
MassMutual settles part of excessive fee lawsuit for \$9.5 million

By Editorial Staff Tue, Nov 4, 2014

MassMutual has settled its lawsuit with Goldenstar retirement plan participants, which accused the retirement plan provider of violating its fiduciary responsibilities when it received revenue-sharing payments from asset managers that provided investment options to their plan.

The parties in *Goldenstar, Inc. v. MassMutual Life Insurance Co.* filed a motion last Friday seeking court approval of a settlement of their lawsuit, in which plaintiffs challenged (among other practices) Mass Mutual's receipt of revenue sharing payments from investment providers in connection with plan investments, Fiduciary Matters blog reported.

The settlement agreement allows for two settlement classes to be approved:

- The Monetary Relief Class, which covers current and past retirement plan customers of MassMutual. This class will receive a payment of \$9,475,000, which will be reduced by a claim for attorney's fees up to 1/3 and costs up to \$315,000.
- The Structural Changes Class, which covers current and future retirement plan customers of MassMutual.

For the Structural Changes Class, the promised changes to be implemented over the next 12 months include:

MassMutual shall make the following changes to the menu(s) of investments it offers ("Product Menu(s)"):

- Identify to plan sponsors any addition of any insurance company Separate Investment Account, Mutual Fund, Bank Collective Trust Fund or other investment option to the Product Menu(s).
- Give 60 days notice and obtain Plan fiduciary's consent (or failure to object) before deleting, changing or replacing any funds or classes of funds in a plan's selected investment lineup, unless the fund is no longer available. A violation can result in termination of group contract without a surrender charge or penalty.
- Notify plan sponsors on the MassMutual's Plan Sponsor Website of any removal of a Fund from the Product Menu at least thirty (30) days prior to the removal, and state the effective date of the removal.
- Inform current plan sponsors within 90 days of the effective date of any settlement and future plan sponsors at point of sale in writing that such deletions will be identified on the Plan Sponsor Website.
- Provide on the Plan Sponsor Website for each fund made available by MassMutual a disclosure of the expense ratio for each Fund, including the amount, if any, of the SIA Management Fee or other direct fees specifically associated with each Fund.
- Disclose for each Fund made available by MassMutual the revenue paid to MassMutual from a Fund, including disclosure of those Funds that make no revenue sharing payments to MassMutual.

MassMutual modify its written point of sale disclosure, so as to make the revenue sharing process, and the

differences between fund share classes, and the significance of those differences, transparent, so that the Plan customers will know that they have the option of paying directly for plan services rather than indirectly through higher charges for certain fund share classes.

Each of the Plans in the Settlement Classes will be deemed to have elected to reinvest all mutual fund dividends from the effective date of the Plan's Group Contract. Defendant's point of sale disclosures will now provide that, as a result of entering into a contractual relationship with Defendant through a Group Contract, each Plan is directing Defendant to reinvest any mutual fund dividends.

Defendant will include in its proposal an explanation of the option for Plan customers to pay all fees to Defendant through direct charges and, if requested by the plan sponsor or its advisor, will offer a menu of Funds for which Defendant does not receive revenue sharing payments.

Defendant shall not make any change in the compensation that it receives from the Plans, including the SIA Management Fees or the Funds without providing each affected Plan with sixty (60) days written notice and an opportunity to terminate its Group Contract without penalty if the changes are not acceptable.

The filings do not provide a monetary value to this affirmative relief.

The post [MassMutual Settles Excessive Fee Lawsuit](#) appeared first on [Fiduciary Matters Blog](#).

The lawsuit brought by MassMutual's own employees is not affected by this lawsuit.

Excluded from the classes are:

- Defendant,
- Any administrators of retirement plans ("Plans") for which Defendant's directors, officers or employees are beneficiaries
- Any Plans for which the Judge(s) to whom this case is assigned or any other judicial officer having responsibility for this case is a beneficiary,
- Any Plans that were former Hartford Plans (as that term is defined in the Settlement Agreement), and
- Any Plans which are invested through registered products