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Trustee role focus of filing on Enron

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A lawsuit accusing Northern Trust Corp. of failing to protect money it held in retirement funds for Enron Corp. employees could have long-term ramifications for the pension fund industry, experts said Thursday.

The trial could force so-called directed trustees, or companies that act as custodians for employees' benefit plans but do not pick investments, to adhere to stricter discipline.

"Clearly, this is going to have an impact on other companies like Northern Trust," said Shaun O'Brien, assistant director of public policy for the AFL-CIO. "Ideally, it would translate into more discipline and greater protection for participants."

Companies such as Mellon Financial Corp., the California Public Employees' Retirement System, and Fidelity Investments, the nation's largest mutual fund company, manage pension and other benefit plans for other firms. None was available to comment.

On Wednesday, a federal judge in Texas allowed the suit against former Enron Chairman Kenneth Lay and Northern Trust, the company's pension plan administrator, to proceed.

The suit said that even if Northern Trust acted as a custodian for the pension plan, it should have intervened to protect its clients when it became clear that Enron stock, which played a preponderant role in the plans' investments, was artificially inflated.

Eli Gottesdiener, a lawyer representing Enron employees, said the decision made clear the responsibly that trustees have in protecting pension funds, even if they are told what to do by the companies that employ them.

"This is huge in terms of precedent," he said. "It establishes that even directed trustees have fiduciary obligations and cannot blindly follow orders."

"At Northern Trust, we have fulfilled all of our obligations to the participants in the Enron benefit plan and have acted in accordance with all applicable laws," Northern Trust said in a statement.

The court's decision could put more of an onus on trustees, said Scott Henderson, a lawyer who specializes in investment management and pension fund issues for Boston-based law firm Bingham McCutchen LLP.

While directed trustees have no discretion on investments, Henderson said they might have to start assessing the risk of including company stock in pension investments.

"Pension funds are already nervous about the role company stock plays in their investment lineup," he

said. "Now they could be responsible for assessing the quality of company stock.

""It's a wake-up call for them to do their job and a reminder of who their clients really are: the participants, not the company," said Lynn Sarko, an attorney representing ex-Enron employees.