STABLE VALUE FUND WITHSTANDS ERISA CHALLENGE

Hodgson Russ Employee Benefits Newsletter
April 27, 2018

Practices & Industries

Employee Benefits

Participants in a 401(k) plan challenged whether the stable value fund offered as an investment option represented a breach of fiduciary duty. The participants claimed that the manager of the fund was too conservative in the choice of investment options utilized within the stable value fund. The participants alleged that from 2010 through 2013 between 27% and 55% of the stable value fund assets were invested in highly liquid, short-term cash equivalent investments. Further, the participants alleged that the percentage invested in very conservative investments was at or above the highest levels held by other stable value fund and other stable value funds had limited these type of investments on average to 5% to 10% of their holdings. As a result the participants claimed that this portion of the fund had very small investment returns ranging from 0.28% to 0.17%.

The District Court for the District of Rhode Island granted the Defendant's motion to dismiss this case and the First Circuit Court of Appeals upheld the dismissal. The First Circuit Court held that the Plaintiff's claims were based on a type of "hindsight" analysis of past performance and held that those allegations are not sufficient to support a claim that plan fiduciaries were imprudent in making conservative investment decisions.

The decision in this case is similar to a decision reached earlier this year by the First Circuit Court of Appeals. In that case Plaintiffs alleged that the stable value fund's relatively low returns compared to other stable value funds was the result of disloyalty and imprudence under ERISA. In that case the Court held that plans may offer stable value funds and which could be intentionally and openly designed to be conservative. The Court stated that there's no authority holding that a plan fiduciary's choice of a benchmark, where the benchmark is fully disclosed to participants, can be imprudent by virtue of being too conservative. *Barchock v. CVS Health Corp.*, (1st Cir. 2018), *Ellis v. Fid. Mgmt. Tr. Co.*, (1st Cir. 2018).