



Financial Institutions | Canada

Asset Managers Liability Solutions

Today's asset managers face an abundance of risks that threaten their ability to serve their customers. CNA has specialized industry knowledge and deep expertise to address these exposures and meet your clients' evolving needs. Our in-house Claims professionals are experienced in handling complex claims, including investor claims and complaints, regulatory investigations, claims for breaches of fiduciary duty, Employment Practices Liability (EPL) claims, and Pension Benefit Standards Act, 1985 class action claims.

Common Risks Faced by Asset Managers Include:

- Suitability
- Breach of Fiduciary Responsibilities
- Cost of Corrections
- Misrepresentation
- Regulatory Investigations
- Discrimination
- Conflict of Interest
- Failure to Supervise

Market-Leading Features Include:

General Terms and Conditions

- **Broad definition of Claim:**
 - Formal Investigation for all Insureds
 - Informal Investigations for Insured Persons
- **Broad definition of Insured Person including:** director; officer; shadow or de facto director, trustee; principal; regent; governor of a corporation; management committee member of a joint venture; member of the board of managers of a limited liability company; general partner or managing partner; in-house general counsel, risk manager or chief compliance officer; employee; volunteer; industry consultant; entrepreneur-in-residence; advisor; expert; advisory board members; independent contractor

- **Insured Entity vs. Insured Exclusion**
- **Ability to incur up to 50%** of the retention in Defence Costs without prior Insurer consent
- **Broad ERP purchase options**
- **Non-rescindable policy**
- **Insured has duty to defend** and right to select own defense counsel (subject to Insurer's consent)

Directors, Officers and Entity Liability Coverage

- **Asset Protection** expense sublimit
- **Vital Executive** expense sublimit
- **Broad definition of Loss:**
 - Chief Compliance Officer fines and penalties sublimit
 - Non-Party Witness Fees
 - Foreign Corrupt Practices Act and UK Bribery Act – coverage for civil penalties against Insured Persons
- **Outside Directorship Liability** extension for all charitable Not-for-profit entities
- **Carveback to bodily injury exclusion** for Non-Indemnifiable Loss, Securities Claims and UK Corporate Manslaughter and Corporate Homicide Act (2007) defence costs
- **Investigative Cost coverage** for Shareholder Derivative Demands

Investment Advisor Professional Liability Coverage

- **Broad definition of Professional Services** (can be customized via endorsement to reflect the exact services Insured is performing):
 - Providing financial or economic advice regarding all types of investments
 - Trading of futures contracts and fixed income securities
 - Investment and portfolio management and asset allocation services
 - Performing duties as fiduciary under Pension Benefits Standards Act of 1985 (other than for Insured's own benefit plans)
 - Selection and oversight of investment advisors and third-party service providers
 - Publication of written material in connection with performance of Professional Services
- **Cave-back to Bodily Injury exclusion** for damage, destruction or loss of any Professional Services Client or shareholder records in sole possession of Insured
 - Broad definition of Loss including:
 - Non-Party Witness Fees
 - Damages, settlement, amount or judgements based upon a Professional Services Client's liability for fines, penalties or taxes assessed or imposed against such client
 - Includes coverage for Wrongful Acts of others in which Insureds are contractually or legally liable

Fund Directors, Officers and Entity Liability and Professional Liability Coverage (Mutual Funds, Hedge Funds, Real Estate Funds and Closed-End Funds)

- **Includes coverage for any investment company** registered under any federal, provincial, state or foreign legislation, rules or regulations of any securities commission ("Registered Funds") and unregistered funds ("Private Funds")
- **Includes the Directors & Officers and Entity Liability Coverages** set forth above
- **Broad coverage for Professional Services** including the formation, capitalization, operation, management, administration, marketing, solicitation, dissolution or liquidation of a Fund

Employment Practices Liability Coverage

- **Bifurcated coverage** – ability to purchase coverage for Insured Persons only or Insured Persons and Insured Entities
- **Third-Party Liability Coverage** available via endorsement
- **Coverage for a broad range of wrongful employment practices** including whistleblower activity, bullying and invasion of privacy

Fiduciary Liability Coverage

- **Covered Penalties Section** added addressing 502(c), Pension Protection Act, Section 4975 and Patient Protection and Affordable Care Act and Civil or administrative penalties imposed upon an Insured under Canadian pension laws
- **Voluntary Compliance Costs** coverage for voluntary compliance resolution programs administered by the U.S. Internal Revenue Service, the U.S. Department of Labor, or any such equivalent foreign administrative or regulatory agency
- **Broad definition of Wrongful Act**, including breach of fiduciary duties, errors or omission in administration, errors or omission in an Insured's settlor capacity and addresses exposures presented in connection with purchase of insurance through a healthcare exchange

Key Coverages Enhancements Available with Endorsements:

- **Public Company** endorsement
- **Outside Service Provider Professional Liability**
- **Outside Directorship Liability expansion**
- **Additional Side A Limit of Liability**
- **Real Estate Amendatory** endorsement

For more information, please visit cnacanada.ca.