

# Trustee Professional Liability Insurance for Members of The Private Trust Consortium



\* **CHUBB®**

Individuals who serve as trustees may face substantial personal liability. Trustees are often called upon during tumultuous times to handle challenging accounting, financial and other managerial responsibilities. Few have prior experience or training in trustee professional services, yet they are tasked with making decisions in the best interest of the beneficiaries, in accordance with the trust and in compliance with the law.

This can lead to any number of contentious situations. Allegations against trustees can take many forms, including mismanagement of trust assets, failure to diversify assets, accounting errors, unfair or improper distributions, failure to follow terms of the trust agreement and conflict of interest. Trustees may be sued by beneficiaries, creditors, charities or government agencies acting on behalf of beneficiaries. And, unlike employees of a professional services organization, trustees are not afforded protection by an entity — actions for breach of trust are brought against the trustee personally.

Trustees' liability coverage is afforded to natural persons in their individual capacities as trustees. Chubb's Professional Liability insurance for Trustees coverage is tailored to the unique exposures of trustees overseeing a variety of trusts, including:

- **Testamentary trusts**
- **Living trusts (when the grantor is not the trustee)**
- **Liquidating trusts**
- **Bankruptcy trusts**
- **Receiverships**
- **Claims/insurance trusts**

\* CHUBB Miscellaneous Professional Liability PF-50822(02/19) PF-50885(02/19)

### Claims Scenarios

1 The assets of a trust were managed by an investment advisor. Both the investment advisor and the trustee were sued by the beneficiaries when the trusts' assets declined substantially because of decisions made by the trust's investment advisor. The trustee was sued for failure to properly select and supervise the investment advisor and for failure to ensure that the assets were invested in accordance with the trust's objectives.

2 A deceased person's will appointed a trustee to oversee the trust created by the deceased's estate, which included three properties. The trustee liquidated the estate and distributed the proceeds in accordance with the will and trust. The beneficiaries brought suit, alleging that the trustee was negligent in obtaining a current, accurate assessment of the property values, resulting in a substantial loss to the estate.

3 Remainder beneficiaries sued the trustees of a remainder trust upon discovering a portion of the principle had been negligently distributed to the income beneficiary. Unfortunately, the error was not discovered until the income beneficiary passed away following many years of inappropriate disbursements. The remainder beneficiaries prevailed and were awarded the value of the disbursed principle, plus interest and attorney fees.

4 Grandparents established a trust solely to pay tuition, supplies, and room and board for their grandchild, with the

residual balance to be distributed to the child at age 25. Upon reaching such age, the beneficiary discovered that while all disbursed funds had been used for her benefit, several expenditures were not used to fund her education and significantly diminished the residual value. The trustee, the father of the beneficiary, was sued for breach of duty. The court subsequently ordered him to reimburse all unauthorized expenditures as well as attorney's fees the trust incurred defending the trustee.

5 An ounce of prevention can be worth a pound of cure. A young couple prepared a trust. Unfortunately, they were killed shortly thereafter, and the wife's brother became the trustee. The trust stated that the assets were to be used for the "health, education, maintenance and support" of their daughter until she attained the age of 25. When the daughter turned 18, she asked her uncle to distribute sufficient money to go to Paris with her boyfriend to study art. The uncle did not approve of this arrangement. He consulted with independent counsel. The attorney recommended that he file a petition with the appropriate court. After considering the matter, the court entered an order approving the distributions with certain guidelines and approved the trustee's request that he be reimbursed his costs and attorneys' fees by the trust. If the trustee had denied the request and his niece sued him, this would have turned out differently.

### Coverage Features

The following Professional Liability insurance features are available to trustees:

- No requirement that services are performed for a fee; trustees are not always compensated, and compensation is not required for coverage
- Trustee is the Named Insured
- Definition of Professional Services addresses the exposures unique to trustees
- Final adjudication and non-imputation of the conduct exclusions
- Vicarious liability coverage for the selection of "outside professional services providers"
- Coverage for trustees' employees in their provision of services for the trust

### The Chubb Advantage

Chubb has earned its leadership position in Professional Liability insurance as a result of our:

- **Financial stability:** Chubb receives consistently high ratings for financial strength from A.M. Best, Moody's and Standard & Poor's, the leading independent analysts for the insurance industry.
- **Reputation for paying claims and superior service:** Our reputation for expert, fair claims handling is renowned in the industry.
- **Broad coverage:** Our Professional Liability insurance products, including Chubb Pro ERM<sup>SM</sup>, offer some of the broadest coverage available in the marketplace.



### CONTACT US:

For more information on **Trustee Professional Liability Insurance** please contact **Brown & Brown Insurance** at 1-615-620-7718 or by email at **GRP-PTCinsurance@bbins.com**.

If you have questions regarding how the PTC can help you, contact **The Private Trust Consortium (PTC)** at 1-800-978-1237 or visit us at **www.private-trust.org**.

**THE PRIVATE TRUST CONSORTIUM** | 1790 38th Street, Suite 207, Boulder, CO 80301

**Chubb. Insured.**

The claim scenarios described here are hypothetical and are offered solely to illustrate the types of situations that may result in claims. These scenarios are not based on actual claims and should not be compared to an actual claim. The precise coverage afforded by any insurer is subject to the terms and conditions of the policies as issued. Whether or to what extent a particular loss is covered depends on the facts and circumstances of the loss, the terms and conditions of the policy as issued and applicable law. Chubb is the marketing name used to refer to subsidiaries of Chubb Limited providing insurance and related services. For a list of these subsidiaries, please visit our website [www.chubb.com](http://www.chubb.com). Insurance provided by ACE American Insurance Company and its U.S. based Chubb underwriting company affiliates. All products may not be available in all states. This communication contains product summaries only. Coverage is subject to the language of the policies as actually issued. Surplus lines insurance is sold only through licensed surplus lines producers. Copyright©2021 Chubb, 202 Hall's Mill Road, Whitehouse Station, NJ 08889-1600., Form 14-01-1340 (Rev. 03/21)