



## Executive First Fiduciary Liability Insurance

Introducing **Executive First** Fiduciary Liability Insurance: Broad, contemporary fiduciary liability coverage backed by the deep bench of underwriting and claims talent and unparalleled financial strength of Berkshire Hathaway Specialty Insurance (BHSI). The state-of-the-art coverage is designed to address what worries our customers in Canada now: business decisions triggering plan-related class action litigation against directors and officers, novel theories of liability spawning lawsuits, and rapidly evolving pension and welfare plan regulations, opening avenues to the court house.

### HIGHLIGHTS

From a far-reaching definition of plan, to a claims and litigation approach that empowers customers to choose how they want (and who they want) to drive their defence, Executive First Fiduciary Liability gives companies and their directors, officers and employees unmatched protection and flexibility.

**The keen market sense of the team behind Executive First Fiduciary Liability is evident in everything from the form's state-of-the-art design, to the flexibility afforded from sophisticated underwriting, to top-notch litigation management.**

#### Key features include:

- **A flexible defence agreement:** Our customers have the duty to defend all claims, while we advance defence costs. However, customers may also choose to tender the defence of a claim to BHSI.
- **Full settlor coverage:** Customers have full "settlor" coverage in claims alleging wrongdoing in connection with a covered plan, with no sublimit and no listed perils. So board members and management can make business decisions with confidence.
- **Flexible reporting of governmental fact-finding investigations and internal benefits appeals.** We let our customers choose whether to report these incidents or not. If they choose not to report, any wrongful act claim triggered by the investigation or appeal will not be denied for late notice when coverage remains in force.
- **Recommended, but not required, defence counsel:** BHSI has collaborated with brokers and customers to assemble a group of the most sought-after fiduciary liability defence counsel. However, our customers are not obligated to choose these firms if they prefer another.
- **Expansive fines and penalties coverage.** Coverage encompasses a broad range of fines and penalties, including those imposed under HIPAA, the Pension Benefits Standard Act, 1985 (Canada) and/or Income Tax Act (Canada), the Affordable Care Act, certain government-run plan compliance programs, and more.
- **Affordable Care Act "gap" coverage -- for no additional premium:** Coverage is provided for claims arising from employees' use (or attempted use) of third party exchanges created under the Affordable Care Act. Such claims are not automatically covered under traditional fiduciary liability policies.

## There is also:

- A broad definition of “plan,” including any sponsored plan anywhere in the world.
- Prejudice required for the insurer to deny coverage based solely upon late notice, in all jurisdictions.
- Full severability of all exclusions.
- Full non-rescindability.

## FINANCIAL STRENGTH

We underwrite on the paper of Berkshire Hathaway’s National Indemnity group of insurance companies, which holds financial strength ratings of A++ from AM Best and AA+ from Standard & Poor’s — and has \$316.5 billion in total admitted assets with \$185.2 billion in policyholder surplus.\*

\*Source: Balance sheets as of 06/30/2020 for Berkshire Hathaway National indemnity group of insurance companies.

## Why Executive First Fiduciary Liability?

- Broad, contemporary coverage
- Deep underwriting and claims talent
- Flexible, solutions-focused underwriting
- Financial strength (ratings and surplus)
- Up to \$100 million in capacity

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**Built expressly for large commercial and financial institutions, coverage is highly customizable to accommodate everything from private & public company exposures to the risks facing not for profit organizations.**

*Executive First is a suite of executive liability insurance products designed to provide clear, current and customizable coverage for commercial and financial firms, including those firms with the most complex risk-transfer needs. It currently includes Executive First D&O Liability and Executive First Fiduciary Liability Insurance.*



**Berkshire Hathaway  
Specialty Insurance**

Berkshire Hathaway Specialty Insurance (www.bhspecialty.com) provides commercial property, casualty, healthcare professional liability, executive and professional lines, transactional liability, surety, marine, travel, programs, accident and health, medical stop loss, homeowners, and multinational insurance. The actual and final terms of coverage for all product lines may vary. In Canada it underwrites on the paper of National Liability & Fire Insurance Company, a part of Berkshire Hathaway’s National Indemnity group of insurance companies, which hold financial strength ratings of A++ from AM Best and AA+ from Standard & Poor’s. Based in Boston, Berkshire Hathaway Specialty Insurance has offices in Atlanta, Boston, Chicago, Houston, Indianapolis, Irvine, Los Angeles, New York, San Francisco, San Ramon, Seattle, Stevens Point, Adelaide, Auckland, Brisbane, Cologne, Dubai, Dublin, Hong Kong, Kuala Lumpur, London, Macau, Madrid, Manchester, Melbourne, Munich, Paris, Perth, Singapore, Sydney and Toronto. For more information, contact info@bhspecialty.com.

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