimony or document production, commenced by the service of a subpoena or foreign equivalent compelling such testimony or production of documents in connection with any matter described in paragraphs (A) through (D) above; provided that, in such event the Company shall only pay, on behalf of such **Insured Person**, **Defense Costs** incurred solely by such **Insured Person** in responding to such request;
- (F) a written notice of a **Pre-Claim Investigation**, commenced by the first receipt of such investigation or request by an **Insured**; or a **Benefit Claim Denial**, commenced by the first receipt of such appeal by an **Insured**; if, at the **Insured's** option, it is reported to the Company in writing during the **Policy Period**; or
- (G) a written request to toll or waive the statute of limitations relating to a potential **Claim**, commenced by the first receipt of such written request by an **Insured**, if at the **Insured's** option, it is reported to the Company in writing during the **Policy Period**.

Notwithstanding the foregoing, **Claim** shall not include an **Interview**.

Defense Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including attorneys' fees, experts' fees, and the cost of **E-Discovery Specialist Services**) and expenses (other than regular or overtime wages, salaries, fees or benefits of the directors, officers, trustees or employees of the **Insured**) incurred with the Company's prior written consent: (1) in investigating, defending, opposing or appealing any **Claim** or any **Voluntary Program**, and the premium for appeal, attachment or similar bonds; or (2) as a result of an **Interview**.

E-Discovery means the review, development, collection, storage, organization, cataloging, preservation and/or production of electronically stored information.

E-Discovery Specialist Services means solely the following services performed by an **E-Specialist Firm**:

- (1) assisting the **Insured** with managing and minimizing the internal and external costs associated with **E-Discovery**;
- (2) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost effective **E-Discovery** vendors;
- (3) serving as project manager, advisor and/or consultant to the **Insured**, defense counsel and the Company in executing and monitoring the **E-Discovery** strategy; and
- (4) such other services provide by the **E-Specialist Firm** that the **Insured**, Company, and **E-Specialist Firm** agree are reasonable and necessary given the circumstances of the **Claim**.

E-Specialist Firm means the e-discovery consultant firms approved by the Company.

Employee Benefit Law means:

- (A) the Employee Retirement Income Security Act of 1974, as amended, and any similar statutory or common law anywhere in the world, and any rules or regulations promulgated thereunder; and
- (B) any applicable statute, and any rule or regulation promulgated under such applicable statute, of the United States of America which sets forth the fiduciary obligations, responsibilities or duties imposed upon fiduciaries of a **Plan** in their capacity as such and to which such **Plan** is subject, including the following:
 - (1) Consolidated Omnibus Budget Reconciliation Act of 1985;
 - (2) Health Insurance Portability and Accountability Act of 1996;
 - (3) Newborns' and Mothers' Health Protection Act of 1996;
 - (4) Mental Health Parity Act of 1996;
 - (5) Women's Health and Cancer Rights Act of 1998;
 - (6) Pension Protection Act of 2006;
 - (7) Health Information Technology for Economic and Clinical Health Act of 2009;

- (8) Patient Protection and Affordable Care Act of 2010;
- (9) Multiemployer Pension Reform Act of 2014;
- (10) Setting Every Community Up for Retirement Enhancement Act of 2019; and
- (11) American Rescue Plan Act of 2021.

Enforcement Unit means any federal, state, local or provincial law enforcement or governmental regulatory authority worldwide (including, the U.S. Department of Justice, the U.S. Securities and Exchange Commission, and any attorney general) or the enforcement unit of any securities exchange or similar self-regulatory organization. **Enforcement Unit** shall not include the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation, or any similar governmental authority located outside the United States.

Extradition means any formal process by which an **Insured Person** located in any country is surrendered, or sought to be surrendered, to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.

Insurance Representative means the person or organization authorized to represent the **Insureds** and who is designated in Item 1 of the Declarations.

Insured means any:

- (A) **Plan**;
- (B) **Insured Person**;
- (C) board of trustees of any **Plan**; or
- (D) committee established by a **Plan**.

Insured shall not include any leased employees, independent contractors or third-party providers.

Insured Person means any:

- (A) natural person serving as a past, present or future trustee or employee of a **Plan** while performing functions for any **Plan**; or
- (B) natural person employee of a labor union but solely for **Wrongful Acts** committed or allegedly committed in the **Administration** of any **Plan** at the direction of the **Plan**;

while in their capacity as such.

Interview means any request for an interview or meeting with, or a sworn statement or testimony from, an **Insured Person** by:

- (A) an **Enforcement Unit** in connection with a **Plan** or such **Insured Person** acting solely in his or her capacity as a fiduciary of a **Plan**; or
- (B) a **Plan** in connection with an inquiry or investigation of the **Plan** by an **Enforcement Unit**;

commenced by the first receipt of such request by such **Insured Person**; provided that **Interview** does not include any request: (i) for document production or discovery materials; (ii) by an **Enforcement Unit** that is part of any routine or regularly scheduled **Enforcement Unit** oversight, compliance, audit, inspection or examination; or (iii) by an **Enforcement Unit** that is part of an employment-related investigation or claim.

