In today’s litigious society, credit unions need to make sure they are protecting themselves against the next threat that’s right around the corner. Credit unions continue to see lawsuits for failure to comply with the Americans with Disabilities Act’s (ADA) March 15, 2012 deadline for accessibility requirements for individuals who are visually impaired. Patent infringement is another litigation trend on the rise for credit unions. A typical patent infringement case through trial could cost in the range of $400,000 to $500,000.¹ Since the creation of the Consumer Financial Protection Bureau (CFPB), new rules have been made and enforced causing credit unions to be more vulnerable to lawsuits.

One lawsuit could tarnish your reputation, or even worse, put you out of business. Emerging litigation risks continue to plague the financial industry. Even the most vigilant credit unions can fall victim to these lawsuits. Our Management and Professional Liability (MPL) policy, designed exclusively for credit unions, features an industry first-of-its-kind Enhanced Defense Reimbursement coverage to help address emerging litigation trends that are typically excluded from any MPL policy. It can feel like an intimidating world when you can’t predict the next risk your credit union may face. But, this new coverage under your MPL policy can help you with the unforeseen risks.

This coverage provides reimbursement for defense costs associated with certain non-covered losses, including:

- Injunctive relief (i.e. sole allegation is ATM ADA violations only seeking injunctive relief)
- Patent infringement
- Consumer Financial Protection Bureau violations
- Improper sequencing or mishandling of transactions
- Contractual liability
- Pollution & Nuclear
- Privacy & Security
- Legal lending limit
- Acquired collateral
- Investment value
- Guaranteed performance
- Insolvency of financial institution
- Diminution of value

### Enhanced Defense Reimbursement Coverage Options

<table>
<thead>
<tr>
<th></th>
<th>Limit</th>
<th>Co-pay</th>
<th>Deductible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard Minimum</td>
<td>$50,000*</td>
<td>50%</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

*Higher limits and other co-pays and deductibles are available dependent upon underwriting approval. Standard minimum may vary based on credit union asset size.

1. CUNA Mutual Group, 2023
### Enhanced Defense Reimbursement Coverage

Reimbursement of “defense costs” related to any “claim” resulting from any actual or alleged infringement or violation of any intellectual property rights or laws pertaining to patents.

**Loss Scenario:** A patent holding company files suit against the credit union alleging patent infringement on the technology used in check processing systems and methods, credit card processing systems and methods and other banking operations.

### Consumer Financial Protection Bureau (CFPB) Violations

Reimbursement of “defense costs” for any “claim” arising from the violation of the rules, regulations or directives of the CFPB, including any formal or informal investigation by any regulatory body involving such an allegation.

**Loss Scenario:** The CFPB issues a consent order to a credit union that allows dealer mark-ups in their indirect lending program claiming disparities in rates charged to members that were based on race and not based on credit-worthiness or other objective criteria related to borrower risk.

### Injunctive Relief

Reimbursement of “defense costs” for any “claim” seeking only injunctive or other equitable relief.

### Enhanced Defense Reimbursement Coverage

Reimbursement of “defense costs” related to any “claim” arising from breach of contract or agreement.

**Loss Scenario:** To reduce expenses, a credit union contracts with a new IT vendor while still having a valid contract with another. The credit union is sued by the original IT vendor for breach of contract.

### Diminution of Value

Reimbursement of “defense costs” for any “claim” arising from the diminution in value of money, securities, property or any other item of value.

### Guessed Performance

Reimbursement of “defense costs” for any “claim” arising from written or verbal representations, promises or guarantees regarding the past performance or future value of any investment product.

### Acquired Collateral

Reimbursement of “defense costs” for any “claim” arising from control of any entity or property that an “insured” acquired as security for any loan, lease or extension of credit.

### Investment Value

Reimbursement of “defense costs” for any “claim” arising from any decrease or lack of increase in the value of any investments, including securities, commodities, currencies, options or futures.

### Insolvency of Financial Institution

Reimbursement of “defense costs” for any “claim” arising from the insolvency, conservatorship, receivership, bankruptcy or liquidation of any bank or banking firm, insurance company, investment company, investment banker or any broker or dealer in securities or commodities, or other such organizations of a similar nature, or the failure to pay or suspension of payment by such organizations.

### Pollution and Nuclear

Reimbursement of “defense costs” for any “claim” arising from “pollution or contamination” of any “environment” by “pollutants” or nuclear reaction, radiation or radioactive contamination. Please refer to policy for coverage details.

### Privacy and Security

Reimbursement of “defense costs” for any “claim” arising from unauthorized access of “personal information” or violation of a person’s right to privacy.

### Legal Lending Limit

Reimbursement of “defense costs” for any “claim” arising from any extension of credit that when made was in excess of 105% of the applicable legal lending limit of the “insured organization.”

### Injunctive Relief Case Study

**Case Details:** A credit union had a contract with a vendor that provided software to assist in the underwriting of their loans. A competing company approached them to solicit business by offering a similar software program at a lower cost. The credit union provided their original vendor with notice they were terminating their contract and began working with the new company.

**Cause for Lawsuit:** Unbeknownst to the credit union, this new company was made up of former employees of their previous vendor. The credit union was sued for breach of contract, tortious interference, and conspiracy. The lawsuit only sought injunctive relief ordering that the credit union be prohibited from using the new software or offering any other products based on the information by the former employees.

**Defense Costs:** Could cost anywhere from $50,000 to $100,000 to defend.

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Contact your CUNA Mutual Group Sales Executive today at 800.356.2644 or cuprotection@cunamutual.com to learn more about the Management & Professional Liability policy or other credit union protection solutions offered by CUNA Mutual Group.

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1 Source: Credit Union Times, Troll Wars: Patent Suits Multiplying Against CUs, September 16, 2013.

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