

Encore Fiduciary Liability Highlights

FIDUCIARY LIABILITY INSURANCE

The **Encore** (Formerly Euclid) **Fiduciary Liability** insurance policy is the prudent choice for benefit fund trustees because it provides the best combination of **scope of coverage, financial security and expert claims handling**. Encore continues to demonstrate fiduciary thought leadership and is recognized as the most innovative and expert fiduciary market available. Compare our coverage to your current policy, and see how the Encore Fiduciary Liability Policy is your prudent choice.

Fiduciary Liability

FIDUCIARY LIABILITY COVERAGE HIGHLIGHTS	THE ENCORE DIFFERENCE
Duty to defend	<i>Does your carrier impose an HMO style panel of lawyers?</i>
Insured's choice of counsel provision.	<i>We offer the rare combination of Duty to Defend, Insured choice of counsel and No hammer clause.</i>
No hammer clause. We allow the insured to decide when it is time to settle.	<i>Employee benefit plans must often litigate to avoid bad precedent. But who has the power to decide when to settle: you, or your insurance company?</i>
Trustee Claim Expenses/Non-fiduciary coverage — defense coverage for non-fiduciary claims. The typical policy language expands defense coverage to "any negligent act, error or omission by an Insured solely in such Insured's capacity as a trustee of a Plan."	<i>The purpose of non-fiduciary coverage is a catch-all for the fiduciary policy to defend any unanticipated claim that could be asserted against a plan fiduciary, but that does not allege breach of fiduciary duty or negligence in the administration of the Plan.</i>
Voluntary compliance programs: <ul style="list-style-type: none"> • Provides coverage for the filing fee, fines, any required penalty or sanctions, and the costs, charges and expenses of your attorney • Responds to programs administered by the IRS and DOL including but not limited to: the EPCRS; Audit Closing Agreement Program; Voluntary Compliance Resolution Program; Walk-in Closing Agreement Program; the Administrative Policy Regarding Self-Correction; the Tax-Sheltered Annuity Voluntary Correction Program; the Delinquent Filer Voluntary Correction Program; and the Voluntary Fiduciary Correction Program. 	<i>Does your carrier cover you for all penalties under recent legislative changes?</i> <i>Coupled with our Vanguard Elite coverage, Penalty Box coverage, Miscellaneous/Other penalties coverage and Reinstatement of the Sublimit for Voluntary Compliance Program Expenditures endorsement, no carrier offers broader Voluntary Compliance programs coverage than Encore's fiduciary liability program.</i>
502(c) & Pension Protection Act — loss in the form of civil penalties or any excise tax imposed pursuant to 502(c) of ERISA and the Pension Protection Act of 2006.	<i>Your carrier may offer 502(c) coverage, but has it been expanded to include penalties arising from the PPA?</i>
HIPAA/HITECH – full policy limits	<i>HHS has stepped up enforcement of HIPAA privacy and security rules and is conducting compliance audits. Does your carrier cover HIPAA compliance audits and both HIPAA privacy and security rules?</i>
PPACA Fines and Penalties – full policy limits	
Section 4975 of the Internal Revenue Code – full policy limits	
ERISA 502(a)(3) equitable relief and surcharges – full policy limits. First carrier with affirmative coverage for surcharges and other equitable relief under ERISA section 502(a)(3) stemming from the 2011 CIGNA v. Amara Supreme Court decision.	<i>"Does your carrier offer affirmative coverage for surcharges? Typical fiduciary policies do not respond to provide this coverage."</i>
Benefit Overpayment coverage for overpayments due to miscalculation	<i>Will your carrier pay for benefit overpayments?</i>

