

Insurance Coverage Law Center: White Collar Crime and Professional Liability Policies

By Andrew N. Bourne, Esq.

Professional liability insurance policies may provide coverage for criminal proceedings, including defense costs incurred defending against criminal indictments. Corporate policyholders, and individuals covered under professional liability policies, should know exactly what type of claims are insured. Thoroughly reading the policy is an important first step, but the analysis should not end there. Policyholders are advised to engage specialized coverage counsel, well-versed in professional liability policies, to understand the full scope of benefits, and limitations, of their specific policy. Doing so can open the door to insurance benefits for criminal defendants not fully appreciated by the policyholder or their defense counsel.

Federal, state, and local law enforcement agencies have increased their focus on investigating and prosecuting white collar crimes. For example, the Securities and Exchange Commission's Division of Enforcement reported a 7% increase in new enforcement actions, year over year, between 2020 and 2021, of which 70% "involved at least one individual defendant or respondent." Heightened scrutiny by prosecutors and regulatory bodies throughout the country is expected to rise. In March 2022, Attorney General Merrick B. Garland, during an address to the ABA Institute on White Collar Crime, remarked, "[i]t will not surprise you to hear that the prosecution of corporate crime is a Justice Department priority."

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