MetLife Consent – The Process is Troubling

We have reached out to Goldman Sachs, as MetLife's advisor on the consent fee, to request that Spectrum along with a majority group of hybrid bondholders talk with MetLife directly. As we stated in our note yesterday, it is unclear whether MetLife is in full appreciation of our views specifically or of any other bondholder views. We have not yet received an answer from Goldman to facilitate this request and it would be troubling that an institution as significant as MetLife, would seem either precluded from or not interested in taking a call from its hybrid stakeholders. If we are viewed as playing hardball, then hardball is only intended to be fair ball. Now that the company has made a standard $10 offer for an above standard consent, a discussion of reasonable but firm differences would be an appropriate next step. To be clear, we will vote "NO" to the $10 consent fee because this consent is worth more, here's why:

1. Using an alternative payment mechanism that forces MetLife to issue common stock in order to pay hybrid bondholders is paying debt by a contractual arrangement of equity – this could risk a tax deductibility challenge of any interest paid by that arrangement. We recall that Enron went through a significant legal challenge in the late 1990's when an ambitious IRS field agent challenged the company on an ordinary tax deduction of interest on its hybrid – a private letter ruling was ultimately issued by the IRS. This preserved the IRS debt vs. equity views outside the courts to be a continuing arbitrary weapon for future "bad actors" in the corporate world. Today, US banks don't need hybrids because they issue preferred stock instead. Therefore, any IRS tax challenge on a hybrid would be unburdened by the lobbying efforts like those that aggressively prevailed in the late 1990s. In the case of MetLife, a contractual arrangement of equity to pay debt on a whole class of bonds that are already getting significant equity credit from rating agencies could raise a question of intent, which is another IRS concern – **if MetLife issues debt that is already treated as significant equity and then pays that debt with an arrangement of equity, then isn't that equity for tax purposes?** We raise this issue to simply help MetLife understand that there is tax risk to setting a precedent in using an APM to pay a hybrid and the cost implication to shareholders of an IRS challenge would outweigh a non-standard consent fee.

2. Having expensive hybrids outstanding that someday may be attractive for the company to tender for when equity treatment rolls off would be better served to a satisfied hybrid class from this consent action. Furthermore, if the APM use happens and this does raise an IRS challenge, then the whole tax deductibility of hybrids may be a further unintended consequence and leave only higher cost common equity as replacement capital.
3. The full support of bondholder consents would effectively provide the common shareholders the full benefit of their Amendment to the extent it is passed.
4. Bondholders (and preferred stockholders) have been harmed by the Brighthouse Financial spin-off because substantial equity coverage has been transferred from creditors and placed into the pockets of shareholders. This non-standard consent, which effectively requests bondholders to bless this transfer away from them (through a consent to ease the financial tests), should reflect some extra consideration of this takeaway. **It would be inappropriate for us to accept any consent fee that did not give bondholders some due consideration of Brighthouse impairments.**

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