



## FMC Member-Only Directors' & Officers' Insurance Program

### Policy Highlights & Frequently Asked Questions

**Duty-to-Defend Coverage:** The insurance company is required to assign experienced defense counsel for covered claims, even if the allegations are groundless or false.

**Broad Definition of Insured:** The definition of INSURED includes the Nonprofit, as well as anyone who was or is a Director, Officer, Trustee, Committee Member, Employee or Volunteer. The definition of Employee has been expanded to include part-time, seasonal, temporary, leased and loaned employees.

**Employment Practices Liability Coverage:** Protects the Nonprofit against employee related allegations of discrimination, wrongful termination and sexual harassment, as well as failure to hire or promote.

**Third Party Coverage:** Protects the Nonprofit against third party allegations of discrimination and sexual harassment.

**Defense Cost Outside the Limit of Liability:** Prevents defense costs from eroding the Nonprofit's policy limits.

**Personal Injury & Publishers Liability Coverage:** Protects a Nonprofit against allegations of libel, slander and copyright or trademark infringement.

**Outside Directorship Liability Coverage:** Provides protection for a director, officer, trustee, or equivalent executive serving on the boards of other 501c nonprofits, as part of their duties with the nonprofit farmers market.

**Entity Identity (Fraud) Coverage:** Provides a \$25,000 sublimit for public relations and related costs should the Nonprofit learn that a third party has improperly used the Nonprofit's name to solicit funds.

**Breach of Contract Coverage (Defense Costs):** Provides defense for allegations of non-employment-related breach of contract.

**Worldwide Territory:** Coverage provided for allegations made anywhere in the world.

**Spousal/Domestic Partner Coverage Extension:** Coverage shall apply to the lawful spouse or domestic partner of an insured person in the event that a lawyer extends a market-related suit to the spouse/partner of a board director.

**\$100,000 Fiduciary Liability (ERISA) Defense Costs Sublimit:** Provides a \$100,000 sublimit for defense costs for allegations of the mismanagement of employee benefit plans. Stand alone Fiduciary limit available upon request.

**Expanded Definition of LOSS:** Punitive Damages and Multiplied Damages are included in the definition of LOSS (where insurable). Most favorable venue wording applies.

**Excess Benefit Transaction Penalties Coverage:** Provides coverage for the 10% excise tax imposed in connection with allegations of an "excess benefits transaction."

#### **Sublimits for Penalties Assessed Under:**

- IRS Code section 6652(C)(1)(a) for a failure to file tax returns. Aggregate sublimit of \$25,000 for self-reported violations.
- Public Law 108-187 (the CAN-Spam Act of 2003). Aggregate sublimit of \$25,000.
- The 1976 Lobby Law or the Lobbying Disclosure Act of 1995. Aggregate sublimit of \$25,000.

## Frequently Asked Questions

**What if our organization is not recognized as a 501 organization by the IRS? Are we still eligible?**

The farmers market D&O pricing grid applies to those market with a 501c filing status, including 501(c)(3), 501(c)(4), 501(c)(5), or 501(c)(6). Markets that do not have this filing status can still get D&O insurance under this program, but the pricing will start at \$1,500.

**What if our organization needs more than \$1 million in coverage?**

Campbell Risk Management (CRM) can provide you with higher limits if so desired. Pricing will be determined on a case by case basis.

**Our market manager is a volunteer and not an employee. How will D&O protect the organization against their potential wrongdoing?**

The definition of INSURED includes the nonprofit, as well as anyone who was or is a Director, Officer, Trustee, Committee Member, Employee, or Volunteer. The definition of Employee has been expanded to include part-time, seasonal, temporary, leased, and loaned employees. So a volunteer market manager is covered as an insured just like a paid employee.

**How are other volunteers protected by D&O Insurance?**

Volunteers are covered in the same manner that a paid person would be.

**Does my organization need to operate a farmers market in order to acquire this policy?**

No. Those nonprofit organizations that do not actually operate a farmers market but fall within the membership structure of the FMC can get Directors' & Officers' insurance premiums will be determined on the scope of the organization's operations.

**Are we eligible for this policy as a Main Street Organization whose activities include a farmers market as well as many other community and business development programs?**

Yes.

**Are municipalities operating farmers markets eligible for this policy?**

City, County, and State governments are not considered nonprofits eligible for this policy.

**Can market organizations who are not Farmers Market Coalition members acquire this policy?**

This policy is specifically designed for FMC members. To be eligible for coverage, your organization must be a FMC member in good standing. When your annual premium is due, CRM will verify that your organization is still a FMC member before renewing the policy.

**Is the Farmers Market Coalition profiting from the premiums paid for these policies?**

FMC does not receive any commission, marketing fee, or other financial incentive from Campbell Risk Management (CRM) for referring D&O policyholders. FMC has worked with CRM to negotiate these competitive rates for the benefit of our members, not to generate revenue. If you value this service, please consider making an additional donation when you join or renew your membership.

**What if a funder alleges that grant funds were misused for purposes other than the stated grant activities?**

D&O insurance would pay defense costs for the organization, but not reimburse the funder if the organization is found guilty.

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*Farmers markets are good for everyone. Join us to make them even better.*

**What if a market employee alleges that a board member verbally harassed her on a consistent basis?**

D&O insurance would pay defense and settlement costs for the organization.

**What if a market volunteer or employee is found to have stolen \$100 in cash from the market booth?**

Volunteer and employee theft is not covered under D&O, but can be included in an organization's General Liability Insurance package.

**What if a producer is asked by the management to stop selling a certain product found to be outside the scope of permitted products, then files a lawsuit, alleging a loss of income due to this management decision?**

D&O insurance would pay defense and settlement costs for the organization.

**What if our market is accused of price fixing?**

D&O insurance would pay defense and settlement costs for the organization.

**What if an individual who interviews for a manager position alleges that they were not hired because of their race, sex or religion?**

D&O insurance would pay defense and settlement costs for the organization.

**What if our market does not require vendors to have product liability insurance, and a patron becomes ill after purchasing a vendor's product and sues the board for negligence?**

The D&O policy would cover defense and settlement costs.

*Still have questions? Contact Larry Spilker at Campbell Risk Management:*

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The mission of the Farmers Market Coalition (FMC) is to strengthen farmers markets for the benefit of farmers, consumers, and communities. FMC is a 501(c)(3) representing farmers markets managers, farmers, state farmers market associations, and other organizations dedicated to helping farmers markets thrive in the long-term. Through education, networking, and advocacy, FMC helps farmers markets nationwide maximize their capacity to support agricultural entrepreneurship, provide healthy alternatives for consumers, and strengthen communities.