

# New York Life Agents Purchasing Group Sponsored Agents E&O Program Professional Liability Plan (“PLP”) Frequently Asked Questions

## Frequently Asked Questions

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### 1. Who Is the Insurer?

National Fire & Marine Insurance Company, a Berkshire Hathaway Specialty Insurance company (hereinafter referred to as “Berkshire Hathaway”) which has an A.M. Best rating of A++ as of May 2024.

### 2. Who Is the Sponsor of the Group Life Insurance Agents Errors & Omissions Liability Policy (hereinafter referred to as “PLP”)?

The New York Life Agents Purchasing Group.

### 3. Who/What Are Insureds Under the PLP?

- **Enrolled Agents**  
Enrolled Agents who have an agent's contract with NYL or a NYL subsidiary and are licensed by the appropriate authorities to solicit and sell life, accident, and health insurance products and/or services.
- **Enrolled Registered Representatives of NYLIFE Securities LLC**  
Enrolled Registered Representatives who have an agent's contract with NYL or a NYL subsidiary and a registered representative agreement with NYLIFE Securities LLC (hereinafter referred to as "NYLSEC") and are licensed by the appropriate regulatory authorities.
- **Enrolled Grandfathered NYL Agents**  
An enrolled grandfathered NYL agent who is associated with a broker/dealer other than NYLSEC and who has met all of the following conditions: i) is currently enrolled in the PLP, ii) renews coverage under the PLP, iii) has permission from NYL to associate with an outside broker/dealer that is registered with FINRA, iv) has a registered representative agreement with that broker/dealer, v) sells all securities through that broker/dealer, and vi) is licensed by the appropriate regulatory authorities. NYL will provide a list of these agents to Berkshire Hathaway.
- **Employees of Insured**  
Employees acting on behalf of an Insured, but only with respect to professional services as defined in the policy (hereinafter called "Professional Services") provided by the Insured.
- **Enrolled Employees of NYL**  
Enrolled employees of NYL or a NYL subsidiary who are engaged in Professional Services. TAS agents are included in this group.
- **Owned Business Entity**  
Any corporation, partnership, or other business entity that engages in Professional Services and is either owned or controlled by an Insured Agent is generally covered under the Insured's policy. Such entity is covered only with respect to those operations of the business entity related to the Professional Services provided by the Insured Agent.
- **Enrolled IARs of Eagle Strategies LLC**  
Enrolled Investment Adviser Representatives ("IARs") of Eagle Strategies LLC (hereinafter referred to as "Eagle" or "Eagle Strategies") who: i) have an agent's contract with NYL and are properly licensed; and ii) render financial investment advice on behalf of Eagle for compensation pursuant to a written contract defining the scope of their services and the amount of compensation.  
  
Associate Financial Advisers (AFA) are Registered Service Assistants who are affiliated with Eagle Strategies. The AFAs are generally covered under the Supervising IAR'S policy for any services that they perform on the Supervising IAR'S behalf while assisting the IAR Agent in the sale or servicing of covered insurance products, mutual funds, and securities. This is conditioned on the Associate Financial Advisors' acting within the scope of their duties as defined by the appropriate regulatory authorities.
- **Licensed or Registered Service Assistants**  
Licensed or Registered Service Assistants are generally covered under the Supervising Agent's policy for any services that they perform on the Supervising Agent's behalf while assisting the Supervising Agent in the sale or servicing of covered insurance products, mutual funds, and securities. This is conditioned on the Licensed or Registered Service Assistants' acting within the scope of their duties as defined by the appropriate regulatory authorities.
- **NYL and Subsidiaries and Referring Agents/Subagents**  
NYL and its subsidiaries, and also Referring Corporate Agents, Referring Corporate Subagents, and Referring Business Agents (hereinafter referred to as "Referring Agent(s)/Subagent(s)"), who have a non-soliciting Memorandum of Understanding with NYL

are covered as Additional Insureds under the Insured Selling Agent's policy. This means that they are covered to the extent that a claim involves liabilities arising from the Selling Agent's allegedly negligent acts, errors, or omissions.

