Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

INTEL CORPORATION INVESTMENT POLICY COMMITTEE ET AL. *v.* SULYMA

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 18–1116. Argued December 4, 2019—Decided February 26, 2020

The Employee Retirement Income Security Act of 1974 (ERISA) requires plaintiffs with "actual knowledge" of an alleged fiduciary breach to file suit within three years of gaining that knowledge, 29 U. S. C. §1113(2), rather than within the 6-year period that would otherwise apply. Respondent Sulyma worked at Intel Corporation from 2010 to 2012 and participated in two Intel retirement plans. In October 2015, he sued petitioners—administrators of those plans—alleging that they had managed the plans imprudently. Petitioners countered that the suit was untimely under §1113(2) because Sulyma filed it more than three years after they had disclosed their investment decisions to him. Although Sulyma had visited the website that hosted many of these disclosures many times, he testified that he did not remember reviewing the relevant disclosures and that he had been unaware of the allegedly imprudent investments while working at Intel. The District Court granted summary judgment to petitioners under §1113(2). The Ninth Circuit reversed. That court agreed with petitioners that Sulyma could have known about the investments from the disclosures, but held that his testimony created a dispute as to when he gained "actual knowledge" for purposes of §1113(2).

Held: A plaintiff does not necessarily have "actual knowledge" under §1113(2) of the information contained in disclosures that he receives but does not read or cannot recall reading. To meet §1113(2)'s "actual knowledge" requirement, the plaintiff must in fact have become aware of that information. Pp. 5–12.

(a) ERISA's "plain and unambiguous statutory language" must be enforced "according to its terms." *Hardt* v. *Reliance Standard Life Ins. Co.*, 560 U. S. 242, 251. Although ERISA does not define the phrase

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"actual knowledge," its meaning is plain. Dictionaries confirm that, to have "actual knowledge" of a piece of information, one must in fact be aware of it. Legal dictionaries give "actual knowledge" the same meaning. The law will sometimes impute knowledge—often called "constructive" knowledge—to a person who fails to learn something that a reasonably diligent person would have learned. The addition of "actual" in §1113(2) signals that the plaintiff's knowledge must be more than hypothetical. Congress has repeatedly drawn the same "linguistic distinction," *Merck & Co.* v. *Reynolds*, 559 U. S. 633, 647, elsewhere in ERISA. When Congress has included both actual and constructive knowledge in ERISA limitations provisions, Congress has done so explicitly. But Congress has never added to §1113(2) the language it has used in those other provisions to encompass both forms of knowledge. Pp. 5–8.

(b) Petitioners' arguments for a broader reading of §1113(2) based on text, context, purpose, and statutory history all founder on Congress's choice of the word "actual." Petitioners may well be correct that heeding the plain meaning of §1113(2) substantially diminishes the protection that it provides for ERISA fiduciaries. But if policy considerations suggest that the current scheme should be altered, Congress must be the one to do it. Pp. 8–11.

(c) This opinion does not foreclose any of the "usual ways" to prove actual knowledge at any stage in the litigation. *Farmer* v. *Brennan*, 511 U. S. 825, 842. Plaintiffs who recall reading particular disclosures will be bound by oath to say so in their depositions. Actual knowledge can also be proved through "inference from circumstantial evidence." *Ibid*. And this opinion does not preclude defendants from contending that evidence of "willful blindness" supports a finding of "actual knowledge." Cf. *Global-Tech Appliances, Inc.* v. *SEB S. A.*, 563 U. S. 754, 769. Pp. 11–12.

909 F. 3d 1069, affirmed.

ALITO, J., delivered the opinion for a unanimous Court.

SUPREME COURT OF THE UNITED STATES

No. 18–1116

INTEL CORPORATION INVESTMENT POLICY COMMITTEE, ET AL., PETITIONERS *v.* CHRISTOPHER M. SULYMA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[February 26, 2020]

JUSTICE ALITO delivered the opinion of the Court.

