ACADEMY ALERT

AMERICAN ACADEMY *of* ACTUARIES

Objective. Independent. Effective.™

PENSION ISSUES

Alert No. 2020-PEB-3

June 2, 2020

U.S. Supreme Court Rules on Funded Pension Plans Suit

The U.S. Supreme Court issued a decision in the case *James J. Thole et al. v. U.S. Bank NA et al*, ruling that the plaintiffs did not have standing to bring claims of mismanagement of the workers' U.S. Bank pension plan, establishing that pension fund mismanagement claims are not valid unless the plan is underfunded and participants have not seen their benefit payments reduced or altered.

The final decision stems from a 2013 case in which U.S. Bank pension beneficiaries accused the parent company, U.S. Bancorp of mishandling investment decisions that caused $750 million in losses to the workers' pension plan between 2007 and 2010. The workers' case cited the actions of the company to be in fiduciary violation of the Employee Retirement Income Security Act (ERISA). After U.S. Bank voluntarily contributed $311 million to the plan to partially mitigate the loss, the case was dismissed by the district court and that ruling was affirmed by the U.S. Court of Appeals for the Eighth Circuit. The plaintiffs then petitioned the Supreme Court.

In addition to setting precedent for future funded pension plan ERISA suits, the decision distinguishes certain aspects of defined benefit (DB) pension plans and defined contribution (DC) retirement plans, noting that because DC retirement plans are subject to increased benefit value fluctuations depending on the financial condition of the plan, workers with DC retirement plans are more likely to have standing in fiduciary breach lawsuits than those in DB pension plans as an employer assumes risk in these plans.

If you have any questions regarding this ***Academy Alert***, please contact Philip Maguire, pension policy analyst (maguire@actuary.org; 202-785-7865).