

What's Your Risk Exposure?

As an ESOP company or one of its executives, officers or directors, you face unique liability exposures.

Fiduciary/Trustee Liability

Internal ESOP company trustees share unique liability exposures, specifically with discretion in purchase/sale of employer stock and voting of employer stock. Most fiduciary liability claims against trustees result from negligence, regardless of whether the company engages an outside trustee, raising the potential for significant financial liability and litigation.

D&O Liability

Attention to corporate governance within ESOP Companies has increased bringing more pressure to the Boards of Directors. Directors and officers face lawsuits from shareholders, government agencies, customers, suppliers and competitors.

Employment Practices Liability

Enactment of laws such as the Americans with Disability Act (ADA), Age Discrimination in Employment Act (ADEA) and Family Medical Leave Act (FMLA) as well as court decisions concerning wrongful termination and sexual harassment claims have increased exposures. The number of cases has risen and defending these claims is costly.

Cyber Liability

Data breaches are more frequent, leading to cyber extortion, third party liability and compromised sensitive information. State laws enforce legal requirements and expenses as business operations are disrupted.

Crime

ESOP companies are no different than others in having exposures to loss of money, securities and other property resulting from dishonest acts committed by an employee or other persons.

Comprehensive and Affordable Protection for ESOP Companies & Their Executives



Since 1989, The ESOP Association membership has had access to comprehensive insurance protection for ESOP companies, their executives and directors and/or officers. This single policy helps avoid coverage gaps and helps maximize cost effectiveness. Here's why you should consider this program:

One Company, Broad Protection: Great American Insurance Company, a leader in Executive Liability coverages and an A+ (Superior) rated insurer by A.M. Best Company. Great American offers protection in the areas of D&O, Fiduciary, Employment Practices, Crime and Cyber Liability.

Expanded Fiduciary Protection: includes costs and expenses associated with Department of Labor investigations, suits, settlor claims, as well as civil penalties under HIPAA, PPA of 2006 and PPACA as permitted by applicable state laws.

Access Through Your Insurance Broker: Contact your current broker to enjoy local representation as well as broader coverage and ESOP expertise from this affinity program.

Advice and Consultation: Individual program consultation and advice is available, along with useful benchmarking information to assist in choosing policy limits and other coverage options.

Choice of Legal Counsel: In most cases, you may choose your own legal counsel or use counsel arranged by Great American.

Side A Coverage: Additional limit of liability is available for individual Insuring Agreement "A", as permitted by applicable state laws.

Outside Board Protection: Coverage is extended to executives serving on outside, not-for-profit boards.

Coverage Available to Other Plans: Fiduciary Liability coverage will also apply to other qualified retirement or health/welfare plans.

HR Support Services: HR-ExecSupport is a comprehensive risk management website available to ESOP Companies purchasing Employment Practices Liability coverage. It offers an HR Advice Hotline, online policies/procedures and forms, state specific employee handbooks, webinars and training programs for supervisors and Directors and Officers.

Cyber Resources: For companies purchasing a cyber liability policy, access to a hot line for immediate legal assistance and forensic technology specialists to help remediate a cyber attack and breach.

Actual ESOP Company Claims

- ◆ After performing its investigation, the Department of Labor filed a lawsuit against the plan sponsor and plan fiduciaries for failing to disclose to the plan participants facts concerning the downturn in the industry and the purchase of the company stock at an inflated share price. Fines and penalties were assessed by the Department of Labor. This matter was covered as a fiduciary claim and provided both defense costs coverage and payment for damages.
- ◆ A suit was brought against an ESOP company by a competitor alleging interference for attempting to solicit its customers in an inappropriate way. This matter was covered as a D&O claim. Defense costs and damages were paid by the policy.
- ◆ A computer virus corrupted the ESOP company's system software and data. Costs for repair and restoration of the company's computer program and electronic data were paid by the insurer.
- ◆ A company suffered a financial loss of over \$100,000 as a result of an employee embezzling company funds. This claim was paid by the insurer as an employee dishonesty claim.
- ◆ An employee complained to his supervisor about insensitive treatment against him which he perceived to be race related. The employee was terminated and later filed an EEOC charge alleging discrimination and retaliation for the complaint. The claim was covered under Employment Practices Liability and both defense costs and damages awarded were paid by the insurer.

Great American Insurance Group

Great American Insurance Group is regarded as one of the oldest and most stable property and casualty insurance groups in the United States. Its flagship company Great American Insurance Company was founded in 1872. The Group's strong surplus position and long tradition of financial strength make it the choice of thousands of clients who value superior insurance products and services. Great American Insurance Company's financial condition is rated "A+" XIV (Superior)* by A.M. Best Company.

The Program Administrator

This affinity program is administered by Murray. This specialized insurance policy is being made available to members of The ESOP Association through Patrick Dixon, Program Advisor who serves as the coordinator of the program.



For more information, contact:

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*As of January 31, 2017. Coverage features are summarized. Refer to the policy form and policy declarations for a full description of applicable terms, conditions, exclusions and limits. The actual coverage provided is subject to laws of the jurisdiction in which a policy is issued and may be materially different from the description herein. Policies are underwritten by Great American Insurance Company. Brochure revised February, 2017.

Murray Insurance Associates, Inc.

Executive Liability Insurance Program



Director's and Officer's Liability / Fiduciary Liability / Employment Practices Liability / Crime / Cyber Liability

Serving members since 1989 with comprehensive and affordable protection.

