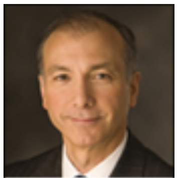
Best's News Service via Bestwire - March 30, 2016 03:33 PM

Update: Raymond James SVP Calls MetLife SIFI Rescinding Slap in Face to FSOC

WASHINGTON - (Adds new comment from the American Council of Life Insurers and the Treasury Department.) A federal judge rescinded the systemically important financial institution designation for MetLife Inc., agreeing with the company's arguments the Financial Stability Oversight Council arbitrarily singled out MetLife for enhanced prudential supervision.



Steven Kandarian

The decision likely will have broad implications for the industry and represents a significant rejection of the FSOC's regulatory authority.

"It is a positive for MetLife and slap in the face to the FSOC," Steven D. Schwartz, senior vice president for equity research Raymond James & Associates, told Best's News Service. "It certainly removes a risk [of designation] for other companies."

The ruling by U. S. District Judge Rosemary M. Collyer, of the U. S. District Court for the District of Columbia, was widely anticipated and culminated a 15-month legal battle led by company Chairman and Chief Executive Officer Steven Kandarian.

"Today's ruling validates MetLife's decision to seek judicial review of our SIFI designation," Kandarian said in a statement. "From the beginning, MetLife has said its business model does not pose a threat to the financial stability of the United States. This decision is a win for MetLife's customers, employees and shareholders."

MetLife was designated a SIFI in December 2014 and filed the lawsuit a month later. It is the only SIFI designee to bring such a legal challenge. The other insurance companies so designated are American International Group Inc. and Prudential Financial Inc.

At a hearing last month before Collyer, MetLife attorney Eugene Scalia, of Gibson, Dunn & Crutcher, argued the company never got a fair hearing or the chance to explore a designation off-ramp.

During the hearing, the judge questioned the legality of how the companies were designated, saying she doubted whether neutral adjudicators were involved in the decision. Details of her ruling were sealed, pending another hearing next month with both MetLife and the FSOC. However, the ruling noted she did side with the company in its arguments that designation of MetLife was arbitrary and capricious and failed to consider the economic effects of the designation.

Scalia told the judge the consequences of a SIFI label were not attractive. Another SIFI, AIG, is under attack by a prominent shareholder who wants to break up the company to shed the SIFI designation, and MetLife itself is undergoing a spin-off of some retail operations (Best's News Service, Feb. 10, 2016).

With the ruling, the industry is breathing a sigh of relief, Grace Vandecruze, managing director, Grace Global Capital, told Best's News Service.

"This is the single biggest win for the insurance industry in the post-crisis era," Vandecruze said. "The entire industry looked at the fact that the federal government began to impose bank-entric rules on the industry and did not have the insurance expertise required."

MetLife was paralyzed in the strategic decision-making because it could not determine what level of capital it needed, Vandecruze said.

"MetLife has found the exit ramp to the Hotel California of the regulatory process of FSOC," Vandecruze said. "They did it through fighting it in court and shedding some assets from restructuring to make the argument even stronger."

Attempts to reach Eric Beckenhauer, a U.S. Department of Justice attorney representing the FSOC, for comment were unsuccessful. The FSOC has 30 days to decide whether it wants to appeal.

"It would be surprising to me if the FSOC did not appeal," Schwartz said. "Like Yogi Berra said, 'it ain't over till it's over.'"

Although significant, once the details of the ruling revealed, it probably will not impact the broader post-crisis financial reforms enacted by the Dodd-Frank Act, Bob Hartwig president and economist at the Insurance Information Institute, told Best's News Service.

"I don't think the ruling would invalidate Dodd-Frank," Hartwig said. "Probably the message [to FSOC] would be to design more objective criteria designating a SIFI."

In addition to the industry, lawmakers also reacted positively to the ruling. House Financial Services Committee Chairman Jeb Hensarling, whose committee has jurisdiction over the FSOC, said the ruling highlighted everything that is wrong with the current state of regulation.

"The Financial Stability Oversight Council typifies the unfair Washington insider system that Americans have come to fear and loathe," said Hensarling, a Texas Republican, "powerful government bureaucrats, secretive government meetings, arbitrary and capricious rules, and the power to pick winners and losers — and taxpayers always end up being the losers."

The company last month said it was talking with competitor MassMutual about selling its U.S.-based sales force of about 4,000. The Premier Client Group is the distribution channel for MetLife's products, according to its website, and has about 4,000 salespeople. The move to shed the retail unit is part of MetLife's efforts to protect its U.S.-based variable annuities business from what Kandarian has called "onerous" federal rules (Best's News Service, Feb. 25, 2016).

Although officially stated as being $300 million, the final cash purchase price after adjustments is expected to be in the $165 million range, net of adjustments, said Mike Fanning, executive vice president of MassMutual's U.S. Insurance Group (Best's News Service, March 10, 2016).

American Council of Life Insurers President and CEO Dirk Kempthorne applauded the ruling.

"As ACLI asserted in its amicus brief in this case, no life insurer presents a systemic risk to the nation's economy," Kempthorne said. "Labeling insurers as SIFIs and holding them to higher capital requirements will lead to higher costs for consumers without making the financial system any safer."

"We hope this decision prompts FSOC to revisit its other SIFI designations involving insurance companies," Kempthorne said, "and to adhere to a more realistic, fair and transparent analytical process going forward."

A Treasury Department spokesman said the department strongly disagreed with the court's findings.

"We are confident that FSOC's determination was lawful and will continue to defend the council's designations process vigorously," the spokesman said in a statement "FSOC conducted a rigorous analysis of MetLife, including extensive engagement with the company, and determined that material financial distress at MetLife could pose such a threat to the financial system.

"We firmly believe that FSOC acted well within its legal authority to protect the entire global economy," the spokesman said.

Operating units of MetLife have current Best's Financial Strength Ratings of either A (Excellent) or A+ (Superior).

(By Frank Klimko, Washington correspondent, BestWeek: frank.klimko@ambest.com)

BN-NJ-3-3/30/2016-2016 1710 ET #

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