<p>Vanguard Elite Coverage:</p> <ul style="list-style-type: none"> • Settlor Coverage – full limit of liability • Managed Care Services Coverage – full limit of liability • Pre-Claim Investigation Coverage – full limit of liability for investigations and interviews commenced by any Enforcement Unit including the DOL and IRS as well as HHS, PBGC, DOJ, SEC and any attorney general • Section 203 of the Bipartisan Budget Act of 2013 (ex: Death Master Files) at full limit of liability. Coverage for fines and penalties assessed • Employee Benefit Law expanded to include Multiemployer Pension Reform Act of 2014 (MPRA) 	<p>Settlor coverage in a fiduciary liability policy is designed to cover settlor business decisions of the plan sponsor that are not considered fiduciary duties and would otherwise not be covered under a fiduciary policy covering breach of fiduciary duty or negligence in plan administration. Settlor coverage is critical given the frequency of challenges to benefit design changes in a plan. Other carriers may cover certain itemized trustee functions, such as amending a plan or changing benefits, but the Vanguard Elite more broadly covers all settlor functions in our insuring agreement. Does your carrier?</p> <p>Managed Care Services coverage means the administration or management of a health plan utilizing cost control mechanisms, including: use of a PPO; evaluation, review and selection of providers; utilization review; and case management, disease management and the use of predictive modeling for case management or disease management.</p> <p>Encore Pre-claim investigation coverage is the broadest scope of coverage available in the market as no other carrier affirmatively includes the IRS, or only does so with significant coverage restrictions such as a Pending or Prior Proceeding date.</p>
<p>Miscellaneous/Other Penalties – Encore was the first market to provide a penalty safety net for other fines, taxes or penalties imposed by the DOL, IRS or similar regulatory body. Covers any penalty not already defined as Covered Penalties.</p>	<p>Does your carrier offer this new innovative coverage enhancement to protect against new or unanticipated fines and penalties?</p>
<p>Penalty Box – optional coverage sits excess of both Covered Penalties and Other Penalties providing penalty coverage when underlying sublimit is exhausted</p>	<p>Penalty Box coverage is an innovation other carriers have tried to mirror.</p>
<p>502(i) and 502(l) at full statutory limit</p>	
<p>Section 301 of the LMRA relating to alleged violations of collectively bargained contracts in connection with the Plan</p>	<p>Does your carrier provide LMRA coverage to eliminate a potential coverage gap?</p>
<p>Independent fiduciary expenses – includes retainer fees and expenses</p>	<p>Independent fiduciaries serve an important function in complex claims, but these expenses are typically not covered by most carriers.</p>
<p>Reinstatement of Sublimit endorsement for Voluntary Compliance Program Expenditures available which reinstates the sublimit under the Voluntary Compliance Program when the underlying sublimit is exhausted. The additional sublimit would respond to any new Claim that is reported under the existing policy period.</p>	<p>Given that voluntary compliance program claims have become of the most prevalent claims under fiduciary policies in recent years, the reinstatement provides valuable protection in the event of a subsequent claim.</p>
<p>Renewal guarantee endorsement available</p>	<p>Renewal guarantee can help lock in excellent coverage and pricing for the insured.</p>

Our Carrier

FIDUCIARY LIABILITY COVERAGE HIGHLIGHTS	THE ENCORE DIFFERENCE
<p>Policies are backed by the security of Hudson Insurance Group, the US Insurance Division of Odyssey Re Holdings Corp. Hudson’s A.M Best rating is “A+” (Superior), financial size category XV (\$2.0 billion or greater) the highest offered by A.M Best.</p> <p>Admitted program, all states.</p>	<p>Hudson has demonstrated a long-term commitment to fiduciary liability market and has the financial security required by the industry. Hudson takes full financial responsibility and is not a fronting carrier in this space.</p>

Capacity

FIDUCIARY LIABILITY COVERAGE HIGHLIGHTS	THE ENCORE DIFFERENCE
\$15 million on primary or excess basis	Can your carrier accommodate limit increases to meet the full liability risk of your client?

Claim Expertise

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<p>The true differentiator of Encore's fiduciary liability program is how we handle claims.</p> <p>We are responsive and proactive to resolve complex claims.</p> <p>Policyholders can reach Encore decision-makers directly – professionals with legal and fiduciary expertise, and the experience and authority to act.</p> <p>Hudson has a proven track record of responsible and responsive claims handling to protect trustees.</p>	Can your carrier match Encore's fiduciary expertise? Complex fiduciary claims need dedicated experts who have essential experience and knowledge.

About Encore Fiduciary

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- Multi-employer plans
- Governmental plans including Public Employee & State Retirement Systems, Fire/Police Pension Systems, State/County/City plans and others
- Non-Profit Employee Benefit plans including VEBA's, Endowments, Church plans, Foundations, 457 and 403(b)
- For-Profit plan sponsors including defined benefit, cash balance, health, 401(k), SEP plans and profit-sharing plans

« Other Products

- Cyber Liability coverage
- Governmental Fiduciary Liability Insurance
- Side A coverage for individual trustees also available
- D&O, EPL and Crime coverage
- ERISA Fidelity Bonds
- Labor Professional Liability Insurance
- Labor Organization Bonds

Make The Prudent Choice

Encore Fiduciary specializes in fiduciary and other management liability insurance for multiemployer, governmental and other non-profit employee benefit plans, with over 15,000 policies issued in this niche. Known for our expertise and thought leadership in protecting Insureds from complex liability, we also offer Directors & Officers Liability, Employment Practices Liability, Cyber Liability and Crime Insurance Coverages to employee benefit plans and plan officials.

Please note: This brochure provides an overview of coverages available. It does not replace or change the policy. Coverage will be dictated by your policy's specific terms and conditions. Products may not be available in all states. Encore Fiduciary, Division of Specialty Program Group, LLC. Doing business in California as SPG Insurance Solutions License No. 0L09546 - Fiduciary Liability Coverage Highlights 01/2024.

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Euclid Fiduciary is Now Encore Fiduciary

To learn more about the story behind the rebranding, changes and FAQs.

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