



Financial Institutions | Canada

# Asset Manager Claim Scenario Examples

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Asset managers face unique challenges, risks, and opportunities in the financial institutions market – from complex fiduciary responsibilities to critical investor demands to unique regulatory requirements.

CNA's breadth of experience and industry knowledge helps to meet these evolving needs. We offer a broad range of property and casualty insurance products, including Management and Professional Liability and Fidelity Coverages. Our industry-specific Directors & Officers (D&O) Liability and Errors & Omissions (E&O) coverages are tailored specifically to asset managers and financial institutions.

Below are some claim scenario examples, which illustrate how CNA's offered coverages may come into play.

## **Regulatory Claim**

A Securities Regulator issues a summons and commences a formal order of investigation against a Hedge Fund alleging that Hedge Fund is engaging in insider trading in securities of a large telecom company which recently announced a merger. The Hedge Fund sought coverage for defence costs under the Fund Management and/or Professional Liability coverage part.

## **Breach of Fiduciary Responsibilities Claim**

A Mutual Fund and its directors are sued alleging that the Mutual Fund is breaching its fiduciary duties to its investors by paying excessive fees to its own affiliated investment adviser. The Mutual Fund tendered the claim seeking coverage for defence costs under the Fund Management and Professional Liability coverage part.

## **Conflict of Interest Claim**

A hedge fund is sued by investors alleging that they failed to disclose a conflict of interest regarding a purchase of portfolio company shares and that were acquired at a premium. A family member of a member of the hedge fund board of directors has an ownership interest in the portfolio company. The relationship was not disclosed, and the board member did not recuse themselves from the vote. The Defendant hedge fund sought coverage under the Fund Management and Professional Liability coverage part.

## **Failure to Disclose Information Claim**

An exchange traded fund and its investment advisor are insureds under the policy. The fund suffers a loss in excess of 75% in one day. Both the fund and the advisor are sued by investors alleging that product is overly complicated and mismarketed to retail investors who do not fully appreciate the complexity and risks associated with the product. The two defendant insureds sought coverage under different Coverage Parts of the policy: the Fund sought coverage under the Fund Management and Professional Liability coverage part, and investment advisor sought coverage provided under Investment Advisor Professional Liability coverage part.

### **Investing Outside of Scope Claim**

An investment fund manager issues an offering memorandum for their newest flagship real estate fund. In the offering memorandum it states the fund only invests in senior housing complexes. The investment fund purchases a retail shopping centre, which falls outside the stated investment objectives. Multiple tenants have difficulty making their rent causing a loss to the fund value. The investors sued the fund manager and investment advisors; the claim was tendered to the carrier seeking coverage under the Fund Management and Professional Liability coverage part for the fund, and the Investment Advisor Professional Liability coverage part for the advisor.

### **Suitability Claim**

An investment advisor provides investment advice to a retired couple who have a very low risk tolerance. The investment advisor invests the couple's portfolio in a leveraged inverse fund. The couple's portfolio experiences significant losses, and they sue the investment advisor, alleging that the insured went against their instructions to invest their life savings into "safe" strategies. The couple seeks compensation for their losses and sues the investment advisor. The investment advisor sought coverage under the Investment Advisor Professional Liability coverage part.

### **Poaching a Competitor's Employees Claim**

An investment adviser firm hires an employment recruiter to fill some vacancies. The recruiter successfully targets a senior manager at a competitor. After the senior manager starts working at the investment adviser, the recruiter then successfully recruits several of the senior manager's former team members. The competitor sues the investment adviser and its CEO, as well as the recruiter, alleging a scheme (tortious interference) to poach the competitor's employees and claims that as a direct result of the scheme, the competitor lost millions of dollars of assets under management and related management fees and also sustained damage to its goodwill and reputation. The investment advisor sought coverage for the investment advisor firm (defence costs only) and the CEO (defence and indemnity) sought coverage under the Investment Advisor Management Liability coverage part.

Please be aware that in the event of a claim, coverage would be determined as a result of the application of all Policy terms, conditions and exclusions based on the circumstances and allegations arising from such claim. When a claim is made, each coverage situation is evaluated on its own merits, based upon the facts and allegations. Any allegations, when reviewed with the actual policy terms, coverages, amounts, conditions and exclusions determine the nature and extent of our response.

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For more information, contact your CNA underwriter or visit [cnacanada.ca](https://cnacanada.ca).