Loss means:

- (A) solely for purposes of Insuring Clause I.(A), Fiduciary Liability Coverage, the amount which any **Insured** becomes legally obligated to pay as a result of any **Claim**, including:
 - (1) compensatory damages;
 - (2) claimant’s attorney’s fees awarded by a court pursuant to Section 502(g) of the Employee Retirement Income Security Act of 1974, as amended, against an **Insured**;

- (3) punitive, exemplary or multiplied damages, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the **Insured**, the Company, or the **Claim** giving rise to such damages;
 - (4) judgments, including pre-judgment and post-judgment interest;
 - (5) settlements;
 - (6) reasonable fees and expenses of an independent fiduciary retained to review a proposed settlement of a covered **Claim** (including reasonable and necessary fees and expenses of any law firm hired by such independent fiduciary to facilitate that review of such proposed settlement of a covered **Claim**);
 - (7) **Defense Costs**; and
- (B) solely for purposes of Insuring Clause I.(B), Voluntary Compliance and Fiduciary Correction Coverage, **Voluntary Program Loss** and **Defense Costs**; and
- (C) solely for purposes of Insuring Clause I.(C), Interview Coverage, **Defense Costs**;
- provided that, **Loss** does not include any portion of such amount that constitutes any:
- (1) cost incurred by the **Plan** to comply with any order for non-monetary relief, including injunctive relief, or to comply with an agreement to provide such relief;
 - (2) amount uninsurable under the law pursuant to which this Policy is construed;
 - (3) taxes, fines or penalties, except:
 - (a) as provided in Paragraph (A)(3) above with respect to punitive, exemplary or multiplied damages;
 - (b) solely with respect to Insuring Clause I.(B), Voluntary Compliance and Fiduciary Correction Coverage, **Voluntary Program Loss**; and
 - (c) **Civil Penalties**;
 - (4) amounts incurred by an **Insured** in the defense or investigation of any action, proceeding, investigation or demand that was not then a **Claim** or a **Voluntary Program Loss**, or pursuant to an **Interview** reported in compliance with Section VI, Reporting, even if: (a) such amount also benefits the defense of a covered **Claim**, a **Voluntary Program Loss**, or **Interview**; or (b) such action, proceeding, investigation or demand subsequently gives rise to a **Claim** or a **Voluntary Program Loss**;
 - (5) (a) benefits due, or to become due, or that portion of any settlement or award in an amount equal to such benefits, under any **Plan**; or (b) benefits which would be due, or that portion of any settlement or award in an amount equal to such benefits, under any **Plan** if such **Plan** complied with all applicable law, including loss resulting from the payment of plaintiff attorneys' fees based upon a percentage of such benefits or payable from a common fund established to pay such benefits, except to the extent that:
 - (i) an **Insured** is a natural person and the benefits are payable by such **Insured** as a personal obligation, and recovery for the benefits is based upon a covered **Wrongful Act**; or
 - (ii) a **Claim** made against an **Insured**:
 - (A) alleges a loss to the **Plan** and/or to the accounts of such **Plan's** participants by reason of a change in the value of the investments held by such **Plan**, regardless of whether the amounts sought or recovered by the plaintiffs in such **Claim** are characterized by plaintiffs as "benefits" or held by a court as "benefits"; or
 - (B) seeks amounts that would have been due, but for the failure to enroll in the **Plan**, as set forth in Subsection (B) of the definition of **Administration**, unless and to the extent the **Plan** is self-funded;
 - (6) costs incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for, or monitoring **Pollutants**;

- (7) amount constituting any contribution or that portion of any settlement or award in an amount equal to such amount constituting any contribution that is owed to or to fund any **Plan**, except to the extent that an **Insured** is a natural person and the contribution is payable by such **Insured** as a personal obligation, and recovery for the contribution is based upon a covered **Wrongful Act**; or
- (8) amount constituting the return of any contributions to any employer if such amount is or could be chargeable to the **Plan**.

Managed Care Services means the administration or management of a health care plan utilizing cost control mechanisms, including but not limited to utilization review, case management, disease management or the use of a preferred provider network. **Managed Care Services** does not include: (A) any services provided by a health care plan administered by an **Insured**; or (B) any acts, errors or omissions in the rendering of or failure to render **Medical Services** by an **Insured**.

Mass or Class Action Claim means any **Claim**:

- (A) brought or maintained as a class action or by or on behalf of five or more natural persons who are acting in concert, whether or not such natural persons are represented by one or more legal counsel;
- (B) which is brought by or on behalf of one to four natural persons if any of such natural persons are seeking monetary relief on behalf of a class or group of complainants in order to resolve such **Claim**, whether or not such natural persons are represented by one or more legal counsel; or
- (C) brought or maintained by any governmental entity, department or agency seeking monetary relief on behalf of a class or group of complainants in order to resolve such **Claim**.

Medical Services means health care, medical care or treatment provided to any person, including medical, surgical, dental, psychiatric, mental health, chiropractic, osteopathic, nursing or other professional health care; the use, prescription, furnishing or dispensing of medications, drugs, blood, blood products or medical, surgical, dental or psychiatric supplies, equipment or appliances in connection with such care; the furnishing of food or beverages in connection with such care; the providing of counseling or other social services in connection with such care; the performance of post-mortem examinations and the handling of human bodies. **Medical Services** shall not include utilization review.

Plan means those trusts or plans enumerated in Item 2 of the Declarations.

Policy Period means the period of time set forth in Item 3 of the Declarations (subject to any termination in accordance with Section XVI, Termination of Policy).

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, asbestos, asbestos products or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Pre-Claim Investigation means a fact-finding investigation into a possible violation of **Employee Benefit Law** with respect to any **Plan** which does not contain any allegation of a **Wrongful Act** in writing, commenced by the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation, or any similar governmental authority located outside the United States.