For example, if a Referring Agent/Subagent is sued solely because of an allegedly negligent referral to the Selling Agent s/he will not be covered under the Selling Agent's policy (hence the need for separate coverage).

Similarly, if a claim alleges that NYL is vicariously liable as principal for the negligent acts of one of its agents, NYL would have coverage as an Additional Insured.

Each Referring Agent/Subagent, who has a Non-Soliciting Memorandum of Understanding with New York Life and is enrolled in the PLP, is generally covered for claims of an improper referral to a Selling Agent. Activities or services beyond the scope of providing a referral will not be covered.

- **Referring Broker Sub-producers<sup>1</sup>**

Referring Broker Sub-producers under the Professional Alliance Program who enroll in the PLP and pay a premium are covered for referrals to Soliciting Agents, who are enrolled in the PLP, for individual life insurance policies, annuities, and health insurance policies issued by NYL.

Coverage is subject to limits of \$1M per claim and \$1M per policy period. Coverage does not extend to any acts, errors, or omissions unrelated to the referral of a client to a New York Life Agent for the sale of the products specified.

*Important Note:*

If the Agent is named in a claim with NYLIFE Securities LLC or Eagle Strategies, the Agent and NYLIFE Securities LLC/Eagle Strategies will share the Broker Dealer's/Registered Investment Advisor's or the agent's limits, whichever set of limits is higher, and any amounts indemnified by the Agents E&O policy may erode the limits for both the Insured Agent and the New York Life entity.

#### **4. Am I Required to Enroll in the PLP?**

No. Enrollment in the PLP is voluntary, but NYL requires that you have E&O coverage that meets the following criteria:

- Minimum Limit of Liability of \$2M per Claim/\$3M annual aggregate.<sup>2</sup>
- Coverage for other life insurance company products, not just NYL products.
- Coverage is written by a carrier rated A or higher by A.M. Best.
- Covers professional services as defined in Sections II.F.1, 2 and 4 in the Highlights.
- Provides vicarious liability coverage for NYL by naming NYL as an Additional Insured under your E&O policy.

If you are an IAR registered with Eagle, the coverage must also encompass the investment advisory services and financial planning services provided through Eagle Strategies Corporation.

#### **5. Do I Need to Submit Proof of My Errors and Omissions Coverage If It Is Not Through the PLP?**

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<sup>1</sup> In these FAQs, "Referring Broker Sub-producer(s)" refers to someone with a Referring Sub-producer's Contract (for use with the Referring Broker Contract for Corporations) and also the licensed and appointed individual (e.g., sole proprietor) associated with a Referring Broker's Contract for Businesses.

<sup>2</sup> These are new basic limits offered under the PLP beginning with the 2024-2025 policy period. Referring Broker Sub-producers have different limit requirements (See Section 7).

Yes. If you opt out of the PLP, you must purchase coverage that meets the criteria set forth in the answer to question number 4. Then you must submit proof annually of that coverage to Aon.

**6. What Are Damages?**

Damages are monetary amounts for which an Agent is legally liable. Damages do not include fines or penalties imposed by law, punitive or treble damages, the return or withdrawal of fees, commissions or brokerage charges or surrender charges (other than those surrender charges that exceed commissions), non-pecuniary or injunctive relief, or amounts from acts deemed uninsurable by law.

**7. What Are Your Limits of Liability?**

Each Established Agent or enrolled employee has the option of purchasing a limit of liability of one of the following: \$2,000,000 each Claim/\$3,000,000 Annual Aggregate or \$3,000,000 each Claim/\$6,000,000 Annual Aggregate<sup>3</sup>. TAS Agents in their first contract year, Referring Agents/Subagents, PTAS Agents and College Interns can only elect \$2,000,000 each Claim/\$3,000,000 Annual Aggregate.

Referring Broker Sub-producers have only one option: \$1,000,000 each Claim/\$1,000,000 Annual Aggregate, which covers them for their referrals to Established Agents.

