



■ Package Policy, One Beacon Insurance Company

- Offered by One Beacon Insurance Company, rated A XIV by A.M. Best
- Exclusively for NVCA Members through TechAssure agents
- Specifically Tailored for Venture Capital/Private Equity Firms
- Reduced rates to keep premiums low
- Broadened General Liability without the standard Professional Liability exclusion added to policies of VC/PE firms to “close the gap” relative to Bodily Injury, Property Damage, Personal Injury and Advertising Injury claims that may arise as a result of professional activities. This is addressed by a special portfolio company endorsement clarifying One Beacon's intent to not pay claims for any portfolio companies.
- Broadened Property coverage with Business Income Loss covered on an Actual Loss Sustained basis for a period of 12 months.
- Worldwide Coverage Territory
- Employee Dishonesty available up to \$100,000.

In addition to the package policy, One Beacon's program offers Commercial Auto, Workers' Compensation, Foreign Packages and Umbrella Liability

■ Venture Capital Asset Protection (VCAP) Policy

- Exclusively for NVCA Members
- Three A-rated participating insurers – Hartford, Houston Casualty and Chubb
- Multiple participating insurers keep premiums competitive
- Comprehensive coverage for D&O, Employment Practices, Professional Liability, Fiduciary Liability and Excess Outside Directorship Liability specially tailored to address exposures of VC and Private Equity firms.
- Coverage enhancements available on the exclusion NVCA endorsement include but are not limited to:
 - Includes Broad Named Insured, including VC/PE firm, the funds, the members, executives, outside directors, employees and any trustee, receiver or liquidation of an insured organization.
 - Provides Full Prior Acts Coverage subject to a Pending & Prior Litigation Exclusion
 - Amends policy so that VE/PE firm is not required to indemnify individuals on Excess ODL for that coverage to apply.
 - Amends policy so that liquidation or receivership of the insured organization, including any funds, does not constitute a “change in control” which would automatically put the policy into “run-off” status.
 - Amends definition of claim to include demands for injunctive relief.
 - Amends definition of loss to include SEC coverage under Securities Act of 1933.
 - Broad definition of Portfolio Company to include prior investments and pending investments.
 - Includes newly acquired subsidiaries automatically if assets 20% or less than the insured organization.
 - Provides Pollution Exclusion carveback in the event insured organization unable to indemnify an insured person.
 - Provides Final Adjudication provision on conduct exclusion.
 - Provides Contractual Liability coverage for Private Equity Activities.
 - Expands carveback of coverage under Insured vs. Insured exclusion to include insured persons who have not served in a capacity for at least three years, as well as examiners, trustees and receivers and committee and advisory board members.
 - No hammer clause.

VCAP FAQs

What do VCAP policies cost?

Many variables are taken into consideration during the underwriting process, including the number of Portfolio Companies in which you have board representation and the value of the funds. However, below provides a general idea of the premium costs involved:

Limits Purchased:	\$3,000,000	\$5,000,000	\$10,000,000
Premium Range:	\$24,000 - \$36,000	\$40,000 - \$60,000	\$80,000 - \$120,000
Average Retentions:	\$100,000 - \$150,000	\$150,000 - \$200,000	\$200,000 - \$250,000

What limits should I purchase? What do other companies purchase?

This is a decision that should be based on the value of the funds, the number of the funds, the types of investments in which the funds' capital is directed and the number of portfolio companies. However, average limits purchased by NVCA members based on fund values and capital are as follows:

Fund Assets:	\$250M or Under	\$250M to \$500M	\$500M to \$750M	\$750M and Above
Limits Purchased:	\$3,000,000 - \$5,000,000	\$3,000,000 - \$10,000,000	\$5,000,000 to \$10,000,000	\$10,000,000 +
Premium Range:	\$24,000 - \$40,000	\$30,000 - \$90,000	\$55,000 - \$110,000	\$80,000 +

Our Portfolio Companies have D&O insurance. Why do we need it, too?

The D&O coverage in place for your portfolio companies is only going to cover claims made against individuals from your company that are sitting on a PC board. In a great number of claims made against a portfolio company, the VC firm itself is named in the suit. Also, the coverage on the VCAP policy goes beyond D&O for the portfolio companies. It will address any claims arising out of professional services and advice provided to the PC (such as financial advice, investing, use of select vendors, etc.) and it will address D&O suits that do not arise from PC activities (such as an investor in a fund bringing suit against your firm or a regulatory action brought that has nothing to do with one of your portfolio companies).

