Fiduciary Liability Insurance:   
MACRO Policy Checklist

(These are the most basic of coverage aspects we should have and understand.)

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|  | Few Fiduciary Liability insurers cover “benefits due”, unless this amount is part of an overall settlement agreement. We need to determine if coverage exists for “benefits due” (check policy exclusions), and emphasize this point, if coverage exists, as this is a strong feature of any Fiduciary Liability policy, although it will be unusual; |
|  | Relatively newly available enhancement endorsements from several insurers include: IRS Section 4975 civil money penalties; Affordable Care Act (ACA) fines and penalties; and even some specific ACA (liability) coverage endorsements. Having some form of affirmative coverage available for ACA exposures is important, for employers with 50 or more employees, as of 1/1/2021; |
|  | A HIPAA Civil Money Penalties coverage (sub-limit, generally, although can be for full policy limit) endorsement is an increasingly important extension – we need to include it, and likely, with a limit not less than $100,000, even for smaller employers; |
|  | An endorsement which extends coverage in situations involving fully or partially self-funded employee benefit plans is called “Managed Care Liability”. This is important, if that situation exists. (Chubb calls theirs “Plan Purchaser Coverage”); |
|  | We must be able to distinguish between federally mandated insurance (the Employee Dishonesty coverage mandated by ERISA); Employee Benefits Liability (EBL - a simplistic endorsement generally provided under the CGL insurance, for little or no premium charge); and Fiduciary Liability insurance, which includes the coverage afforded under the EBL endorsement to CGL coverage; and overall, provides broad protection for the personal liability exposure of employee benefit plan decision makers, (“ERISA Liability”) insurance. |