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# BlackRock sued for charging 'excessive fees' on mutual funds

By Joe Morris, Financial Times [subscription required]

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BlackRock is in the line of fire of a number of US lawsuits that allege the world's largest fund manager is charging excessive fees for some of its mutual funds.

Four shareholder suits filed over the past three months claim the company's US-domiciled funds overcharge investors, as prohibited by federal securities law. While excessive-fee lawsuits are nothing new for US mutual fund managers, a rash of recent ones – including the BlackRock actions – take the novel tack of targeting subadvised funds, arguing that fund managers cannot justify their charges in excess of their subadvisers' fees.

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In one of the BlackRock suits, the plaintiff argues that the $30.5bn BlackRock Equity Dividend paid only 74 per cent of the investment management fees it collected to the fund's subadviser, retaining more than $37.6m in the 2013 fiscal year "despite doing little, if any, work".

The suit also points to lower fees charged by a comparable non-BlackRock fund that is subadvised by a BlackRock affiliate and argues as well that the Equity Dividend fund has failed to lower its fees in proportion to its rising asset base.

The three other suits level similar claims against BlackRock's $59.3bn Global Allocation.

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The legal basis for excessive fee claims lies in the Investment Company Act of 1940, but the Supreme Court set forth the standard for what is excessive under the law in a 2010 decision, defining it as "a fee that is so disproportionately large that it bears no reasonable relationship to the services rendered and could not have been the product of arm's-length bargaining".

All four BlackRock suits cite the sentence verbatim in describing the funds' fees.

Plaintiffs have never prevailed in an excessive-fund-fee suit verdict, and often such claims are dismissed. But late in 2012, two suits citing disparities between management and subadvisory fees overcame motions to dismiss, and those victories appear to have encouraged the subsequent suits, says Niels Holch, executive director of the Coalition of Mutual Fund Investors, a shareholder advocacy group.

"It has been very difficult for the plaintiffs' bar to get beyond the motion-to-dismiss phase, so it is significant that several of these subadvisory cases got over that hurdle," he says. "That is one reason why I think other plaintiffs' lawyers are getting interested in this type of case."

Fund managers typically defend against excessive fee claims by comparing their fees with those levied by peers, Mr Holch says, but focusing on subadvisory fees does seem to strengthen the plaintiffs' arguments.

"Those are arm's-length transactions because they are done competitively," he says. "It is based on the talent of the manager, but it is also based on price."