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FIIs surrender licences on tighter norms

Sebi drive to identify common ownerships triggers move in this category

Samie Modak & Mehul Shah / Mumbai August 10, 2012, 0:20 IST

A number of foreign institutional investors (FIIs) has surrendered licences following the Securities and Exchange Board of India's (Sebi) drive to identify funds belonging to the same group.

A little more than two dozen FII licences have been surrendered since March, with the total number of registered FIIs coming down from 1,781 in March to 1,756 at present, data on Sebi's website show. The names of the FIIs which have surrendered their licences couldn't be ascertained.

Siddharth Shah, who heads the corporate and securities practice group at Nishith Desai Associates, said Sebi's drive to identify common beneficial ownerships among FIIs within the same group and also the application of the 'aggregation' concept had encouraged such FIIs to surrender multiple licences.

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- Move to ensure holdings within the prescribed limits
- Same FII groups surrender multiple licences
- Sebi-registered FIIs see a drop from March
- FIIs failing to broad-base forced to give up licences

Indian law limits the holdings by an FII in a company to 10 per cent. It also recognises that a beneficial owner might hold shares through many FIIs and sub-accounts which constitute the group. Therefore, the aggregate holdings of an FII group is counted as the holding of a single FII. To ensure such prescribed holding limits are met, Sebi has gone on an information-seeking drive to identify beneficial owners for arriving at aggregate holding of an FII group, say sources.

"Sebi's drive to identify beneficial owners is to monitor the aggregate holding by an FII group to ensure that the holdings are within the prescribed limits. This is, therefore, a compliance initiative from Sebi and not an additional regulatory requirement," said M S Sahoo, advocate and former whole-time member of Sebi

In India, FIIs are registered with Sebi in two broad categories — 'investors' and 'investment enablers'. The latter, popularly known as investment managers, are FIIs that invest in India on behalf of their proprietary funds, which could be an asset management company, bank or trustee. Investors, also known as funds, are typically pooled aggregators like mutual funds, pension funds, investment trusts or insurance companies. It's necessary for such funds to be broad-based to be eligible to be registered as an FII with Sebi. A broad-based fund has to have at least 20 investors, with no single individual investor holding more than 49 per cent of the shares or units of the fund.

Experts said some FIIs might have been forced to give up their licence for failing to meet the requirement to broad-base. "FIIs which were registered under the investment manager categories without broad-based sub-accounts have been directed by Sebi to get client sub-accounts registered or, else, surrender the FII registrations," said Shah.

"If an investment enabler FII does not have any broad-based fund as its sub-account, it would have no business and, therefore, it should not continue as an FII," said Sahoo. He said surrendering of licences by such FIIs would lighten the regulatory burden on Sebi and avoid possible misuse of the route.