

FIRM NEWS

Second Circuit Rules BLIPS Claims Against NatWest Are Time-Barred

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The U.S. Court of Appeals for the Second Circuit on Nov. 19 ruled in favor of SRZ client The Royal Bank of Scotland Group, as successor to National Westminster Bank PLC (“NatWest”), in a suit brought by a group of investors alleging fraud in connection with loans issued by NatWest to facilitate the investors’ purportedly fraudulent tax shelter schemes. Those loans — worth several hundred million dollars — were part of a complex series of transactions known as a Bond Linked Issue Premium Structure (“BLIPS”) that investors used to generate substantial, on-paper tax losses. The IRS subsequently disallowed the investors’ tax losses, and the investors brought suit years later. NatWest successfully moved to dismiss the investors’ claims as time-barred under the New York statute of limitations. The Second Circuit unanimously affirmed, finding that the investors’ claim to have first discovered NatWest’s awareness of the allegedly fraudulent nature of the BLIPS scheme in 2009, after a government witness testified in a criminal case involving BLIPS, was “entirely artificial.” The Second Circuit agreed with NatWest that the publicly available information concerning BLIPS beginning in 2000 — including, among other things, IRS notices, a report by a U.S. Senate Subcommittee, news articles, and other civil and criminal litigation — rendered the investors’ claims untimely under the statute of limitations.

The SRZ team representing The Royal Bank of Scotland and NatWest was led by litigation partner Howard Schiffman and included litigation partner Michael E. Swartz and associate Robert E. Griffin.

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