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Don't Lose Twice:

Obtaining Insurance Coverage for Fraud and Theft

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Your company may have insurance coverage for fraud or theft losses. Standard commercial crime policies, financial institution bonds, and other "blanket" bonds already in place at most companies provide various forms of insurance covering the policyholder for losses arising from fraud and theft.

Standard Types of Insurance Coverage

This standard insurance coverage usually includes eight different types of provisions against business loss because of fraud or theft:

"Fidelity" coverage: Insurance coverage for losses arising from employee dishonesty;

"On Premises" coverage: Insurance coverage for loss of property (money, securities, CDs, notes, deeds, mortgages, precious metals,electronic records, etc.) while the property is on the company's premises (wherever located) due to theft, false pretenses, misplacement, mysterious disappearance or damage;

"In Transit" coverage: Insurance coverage for loss of property while in transit (messenger, guard, armored vehicle, etc.) due to theft, mysterious disappearance or damage;

"Forgery or alteration" coverage: Insurance coverage for losses arising from the forgery or alteration of negotiable instruments, CDs, letters of credit or certain other instruments. This insurance also covers losses arising from paying money or delivering property on the basis of forged or altered written instructions;

"Securities" coverage: Insurance coverage for losses arising from forged, altered, lost or stolen securities, titles, deeds, mortgages, guarantees or certain other instruments;

"Counterfeit" coverage: Insurance coverage for losses arising from the acceptance of counterfeit currency;

"**Computer Systems Fraud"** coverage: Insurance coverage for losses arising from fraudulent entry of data or alteration of data causing the payment, transfer or delivery of property or funds; and

"Fraudulent Mortgage" coverage: Insurance coverage for losses on loans resulting from the acceptance of mortgages, deeds, "like instruments" or assignments that are defective because of trickery, fraud or false pretenses.

Several additional forms of insurance coverage also are available to supplement the standard insurance policies mandated to financial or commercial entities. Additional insurance coverage may include coverage for thefts through computer systems, data processors, mortgage servicers, etc.

What To Do After a Fraud or Theft

Upon learning of a loss due to theft or fraud, a policyholder should:

- Conduct an immediate discreet investigation to determine the scope of the loss, the number

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of participants, and the location of the stolen assets. Several law firms and accounting firms have particular expertise in this area.

- Implement immediate safeguards to prevent further losses. "Closing the barn door after a horse is gone" still may prevent the loss of the other "horses.
- Gather information for a fraud audit and an asset seizure action.
- Identify all potential insurance recoveries:
  - Commercial crime policies;
  - Dishonesty, disappearance and destruction policies;
  - "Blanket" bonds;
  - Financial institution bonds (banker's bonds, brokerage bonds, etc.);
  - All-risk policies covering loss of property;
  - Property policies covering theft, possibly through endorsements;
  - Comprehensive general liability policies with credit card and depositor's forgery endorsements; and
  - Computer crime coverage.

- Immediately send notice of the loss to the broker/agent. The broker should notify all potentially responsible insurance companies. Some insurance policies state that this should be done within seven days of discovery of a covered loss.
- Attempt to interview, secure a statement, and secure restitution from any dishonest employees.
- Terminate dishonest employees.
- Identify potential secondarily responsible parties.
- Prepare and submit a "proof of loss" regarding the insurance claim. Some insurance policies state that this should be done within three months of discovery of a covered loss.
- Prepare to commence actions against the secondarily responsible parties and the insurance companies if restitution is not forthcoming or if the insurance claim is denied. Some insurance policies state that the action against the insurance company should be commenced within two years of the discovery of a covered loss.

Keep in Mind

After suffering a loss due to theft or fraud, there are several caveats to remember:

- Do not wait to submit notice of a claim of a potential loss to the broker;
- Do not make any promises to the dishonest employee that you will refrain from contacting the authorities; and
- Do not waive or release any claims against the dishonest employee or potentially secondarily responsible parties without complete restitution. Do not settle with any party without first contacting the insurance companies.

Policyholders interested in maximizing their recovery after a fraud or theft loss should be aware of the forms of insurance coverage they already may have to make their companies whole. Policyholders that have paid precious dollars in premiums for "crime insurance" should be aware of their right to pursue coverage for losses they have suffered due to theft or fraud. ■

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