Related means based upon, arising from or in consequence of the same or related, or the same or related series of, facts, circumstances, transactions, situations, events or **Wrongful Acts**.

Voluntary Program means any voluntary compliance resolution program or similar voluntary settlement program administered by the U.S. Internal Revenue Service, U.S. Department of Labor, or the Pension Benefit Guaranty Corporation, including the Delinquent Filer Voluntary Compliance Program, the Voluntary Fiduciary Correction Program, and the Employee Plans Compliance Resolution System and the Premium Compliance Evaluation Program, or any similar program administered by a governmental authority located outside the United States.

Voluntary Program Loss means:

- (A) fees, fines, penalties, and sanctions paid by an **Insured** to a governmental authority pursuant to a **Voluntary Program** for the actual or alleged inadvertent non-compliance by a **Plan** with any statute, rule or regulation, provided that the **Voluntary Program Notice** relating thereto was given to the Company during the **Policy Period**; and
- (B) reasonable costs, charges, fees and expenses of attorneys, accountants and/or other professionals that are incurred solely in investigating and evaluating actual or alleged inadvertent noncompliance by a **Plan** with any statute, rule or regulation and effecting a resolution thereof pursuant to a **Voluntary Program**.

Voluntary Program Notice means prior written notice of the **Insured's** intent to enter into any **Voluntary Program** on account of any actual or alleged non-compliance of a **Plan** with any state statute, rule or regulation.

Wrongful Act means any actual or alleged:

- (A) breach of the responsibilities, obligations or duties imposed by an **Employee Benefit Law** upon fiduciaries of any **Plan** committed, attempted or allegedly committed or attempted by an **Insured** while acting in the **Insured's** capacity as a fiduciary;
- (B) negligent act, error or omission in the **Administration** of any **Plan** committed, attempted or allegedly committed or attempted by an **Insured**; or
- (C) act, error or omission committed, attempted or allegedly committed or attempted by an **Insured**, solely in such **Insured's** settlor capacity with respect to establishing, amending, terminating, or funding a **Plan**, or merging or consolidating with another trust or plan.

III. EXCLUSIONS

The Company shall not be liable for **Loss** on account of any **Claim, Voluntary Program Notice, or Interview**:

- (1) Prior Notice
based upon, arising from or in consequence of any fact, circumstance, or **Wrongful Act** that, before the inception date set forth in Item 3 of the Declarations, was the subject of any notice accepted under any fiduciary liability or employee benefit liability policy or coverage section of which this Policy is a direct or indirect renewal or replacement;
- (2) Pending or Prior Proceedings
based upon, arising from or in consequence of any written demand, suit, or other proceeding pending against, or order, decree or judgment entered for or against any **Insured**, on or prior to the applicable Pending or Prior Proceedings Date set forth in Item 8 of the Declarations, or the same or substantially the same fact, circumstance or situation underlying or alleged therein;
- (3) Bodily Injury/ Property Damage
for bodily injury, mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (3) shall not apply to any mental anguish or emotional distress, bodily injury to, or sickness, disease, exacerbation of existing illness, or wrongful death of any person resulting from: (a) selection of any **Managed Care Services** provider; (b) denial or delay of any benefit under a health care plan, other than a health care plan administered by an **Insured**; or (c) a **Claim** for discrimination in violation of the Patient Protection and Affordable Care Act;

(4) Workers Compensation; Unemployment; Social Security; Disability Benefits

for the failure of the **Insured** to comply with any workers' compensation, unemployment insurance, social security or disability benefits law or any amendments thereto or any rules or regulations promulgated under any such law, or any similar provisions of any federal, state, or local statutory law or common law anywhere in the world, except to the extent otherwise covered under this Policy pursuant to Subsection (B) of the definition of **Wrongful Act**.

(5) Conduct

based upon, arising from or in consequence of:

- (a) any deliberately fraudulent act or omission or any willful violation of any statute or regulation by such **Insured**, if a final, non-appealable adjudication in any underlying proceeding or action (other than a declaratory proceeding or action brought by or against the Company) establishes such a deliberately fraudulent act or omission or willful violation; or
- (b) any **Insured** having gained any profit, remuneration or other advantage to which such **Insured** was not legally entitled, if a final, non-appealable adjudication in any underlying proceeding or action (other than a declaratory proceeding or action brought by or against the Company) establishes the gaining of such a profit, remuneration or advantage;

provided that no conduct pertaining to any **Insured** shall be imputed to any other **Insured**.

IV. LIMIT OF LIABILITY

- (A) The Company's maximum liability for all **Loss** on account of each **Claim** shall be the Limit of Liability for each **Claim** set forth in Item 4(A) of the Declarations. The Company's, maximum aggregate limit of liability for all **Loss** on account of all **Claims** made during the **Policy Period** shall be the Limit of Liability for each **Policy Period** set forth in Item 4(B) of the Declarations. Any Sublimit of liability in this Policy shall be part of, and not in addition to, the applicable Limits of Liability set forth in Item 4 of the Declarations.
 - (B) **Defense Costs** shall be part of, and not in addition to, the Limits of Liability set forth in Item 4 of the Declarations.
 - (C) The limit of liability available during the Extended Reporting Period, if applicable, shall be part of, and not in addition to, the Maximum Aggregate Limit of Liability set forth in Item 4(B) of the Declarations.
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V. RETENTION