Claims arising out of cybersecurity breaches are subject to sublimits of liability (please see Section II (U) of the PLP Highlights for more information).

Please note that your per claim limit is the maximum Berkshire Hathaway will pay on your behalf in damages for any one claim. The aggregate limit is the maximum amount Berkshire Hathaway will pay for damages in any policy period for each Agent or Referring Broker Sub-producer, regardless of the number of claims. However, with exception of cybersecurity claims, coverage for defense costs is in addition to the limits of liability.

**8. Can I Change My Limits During the Plan Year?**

No. Limit changes (increases or decreases) can only be made during annual enrollment.

**9. What Professional Services Are Covered?**

For Agents, "Professional Services" shall mean:

- a. with respect to an Agent or a Registered Representative or Registered Investment Advisor, the following services are provided to a client:
  - i. The sale, attempted sale or servicing of:
    - 1. Life insurance, accident and health insurance, managed health care organization contracts, disability income insurance, fixed annuities, equity indexed annuities, workers' compensation insurance as part of a 24-hour care coverage (as defined by statutory law), and long-term care insurance; or
    - 2. KEOGH retirement plans, employee benefit plans, individual retirement accounts or arrangements; or

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<sup>3</sup> Certain Agents who are 2023 or 2024 Chairman's Council agents, or agents who have qualified for Chairman's Council at least twice within the last five years (2020 – 2024 Council years), and Agents who are Investment Advisor Representatives of Eagle Strategies who are required to maintain this level of coverage in the discretionary LWP programs are eligible to purchase limits of \$5,000,000 each Claim/\$10,000,000 Annual Aggregate.

3. Variable products, including, but not limited to Variable Annuities, Flexible and Scheduled Premium Annuities and Variable Life Insurance or mutual funds that are registered with the SEC.
4. Securities approved by:
  - i. the Sponsor Broker-Dealer or a Broker-Dealer authorized by the Sponsor Broker-Dealer; or
  - ii. sold through a prior Broker-Dealer, as long at the time of such sale the Registered Representative had a contract with such Broker-Dealer and was authorized to sell such securities; or
  - ii. the Administration of Employee Benefit Plans; or
  - iii. Investment Advisory Services; or
  - iv. As a fiduciary adviser, as defined in the Pension Protection Act of 2006, as amended, or as described in Section 3(21) (A)(ii) of the Employee Retirement Income Security Act of 1974, as amended, and any rules promulgated thereunder, respectively; or
  - v. solely in connection with the services described in subparagraphs i. through iv. above:
    1. Financial Planning Services, including when an additional fee is not charged; or
    2. Referral of a natural person or organization to an Agent or a Registered Representative or Registered Investment Adviser; or
    3. The use of any internet marketing, including social media, to achieve the marketing and communication goals of an Insured's business; or
  - vi. as a notary public; or
  - vii. solely in connection with the services described above in this subparagraph a., the recruiting, hiring, contracting, selecting, supervision, management and training of an Agent, a Registered Representative or a Registered Investment Adviser; or
  - viii. with respect to the Sponsor Broker-Dealer: (i) Investment Advisory Services; (ii) Supervisory Services; or (iii) Due Diligence Services; but in all cases only to the extent any such services described in (i) through (iii) of this subparagraph b. are provided by the Sponsor Broker-Dealer in the course and scope of such Insured's business as a Broker-Dealer.
  - b. with respect to the Sponsor Broker-Dealer: (i) Investment Advisory Services; (ii) Supervisory Services; or (iii) Due Diligence Services; but in all cases only to the extent any such services described in (i) through (iii) of this subparagraph b. are provided by the Sponsor Broker-Dealer in the course and scope of such Insured's business as a Broker-Dealer.

