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***Intel Corporation Investment Policy Committee, et al. v. Christopher M. Sulyma, No. 18-1116***

Today, the Supreme Court held that the provision of written disclosures to plan participants, standing alone, does not establish that the participants have “actual knowledge” sufficient to trigger the shorter of the two statutory filing deadlines contained in the Employee Retirement Income Security Act (ERISA). Rather, to trigger that filing deadline, the participants must actually have been aware of the information contained in the disclosures.

**Background:** Christopher Sulyma, an Intel Corporation employee and participant in two of the company’s retirement plans, filed suit in 2015 alleging that the plans’ fiduciaries breached their fiduciary duties by overinvesting participants’ savings in hedge funds and private equity investments. The Intel fiduciaries argued that Sulyma’s claims were barred by ERISA’s three-year statute of limitations because he received disclosures about the challenged investments in 2009. While ERISA provides participants with up to six years to assert fiduciary-breach claims, that deadline is shortened to three years if the participants have “actual knowledge” of the alleged misconduct. The district court agreed with the Intel fiduciaries that Sulyma’s receipt of the plan disclosures in 2009 established his “actual knowledge” and triggered the shorter limitations period. The Ninth Circuit reversed, holding that Sulyma did not have “actual knowledge” of the fiduciary breach because he never read the disclosures.

**Issue:** Whether an ERISA plan’s disclosure of information to plan participants establishes that those participants have “actual knowledge” of the disclosed information, triggering ERISA’s three-year statute of limitations?

**Court’s Holding:** In a unanimous opinion written by Justice Alito, the Supreme Court held that ERISA plan participants do not have “actual knowledge” of information contained in plan disclosures that they received, but did not read. Affirming the Ninth Circuit, the Court held that participants must actually read a plan’s disclosures and understand that misconduct has occurred to have the “actual knowledge” required to trigger ERISA’s three-year statute of limitations.

Rejecting the Intel fiduciaries’ argument that merely receiving plan disclosures gives participants “actual knowledge” of misconduct, the Court explained that “Congress has repeatedly drawn a ‘linguistic distinction’ between what an ERISA plaintiff actually knows and what he should actually know.” To show “actual knowledge,” the participant “must in fact have become aware of that information.” Had Congress intended otherwise, it would have required “presumed” or “imputed” knowledge to trigger ERISA’s three-year statute of limitations.