Banking Professionals Claims Examples

The time when your bank experiences a loss is not the time to learn how its insurance policy works. The following examples illustrate potential exposures and how AmTrust's policy may respond.

Coverage Part / Insuring Agreement	Claims Example
DIRECTORS AND OFFICERS LIABILITY	
Side A - Insured Persons Liability Coverage	As a result of the bank incurring substantial operating losses, the bank's share value declines significantly. In response, a derivative action is brought by a shareholder against the board of directors. The suit alleges mismanagement and the board's failure to supervise the institution in a safe and sound manner. Note that in a shareholder derivative action, the proceeds benefit the institution, not the shareholder.
Side B - Company Indemnification Coverage	The board of a bank invests in a bond issue of a local municipality. Over time, the city defaults on its loans and the bank has to write down the investment loss, wiping out yearly earnings. A shareholder, who has come to rely on the annual dividend, files suit alleging that the board was negligent in making this investment decision.
Side C - Company Liability Coverage	Third Party Example: The bank leases office space to a local restaurant that shares part of the bank's building. The tenant goes out of business and sues the bank, alleging that the bank breached its contract as landlord. The breach of contract allegations are excluded, but defense expenses are covered. Securities Example: A publicly-traded bank, in the process of a merger, is sued by shareholders alleging that the board was negligent because it did not consider other offers. The bank is forced to defend itself and incurs additional costs to get a fairness opinion. The costs for the fairness opinion is not covered as this is considered a normal operating expense, however, defense expenses and a portion of the settlement is covered.
EMPLOYMENT PRACTICES LIABILITY	
Employment Practices Liability	A bank is opening a branch officer near the local community college. Another branch manager goes to the institution's president and indicates he wants the opportunity to run the new branch. The bank's president advises that he is looking to bring on a younger branch manager that would better attract youthful clientele in the area at a lower salary. The 55 year-old branch manager sues for age discrimination.
Third Party Liability	A female courier makes weekly deliveries to the institution. Each week the driver is subjectected to sexual advances by the branch manager. The driver complains to the individual's supervisor who then notifies the president of the company. The complaint is not addressed and the harassment continues. Finally, the driver files suit against the financial institution claiming sexual harassment and wrongful infliction of emotional distress.

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Coverage Part / Insuring Agreement	Claims Example
FIDUCIARY LIABILITY	
Fiduciary Liability	A bank's employees claim a profitable investment option was taken away and improperly replaced with another less profitable option. They sue their employer claiming failure to monitor the actions of their outside investment manager.
Voluntary Settlement Program	A bank's loan officers are independent contractors. The IRS audits the institution's payroll and determines they were misclassified and should have been paid as employees. Though the IRS allows them to enter a Voluntary Classification Settlement Program to correct the error and provide relief from having to pay retroactive costs, they still incur fines and penalties.
HIPAA Civil Money Penalties	A bank mistakely discloses medical information pertaining to their 25 employees when they don't properly dispose of their personnel files while converting to a paperless system. The minimum penalties in this situation can range from \$100/violation up to a maximum of \$50,000/violation (with an annual maximum of \$1.5 million).
PROFESSIONAL LIABILITY	
Lender Liability	A loan officer indicates to a borrower that the bank will fund the borrower's loan request. The borrower relies on this commitment (and the loan officer's apparent authority to make the commitment) and plans his business accordingly. The loan is subsequently not approved, leaving the borrower with no resources to take advantage of business opportunities that were based on the funding commitment. The borrower sues the loan officer who made the funding commitment.
Professional Services Liability	The bank acts as a depository for ACH transactions of a larger institution. An employee transposes numbers on two merchant accounts, causing ACH credits to be erroneously deposited into the wrong account. When the error is discovered, the funds have already been withdrawn by the business that received it and the entity refuses to return the overage. The customer that incurs the loss sues the bank.
Trust Services Liability	The trustee of a testamentary trust fails to obtain personal property from the executor of an estate as soon as the terms of the will and the probate law permit. The executor misappropriates the assets. The trustee is held liable to the beneficiaries for this loss due to the delay in obtaining possession of the trust property.
CYBER LIABILITY	
Network Security & Privacy Liability	A bank is a target of a cyber attack and suffers unauthorized third party access into a portion of their processing system. As a result, certain customer account information is stolen including social security numbers, financial account numbers and associated pin numbers. A customer subsequently discovers fraudulent charges to her account and sues the bank for failure to adopt and maintain reasonable procedures and adequately secure its servers and computer storage systems.
Media Communications Liability	A bank creates a fraud alert system through a secured website, which allows other financial institutions and law enforcement to share information. A post on the website accuses a customer of criminal conduct and illegal activities. The customer brings a lawsuit against the bank for defamation per se as well as a violation of rights of privacy.
Regulatory Defense and Penalties	A bank disclosed non-public consumer information to a non-affiliated third party for marketing purposes. A state regulatory agency brings an administrative action alleging that this is prohibited since the bank did not provide an opportunity for the consumer to opt-out of disclosure. The state regulatory agency imposes a civil monetary penalty against the bank.