

# American Century employees sue for excessive 401(k) fees

Plaintiffs allege the asset management firm populated the retirement plan with proprietary investments for its own gain.



July 20, 2016 [By Greg Iacurci](#)

Employees of American Century Companies, Inc., parent of asset management firm American Century Investments, have sued over the firm's 401(k) plan, the latest in a string of lawsuits targeting financial services companies for their own retirement plans.

The class-action lawsuit, [Wildman et al v. American Century Services, LLC et al](#), alleges breach of fiduciary duty under the Employee Retirement Income Security Act of 1974 for excessive investment management and record-keeping fees, imprudent fund selection and for self-dealing by American Century, which plaintiffs contend filled the retirement plan with proprietary investment options for its own benefit. Steve Wildman and Jon Borcharding, former American Century employees, are the named plaintiffs representing the class of plan participants.

Since 2010, fiduciaries of the [\\$600 million American Century Retirement Plan](#) populated the plan's investment menu solely with American Century funds, using a selection process "tainted by self-interest" rather than a prudent one that would have led fiduciaries to use less-expensive

funds with similar or better performance, the complaint said.

“Defendants have used the Plan as an opportunity to promote American Century’s mutual fund business and maximize profits at the expense of the Plan and its participants,” the plaintiffs said in the complaint, claiming the firm earned millions of dollars in fees by retaining proprietary investments.

Plan fiduciaries also allowed “grossly excessive” revenue-sharing payments to be made to JPMorgan Retirement Plan Services and Schwab Retirement Plan Services Inc., the plan’s two record keepers over the relevant time period, according to the complaint, filed Jun. 30 in the U.S. District Court for the Western District of Missouri, Western Division.

Chris Doyle, a spokesman for American Century Investments, said the suit “is without merit and we intend to mount a vigorous defense.”

American Century is the most recent example in a growing list of financial services companies whose employees are suing for fiduciary breach in their own 401(k) plan.

Allianz Global Investors, Pacific Investment Management Co. and their parent company Allianz Asset Management were sued by employees [in October last year](#), as was Putnam Investments in November.

Plaintiffs have also won numerous multimillion-dollar settlements in such cases, amid a backdrop of excessive-fee suits [gathering steam](#). In June, for example, Massachusetts Mutual Life Insurance Co. agreed to settle allegations concerning its 401(k) plan [for \\$31 million](#).

Transamerica Corp. followed with a [\\$3.8 million settlement](#) later that month.

Ameriprise Financial and Fidelity Investments paid out [\\$27.5 million](#) and [\\$12 million](#) settlements, respectively, over the last two years.

The increase in 401(k)-fee lawsuits against financial services companies can be attributed in part to the general success such cases have had, said Carl Engstrom, an associate attorney at law firm Nichols Kaster who’s involved in the 401(k) litigation practice, citing a few of these recent settlements.

Nichols Kaster represents plaintiffs in the American Century suit, as well as in the Allianz and Putnam cases. The American Century suit is “very similar” to the latter two, because it “involves a mutual fund company’s defined-contribution plan in which they’ve populated the plan exclusively with their own investments,” Mr. Engstrom said.

Further, the Supreme Court’s ruling in the [Tibble v. Edison lawsuit](#) last year weakened a “statute of limitations” argument that could be used by defense, which contended that fiduciaries couldn’t be sued over allegations concerning funds in a 401(k) plan for longer than six years, according to Mr. Engstrom.