



Franklin Templeton Group caught in a quagmire of repeated regulatory violations

Fined heavily by three global regulators in Canada, Hong Kong, Korea, says US SEC Report

SEBI fined Franklin Templeton a meagre Rs 10 lakh despite serious charges of operating its Investment Committee from abroad

The Franklin Templeton group, which is facing several serious litigations and strong proceedings for illegally winding up 6 schemes in India recently wherein around Rs 28,000 crore of around 40,000 investors has got stuck, has a long and controversial history of regulatory violations, globally.

The Franklin Templeton group has long been found to have indulged in regulatory breaches and shoddy practices for which global regulators not only fined it heavily which has been reported to the United States Securities and Exchange Commission (SEC), since Franklin Templeton is headquartered in Washington DC. As such, the US SEC has also reprimanded Franklin Templeton several times in the past.

As per the US SEC Report of 2019, three global regulators, the Financial Supervisory Service (FSS), Korea, the Securities and Futures Commission, Hong Kong, and the Ontario Securities Commission, Canada, have severely castigated and fined the Franklin Templeton group for serious regulatory violations over the past decade as under:

Action by Financial Supervisory Service (FSS), Korea

In connection with a review of FTITMC's risk management controls and procedures applicable to funds domiciled in Korea under Korean law, the Asset Management Examination Department of the Korean Financial Supervisory Service (FSS) alleged the following deficiencies in connection with the bankruptcies of certain portfolio holdings of certain such funds

managed by FTITMC: failure to disclose the details of non-performing assets; failure to provide timely net asset value of such funds reflecting fair market valuation of debt/equity swaps; failure to manage the funds in line with trust agreements with respect to credit and asset limits; and failure to prepare adequate risk management standards for certain Korean domiciled funds that held loans to companies that entered into Chapter 11 bankruptcy in the U.S. FTITMC cooperated with the review throughout the administrative proceeding.

On April 11, 2019, the Financial Supervisory Service (FSS) imposed an institutional caution and fine of KRW 50 million, ultimately reduced to KRW 40 million (approximately \$34,036 at the time of payment) for timely payment against Franklin Templeton Investment Trust Management Co. LTD. (FTITMC).

Action by Securities and Futures Commission, Hong Kong

On December 14, 2010, the Securities and Futures Commission (SFC) issued a public censure of Templeton Asset Management Ltd (TAML) in connection with its finding that TAML breached Rule 22 of the Hong Kong Takeovers Code as a result of TAML's inadvertent failure to disclose its dealings in the shares of a Hong Kong company between January 26, 2010 and April 15, 2010.

TAML cooperated with the SFC and consented to the censure in connection with its inadvertent failure to make disclosures required by the Takeovers Code. TAML publicly disclosed its holdings, but missed the additional code requirements.

Action by Ontario Securities Commission, Canada

On March 3, 2005, the Ontario Securities Commission (OSC) had censured Franklin Templeton Investment Corp (FTIC) after its investigation into the latter's market timing activity found several anomalies. The matter was resolved only when FTITMC and the OSC reached an agreement over the market timing activity.

Action by Securities & Exchange Board of India: Greater violations, minuscule penalty

In sharp contrast to the prompt and diligent action taken by world regulators, SEBI fined Franklin Templeton a mere Rs 10 lakh despite that the violations were of much graver scale and implications in this case.

The same US Report cited above states that, as early as 2016, the Franklin Templeton Assets Management Company (India) Private Limited was fined by SEBI on the grounds that its Investment Committees (IC) was not operating from India and all investment related decisions were being taken from outside India, casting aspersions on the quality of the asset class, a breach of regulatory norms.

However, despite such grave charges of regulatory breach—which SEBI detailed in its adjudication order NP/JS/ AO/46/2016 dated March 5, 2016, it imposed a meagre penalty of just Rs 10 lakh on Franklin Templeton.

SEBI's order indicting Franklin Templeton stated that as an India-domiciled mutual fund, it did not operate in accordance with the SEBI regulations that stipulate the form of the fund's investment committee (IC) and require that the fund carry out all of its operations, including location of IC members, within India.

In such a scenario which smacks of a cover-up, it remains to be seen whether such remote operations were the cause of the nature of investments made by Franklin Templeton which eventually led to their six schemes being illegally wound up. The global operation of critical decision making of Indian investment may also require an assessment of what should be the responsibility of the parent company against the losses incurred on account of such a winding up.

SEBI's blatant patronising of Franklin Templeton has by allowing it to illegally close its 6 schemes has left the 40,000 investors literally at the hands of fate. This is so because:

By allowing Franklin Templeton to close these debt schemes, SEBI is legalising an anticipated loss of Rs 23,000 Crore on around 40,000 unit holders, causing them to receive only Rs 5,000 Crore over an indefinite period of time. This is criminal on the part of SEBI as its duty is to protect and not sabotage the interests of investors.

The irony of the situation is, both Franklin Templeton and SEBI are silent on who is going to bear the Rs 23,000 crore loss due to this abrupt closure of these 6 debt schemes. Investors are demanding that SEBI declare Franklin Templeton “not fit and proper” since it manages a total investment of Rs 1.16 Lakh Crore in its other schemes which could be similarly at risk to approximately 38 lakh investors if the closure of these 6 schemes is permitted. Instead of siding with Franklin Templeton, SEBI needs to safeguard the interest of investors and save the mutual fund industry.

If Franklin Templeton is allowed to illegally close these 6 debt schemes, in theory it extrapolates to other mutual funds also. Then tens of crores of investors are estimated to have loss of Rs 20 lakh crore out of total investment of Rs. 25 lakh crore.

Kindly read the entire US SEC Report on www.cfma.in or Facebook page of Chennai Financial Markets and Accountability.

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