- (A) The Retention shall apply as set forth in Item 6 of the Declarations and shall only apply to covered **Loss**. The Retention shall be borne uninsured by the **Plan** and at its own risk.
 - (B) No Retention shall apply to any **Loss** constituting **Civil Penalties** imposed by law pursuant to Subsections (B), (C), (D), (E), and (F) of the definition of **Civil Penalties**.
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VI. REPORTING

- (A) The **Insureds** shall, as a condition precedent to coverage under this Policy, give to the Company written notice of any **Claim**, other than a written request to toll or waive the statute of limitations, **Pre-Claim Investigation** or **Benefit Claim Denial**, no later than:

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- (1) if this Policy expires and is renewed with the Company, one hundred and eighty (180) days after such expiration; provided that, if the **Plan** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the one hundred and eighty (180) day time period and that subsequent notice was given as soon as practicable thereafter, the Company shall waive the foregoing time period; or
- (2) sixty (60) days after: (i) this Policy expires or terminates and is not renewed with the Company; or (ii) the expiration of the Extended Reporting Period, if purchased.
- (B) The **Insureds**, at their discretion, and as a condition precedent to coverage under this Policy, may give to the Company written notice of a written request to toll or waive the statute of limitations, **Pre-Claim Investigation, Benefit Claim Denial or Interview**. A written request to toll or waive the statute of limitations, **Pre-Claim Investigation, Benefit Claim Denial or Interview** shall be deemed first made when written notice of such a written request to toll or waive the statute of limitations, **Pre-Claim Investigation, Benefit Claim Denial or Interview** was first given to the Company. No coverage shall be available under this Policy for any fees, costs, expenses or other **Loss** on account of any unreported **Pre-Claim Investigation, Benefit Claim Denial, Interview** or written request to toll or waive the statute of limitations.
- (C) The **Insureds**, at their discretion, and as a condition precedent to coverage for any **Voluntary Program Notice**, may give to the Company prior written notice of its intent to enter into a **Voluntary Program**. A **Voluntary Program Notice** shall be deemed to have been first made when such **Voluntary Program Notice** was first given to the Company. The Company may, in its sole discretion, waive such prior notice requirement and accept a **Voluntary Program Notice** that is given to the Company within ninety (90) days of the **Insured's** entry into such **Voluntary Program**, in which case the **Voluntary Program Notice** shall be deemed to have been first made on the initial date of the **Insured's** entry into such **Voluntary Program**.
- (D) If during the **Policy Period** an **Insured** gives written notice to the Company of:
- (1) circumstances which could give rise to a **Claim**;
 - (2) a **Voluntary Program Notice**; or
 - (3) an **Interview**;
- then any **Claim** (including any **Pre-Claim Investigation, Benefit Claim Denial**, or written request to toll or waive the statute of limitations, made during the **Policy Period** or any subsequent renewal thereof with the Company) subsequently arising from such circumstances, **Wrongful Acts, Voluntary Program Notice, or Interview** shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by an **Insured** to the Company; provided any such subsequent **Claim** is reported to the Company as soon as practicable. With respect to any such subsequent **Claim**, no coverage under this Policy shall apply to loss incurred prior to the date such subsequent **Claim** is actually made.
- (E) An **Insured** shall give to the Company such information, assistance and cooperation as the Company may reasonably require, and shall include in any notice under Subsections (A) through (D) above, a description of the **Claim**, circumstances, **Interview**, or **Voluntary Program Notice**, (including the facts, circumstances or situations alleged therein), the nature of the alleged **Wrongful Act** or circumstances, the nature of the alleged or potential damage, the names of the actual or potential claimants, and the manner in which such **Insured** first became aware of the **Claim**, circumstances, **Interview**, or alleged **Wrongful Act** or **Voluntary Program Notice**.
-

VII. DEFENSE AND SETTLEMENT

- (A) The Company shall have the right and duty to defend any **Claim** covered by this Policy, even if any of the allegations in such **Claim** are groundless, false or fraudulent. The Company's duty to defend any **Claim** shall cease upon exhaustion of the applicable Limit of Liability.

