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Putnam Restitution Plan Raises Questions

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By Tom Leswing

A proposed plan for distributing an approximately $100 million **Putnam** market-timing settlement may allow retirement plan sponsors to use the assets to offset costs. If so, prior shareholders of Putnam funds through retirement plans won't receive any of the settlement money.

The plan, which was recently submitted by an independent consultant, is one of many such blueprints that have been proposed for distributing settlement assets to shareholders believed to have been harmed by frequent trading by market timers. In the case of Putnam, the plan discusses how the $50 million in civil penalties, $42 million in restitution and $5 million in disgorgement money resulting from SEC enforcement actions will be returned to investors. A similar plan will address settlements reached by the firm and the state of Massachusetts.

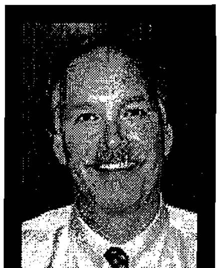
In rolling out the plan, Putnam joins the ranks of **Banc One**, which is part of **JPMorgan Chase**, **Columbia Funds** and **MFS**, all of which have submitted similar plans. **Pilgrim Baxter**, which is now part of **Old Mutual**, has also submitted a distribution plan that has since been approved by the SEC.

The proposed plan states that Putnam will absorb costs associated with administering the plan and will not benefit from any distributions made from the settlement fund. Additionally, it says past and current shareholders that held shares when the market timing occurred will be eligible for restitution. One exception, however, will be with retirement plan investors.

The plan spells out a variety of methods that can be used to calculate payments to such investors. It specifies, however, that identifying and tracking down retirement plan investors that were previously in Putnam funds may not be feasible. In such cases, the funds can be used to pay the current expenses of retirement plans.

That provision has at least one shareholder advocate concerned that former investors may not get their fair share from the settlement fund.

"There is definitely a different approach in making the payments if you are an investor through a retirement plan than through a broker-dealer," says Niels Holch, executive director of the Coalition of Mutual Fund Investors. "It's certainly easier administratively [to do it that way], but it's a question of fairness [to former investors]."



Niels Holch
Executive Director
Coalition of Mutual Fund Investors

Tracking down such investors, however, will be difficult, says Peter Delano, a senior analyst with **TowerGroup**. Investors may have changed employers over the years and may have moved to new addresses. In addition, recordkeepers over time may have changed recordkeeping systems, which could further complicate accessing historical records.

While that may be true, fund firms may be well served to ensure that prior shareholders receive a fair share of the market-timing settlements, says Mercer Bullard, founder of consumer group Fund Democracy and assistant professor of law at the University of Mississippi in Oxford. Indeed, attorneys for shareholders are waging litigation against Putnam and other fund shops that claims investors were harmed by the market-timing activities. If past shareholders don't receive a portion of the settlement, then their attorneys can argue for a larger amount of restitution on their behalf, he says.

He maintains that plaintiffs' attorneys could make similar arguments if a portion of the funds were used to offset the costs of distributing the checks to investors.

Indeed, some industry consultants have said that distributing the money will be a time-consuming and costly process. For example, firms will have to identify investors who held shares when the timing occurred. Armed with that information, they will have to calculate how much each investor should receive and then mail checks for the appropriate amount to each person. The Putnam plan, however, emphasizes that none of the settlement money will be used for costs associated with distributing the funds.

A spokeswoman for Putnam emphasizes that the plan will be made available for public comment, which the SEC will consider when deciding if it should be approved. She adds that Putnam and other parties involved in the incident are anxious to resolve the matter.

"This is a matter that all parties are eager to conclude, although no specific deadline has been set," she says.

Peter Tufano, a professor and senior associate dean at Harvard Business School, is the independent consultant for Putnam who drafted the plan.

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