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MetLife Wins Battle to Remove 'Too Big to Fail' Label

By VICTORIA FINKLE MARCH 30, 2016

WASHINGTON — Opponents of the Dodd-Frank financial overhaul won an important battle on Wednesday as a federal judge here stripped the "too big to fail" label from the insurance company MetLife.

With memories still fresh on how the American International Group's 2008 near-collapse rattled the global financial system, the Dodd-Frank Act empowered regulators to classify certain large nonbank institutions as deserving as the big banks of increased capital requirements and greater scrutiny.

But Judge Rosemary M. Collyer of the Federal District Court for the District of Columbia overturned MetLife's designation, raising questions about how regulators determine who is too big to fail.

The judge's full opinion is currently under seal, but her order on Wednesday said that she had upheld arguments that regulators failed to adequately assess the insurance company’s vulnerability to extreme financial distress and the potential economic impact of the designation.

She also appeared to back, at least in part, MetLife’s charge that regulators relied on unsubstantiated assumptions or speculation during the designation process that were not supported by the reform law or regulators’ own interpretive guidance.

“Today’s ruling really vindicates our decision to seek a judicial review of that designation,” said Steven A. Kandarian, the chief executive and chairman of MetLife, the nation’s largest life insurer.

The Treasury Department said in a statement that it disagreed with the judge’s decision and that it would continue to defend the “designations process vigorously.”

Regulators, it said, “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.”

A Treasury spokesman did not respond to requests for comment on whether the government would appeal the ruling. The Treasury Department, under Secretary Jacob J. Lew, leads a body of regulators created by Dodd-Frank — the Financial Stability Oversight Council — to make decisions about systemically important financial institutions.

Several supporters of Dodd-Frank said they hoped the legal fight would continue.

“I don’t think there’s any question that if this decision were allowed to stand, it would, at a minimum, slow down the regulation of systemic threats to the shadow banking system, and it may well prevent the regulation of those systemic threats,” said Dennis Kelleher, president and chief executive of Better Markets, an advocacy group.

Some warn that the decision could also sway future rule-making efforts. The Federal Reserve, for example, is writing new rules to oversee insurance companies deemed systemically important.

Robert J. Jackson, a professor at Columbia Law School and a former adviser to the Treasury Department, said that the judge’s decision on Wednesday could have a chilling effect.

“My concern would be that federal regulators are going to be afraid to take the steps they’ll need to take to stop another A.I.G.,” he said. (With other law professors, Mr. Jackson wrote an amicus brief in support of the government’s position.)

At the same time, the decision will most likely embolden House Republicans who have criticized the Treasury Department and the oversight council for not being more open about the process.

The House Financial Services Committee issued subpoenas to four Treasury officials this month, part of a fight for more information around the agency’s handling of the debt ceiling. Several lawmakers have also introduced legislation in recent years intended to make the council and the designation of nonbanks more transparent.

“The Financial Stability Oversight Council typifies the unfair Washington insider system that Americans have come to fear and loathe: 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,” Representative Jeb Hensarling of Texas, the Republican chairman of the committee, said in a statement on Wednesday.

Besides MetLife and A.I.G., Prudential Financial and General Electric’s financing arm are the other nonbanks that have been designated systemically important. Some are already changing.

MetLife and General Electric's finance arm are seeking to separate or sell businesses to lose the designation. A.I.G. has decided to streamline, but is stopping short of an outright breakup, something activist investors like Carl C. Icahn and John Paulson have pushed it to pursue.

Depending on the details of the judge's full opinion, Prudential and A.I.G. may also weigh their own legal challenges.

"If Judge Collyer's decision details her belief that the process is unlawful, then the odds of legal challenges from A.I.G. and Prudential increase," said Isaac Boltansky, an analyst with Compass Point Research & Trading. "But if her decision is more narrowly defined and she says the process was incorrectly applied to MetLife, then the dynamics for A.I.G. and Prudential are unlikely changed."

The firms themselves said little after the court ruling.

"We continuously review developments that impact our company, and we are evaluating what is in the best interests of the company and our shareholders," said Scot Hoffman, a spokesman for Prudential Financial.

An A.I.G. spokesman declined to comment on the ruling.

MetLife was found to be systemically important in December 2014, and the company sued the government a month later. The two sides made their arguments before Judge Collyer last month.

At the time, the judge asked several questions that suggested that she might be skeptical of how regulators analyzed the MetLife case.

On Wednesday, Judge Collyer ordered both sides to file a notice by April 6 regarding whether any portions of the opinion should remain blocked from public view.

Mr. Kandarian of MetLife said that the court decision would not affect his company's previously announced plans to spin off its retail life and annuity businesses, though he had previously acknowledged that the "too big to fail" label had played a role in the decision, among other factors.

"We are moving forward with the plan to separate the U.S. retail business," he said.

Shares of MetLife rose over 5 percent on Wednesday.

Liz Moyer contributed reporting from New York.

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