

Sebi didn't give nod to shut Franklin MFs

Jayshree P. Upadhyay : 4-4 minutes : 26/08/2020

MUMBAI : Franklin Templeton India did not take any approval from the Securities and Exchange Board of India (Sebi) before shutting down six of its struggling debt schemes, according to the markets regulator's response to a recent right to information (RTI) application.

According to public statements by Franklin, the regulator was informed about the winding up of schemes at every step when it shuttered the debt schemes on 23 April citing severe illiquidity and redemption pressures due to the coronavirus pandemic.

The RTI query was filed by the Khambatta family, an investor in the Franklin Templeton funds and petitioners in the Gujarat high court case that contended that the asset manager's decision to wind up the schemes required the consent of investors.

The petition led to a stay on the winding-up process on 8 June. This petition, along with three others, are being heard daily by the Karnataka high court for quicker resolution of investor grievances against the asset manager.

In the RTI query, the Khambatta family said Franklin Templeton had claimed before the Gujarat high court and in a special leave petition in Supreme Court that the winding up of the schemes was done after taking appropriate permissions from Sebi.

The Khambattas sought information pertaining to the date on which the permission for winding up of the schemes was applied for, the date on which it was granted and documentary evidence of any deliberation on the permission.

"Sebi has not granted any such permission to Franklin to wind up the said schemes," Sebi said in the RTI response in the first week of August.

Mint has reviewed both the RTI query and its response.

"We have not made any statement before the hon'ble high court of Gujarat or the hon'ble Supreme Court about Sebi granting us prior permission to wind up these six schemes. As clearly stated in all our communications, the decision to wind up these schemes was taken in accordance with regulation 39(2) (a). We continue to follow due process, both in making investment decisions and with regard to the winding up of the funds and remain committed to following the regulations in all respects," said a spokesperson for Franklin Templeton in an emailed statement.

To be sure, the catch, in this case, is whether Franklin Templeton had merely informed the regulator or took permission before winding up the six schemes.

Franklin Templeton had initiated winding up of the six schemes based on Section 39 of mutual fund regulations, which empowers trustees of the asset management company to take such a decision to protect the interest of unitholders.

"Information to Sebi and approval of Sebi are two distinct parameters. Information to Sebi can also be pre-decision or post-facto. Sebi's stand that it has not provided any appropriate permission to wind up the schemes means the winding-up is due to other criteria specified in Regulation 39 of MF regulations and not by Sebi direction. The other two criteria are the opinion of trustees of a mutual fund or resolution by 75% unitholders." said Sumit Agrawal, founder, Regstreet Law Advisors.

Neil Borate in Mumbai contributed to the story.

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