July 28, 2015

What Can Fiduciaries Learn From Tibble v. Edison?

ERISA
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The Supreme Court recently issued a decision in Tibble v. Edison International, establishing that a fiduciary has an ongoing duty under the Employee Retirement Income Security Act (ERISA) to monitor plan investments and that allegations of a breach of this duty may give rise to a timely claim even when a challenge to the fiduciary's initial selection of that same investment would be barred by ERISA's six-year statute of limitation.

The Tibble case focused on the selection and monitoring of the investments available in the Edison International retirement plan. Specifically addressing whether the plan's financial advisors and investment committee breached their fiduciary duties by choosing higher cost retail share classes instead of the cheaper institutional shares of specific mutual funds. ERISA, similar to basic trust law, imposes a duty on plan fiduciaries to monitor trust investments over time and to remove funds that are no longer considered prudent investments. This duty is different from the initial responsibility to prudently select investment options.

A fiduciary's failure to monitor investments allows a participant, or group of participants, to initiate a claim outside the scope of the initial six-year statute of limitations created when the investments were selected, because that responsibility creates a rolling period of limitations. The Supreme Court asked whether a fiduciary's retention of an investment can be something that triggers ERISA's six-year statute of limitation. The Court noted that a trustee is required to conduct a regular review of trust investments and since that duty exists, it can be breached leading to a new six-year statute.

The Tibble decision presents some obvious implications for plan sponsors and fiduciaries. Plan sponsors need to engage in periodic monitoring of their retirement plan investments, with proper documentation, either on a quarterly or semi-annual basis. The investment monitoring should include criteria that encompasses performance and risk-based analytics as well as benchmarking the fees, both investment and administrative, paid by participants and the plan.

Contact us if you have questions about the on-going monitoring of your retirement plan and read the Schneider Downs Our Thoughts On blog for more articles pertaining to ERISA.

You've heard our thoughts… We'd like to hear yours

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After all, a dialogue is an exchange of ideas, and we'd like to hear from you. Email us at contactSD@schneiderdowns.com.

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