- (B) Notwithstanding Subsection (A) above, the **Insured** shall have the option to select defense counsel to defend any **Claim**, other than any **Mass or Class Action Claim** (in which case the Company shall select defense counsel for any **Mass or Class Action Claim** from the Company's list of approved fiduciary liability defense firms), first made against the **Insured**; provided that the Company's consent and obligation to pay **Defense Costs** to such counsel, is subject to the conditions set forth in Subsection (C). Such option to select defense counsel must be exercised, in writing, as soon as practicable but no later than sixty (60) days of the **Insured** providing notice of such **Claim** pursuant to the provisions of Section VI, Reporting. No **Defense Costs** shall be incurred and no settlement of any **Claim** first made against the **Insured** shall be made without the Company's consent, which consent shall not be unreasonably withheld.
- (C) The Company's consent and obligation to pay **Defense Costs** to defense counsel selected by the **Insured** is expressly conditioned on the following: (1) such defense counsel shall adhere, in all respects, to the Company's Litigation Management Guidelines; and (2) the Company shall pay such defense counsel and any paralegals at an hourly rate which is negotiated and agreed to by and between such counsel and the Company, up to a maximum rate which is commensurate with panel rates that the Company customarily pays for attorneys and paralegals then in effect for the jurisdiction in which such **Claim** is venued. Hourly fees in excess of the hourly rates set forth in this Subsection (C) shall be uninsured. The **Insureds** agree not to settle any **Claim**, incur any **Defense Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** or **Interview** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented. However, the Company may, in its sole discretion, waive the foregoing requirement with respect to **Defense Costs** incurred within ninety (90) days prior to the reporting of a **Claim** pursuant to Section VI, Reporting.
- (D) The **Insureds** agree to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agree that, in the event of a **Claim**, the **Insureds** will do nothing that could prejudice the Company's position or its potential or actual rights of recovery. The failure of any **Insured Person** to give the Company the information, assistance or cooperation as it may reasonably require shall not impair the rights of any other **Insured Person** under this Policy.
- (E) It shall be the duty of the **Insureds** and not the duty of the Company to defend any **Voluntary Program Notice**. The **Insureds** shall be permitted to select defense counsel for such **Voluntary Program Notice**.
- (F) Any payment of **Defense Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Policy. However, the Company will not seek repayment from an **Insured Person** of such paid **Defense Costs** that are uninsured pursuant to Exclusion (5) unless a final, non-appealable adjudication has occurred.
- (G) Any payment of **Defense Costs** by the Company shall reduce the applicable Limit of Liability set forth in Item 4 of the Declarations. If the Company recovers any such **Defense Costs** paid, the amount of such **Defense Costs** less all costs incurred by the Company to obtain such recovery shall be reinstated to such Limit of Liability.

VIII. RELATED CLAIMS OR INTERVIEWS

All **Claims** that are **Related** shall be deemed a single **Claim** and all **Interviews** that are **Related** shall be deemed a single **Interview**, first made on the date the earliest of such **Claims** or **Interviews** that are **Related** was either first made, or on the date the earliest of such **Claims** or **Interviews** that are **Related** is deemed to have been first made in accordance with the applicable reporting provisions of this Policy or any prior policy. All **Interviews** and **Claims** that are **Related** shall be deemed first made on the date the earliest of such **Claim** or **Interview** was first made.

IX. ALLOCATION

If the **Insureds** who are afforded coverage for a **Claim, Voluntary Program Notice, or Interview** incur an amount consisting of both **Loss** that is covered by this Policy and also loss that is not covered by this Policy because such **Claim** includes both covered and uncovered matters, then coverage shall apply as follows:

- (A) **Defense Costs:** one hundred percent (100%) of **Defense Costs** incurred by the **Insured** on account of such **Claim, Voluntary Program Notice, or Interview** will be considered covered **Loss**; provided that the foregoing shall not apply with respect to any **Insured** for whom coverage is excluded pursuant to Section XVIII, Representations and Severability. Such **Defense Costs** shall be allocated between covered **Loss** and non-covered loss based on the relative legal and financial exposures of the parties to such matters; and
 - (B) **Loss** other than **Defense Costs:** all remaining **Loss** incurred by such **Insured** on account of such **Claim, Voluntary Program Notice, or Interview** shall be allocated between covered **Loss** and non-covered loss based upon the relative legal and financial exposures of the parties to such matters.
-

X. OTHER INSURANCE

- (A) If any **Loss** under this Policy is insured under any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this Policy), this Policy shall be excess of and shall not contribute with such other insurance, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
 - (B) This Policy shall be specifically excess of, and shall not contribute with, any insurance policy for pollution liability, environmental liability, or privacy, network security or cyber liability, including any general liability policy, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
 - (C) Any payment by an **Insured** of a retention or deductible under any other insurance policy described in the foregoing Subsections (A) or (B) shall reduce the applicable Retention under this Policy by the amount of such payment if such amount would otherwise have been covered **Loss** under this Policy.
 - (D) To the extent that **Defense Costs** on account of an **Interview** are insured under any other insurance policy for Fiduciary Liability, Directors and Officers Liability, or any equivalent thereof, then this Policy shall be excess of and shall not contribute with such other insurance, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
-

XI. SUBROGATION AND WAIVER OF RECOURSE

- (A) In the event of any payment under this Policy, the Company shall be subrogated to the extent of such payment to all of the **Insureds'** rights of recovery, and the **Insureds** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit in the name of the **Insured**.
 - (B) The Company shall have no right or recourse, that is required under ERISA Section 410(b)(1), as amended, against any **Insured** if insurance premium, or any portion thereof, was paid by any person or entity other than the **Plan**.
-

XII. EXTENDED REPORTING PERIOD

- (A) If this Policy does not renew or otherwise terminates for a reason other than for non-payment of premium (each a "Termination of Coverage"), then the **Insureds** shall have the right to purchase the Extended Reporting Period for the Additional Period and Additional Premium set forth in Item 7 of the Declarations.

