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Fidelity Bond

What is a Fidelity Bond?

The Employee Retirement Income Security Act (ERISA) generally requires that every fiduciary of an employee benefit plan and every person who handles funds or other property of such a plan shall be bonded. ERISA's bonding requirements are intended to protect employee benefit plans from risk of loss due to fraud or dishonesty on the part of persons who handle plan funds or other property. ERISA refers to persons who handle funds or other property of an employee benefit plan as plan officials.

An ERISA Fidelity Bond is a type of insurance that protects the plan against losses caused by acts of fraud or dishonesty. Fraud or dishonesty includes, but is not limited to, larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wrongful conversion, willful misapplication, and other acts. Deductibles or other similar features are prohibited for coverage of losses within the maximum amount for which the person causing the loss is required to be bonded. In addition, it is important to make sure that the plan is named (or otherwise specifically identified) as an insured party on the bond so that the plan can recover losses covered by the bond.

How much coverage must the Fidelity Bond provide?

Generally, each plan official must be bonded in an amount equal to at least 10% of the amount of funds he or she handled in the preceding year. The bond amount cannot, however, be less than $1,000, and the Department cannot require a plan official to be bonded for more than $500,000 ($1,000,000 for plans that hold employer securities) unless the Secretary of Labor (after a hearing) requires a larger bond. These amounts apply for each plan named on a bond in which a plan official has handling functions.

Is an ERISA Fidelity Bond the same thing as Fiduciary Liability Insurance?

No. The Fidelity Bond required under ERISA specifically insures a plan against losses due to fraud or dishonesty (e.g., theft) by persons who handle plan funds or property. Fiduciary Liability Insurance, on the other hand, insures fiduciaries, and in some cases the plan, against losses caused by breaches of fiduciary responsibilities. Although many plan fiduciaries may be covered by Fiduciary Liability Insurance, it is not required and does not satisfy the fidelity bonding required by ERISA.

What are the consequences for not having a bond?

There are no specific penalties however, the risks for not having a bond include:

- The bond amount is required to be reported on the Form 5500. Failure to report sufficient bond coverage is a red flag and could trigger a plan audit.
- An ERISA bond is required by law.
- Plan fiduciaries can be held personally liable for losses that should have been covered by a bond.

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