HIGHLAND

SPOTLIGHT: DEFINED CONTRIBUTION

JULY 2015

TIBBLE V. EDISON INTERNATIONAL

The U.S. Supreme Court's ruling regarding Tibble v. Edison International has garnered a lot of press recently given that it was the first case involving defined contribution retirement plans to reach the Supreme Court. The case centered on whether or not Edison breached their fiduciary duty by offering retail priced mutual fund share classes when cheaper share classes of the same fund were available.

TIBBLE V. EDISON INTERNATIONAL LAWSUIT DETAILS:

The plaintiffs in the case were a group of participants in a defined contribution plan sponsored by Edison International. They challenged whether Edison International breached its fiduciary duties by offering plan participants a higher priced mutual fund when cheaper share classes of the same fund were available. Their argument claimed that the defendant had a fiduciary duty to monitor the investment options and thus, by only allowing the higher fee share class, led to a continual breach of their fiduciary duties. The defendant countered by claiming that the statute of limitations should have started the date the decision was originally made, thus the case should be dismissed since the statute of limitations (six years) had expired.

The case was originally heard by the District Court which ruled in favor of the defendant stating that the statute of limitations had expired. The 9th Circuit Court of Appeals affirmed the District Court's decision. This affirmation was in conflict with a previous ruling that provides that a trustee has a continuing duty to monitor and was therefore appealed to the U.S. Supreme Court.

U.S. SUPREME COURT RULING:

The U.S. Supreme Court ruled 9-0 in favor of the plaintiffs, stating that Fiduciaries have an "ongoing obligation to monitor, and remove imprudent, trust investments." The U.S. Supreme Court did not express a view on the scope of the respondents' fiduciary duty, but instead remanded it to the 9th Circuit Court for final disposition.

HIGHLAND'S VIEWPOINT

Highland was not surprised by the U.S. Supreme Court's ruling. In 2014, we published a paper entitled "Managing Fiduciary Risk", where we stated that selecting and monitoring investment options is a key responsibility and this obligation should not be taken lightly by fiduciaries. We also listed several steps that fiduciaries can take to help manage their risk which include: documentation, establishing and follow an Investment Policy Statement, selecting and monitoring investment options, holding regular review meetings, and ensuring the fees charged to the plan are reasonable. We continue to believe that plan sponsors who include these steps in their process of overseeing their retirement plans will have success in fulfilling their fiduciary obligations. The Tibble v. Edison verdict should not only serve as a reminder that plan sponsors do have a fiduciary obligation, but it should also remind them to be prudent in their decisions which should also be clearly documented.

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HIGHLAND ASSOCIATES
2545 HIGHLAND AVENUE SOUTH
SUITE 200
BIRMINGHAM, ALABAMA 35205-2478
P. (205) 933-8664
F. (205) 933-7688

HIGHLANDASSOC.COM