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- (B) The right to purchase the Extended Reporting Period shall lapse unless written notice of election to purchase the Extended Reporting Period, together with payment of the Additional Premium, is received by the Company within sixty (60) days after the effective date of a Termination of Coverage.
 - (C) If the Extended Reporting Period is purchased, then coverage otherwise afforded by this Policy shall be extended to apply to **Claims, Voluntary Program Notices** and **Interviews** that are:
 - (1) first made and reporting during the Extended Reporting Period; and
 - (2) for **Wrongful Acts** before the effective date of Termination of Coverage.
 - (D) The Additional Premium for the Extended Reporting Period shall be deemed fully earned at the inception of the Extended Reporting Period.
 - (E) No coverage shall be available under this Section XII for that portion of any **Claim** or **Interview** covered under insurance purchased subsequent to the effective date of a Termination of Coverage.
-

XIII. CHANGES IN EXPOSURE

- (A) If a **Plan**:
 - (1) merges into or consolidates with another trust or plan not enumerated in Item 2 of the Declarations then coverage for **Insureds** who were **Insureds** prior to such merger or consolidation shall continue until termination of this Policy but only with respect to **Claims** for **Wrongful Acts** which occurred prior to such merger or consolidation. There shall be no coverage under this Policy for **Loss** on account of any **Claim** for **Wrongful Acts** committed, attempted or allegedly committed or attempted after such merger or consolidation;
 - (2) merges into or consolidates with another trust or plan not enumerated in Item 2 of the Declarations and the **Plan** is the surviving trust or plan, then coverage shall continue until termination of this Policy. Nothing contained herein shall provide coverage for the non-surviving trust or plan (and its trustees, employees and any other person who acted on behalf of the non-surviving trust or plan); or
 - (3) terminates before or after the inception date of this Policy, coverage with respect to such terminated **Plan** shall continue until termination of this Policy for those who were **Insureds** at the time of such **Plan** termination.
 - (B) The **Insured** shall give written notice to the Company of such merger, consolidation or termination as soon as practicable together with such information as the Company may require. The Company reserves the right to review such information and provide the **Insured** with any additional terms and conditions.
-

XIV. SPOUSES, DOMESTIC PARTNERS, ESTATES AND LEGAL REPRESENTATIVES

Coverage under this Policy shall extend to **Claims** for **Wrongful Acts** of an **Insured Person** made against:

- (A) the estate, heirs, legal representatives or assigns of such **Insured Person** if such **Insured Person** is deceased or the legal representatives or the assigns of such **Insured Person** if such **Insured Person** is legally incompetent, insolvent or bankrupt; or
- (B) the lawful spouse or domestic partner of such **Insured Person** solely by reason of such spouse's or domestic partner's: (1) status as a spouse or domestic partner; or (2) ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**;

provided that, no coverage afforded by this Section XIV shall apply with respect to **Loss** arising from an act, error or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or domestic partner.

XV. NOTICE

(A) All notices to the Company under this Policy of a **Claim**, circumstances which could give rise to a **Claim**, a **Voluntary Program Notice**, or an **Interview** shall be given in writing to one of the following addresses:

(1) ChubbClaimsFirstNotice@Chubb.com

(2) Attn: Chubb Claims Department
Chubb
P.O. Box 5122
Scranton, PA 18505-0544

(B) All other notices to the Company under this Policy shall be given in writing to one of the following addresses:

(1) NA.FinancialLines@chubb.com

(2) Attn: Chubb Underwriting Department
Chubb
202B Hall's Mill Road
Whitehouse Station, NJ 08889

(C) Any notice described in Subsections (A) or (B) above shall be effective on the date of receipt by the Company.

XVI. TERMINATION OF POLICY

This Policy shall terminate at the earliest of the following times:

(A) twenty (20) days after receipt by the **Insurance Representative** of a written notice of termination from the Company for non-payment of premium, unless such premium is received by the Company prior to the twentieth (20th) day after receipt of such written notice;

(B) upon receipt by the Company of written notice of termination from the **Insurance Representative**;

(C) upon expiration of the **Policy Period** as set forth in Item 3 of the Declarations; or

(D) at such other time as may be agreed upon by the Company and the **Insured**, in which case any returned premium shall be computed on a pro rata basis.

XVII. BANKRUPTCY

Bankruptcy or insolvency of any **Insured** shall not relieve the Company of its obligations nor deprive the Company of its rights or defenses under this Policy.

XVIII. REPRESENTATIONS AND SEVERABILITY

The Company, in issuing this Policy, has relied upon the statements, representations and information in the **Application** as being true and accurate. The **Application** is the basis for, and considered incorporated into, this Policy and shall be construed as a separate request for coverage by each **Insured**.

With respect to any statements, representations and information contained in the **Application**, no knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person**.

If the **Application** contains any misrepresentations made with the actual intent to deceive or contains misrepresentations which materially affect either the acceptance of the risk or the hazard assumed by the Company under this Policy, then no coverage shall be afforded for any **Claim** based upon, arising from or in consequence of any such misrepresentations with respect to:

-
- (A) any **Insured Person** who knew of such misrepresentations (whether or not such individual knew such **Application** contained such misrepresentations);
- (B) any **Plan**, to the extent it indemnifies any **Insured Person** in Subsection (A) above; and
- (C) any **Plan**, if any past or present trustee (or any equivalent position to the foregoing) knew of such misrepresentations (whether or not such individual knew such **Application** contained such misrepresentations).

The Company shall not be entitled under any circumstances to void or rescind this Policy with respect to any **Insured**.

XIX. AUTHORIZATION CLAUSE

By acceptance of this Policy, the **Insurance Representative** agrees that it shall be considered the sole agent of, and shall act on behalf of, all **Insureds** with respect to: (A) the payment of premiums and the receiving of return premiums that may become due under this Policy; (B) the negotiation, agreement to and acceptance of endorsements; and (C) the giving or receiving of any notice provided for in this Policy (except the giving of notice of a **Claim**, circumstances which could give rise to a **Claim**, a **Voluntary Program Notice** or an **Interview**, as provided in Section VI, Reporting, or notice to apply for the Extended Reporting Period). The **Insureds** agree that the **Insurance Representative** shall act on their behalf with respect to all such matters.

