



Coverage Corner

Non-Profit Directors & Officers (D&O) Liability

Serving on a Non-Profit Board Can Be Risky Business

It's common for affluent and high net worth individuals to take on board positions for non-profit organizations as a way of offering their leadership skills and connections to serve their local communities. These organizations and their directors and officers can be exposed to lawsuits for mismanagement of funds, negligent acts, errors & omissions, breach of duty, misleading statements, or wrongful employment acts such as discrimination, retaliation, failure to employ or promote, or wrongful demotion.

According to the 2014 U.S. Trust Study of High Net Worth Philanthropy¹, nearly half of all survey participants served on a non-profit board. According to a Towers Watson 2013 D&O survey², 63% of its non-profit respondents had been subject to a D&O claim in the past 10 years. The Nonprofit Risk Management Center³ reports that 85% of all non-profit insurance claims filed under D&O liability policies are employment related. Even if allegations against your client are groundless, they will incur costs to hire an attorney, which can add up very quickly when defending a claim. Adding the Non-Profit Director & Officer endorsement to their Nationwide Private Client Personal Excess Liability policy will allow them to focus more time on helping the non-profit and less time worrying about a claim.

How Your Clients Are at Risk

Your client sits on a non-profit board and causes an actual or alleged negligent act, error or omission, misleading statement, or breach of duty resulting in a lawsuit against them.

A wrongful act could come from:

- Acts such as employment-related discrimination, slander or defamation; wrongful failure to employ or promote; or wrongful demotion
- Conflict of interest, breach of contract, or fraudulent financial statements
- Mismanagement of funds such as assets being sold for unreasonably low prices or wasting assets
- Errors in judgment such as dissemination of false information, misleading statements or improper guarantees
- Negligence such as breach of duty, failure to review documents before signing, or failure to detect or stop embezzlement

Claims could be filed against your client by parties outside of the organization including donors or beneficiaries; organization members or employees; other directors or officers of the organization; or government officials.

¹ <http://newsroom.bankofamerica.com/press-releases/global-wealth-and-investment-management/2014-us-trust-study-high-net-worth-philanthro>

² https://www.advisen.com/pdf_files/us-private-d-o-market-spotlight-aig-2013-08.pdf

³ <https://nonprofitrisk.org/search/employment.asp>



How Nationwide Private Client Responds

For your clients who serve as a director or officer of a qualifying not for profit organization, Nationwide Private Client offers our optional Non-Profit Director & Officer coverage, with limits up to \$1 million, that can be added to their Personal Excess Liability policy⁴. This coverage includes costs for defense up to the limit.

Why It's Important For Your Clients?

As your clients' trusted advisor, you work hard to make sure your clients have adequate coverage for their unique needs. **Personal umbrella or homeowner coverage is not intended to respond to non-profit board liability.** Such policies do not address many types of alleged wrongful acts seen in non-profit D&O claims. Without Non-Profit D&O coverage, your client may only be covered up to the limits of their organization's D&O policy.

Nationwide Private Client Offers These Added Benefits:

- ▶ Our Non-Profit Director & Officer coverage allows up to 5 qualifying organizations to be scheduled for the Named Insured and Spouse to serve on with an annual aggregate limit up to \$1,000,000⁵
- ▶ Our policy form has no retained limit
- ▶ Exceptional claims handling provided by Nationwide Private Client

Since many affluent and high net worth individuals serve on multiple non-profit boards, they may not think to inform you. Verifying this information with your client can help prevent potential issues if a claim were to arise. Your underwriter will work with you to ensure the organizations qualify and are listed on the excess schedule.

Eligibility Guidelines

The Non-Profit Director & Officer endorsement provides excess liability coverage for persons serving as director, officer, trustee, trustee emeritus or governor of a qualifying not for profit organization. Eligible organizations need to qualify for tax exempt status under the Internal Revenue Code and may include groups such as charities, homeowner or condo associations, civic leagues, educational or religious organizations or social recreation clubs. They also need to be in existence for over a year and carry less than \$50 million in assets per their most recent financial statement.

Why Nationwide Private Client?

Nationwide Private Client is dedicated to helping protect the assets and reputations of affluent clients. Our highly personalized insurance products and services, including concierge style claims handling, are thoughtfully designed to ensure your clients have the best coverages to meet their distinctive needs, and are provided with a superior experience whenever they need assistance.

Additional Resources

- ▶ [Personal Excess Liability - Agent Brochure](#) (pdf)
- ▶ [Personal Excess Liability - Client Brochure](#) (pdf)
- ▶ [Nonprofit Risk Management Center website](#) – provides tools and information to help non-profit leaders reduce their liability risk

⁴ Coverage only applies to the named insured(s). The organization must have the required underlying liability coverage, which varies by type of organization.

⁵ Coverage does not include Employment Practices Liability Insurance (EPLI).

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