**10. Am I Covered for Loss or Unauthorized Disclosure of Private, Personal Information?**

Yes, within certain sublimits of liability, each Agent is covered for cybersecurity claims, incident response costs, extortion demands, and fraudulently induced transfers. This coverage may be triggered by a claim by a customer seeking damages for the loss of his or her personally

identifiable information, such as social security number, or protected health information. Coverage may also be triggered by an inquiry or action by a regulator. The coverage will also pay for expenses incurred in response to a privacy event, such as costs for notification to customers, expert analysis of an Agent's network that was breached, or credit monitoring services offered to affected customers. You may also be eligible for certain qualified business interruption expenses, while your network is inoperable. Please refer to Section II (U) of the PLP Highlights for details, including applicable sublimits.

**11. What Is Your Deductible?**

There is no deductible for any claims with only three exceptions, for which a \$2,500 per claim deductible applies (please see Exclusion S in Section III, as well as the coverage extensions described in Sections II.V, II.Y, and III.P.v.(2) of the PLP Highlights for these exceptions).

**12. Are Prior Acts Covered Under the PLP?**

Yes, Prior acts are covered provided:

- a. The Insured had no knowledge prior to his or her original date of enrollment in the PLP of a circumstance that could reasonably be expected to result in a Claim;
- b. There is no other valid and collectible insurance available;
- c. The alleged errors or omissions fall within the scope of covered professional services; and
- d. If a claim involves the sale of a securities product, the covered Agent's prior broker/dealer:
  - was a member firm
  - had a registered representative agreement with the covered Agent at the time of sale; and
  - approved the security that was sold

**13. Is Financial Planning Covered?**

Yes. For Agents who are not Investment Advisor Representatives ("IAR") of Eagle Strategies, financial planning and investment advice are covered provided they are incidentally rendered in relation to products included within the definition of "Professional Services". "Financial Planning Services" means the provision of financial or investment advice regarding covered Professional Services to a Client based upon an analysis of the Client's individual needs, financial circumstances and objectives, including but not limited to referral of discretionary trusts. Agents who are also Investment Adviser Representatives of Eagle Strategies are covered for financial planning and investment advice for all products, other than those that are excluded. IARs are also covered for providing: i) investment advice as a 3(21) fiduciary adviser under ERISA to a plan sponsor (but NOT for acts taken in their capacities as plan sponsors, trustees or other Named Fiduciaries as defined by ERISA); ii) referral or advice regarding third-party investment managers evaluated by Eagle; and iii) service provider support and plan participant education and enrollment. This coverage is afforded provided that the IARs have a written contract with Eagle Strategies that defines the scope of such advice and/or services and their compensation.

**14. Am I Covered for the Sale of the Insurance Products of Other Life Insurance Companies?**

Yes. For Agents, Berkshire Hathaway's policy covers you for the professional services you render as a life insurance producer for other companies. The rating of the other company issuing the product does not affect coverage except if a claim is made against you based on that company's insolvency or inability to pay policyholder claims (see Exclusion J of the PLP highlights).

**15. Does Berkshire Hathaway Provide a Defense?**

Yes. Berkshire Hathaway has the right and duty to defend a claim against you alleging negligent acts, errors, or omissions in rendering or failing to render Professional Services for third parties in your capacity as a NYL agent. Subject to the policy terms and conditions, a defense is provided even if the suit is groundless, false, or fraudulent. This means that Berkshire Hathaway will appoint counsel for you. You should not retain your own counsel unless Berkshire Hathaway gives you written consent to do so. Doing so could jeopardize your coverage.

**16. Does Berkshire Hathaway Cover Regulatory Inquiries, Subpoenas or Other Requests for Information?**

Yes, coverage under the PLP may be triggered when an insured reports a Claim, which is defined generally as a demand for monetary Damages, but Berkshire Hathaway also extends coverage for pre-Claim assistance in certain instances. Berkshire Hathaway will retain an attorney to assist an insured agent in responding to a regulatory inquiry, subpoena, or other formal request for information if related to Professional Services. Potential Claims and requests for pre-Claim assistance may be reported in the same manner described in FAQ #27, below.

**17. Can I Settle a Claim Without Berkshire Hathaway's Consent?**

No. You should not make any payment, admit any liability or settle any claim without Berkshire Hathaway's prior written consent. Doing so may jeopardize your coverage under the policy.