XX. VALUATION AND FOREIGN CURRENCY

All premiums, limits, retentions, **Loss** and other amounts under this Policy are expressed and payable in the currency of the United States of America. Except as otherwise provided in this Policy, if a judgment is rendered, a settlement is denominated or any element of **Loss** under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the rate of exchange published in The Wall Street Journal on the date the judgment becomes final, the amount of the settlement is agreed upon or any element of **Loss** is due, respectively.

XXI. ACTION AGAINST THE COMPANY

No action may be taken against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy. No person or entity shall have any right under this Policy to join the Company as a party to any action against any **Insured** to determine such **Insured's** liability nor shall the Company be impleaded by such **Insured** or legal representatives of such **Insured**.

XXII. ALTERATION AND ASSIGNMENT

No change in, modification of, or assignment of interest under, this Policy shall be effective except when made by written endorsement to this Policy which is signed by an authorized representative of the Company.

XXIII. WORLDWIDE TERRITORY

This Policy shall apply anywhere in the world.

XXIV. HEADINGS

The descriptions in the headings and sub-headings of this Policy are solely for convenience and form no part of the terms and conditions of coverage.

XXV. COMPLIANCE WITH APPLICABLE TRADE SANCTION LAWS

This insurance does not apply to the extent that any United States trade or economic sanctions law or any other similar United States law prohibits the Company from providing insurance.

XXVI. STATE AMENDATORY INCONSISTENCY

If there is an inconsistency between a state amendatory endorsement attached to this Policy and any other term or condition of this Policy, the Company shall apply, where permitted by law, those terms and conditions either of such state amendatory endorsement or the Policy which are more favorable to the **Insured's** coverage; provided that, with respect to any time period relating to notice of cancellation or non-renewal provided under this Policy, the Company shall apply the applicable state law.

Application

Click the application below to open the fillable form at chubb.com.

[Multiemployer Plan Fiduciary Liability Application](#)

Policy Forms

Application

Marketing Materials

Marketing Materials

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Multiemployer Plan Fiduciary Liability Policy



For almost 50 years, Chubb has protected trustees and employees from personal liability exposures they face as fiduciaries of Taft-Hartley Trust Funds. Trustees of multiemployer health, welfare, defined contribution, pension, and other benefit plans hold a significant and often complex role in managing these plans for the exclusive purpose of providing benefits to participants, dependents, and beneficiaries. The Employee Retirement Income Security Act of 1974 (ERISA) imposes extraordinary responsibilities on these individuals, including personal liability for losses resulting from their breach of duties or for illegal personal profits attained through the misuse of plan assets. Moreover, numerous amendments and other laws governing fiduciary conduct now create an even greater breadth of challenges.

Why Are Trustees Targets for Claims Alleging Fiduciary Breach or Administration Failure?

Trustees must execute their obligations with both prudence and loyalty. In other words, they must act with the care, skill, and diligence that a prudent person would exercise in a similar situation. Additionally, they must carry out their duty with respect to a benefit plan solely in the interest of its participants.

Lawsuits are brought against trustees subjecting them to expensive and time-consuming legal proceedings with a wide spectrum of allegations:

- Denial or change of benefits
- Administrative error
- Incorrect benefit calculation
- Improper advice or counsel
- Misleading disclosures
- Conflicts of interest and self-dealing
- Imprudent investment of plan assets resulting in funding deficiencies
- Violation of plan documents
- Benefit payment to ineligible individuals
- Disputes regarding tax qualification of a plan
- Improper response to an employer's withdrawal from a plan or default on its obligation to contribute to a plan

What does the Chubb Multiemployer Plan Fiduciary Liability Policy cover?

In such a rapidly evolving legal landscape, the responsibilities that trustees carry can be daunting. As a leading provider of specialized fiduciary liability insurance, the **Multiemployer Plan Fiduciary Liability Policy** can be customized to fit the unique needs of our insured plans. Key policy elements include:

- Streamlined coverage with Insuring Clauses for Fiduciary Liability, Voluntary Compliance, and Interview Coverage.
- Expanded definition of Wrongful acts includes acts, errors, or omissions in an Insured's settlor capacity with respect to establishing, amending, terminating, funding, merging, or consolidating plans, in addition to breach of duty imposed by ERISA upon fiduciaries and errors in plan administration.
- Expanded definition of Claim includes:
 - Pre-Claim Investigations (Insured's option to report)
 - Benefit Claim Denials (Insured's option to report)
 - Regulatory proceedings against an Insured Persons by an Enforcement Unit (SEC, DOJ, HHS)
 - Subpoena requests upon Insured Persons
- Expanded definition of Loss includes:
 - Civil penalties where insurable by law:
 - Health Insurance Portability and Accountability Act
 - Health Information Technology for Economic and Clinical Health Act

- Patient Protection and Affordable Care Act
- Employee Retirement Income Security Act Section 502(c)
- Section 4975 of the Internal Revenue Code
- Section 203 of the Bipartisan Budget Act
- Compensatory damages
- Punitive, exemplary, and multiplied damages where insurable by law
- Claimant attorney fees awarded by a court pursuant to Section 502(g) of ERISA
- Pre-judgment and post-judgment interest
- Reasonable fees and expenses of an independent fiduciary retained to review a proposed settlement of a covered claim
- Duty to Defend policy includes built-in flexibility for Insured to select defense counsel on a majority of claims
- No Hammer Clause
- Non-cancellable
- Non-rescindable
- Enhanced Claim Reporting

Why Chubb?

