

13 July 1999

Ellen Lieberman, Esq.  
DEBEVOISE & PLIMPTON  
875 Third Avenue  
New York, New York 10022

Re: No Action Request in Connection with the Demutualization of  
Metropolitan Life Insurance Company  
No. 99-006

Dear Ms Lieberman:

The Arkansas Securities Department (the Department) has received your request on behalf of Metropolitan Life Insurance Company (MetLife) that the Department adopt a no action position regarding the proposed conversion of the Mutual Company from a mutual life insurance company to a stock life insurance company, i.e., a demutualization. The facts of this matter were set out in your letter of 2 July 1999 and an accompanying memorandum of the same date. Those facts as you represented them are recounted briefly in the next several paragraphs.

*FACTS.* The plan of reorganization (the Plan) is quite elaborate and will end in MetLife's being a stock life insurance company that is a subsidiary of a holding company, MetLife, Inc. (the Holding Company). On the effective date of the Plan (the Effective Date), the membership interests of policyholders whose policies were in force on the date the Plan was adopted (the Eligible Policyholders) will be extinguished, and the Eligible Policyholders will have the options of receiving cash, policy credits or common stock of MetLife. Immediately, the MetLife common stock will be exchanged for an equal number of shares of common stock of the Holding Company (Common Stock), which will be held in trust by the MetLife Policyholder Trust (the Trust). Eligible Policyholders for whom Common Stock is held by the Trust will have the options of having their Commons Stock sold through a purchase and sale program, or withdrawing their Common Stock at any time beginning two years after the Effective Date. Any sales made through the first option will be made on the open market, but no sales commissions or administrative expenses will be charged to the beneficial owners of the Common Stock thus sold. Eligible Policyholders allocated less than 1,000 shares of Common Stock will be entitled to purchase additional shares to bring their holdings up to 1,000 shares, also at no additional cost. Relevant to sales and purchases of the Common Stock is the initial public offering of the Common Stock, which will close on the Effective Date. You anticipate the Common Stock's being listed on the New York Stock Exchange.

The Trust will terminate at such time as the number of shares of Common Stock held by it constitutes less than 10% of the total issued and outstanding shares of Common Stock or when the Holding Company's board of directors terminates, which authority arises only when the number of shares of Common Stock held by the Trust constitutes 25% or less of the total issued and outstanding shares of Common Stock. Upon termination of the Trust, the remaining shares of Commons Stock still being held for Eligible Policyholders will be distributed in book entry form, together with all unpaid distributions, dividends and interest earned thereon.

You state that this trust structure was adopted in order to address certain challenges posed by this demutualization or reorganization, the most significant of which is the sheer size of the undertaking. Because MetLife has over 12 million policyholders, many of whom would only have a few shares allocated to them under the Plan, the gathering together of a quorum would prove to be almost impossible, you opine. Apparently to remedy this problem, the Trust would have the right to vote the shares of Common Stock at the direction of the board of directors of the Holding Company except in cases of decisions fundamental to the interests of the Eligible Policyholders, examples of which you list as contested director elections, mergers and similar transactions involving an exchange of shares,

in which case the Eligible Policyholders will have the right to instruct the Trust how to vote their shares. In the memorandum other details of the Trust are set out, but they are not recounted here because of their limited relevance to this question. Thus, you opine, under the Plan, the Eligible Policyholders would have the benefits of stock ownership, but none of the expenses involved in selling or purchasing stock.

Before the Effective Date, a minimum of 2/3 of the voting Eligible Policyholders must approve the Plan and the establishment of the Trust. Also before the Effective Date, you state that the Superintendent of the New York Insurance Department (the Superintendent) must approve the Plan. In giving that approval, you state that the Superintendent must make a finding or determination that the Plan—and specifically the issuance of the common stock of MetLife, the issuance of the Common Stock and the allocation of beneficial interests in the Trust—is "fair and equitable to the policyholders" affected by the Plan.

Certain officers, directors and employees of MetLife and the Holding Company and distributors of MetLife's insurance products (collectively, the Associates), some of whom might be registered with the National Association of Securities Dealers, may serve, you state in your letter, as "conduits of public information" about the Plan to MetLife policyholders with voting rights (Voting Policyholders). Although the Associates might recommend voting for the Plan, you state that they will not be effecting transactions in securities, but merely assisting Voting Policyholders in understanding the Plan and the consequences of this reorganization. The Associates will receive no compensation in connection with these activities and will not be in a position to handle customer funds or securities. Their activities will be strictly supervised, you say.

**QUESTIONS PRESENTED.** You seek a no action position from the Department in regard to five areas, to wit: 1) the issuance of MetLife shares of common stock to the Trust, 2) the exchange by the Trust of shares of MetLife common stock for an equal number of shares of Common Stock, 3) the allocation by the Trust of trust interests representing shares of Common Stock to Eligible Policyholders opting to take shares of Common Stock, 4) the withdrawal of shares of Common Stock from the Trust by simply withdrawing them or the withdrawal and addition of shares of Common Stock by operation of the purchase and sale program and 5) the use of the Associates for the purposes set out about. You seek the Department's confirmation that securities, broker-dealer and agent registration are not required, or its no-action position to that effect. You make this request in reliance on Rule 504.01(A)(12)(g), Rules of the Arkansas Securities Commissioner, which provides for an exemption from registration for:

[a]ny transaction incident to a class vote by security holders or *members*, pursuant to the certificate of incorporation, organizational document or applicable statute on a *merger, consolidation, reclassification of securities*, sale of assets in consideration of the issuance of securities of another entity or reorganization. [Emphasis added.]

**STAFF POSITION.** This transaction, as you have described it, falls specifically within the literal reading of Rule 504.01(A)(12)(g). Accordingly, the staff of the Department will recommend that the Commissioner take no enforcement action against the Mutual Company or the Holding Company if the transaction described takes place without prior registration of the securities issued by those two companies with the Department.

Please note that the position of the Department is based solely upon the representations made to us in your letter and the accompanying memorandum and applies only to the transaction identified therein. Different facts or circumstances might and often would require a different response. The position expressed deals only with anticipated enforcement action by the Department and does not purport to be a legal opinion.

Very truly yours,

Theodore Holder  
ASSISTANT SECURITIES COMMISSIONER