**18. Is Personal Injury Coverage Provided Under the Policy?**

Yes. Personal injury (which includes defamation, libel, or slander) is covered if it arises in connection with the rendering or failing to render professional services as defined in the policy for clients in your capacity as an Agent or Registered Representative.

**19. Am I Covered for Any Activities Related to Property and Casualty Insurance?**

No.

**20. Am I Covered for claims from my prior company that I violated a non-compete provision contained in that prior carrier's agent contract?**

No.

**21. Is the Cost of this Policy Competitive?**

The premium for this policy is considerably lower than the cost of procuring comparable insurance independently. In addition, this group policy provides broader coverage than most group policies at very competitive rates.

**22. What Does "Claims Made and Reported" Mean?**

A Claim is "made" when you first receive an oral or written demand for monetary damages, including but not limited to the service of suit or the institution of arbitration proceedings. A Claim is reported by your giving written notice of it to Aon or Berkshire Hathaway.

It is critical to remember that any Claim be reported to Aon in writing as soon as possible so that Aon can report the claim to Berkshire Hathaway on your behalf. Please see Section 27 below or Section IV of the Highlights for instructions.

**23. What Is a Cost of Correction or Trade Error Claim?**

A cost of correction or trade error claim ("Trade Error Claim") generally arises from your failure to follow or implement directions from a client in connection with a registered insurance product or investment that results in a trade loss of \$500 or more. If the error is not immediately corrected, a client would typically bring a claim. Trade Error Claims are covered under the policy so long as the negligent act, error, or omission would otherwise be covered under the policy, the correction

is approved by and made by NYL or a NYL subsidiary, and timely reported to Berkshire Hathaway. Please note that if an agent or registered representative makes a correction, the coverage does not apply.

**24. When Does My Coverage for Professional Services Terminate?**

You are covered for the Professional Services described above until the expiration of the **current** policy period or the cancellation of your Certificate of Insurance under the NYL PLP, whichever occurs earlier.

**25. Can I Get a Refund If I Terminate My Contract with NYL?**

Yes, you may obtain what is known as a "short rate" refund of a portion of your premiums if you send Aon a written request to cancel your certificate of insurance. For agent terminations/resignations and agents who become NYL employees, all cancellation requests must be received within 60 days of the date the agent terminated/resigned or became a NYL employee. All other cancellation requests must be received no later than October 31<sup>st</sup>, 2025. Please note that the short rate refund would be less than a pro rata refund. More importantly, acts or omissions occurring subsequent to the effective date and time of the cancellation of the policy will not be covered under the PLP. Therefore, depending on whether you have obtained coverage under another policy and the scope of such coverage (e.g., whether it covers prior acts), you may have a gap in coverage and could be exposed to claims for which you do not have any insurance. If you wish to cancel your certificate of insurance, please contact Aon Affinity for additional information.

If you do not send Aon a written request to cancel your certificate of insurance after your contract has been terminated or you do not otherwise cease having coverage under the PLP, the PLP will continue as your primary coverage until the end of the policy period unless you have obtained applicable coverage under another policy. Under those circumstances, the PLP will constitute excess coverage through the expiration of the current policy period. Assuming that you are covered on either a primary or excess basis until the PLP policy period expires, there will be no refund.

**26. Is There an Extended Reporting Period (ERP)?**

Yes. There is an automatic unlimited ERP during which you may report claims arising out of Professional Services rendered before the termination of your coverage under the NYL PLP. This ERP is available for as long as Berkshire Hathaway continues to underwrite the NYL PLP. If Berkshire Hathaway were no longer the underwriter for the PLP, the ERP would default to three years for claims arising from the sale and servicing of NYL products or to one year for claims arising from the sale and servicing of outside products.

Please note that the ERP only enables you to report claims involving acts or omissions that occurred prior to your termination of coverage under the PLP, as described above. The automatic ERP requires no additional premium payment.