As the world's largest publicly traded property and casualty insurer, Chubb carefully crafts coverage to protect trustees and employees of multiemployer plans from personal liability exposures they face in fulfilling their duties. We have earned our leadership position as a provider of fiduciary liability insurance by our unflinching commitment in providing:

- Broad fiduciary liability protection
- Superior service
- Outstanding underwriting expertise
- Unmatched claims handling
- Continued financial stability as one of A.M. Best Company's elite highest ranking insurers

Contact us

To learn more about the Chubb **Multiemployer Plan Fiduciary Liability Policy** for multiemployer plans, contact your local underwriter or visit www.chubb.com/us/fiduciaryliability.

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Multiemployer Plan Fiduciary Liability Policy for Public Sector Plans



For almost 50 years, Chubb has protected governmental plan trustees and employees from personal liability exposures they face as fiduciaries of public sector plans. Trustees of governmental health, welfare, defined contribution, pension, and other benefit plans hold a significant and often complex role in managing these plans for the purpose of providing benefits to participants, dependents, and beneficiaries. While governmental plans are not subject to the federal law, the Employee Retirement Income Security Act of 1974 (ERISA), trustees must take time to understand the applicable state laws governing their conduct as their personal assets may be at risk.

Why Are Trustees Targets for Claims Alleging Fiduciary Breach or Administration Failure?

There are key factors that every trustee must keep in mind when they serve on a benefit plan board or committee:

- Government benefit plans must adhere to fiduciary rules
- Plan trustees can be personally liable for breaching their fiduciary duty
- Indemnification may not be available to protect plan trustees if they are sued for breaching their fiduciary duties or for their mistakes in administering the plan. Indemnification provided in some states may be considerably limited in scope or may even include an express denial of indemnification
- Plan trustees may not be fully protected by sovereign immunity
- Outsourcing management of benefit plans does not eliminate or reduce the potential liability of plan trustees
- Responsibility for managing and administering the plan remains with the fiduciary

Are Trustees Targets for Claims Alleging Fiduciary Breach or Failure?

Trustees must execute their obligations with both prudence and loyalty. In other words, they must act with the care, skill, and diligence that a prudent person would exercise in a similar situation. Additionally, they must carry out their duty with respect to a benefit plan solely in the interest of its participants.

Lawsuits are brought against trustees subjecting them to expensive and time-consuming legal proceedings with a wide spectrum of allegations:

- Denial or change of benefits
- Administrative error
- Incorrect benefit calculation
- Improper advice or counsel
- Misleading disclosures
- Conflicts of interest and self-dealing
- Imprudent investment of plan assets resulting in funding deficiencies
- Violation of plan documents
- Benefit payment to ineligible individuals

What does the Chubb Multiemployer Plan Fiduciary Liability Policy cover?

In such a rapidly evolving legal landscape, the responsibilities that trustees carry can be daunting.

As a leading provider of fiduciary liability insurance to the public sector, the **Multiemployer Plan Fiduciary Liability Policy** can be customized to fit the unique needs of our customers. Key policy elements include:

- Streamlined coverage with Insuring Clauses for Fiduciary Liability, Voluntary Compliance, and Interview Coverage
- Expanded definition of Wrongful acts, to provide defense costs coverage, for acts, errors, or omissions of an insured while acting in a settlor capacity with respect to establishing, amending, terminating, funding, merging, or consolidating plans, in addition to breach of duty imposed by ERISA upon fiduciaries and errors in plan administration
- Expanded definition of Claim includes:
 - Pre-Claim Investigations (Insured's option to report)
 - Benefit Claim Denials (Insured's option to report)
 - Regulatory proceedings against an Insured Persons by an Enforcement Unit (SEC, DOJ, HHS)
 - Subpoena requests upon Insured Persons
- Expanded definition of Loss includes coverage for
 - Civil penalties where insurable by law:
 - Health Insurance Portability and Accountability Act
 - Health Information Technology for Economic and Clinical Health Act
 - Patient Protection and Affordable Care Act
 - Employee Retirement Income Security Act Section 502(c)
 - Section 4975 of the Internal Revenue Code
 - Section 203 of the Bipartisan Budget Act
 - Compensatory damages
 - Punitive, exemplary, and multiplied damages where insurable by law
 - Claimant attorney fees awarded by a court pursuant to Section 502(g) of ERISA
 - Pre-judgment and post-judgment interest
 - Reasonable fees and expenses of an independent fiduciary retained to review a proposed settlement of a covered claim

- Duty to Defend includes built-in flexibility for Insured to select defense counsel on a majority of claims
- No Hammer Clause
- Non-cancellable
- Non-rescindable
- Enhanced Claim Reporting

Why Chubb?

As the world's largest publicly traded property and casualty insurer, Chubb carefully crafts coverage to protect trustees and employees of public sector plans from personal liability exposures they face in fulfilling their duties. We have earned our leadership position as a provider of fiduciary liability insurance by our unflinching commitment in providing:

- Broad fiduciary liability protection
- Superior service
- Outstanding underwriting expertise
- Unmatched claims handling
- Continued financial stability as one of A.M. Best Company's elite highest ranking insurers

Contact us

To learn more about the Chubb **Multiemployer Plan Fiduciary Liability Policy** for public sector plans, contact your local underwriter or visit www.chubb.com/us/fiduciaryliability.

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