

Financial Institutions Insurance Coverage Experience



A principal component of K&L Gates' international insurance coverage practice is the representation of financial services organizations, including multinational financial institutions, private banks, investment managers, investment advisers, mutual funds, hedge funds, broker-dealers, venture capital firms, mortgage lenders, title companies, and various other service providers to the financial services industry. Among our public representations of financial institutions in insurance coverage matters are those on behalf of Bank of America, Delta Financial, Eaton Vance, KeyCorp., Kidder Peabody, Merrill Lynch, PNC, SG Cowen,

Strong Financial, and Wachovia. In addition, we have represented, on a confidential basis, many other leading financial institutions and other market participants.

We have assisted our financial services clients in connection with a wide range of complex and substantial claims and losses, such as:

- Claims for violation of securities and banking laws
- Anti-money laundering claims
- Consumer fraud claims
- Lender liability claims
- Trade credit insurance claims
- Breach of fiduciary duty claims
- Fraud and misrepresentation, including suitability claims
- Employment discrimination claims
- Employee Retirement Income Security Act of 1974 ("ERISA") claims
- Late trading, market timing and revenue-sharing claims
- Initial public offering allocation claims
- Embezzlement, employee theft, fraud, counterfeit, and forgery-related losses
- Claims for errors or omissions in the handling of investment accounts
- Claims for alleged mis-selling of financial products (including personal mortgages and pensions, structured investment products, and corporate interest-rate swaps)

On behalf of our financial institution clients, we have successfully pursued insurance recoveries under a wide array of insurance instruments, including professional liability, errors and omissions ("E&O"), general liability, directors and officers ("D&O"), employment practices, fiduciary liability, residual value, credit risk, and crime insurance policies, as well as financial institutions and mortgage banking bonds. Our focus is maximizing insurance recoveries on what are often complex and substantial claims, without recourse to litigation or arbitration, wherever possible.

Where such proceedings are unavoidable, we have considerable experience in representing financial institution clients in litigation, alternative dispute resolution, and arbitration. In addition, we advise legal and insurance departments, senior management, and boards of directors on terms of coverage and draft improvements to insurance contract verbiage.

Where appropriate, our coverage lawyers draw upon the knowledge and experience of K&L Gates' leading practices in the areas of securities enforcement, investment management, mortgage banking, and depository institutions in providing coverage advice to our clients.

REPRESENTATIVE ENGAGEMENTS

The following are selected examples of our recent representations:

- Represented a major financial institution in negotiations with multiple professional liability insurers for coverage of subprime-related claims and lawsuits.
- Represented one of the world's leading financial services institutions with respect to a large property and business interruption insurance claim arising out of 9/11-related losses.
- Represented a leading financial institution in insurance coverage litigation in a federal district court with respect to a multimillion-dollar D&O insurance claim arising out of underlying governmental and private-party claims based on allegedly misleading financial statements and public filings.
- Represented a leading financial institution in state court insurance litigation arising out of multiple underlying actions arising out of allegedly misleading statements in connection with a failed bond offering.
- Represented one of the country's largest financial institutions in an employment-coverage action seeking coverage for a gender discrimination class action brought on behalf of more than 900 current and former employees.
- Represented a domestic bank holding company seeking coverage for multimillion-dollar losses resulting from an employee embezzling money from a client's account.
- Represented a domestic bank holding company regarding potential fidelity coverage associated with alleged fraud by certain employees in managing retirement plans.
- Represented a bank holding company in multimillion-dollar coverage litigation under financial institution bond involving a fraudulent employee scheme related to a new vehicle floor plan financing loan.
- Represented a domestic bank holding company regarding potential fidelity coverage associated with alleged fraud by its customer in connection with asset-backed lending.
- Represented an investment firm in an appeal regarding the nature of third-party liability coverage under a financial institution bond for losses arising out of a multimillion-dollar claim settlement.
- Represented an international bank holding company seeking coverage for a multimillion-dollar loss resulting from an employee's embezzlement of bank funds.
- Represented a domestic bank holding company seeking coverage for a massive, international fraud that victimized several banks through securitized loans based on sham transactions.

- Represented a major investment adviser with respect to an E&O claim against numerous insurers in its coverage tower arising from claims of clients alleging errors with respect to class-action settlement filings made by the adviser on behalf of investors.
- Represented a major investment adviser, related mutual funds, and their officers and directors with respect to a D&O claim arising from multiple regulatory investigations and lawsuits alleging market timing. This representation included representing the clients in arbitration.
- Represented a hedge fund and investment adviser with respect to a D&O claim arising from a Securities and Exchange Commission (“SEC”) investigation and potential enforcement action related to the insureds’ side-pocket practices and valuation decisions.
- Represented an investment manager of pension plans seeking coverage for loss arising from two lawsuits alleging breach of fiduciary duty.
- Represented a world leader in alternative investment management with respect to a global review of its D&O, E&O, and fiduciary liability coverage, and worked with the client’s broker to obtain significant enhancements to coverage and to ensure that the coverage was appropriate for the client’s global operations, primarily in the United Kingdom and the United States.
- Represented numerous hedge funds, mutual funds, investment advisers, and ERISA plans on renewal issues related to D&O policies, E&O policies, fidelity bonds, and fiduciary liability policies.
- Represented a hedge fund manager seeking coverage for various claims by investors arising from Madoff-related investments.
- Represented a mutual fund seeking coverage for an investigation related to an SEC sweep examination.
- Represented an adviser seeking coverage with respect to claim by an investor alleging that the adviser recommended unsuitable investments and/or failed to disclose risks concerning such investments.
- Represented a hedge fund manager seeking coverage with respect to SEC regulatory investigations.
- Represented a bank seeking coverage with respect to alleged wrongful acts related to the bank’s administration of a trust.
- Represented a bank seeking coverage under a fiduciary liability policy with respect to a claim filed by company employees alleging that the company misrepresented facts about the company in its public filings.
- Represented an appraisal management company seeking coverage under an E&O policy with respect to alleged wrongful acts in rendering professional services.
- Represented a leading financial institution in maximizing E&O recoveries in respect of claims relating to alleged mismanagement of offshore trusts and related investigations.
- Represented numerous financial advisers in maximizing E&O recoveries in respect of claims for the alleged mis-selling of financial products.