We are a late stage investor with little board representation. Does this lessen our risk?

Yes, but it doesn't mitigate it. In many claims involving portfolio companies, VCs without board representation were not named in the suit. However, you need to look at suits brought against your firm not related to the portfolio companies' stock and performance (as noted above). Limited board representation is taken into consideration in negotiating premiums for the coverage as the risk is lessened to a degree.

What types of claims are made against NVCA members that VCAP policies would address?

The breadth of coverage afforded by a VCAP policy crosses over many types of coverage, from D&O to EPL, Fiduciary and Professional. On the following page we have provided descriptions of real life examples of claims and litigation involving VC and Private Equity firms, focusing on claims specific to private equity activities.

Employment Practices and Fiduciary Liability claims examples can be provided upon request.

Who Pays for the VCAP?

It is standard that your Fund Limited Partnership L.P. Agreement will have a section usually entitled Management Fees. Amongst other Management Fees, fees for premiums for liability insurance to protect the Partnership, the partners of the General Partner and the members of any Partnership committees are the responsibility of the Fund.



■ Shareholder Suit – Recapitalization

Damages Claimed: \$20,000,000

A minority shareholder of a technology firm in Silicon Valley filed suit not only against individual board members (both outside board members and company executives) but also four of the venture firms that had invested in the technology firm for secondary liability. The minority shareholder alleged that his stock position was unfairly diluted by the VCs during a recapitalization of the firm, in which the VC essentially sold the company to themselves for fair market value under the direction and with the full knowledge of the individual defendants. It should be noted that VC firms with no board representation were not named in the suit.

■ Receivership Suit – Venture Fund

Damages Claimed: \$10,000,000

The plaintiff, the US Small Business Administration (SBA) filed a suit against a venture fund limited partnership in its capacity as receiver for the fund to recover the remaining amount of capital commitment from one of the defendants, a venture firm that also invested in the fund as a limited partner. The suit alleges the venture firm #1 failed to invest the full \$15M into the fund and it was undercapitalized by just over \$10M. When the SBA shuttered the fund for violation SBIC capital impairment regulations, they sought to recover the uncollected capital from the venture firm. As a result of this, a third party suit was filed by venture firm #1 against venture firm #2 that managed the defunct fund, alleging it was due to venture firm #2's actions that the full capital had not been contributed to the fund. Causes of action include breach of contract, fraud, negligent misrepresentation and breach of fiduciary obligation.

■ Professional Liability Class Action Suit – M&A Services

Damages Claimed: \$40,000,000

The plaintiff, a managed care services group of 60 physicians, engaged a principal at a private equity firm to find a buyer for the organization. The PE firm located a publicly-traded medical management firm that agreed to buy the MCS group in a stock deal worth \$60M. Under the terms of the deal, however, the members of the MCS group discovered they were prohibited from selling the new stock for a period of 3 months to 2 years. Shortly after the acquisition, the acquiring company announced it had severe financial problems and the value of their stock plummeted as the company filed for bankruptcy. The MCS group and the individual physicians filed suit against the principal at the private equity firm who negotiated the deal. Causes of action include negligent misrepresentation and professional negligence.

■ Shareholder Suit – Fraud

Damages Claimed: No dollar amount yet assigned

A founder of a technology company that specialized in developing interactive websites for teens and young adults alleges he was forced out of his company by his VC investors after the VC investors' activities caused loss in value of stock. One of the websites developed by the tech company was sold in a private equity deal of \$11.5M and the VC firm named in the suit had a capital interest in the fund that acquired the website. The website is now one of the most popular P2P websites in the world, with over 200,000,000 members and valued in the billions of dollars.

■ Portfolio Company Suit – Unscrupulous Trade Practices

Damaged Claimed: \$5,000,000

A holding company of a technology subsidiary filed suit against a VC investor claiming that the VC firm engaged in unscrupulous and deceptive trade practices and tortuously interfered with the holding company's attempt to sell their technology subsidiary to another party. Because of the interference with the sale, the holding company ultimately sold the technology subsidiary for \$5M less than it could have done had the VC firm not interfered in the transaction.