



Coverage: Fiduciary Liability

Segment: Private Companies

Form Features and Coverage Highlights

Private companies in nearly all NAICS (North American Industry Classification System) categories are eligible for processing through (i-bind)[®]. Eligible private companies must have 1,500 or fewer employees and \$100 million or less in assets or annual revenues.

- Duty to Defend

Darwin appoints proven legal experts with well-earned reputations for fairness and responsiveness to represent Insureds. Even if only part of the claim is covered, defense expenses are covered in full without any allocation for uncovered allegations.

- Broad Definition of Claim, Includes

- Written demand for monetary, non-monetary, or injunctive relief
- Written request to toll or waive any statute of limitations
- Civil and criminal proceedings
- Administrative or regulatory proceedings or investigations, including an investigation brought by the Department of Labor or Pension Benefit Guaranty Corporation

- Loss

- Includes punitive or exemplary damages, where insurable by law, with a most favorable venue provision
- Loss also includes civil penalties under Section 502(i) and 502(l) of ERISA

- Covered Plans

Plans that are automatically covered and do not need to be specifically scheduled include:

- Employee Benefit Plans
- Pension Benefit Plans
- Welfare Benefit Plans
- Workers' Compensation, Unemployment, Social Security, and Disability programs that are mandated by the government

- Broad Definition of Fiduciary Wrongful Act, Includes

- Any actual or alleged breach of responsibility, obligation, or duty imposed by ERISA on Fiduciaries
- Any actual or alleged errors, omissions, or negligent acts by any Insured in the administration of a Covered Plan
- Any other matter claimed against an Insured solely because of the Insured's service as a Fiduciary of any Covered Plan

- 75-day Post-policy Reporting Window

For reporting claims—automatically included.

- Reporting Period

Bi-lateral extended reporting period offered.

- Automatic Acquisition Threshold with 90-day Window Coverage

- For newly created or acquired subsidiaries with asset values less than 25% of the total assets of the insured company
- For newly created or acquired plans with asset values less than 25% of the total plan assets of the company
- 90-day reporting window for subsidiaries or plans if assets exceed 25% threshold, with temporary coverage under the policy for that 90 days

- Defense and Settlement of Claims

Darwin will not settle without the consent of an Insured. Even if an Insured refuses a settlement and the ultimate resolution cost is higher, the Insured only pays 20% of the loss and defense expenses in excess of the refused settlement.

- Worldwide Coverage

For acts committed or claims brought anywhere in the world.

- Non-cancelable by Insurer

Except for non-payment of premium when due.

- Severability of the Exclusions

No wrongful act of any Insured Person will be imputed to any other Insured Person.

- Severability of the Application

Provides protection for innocent Insured Persons who were unaware of the misrepresentation; knowledge imputed to company only if an Executive Officer, as defined in the Policy, knew of misrepresentation.

This information is provided as a general overview. Actual coverage may vary and is subject to policy language as issued. (i-bind)® is a trademark and service of Darwin Professional Underwriters, Inc. Coverage is underwritten by Darwin-member companies, which include, Darwin Professional Underwriters, Inc., Darwin National Assurance Company (DNA), and Darwin Select Insurance Company (Darwin Select). DNA and Darwin Select have earned an A.M. Best rating of "A- (Excellent)." Coverage is offered only through duly licensed agents and brokers. Risk management information is subject in all respects to advice provided by insurance advisors or legal counsel familiar with issues specific to your organization. © Darwin Professional Underwriters, Inc. All Rights Reserved.