The Employee Retirement Income Security Act of 1974 (ERISA) requires plaintiffs with "actual knowledge" of an alleged fiduciary breach to file suit within three years of gaining that knowledge rather than within the 6-year period that would otherwise apply. §413(a)(2)(A), 88 Stat. 889, as amended, 29 U. S. C. §1113. The question here is whether a plaintiff necessarily has "actual knowledge" of the information contained in disclosures that he receives but does not read or cannot recall reading. We hold that he does not and therefore affirm.

I

A

Retirement plans governed by ERISA must have at least one named fiduciary, §1102(a)(1), who must manage the plan prudently and solely in the interests of participants and their beneficiaries, §1104(a). Fiduciaries who breach these duties are personally liable to the plan for any resulting losses. §1109(a). ERISA authorizes participants and

their beneficiaries, as well as co-fiduciaries and the Secretary of Labor, to sue for that relief. §1132(a)(2).

Such suits must be filed within one of three time periods, each with different triggering events. The first begins when the breach occurs. Specifically, under §1113(1), suit must be filed within six years of "the date of the last action which constituted a part of the breach or violation" or, in cases of breach by omission, "the latest date on which the fiduciary could have cured the breach or violation." We have referred to §1113(1) as a statute of repose, which "effect[s] a legislative judgment that a defendant should be free from liability after the legislatively determined period of time." *California Public Employees' Retirement System* v. *ANZ Securities, Inc.*, 582 U. S. ___, ___ (2017) (slip op., at 5) (internal quotation marks omitted).

The second period, which accelerates the filing deadline, begins when the plaintiff gains "actual knowledge" of the breach. Under §1113(2), suit must be filed within three years of "the earliest date on which the plaintiff had actual knowledge of the breach or violation." Section 1113(2) is a statute of limitations, which "encourage[s] plaintiffs to pursue diligent prosecution of known claims." *Id.*, at ___ (slip op., at 5) (internal quotation marks omitted).

The third period, which applies "in the case of fraud or concealment," begins when the plaintiff discovers the alleged breach. §1113. In such cases, suit must be filed within six years of "the date of discovery." *Ibid.*

B

Respondent Sulyma worked at Intel Corporation from 2010 to 2012. He participated in two Intel retirement plans, the Intel Retirement Contribution Plan and the Intel 401(k) Savings Plan. Payments into these plans were in

turn invested in two funds managed by the Intel Investment Policy Committee.[1] These funds mostly comprised stocks and bonds. After the stock market decline in 2008, however, the committee increased the funds' shares of alternative assets, such as hedge funds, private equity, and commodities. These assets carried relatively high fees. And as the stock market rebounded, Sulyma's funds lagged behind others such as index funds.

Sulyma filed this suit on behalf of a putative class in October 2015, alleging primarily that the committee and other plan administrators (petitioners here) had breached their fiduciary duties by overinvesting in alternative assets. Petitioners countered that the suit was untimely under §1113(2). Although Sulyma filed it within six years of the alleged breaches, he filed it more than three years after petitioners had disclosed their investment decisions to him.

ERISA and its implementing regulations mandate various disclosures to plan participants. See generally 29 U. S. C. §§1021–1031; see also *Gobeille* v. *Liberty Mut. Ins. Co.*, 577 U. S. ___, ___–___ (2016). Sulyma received numerous disclosures while working at Intel, some explaining the extent to which his retirement plans were invested in alternative assets. In November 2011, for example, he received an e-mail informing him that a Qualified Default Investment Alternative (QDIA) notice was available on a website called NetBenefits, where many of his disclosures were hosted. See App. 149–151; see also 29 CFR §§2550.404c–5(b)–(d) (2019) (QDIA notices); §2520.104b–1(c) (regulating electronic disclosure). This notice broke down the percentages at which his 401(k) fund was invested in stocks, bonds, hedge funds, and commodities. See App. 236. In 2012, he received a summary plan description explaining that the

[1] Specifically the Intel Global Diversified Fund, in which his retirement contribution plan was automatically invested, and the Intel Target Date 2045 Fund, which he chose for his 401(k) plan.

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