life annuity specialist

MetLife Says Labor Department Is Overstepping Authority in Probe

By Arthur D. Postal   May 10, 2021

MetLife responded to a Labor Department subpoena for information related to a snafu in the insurer's group annuity business by saying the regulator is overstepping its authority.

The administration and payment of insurance benefits isn't governed by the federal standard of the Employee Retirement Income Security Act, but rather by state insurance law, MetLife argued in a brief submitted last week.

The insurer also took pains to note that it "has worked hard to resolve this dispute without the need for judicial intervention," according to the filing. The company said it has held biweekly status calls with the Department of Labor, made witnesses available for interviews and turned over more than 20,000 pages of documents.

The federal agency wants to know more about an operation called "Project Chestnut." The initiative describes the company's effort to fix certain operational failures related to payments on group annuity contracts, which replace pension obligations that MetLife assumes.

The Employee Benefits Security Administration, an agency of the Labor Department, sought more details on the project but the insurer "refused to provide any further meaningful information," the subpoena document said.

For years, MetLife has been dealing with the fallout from its disclosure in December 2017 that it couldn't locate thousands of workers whose pension obligations had been transferred to its group annuity business.

In a filing with the Securities and Exchange Commission, the company attributed the failure to its making only two attempts to contact the beneficiaries. After that, they were presumed dead and the insurer released reserves related to the liabilities.

In the first half of 2018, both the head of its retirement and income solutions business and CFO stepped down, and the company said it had tightened its internal controls.

Not Erisa Issue

In its response to the subpoena last week, MetLife said that when a company transfers pension liabilities, selecting the annuity provider is a fiduciary act that's governed by Erisa. A company should evaluate annuity providers for their ability to pay claims and their creditworthiness.

But once the group annuity has been purchased, the assets of the plan are "fully removed from the Erisa regime," according to the insurer. At that point, anyone in the plan must turn to state regulators to address problems related to not receiving proper payments, it said.

Marcia Wagner, principal of **The Wagner Law Group** in Boston, said the Labor Department's demand for detailed information from MetLife is most likely not a sign of the regulator trying to expand its powers.

She doesn't think there will be many instances where Labor Department enforcement activities will be characterized as regulatory overreach, rather than as simply burdensome.

"The MetLife matter is more likely a one-off matter than an action indicating a desire to enforce Erisa on an expanded basis in the future," said Wagner, a specialist in pension and employee benefits law.

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