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ERISA Fidelity Bond vs. Fiduciary Liability Insurance

An **ERISA fidelity bond** is *required by law* to protect the **plan's assets** from fraud or dishonesty by people who handle those assets. **Fiduciary liability insurance** is *optional* coverage that protects **individual fiduciaries** and the plan sponsor against claims alleging breaches of fiduciary duty. Insurance does **not** replace the bond.

What each one does

ERISA Fidelity Bond (required by ERISA §412)

- **Who it protects:** The **plan**.
- **What it covers:** Loss of plan money or property caused by fraud or dishonesty (e.g., theft, embezzlement, forgery) by anyone who *handles* plan funds.
- **How much:** At least **10% of plan assets**, with a **$1,000 minimum**; generally capped at **$500,000**, or **$1,000,000** if the plan holds employer securities.
- **Who issues it:** A surety **listed on U.S. Treasury Circular 570** ("approved surety").
- **Typical term:** 1 or 3 years (our program includes **Inflation Guard** so coverage tracks asset growth up to $500,000 cap).

Fiduciary Liability Insurance (optional)

- **Who it protects: Fiduciaries** (and often the plan sponsor) named on the policy.
- **What it covers:** Defense costs and settlements/judgments for **alleged fiduciary breaches** (e.g., imprudent investment selection, fee oversight, ERISA administrative errors).
- **How much:** Limits selected by the sponsor (e.g., $1M, $5M, $10M+).
- **Who issues it:** Licensed insurers (no Treasury-listing requirement).
- **Typical term:** 1 year (annual renewal).

Side-by-side at a glance

- **Purpose:**
  Bond → Protect **plan assets from dishonesty**.
  Insurance → Protect **people/entities from breach-of-duty claims**.
- **Required by law:**
  Bond → **Yes** (ERISA §412).
  Insurance → **No**
- **Insured party:**
  Bond → The **plan** is the beneficiary.
  Insurance → **Fiduciaries/plan sponsor** are the insureds.
- **Trigger:**
  Bond → **Fraud/dishonesty** (theft, embezzlement, forgery).
  Insurance → **Alleged wrongful acts** (negligence, imprudence, errors).

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- **Acceptable provider:**
  Bond → **Treasury-listed surety** only.
  Insurance → Any admitted/eligible insurer.
- **Substitute for the bond?**
  Insurance → **No.** You must still carry the ERISA bond.

Common claim examples

- **ERISA Bond examples:**
  – Plan bookkeeper diverts employee deferrals to a personal account.
  – Forged distribution checks cashed by a third party.
  – Custodian employee embezzles plan funds.
- **Fiduciary Liability examples:**
  – Participants sue over allegedly excessive recordkeeping or investment fees.
  – Claim that the committee failed to monitor a fund lineup or vendor.
  – Alleged errors in plan administration (eligibility, loans, distributions).

What the bond will not cover

- Investment performance losses without fraud/dishonesty
- Business risks of the sponsor
- ERISA breach allegations (that's what fiduciary liability covers)

What the insurance may not cover

- Theft/embezzlement of plan assets (that's what the ERISA bond covers)
- Deliberate criminal acts by insureds (typical policy exclusion)
- Non-fiduciary exposures (covered by other policies like Crime/Employee Dishonesty or E&O)

How to be compliant (quick checklist)

1. **Confirm handlers:** Identify anyone who "handles" plan funds or property (they must be bonded).
2. **Calculate the amount:** 10% of assets; $1,000 minimum; $500k cap (or $1M if employer securities).
3. **Choose an acceptable surety:** Must be **Treasury-listed (Circular 570)**.
4. **Keep proof on file:** Retain bond and renewal confirmations with plan records.
5. **Consider insurance:** Add **fiduciary liability** to protect the sponsor and fiduciaries from litigation risk.

Any questions? Reach out to info@hksurety.com for assistance or buy your bond here: https://hksurety.my.site.com/SelfRegister