If you meet the eligibility requirements set forth below and want to protect yourself against possible gaps in coverage because of the possibility that the unlimited ERP described above were no longer available (i.e., Berkshire Hathaway were no longer the PLP underwriter), you have the right to purchase an optional ERP that is broader than the automatic ERP applicable under those circumstances. You must pay an additional premium for the optional ERP. The amount of the additional premium depends on the length of the ERP you elect to purchase. The ERP extends for the duration of the reporting period the same Limits of Liability you had when



your contract with NYL was terminated. Please contact Aon at 1-800-509-6126 or [info@agents-eo.com](mailto:info@agents-eo.com) for further information.

Further, under no circumstances will there be coverage for sales made or services provided after the earlier of the expiration of the policy period or the cancellation of your coverage (i.e., the termination of your coverage). Finally, the ERP will not be available if you have other applicable coverage.

**ERP Eligibility:**

- Automatic ERPs -- The automatic ERP extends to all agents enrolled in the NYL PLP who terminate their agent contracts with NYL and who do not have other applicable insurance. The automatic ERP does not extend to any professional services rendered after termination of coverage under the PLP.
- Optional ERPs --All terminated agents are eligible to purchase the optional ERP. All producers with active NYL contracts whose contract is terminated while enrolled in the PLP and whose premium has been fully paid may purchase an optional ERP. These include all producers who are retiring.

**ERP Election:**

- Automatic ERPs – no election required. Subject to the terms and conditions of the policy, the ERP is automatically provided to those who are eligible at no additional cost.
- Optional ERPs – those eligible must elect to purchase by contacting Aon and paying the applicable premium and fees within the later of 60 days from the expiration of the policy period or cancellation of the agent's coverage under the Berkshire Hathaway policy or 30 days from the date of mailing or delivery of the notice about the ERPs from Berkshire Hathaway.

**ERP Inception:**

The ERPs begin upon the expiration of the current policy period or the cancellation of your coverage, whichever is earlier.

**27. Am I Covered if an Allegation is Made that I Breached My Fiduciary Duty Under Regulations Such as the Massachusetts Fiduciary Duty Rule, Prohibited Transaction Exemption 2020-02 or Other Similar Regulatory Requirements?**

Provided that the claim arises from the provision of "Professional Services" in your role as an agent of New York Life, Registered Representative of NYLIFE Securities, or Investment Advisor Representative of Eagle Strategies, there is coverage for this type of claim. Please note that coverage under this program does not exist for Agents or Registered Representatives acting in their role as a sponsor or trustee of employee benefits plans or who are otherwise designated as Named Fiduciaries as defined by ERISA. (See FAQ #13 and PLP Plan Highlights Section II.I.)

**28. I Need to File a Claim – What Do I Do?**

- Complete the Claim Report Form found on the last page of the Professional Liability Plan Highlights. The Highlights can be found linked in the Professional Liability Plan Field News.

- Promptly send the completed Claim Report Form and all supporting documentation to Aon at the address listed at the bottom of the Claim Report Form. If the claim is a lawsuit, send a copy of the complaint with the claim report by overnight express mail.
- Upon receipt of the information, Aon will forward it immediately to Berkshire Hathaway and the Berkshire Hathaway claims attorney assigned to handle your claim will contact you.
- Develop a written chronology of events giving rise to the claim. This should be forwarded to Berkshire Hathaway after the claims adjuster has been identified.
- Be prepared to provide a copy of your file to the Berkshire Hathaway claims adjuster. Do not discard any emails and/or documents related in any way to the claim.
- Do not discuss the claim with anyone other than representatives from Berkshire Hathaway, Aon, or NYL's Office of the General Counsel, Corporate Compliance, Corporate Insurance, or Agency Departments.
- Do not admit liability or agree to settle a claim without Berkshire Hathaway's prior written consent.
- Do not retain counsel. Berkshire Hathaway will appoint counsel to represent you.
- Cooperate fully with Berkshire Hathaway and your defense counsel, if any.