
MassMutual settles suit over its own retirement plan for \$30.9 million

By Editorial Staff Thu, Jun 23, 2016

The terms of the settlement include a provision that MassMutual will not charge its plan participants more than \$35 each for standard recordkeeping services for the next four years, and will no longer charge an asset-based fee for such services.

MassMutual has agreed to pay \$30.9 million to [settle](#) a class action lawsuit filed against it in 2013 by plaintiff's attorney Jerry Schlichter on behalf of 14,000 participants in the insurer's own employee retirement plan, who alleged that the plan was stocked with MassMutual's own proprietary investments rather than less expensive options.

The \$30.9 million will pay damages to the participants along with plaintiff's attorney fees, administrative expenses, and compensation to the workers who brought the class action. The seven named plaintiffs in the case were designated to receive \$15,000 each.

A MassMutual spokesman said, "While MassMutual denies the allegations within the complaint and admits no fault or liability, we are pleased to put this matter behind us, avoiding the expense, distraction and uncertainty associated with protracted litigation... Importantly, the amount of the settlement is not material to MassMutual's financial strength, nor its 2016 financial results."

The lawsuit alleged that MassMutual and its top executives, including the CFO and three MassMutual fund managers, violated their fiduciary duties to plan participants under ERISA by using MassMutual proprietary funds for 36 of 38 plan options. It was alleged that the executives acted in the company's interest rather than the interests of the plan participants.

According to a report in NAPA Net, MassMutual agreed to (among other things):

- Use an independent consultant who has specific expertise with stable value investments, and to, within one year of the effective date of the settlement will make recommendations regarding the investment structure of the plan's fixed interest account, "including, but not limited to, considering a general account investment versus a separate account or synthetic model."
- Ensure that its plan participants were charged no more than \$35 per participant for standard recordkeeping services (e.g., excluding charges for unique individual transactions such as loan processing) for a period of four years and beginning no later than six months after the settlement's effective date.
- Make sure that the fees paid to the plans' recordkeeper will not be set or determined

on a percentage-of-plan-assets basis.

- Identify “those fiduciaries and their job titles shall be identified in an annual participant statement, such as a Summary Plan Description,” where plan committee members reported to MassMutual’s CEO.
- See that its plan fiduciaries “attend a fiduciary responsibility presentation provided by experienced ERISA counsel and an independent investment consultant.”
- Review and evaluate all investment options then offered in the plans, with the assistance of the independent consultant, and to consider “without limitation, (1) the lowest-cost share class available for any particular mutual fund considered for inclusion in the Plans; (2) collective investment trusts and single client separate account investments; and (3) passively managed funds for each category or fund offering that will be made available under the Plans.”
- Consider at least three finalists for any style or class of investment, and if collective investment trusts or separately managed accounts are utilized, to secure most favored-nations treatment for the benefit of the plans.