



2015 Payroll Fact Sheet

WHAT RETIREMENT PLAN FIDUCIARIES SHOULD REMEMBER

On May 18, the Court held in *Tibble v. Edison International* that Employee Retirement Income Security Act (ERISA) fiduciaries have a continuing duty to monitor investment options and that plan participants have six years from the date of an alleged violation of that duty to file a lawsuit against the plan's fiduciaries. The employees in this lawsuit argued that the firm's 401(k) offered high cost shares of funds instead of lower cost options. Employees claim that they had to invest in retail funds, whose expenses are higher than what are commonly known as institutional class funds. The outcome on the case is expected to put more pressure on the employers to regularly review their plans' fees, as well as to negotiate with financial institutions to reduce their fees.

This is a simple reminder and validation that a 401(k) plan sponsor has an ongoing fiduciary duty to the plan's beneficiaries. That ongoing fiduciary duty means structuring the retirement plans and developing a process to protect the best interests of those beneficiaries. Protecting the best interests of plan beneficiaries, among other things, includes monitoring trust investments and removing imprudent ones.

Some good practices to bear in mind for plan fiduciaries include:

- Determine and document which parties are responsible for investment decisions (administrative committee, board of directors, investment committee, others)
- Review and update the investment policy statement
- Follow the policy for ongoing review and monitoring procedures for investment options and fees
- Consider fiduciary training
- Keep detailed documentation
- Review effectiveness of any outside investment advisor