SEC halts trading in embattled LTCI seller

Penn Treaty's last financial statement filed in 2008; policyholders in limbo

By **Darla Mercado**
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The **Securities and Exchange Commission** temporarily halted trading in the stocks of Penn Treaty American Corp., an embattled long-term-care insurer that's now under the guidance of state regulators.

It's been about seven years since Penn Treaty filed a quarterly or annual financial statement with the SEC. The last one, a 10-K for 2006's results, was submitted in April 2008. The delay was due to accounting concerns related to the company's policyholder benefit reserve liability.

Those results show that at the end of 2006, Penn Treaty reported a net loss of $33.2 million, which was actually worse than the restated $14.9 million loss in its 2005 results, which were also restated.

The SEC cited Penn Treaty's seven-year gap in financial statements in announcing the suspension of trading in the company stock. “There is a lack of current and accurate information” concerning the company's securities, the regulator noted.

A call to Gene Woznicki, chairman of the board of directors for Penn Treaty and its LTC insurer subsidiaries, was not immediately returned.

The past few years have been a long and tumultuous journey for Penn Treaty. The company was once a top seller of long-term-care insurance, picking up a substantial amount of business before 2002. Indeed, the 1980s and 1990s were the salad days of the LTCI industry, when issuers were eager to sell coverage and, in some cases, offered policies that were underpriced.

But with policyholders living longer than expected — and more of them keeping their coverage than originally forecast — carriers have found themselves on the hook for steep liabilities. Low interest rates have made things even more difficult, as returns from bond investments been abysmal. Typically, carriers count on such investments to help pay for claims.

The policyholders, meanwhile, are often subject to rate increases as insurers try to update their assumptions to reflect the new reality of low interest rates, longer lives and higher-than-expected claims.

In 2009, then-Pennsylvania insurance commissioner Joel Ario seized Penn Treaty's insurer subsidiaries, American Network Insurance Co. and Penn Treaty Network America Insurance Co., placing them in rehabilitation. At the time, the two companies were having difficulty maintaining appropriate capital levels. Mr. Ario then petitioned the Commonwealth Court to liquidate the carriers in October of that year. After three years of legal battles, the request was denied.

Actuarial experts for Penn Treaty and American Network had determined the companies needed to raise rates by an aggregate 300% to stay solvent, according to documents from the Commonwealth Court. Those rate hikes would have to be spread out over a period of many years.

Liquidation, however, would lead to customers having their policies cancelled within 30 days and for state guaranty funds to provide some replacement coverage. But those funds are subject to a cap that limits benefits and varies from state to state.

Policyholders would essentially be in the middle: On the one hand, there could be large rate increases if the insurers were to continue in rehabilitation. On the other hand, if there were a liquidation, state funds would take up their claims and subject them to limits.

Current insurance commissioner Michael Consedine appealed the Commonwealth Court's decision to stave off liquidation in the State Supreme Court last October. The case is still in progress.

“We continue to wait for the Pennsylvania Supreme Court to issue their briefing schedule,” said Melissa Fox, a spokeswoman for the insurance department.

Darla Mercado - Darla Mercado covers life insurance, annuities and retirement products for InvestmentNews, and she's looking for advisers' informed opinions, plus chatter on products and other industry developments.