

Fiduciary Liability Survey Findings

The Chubb 2004 Private Company Risk Survey

The Chubb 2004 Private Company Risk Survey was sponsored by the Chubb Group of Insurance Companies to gain a better understanding of the many risks privately held companies and their directors and officers face. The survey provides valuable perspectives on these exposures, the concerns of private company executives, and the executives' perceptions of their own vulnerabilities.

During the research, private company executives were asked for their views on directors and officers liability, fiduciary liability, employment practices liability, crime, workplace violence, kidnap and ransom, and other executive protection-related exposures.

Summary

In Chubb's survey, relatively few private firms (5%) reported being sued within the past few years by retirees and other employees over the administration and oversight of benefit plans. However, executives in 24% of the firms said they expect a fiduciary liability lawsuit to hit the company this year. Clearly, their fear of a lawsuit outpaces their actual experience. Perhaps one reason for this is that so many of the executives (67%) reported that they expect to cut back their company benefit plans in 2004—an action that increases a company's exposure to a fiduciary liability lawsuit.

In today's business environment, it is always prudent for company management to take steps to mitigate exposures to litigation. Twenty-four percent of the private company executives surveyed said they have purchased fiduciary liability insurance, and 36% said their companies plan to conduct a risk assessment of executive protection-related exposures, including fiduciary liability, in 2004.



Methodology

Impulse Research Corp., an independent market research firm in Los Angeles, conducted the survey in November 2003. Researchers conducted telephone interviews with a random sample of 300 chief executive officers, chief financial officers, and other executives at privately held companies in 30 cities across the United States. The respondents came from small to large privately held firms in a broad array of industries.

The overall sampling error is +/-6% at the 95% level of confidence.

Respondents

Respondents were drawn from a diverse sampling of private companies in industries such as manufacturing, high technology, health care, financial services, and retail from a mix of 30 small to large cities across the country.

- Cities Where Respondents Are Based:
 Atlanta; Boston; Chicago; Dallas; Detroit; Houston; Los Angeles/Long Beach; Minneapolis/St. Paul; Nassau/Suffolk Counties, NY; New York City; Newark, NJ; Oakland, CA; Orange County, CA; Philadelphia; Phoenix; Pittsburgh; San Diego; Seattle; St. Louis; and Washington, D.C.

- Number of Employees at Responding Company:
 - 100 or fewer employees: 106 respondents
 - 101-999 employees: 64 respondents
 - More than 1,000 employees: 130 respondents

- Annual Revenue at Responding Company:
 - Less than \$10 million: 110 respondents
 - \$10 million-\$1 billion: 99 respondents
 - More than \$1 billion: 91 respondents

Number of Employees vs. Annual Revenue				
	Total *	<\$10 million	\$10 million-\$1 billion	Over \$1 billion
BASE: Total	300	110	99	91
Less than 100	35%	84%	12%	2%
100 to 499	16%	12%	30%	3%
500 to 999	6%	1%	14%	2%
1,000 or more	44%	2%	43%	93%

Fiduciary Liability Survey Findings

The Past—Relatively few firms reported that a retired employee had recently sued the company, directors and officers, and/or benefits plan administrators and fiduciaries.

- Only 5% of the private firms reported that a retired employee had brought a suit against the company, directors and officers, and/or benefits plan administrators and fiduciaries within the past few years.

Chart 1	Total *	Annual Revenues		
		<\$10 million	\$10 million-\$1 billion	Over \$1 billion
BASE: Total	300	110	99	91
A retiree sues the company, its directors and officers, and/or benefits plan administrators and fiduciaries	5%	2%	2%	10%

The Future—Almost one in four executives said they thought it was likely that a retiree would sue the company, its directors and officers, and/or its benefits plan administrators and fiduciaries this year.

- Executives at 24% of the companies said they thought it was likely that a retiree would sue the company, its directors and officers, and/or its benefits plan administrators and fiduciaries in 2004.
- Executives in larger firms were especially concerned about their fiduciary liability exposure, with 41% indicating a likelihood of such litigation in the year ahead.
- Two-thirds of the private firms plan to reduce employee benefits during 2004. Among large companies, 76% planned to do so. Employee benefit reduction generally increases the risk of a fiduciary liability lawsuit.

Chart 2	Total *	Annual Revenues		
		<\$10 million	\$10 million-\$1 billion	Over \$1 billion
BASE: Total	300	110	99	91
A retiree is likely to sue the company, its directors and officers, and/or benefits plan administrators and fiduciaries in the year ahead	24%	13%	17%	41%
Company is likely to reduce employee benefits in the year ahead	67%	58%	67%	76%

Loss Prevention—More than one-third of the companies surveyed appear to be taking positive steps to ward off the threat of lawsuits against their companies and fiduciaries.

- Thirty-six percent of the private companies are planning to conduct a risk assessment of executive protection–related exposures, including fiduciary liability, in 2004.

Chart 3	Total *	Annual Revenues		
		<\$10 million	\$10 million-\$1 billion	Over \$1 billion
BASE: Total	300	110	99	91
Plan to conduct a risk assessment of executive protection-related exposures, including fiduciary liability, in 2004	36%	26%	40%	40%

Insurance—Nearly one in four companies purchase fiduciary liability insurance.

- Executives in 24% of the private companies reported that the company purchases fiduciary liability insurance.
- The larger the company, the more likely it is to own this coverage; even so, less than half (45%) of large companies have it.

Chart 4	Total *	Annual Revenues		
		<\$10 million	\$10 million-\$1 billion	Over \$1 billion
BASE: Total	300	110	99	91
Purchase fiduciary liability insurance	24%	9%	33%	45%

* Note: The total number is calculated for the full sample of 300 survey participants. It is not an average of the three breakout groups; rather, it is weighted slightly toward the largest group sampled (the 110 companies with less than \$10 million in annual revenue).



Chubb Group of Insurance Companies

Warren, NJ 07059

<http://csi.chubb.com>

For promotional purposes, Chubb refers to the member insurers of the Chubb Group of Insurance Companies underwriting coverage: Chubb Insurance Company of Europe, S.A.; Chubb Insurance Company of Australia, Limited; Chubb Indemnity Insurance Company; Chubb Insurance Company of Canada; Chubb Argentina de Seguros, S.A.; Chubb do Brasil Companhia de Seguros; Chubb de Chile Compañía de Seguros Generales, A.S.; Chubb de Colombia Compañía de Seguros, S.A.; Chubb de Mexico Compañía Afianzadora, S.A. de C.V.; Chubb National Insurance Company; Federal Insurance Company; Great Northern Insurance Company; Northwestern Pacific Indemnity Company; Pacific Indemnity Company; Vigilant Insurance Company; Executive Risk Indemnity Inc.; Executive Risk Specialty Insurance Company; and Quadrant Indemnity Company. Not all insurers do business in all jurisdictions.

This literature is descriptive only. Whether or not or to what extent a particular loss is covered depends on the facts and circumstances of the loss and the terms and conditions of the policy as issued. Actual coverage is subject to the language of the policies as issued.

Form 14-01-0705 (Ed. 5/04)