

Internet Banking Liability

The **Internet Banking Liability Policy** provides broad electronic banking coverage for **Losses** arising from **Wrongful Internet/Electronic Banking Acts**.

Key Definitions

Wrongful Internet/Electronic Banking Acts are any actual or alleged omission, error, misstatement, misleading statement, neglect or breach of duty committed in connection with the provision of Internet banking services. **Wrongful Internet/Electronic Banking Acts** may involve:

- › Invasion of privacy;
- › Libel, slander and defamation or other actionable oral or written disparagement;
- › Loss or damage to electronic data of a customer;
- › Denial, impairment or interruption of service to a customer;
- › Loss of business opportunity by a customer;
- › Unauthorized access to a customer account;
- › Infringement of copyright, misappropriation of ideas or plagiarism;
- › Infringement of trademark, trade name or service mark; or
- › Other causes of action arising directly out of the provision of **Internet banking services** by the financial institution.

Covered **Losses** include judgments, settlements and defense costs which the financial institution and/or its directors, officers or employees are legally obligated to pay as a result of a claim made against them.

For Example

- › **Invasion of Privacy**
A hacker accesses savings account information through a bank's Web site and sells the information to a third party. An affected customer sues the bank, alleging negligence in safeguarding account information, and that she suffered economic loss as a result.
- › **Libel, slander and defamation or other actionable oral or written disparagement**
On its Web site, a bank states that its mortgage rates were lower than those of any other institution in the community. A borrower sues the institution after obtaining a loan from them, alleging that he could have obtained better terms from a competing institution. Although the bank obtains a dismissal of the complaint, it still incurs significant defense costs.
- › **Loss or damage to electronic data of a customer**
When a consumer applies for a loan through a bank's Web site, a loan officer replies via email to the consumer concerning the status of the application. The consumer later alleges that the loan officer's email contained a virus which deleted all of his financial records from his computer and demands that the bank compensate him for the cost of reconstructing the data and for losses he allegedly suffered when he could not access data to file his tax returns on time.

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For Example continued

› **Denial, impairment or interruption of service**

A hacker shuts down a bank's Web site for over 24 hours. During that time, a customer attempts to access his accounts to transfer funds for a stock purchase. While the Web site is down, the stock increases in value before the customer could transfer his funds. The customer alleges that the delay caused by the denial of service caused a lost financial opportunity for which the bank is responsible.

› **Loss of business opportunity**

A customer attempts to transfer funds online from her personal account to her business account at another bank. The funds do not transfer due to a systems malfunction. When a company seeking to contract with the customer's company cannot verify that her company has sufficient funds on deposit to complete the contract, it terminates negotiations with the customer's company. The customer sues the bank, alleging that her business has lost substantial profit as a result.

› **Unauthorized access to a customer account**

A hacker accesses a customer's savings account through a bank's Web site and uses personal information in the account records to obtain credit cards in the customer's name. When the credit card issuers attempt to hold the customer liable for unpaid charges, the customer sues the bank for failing to safeguard the confidential information.

› **Infringement of copyright, misappropriation of ideas or plagiarism**

A bank obtains a report from a consultant concerning issues facing small businesses in the state. In preparing the report, the consultant copies extensively from another report, written by the consultant's former partner. The bank places the report on its Web site for informational purposes, along with other information the bank provides in connection with its commercial lending activities. The consultant's former partner sues the bank, alleging that the bank plagiarized his work.

› **Infringement of trademark, trade name or service mark**

A bank's marketing department develops several slogans to emphasize the quality of the bank's Internet Banking Service and includes these slogans on its Web site home page. However, they neglect to seek the advice of an intellectual property attorney as to whether any of the slogans are already in use by other companies. A national corporation, which has registered two of the slogans as service marks, sues the bank.

› **Other causes of action arising directly out of the provision of Internet banking services by the bank**

A competing bank sues Bank B, alleging that Bank B's Web site contains embedded code which results in Internet search engines diverting potential customers to Bank B's Web site. Unknown to Bank B's management, the embedded code was added during the development phase of the site by a designer who had been denied a loan by the competing bank.