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Breaking News

Penn Treaty Stops Selling New Policies

BY TREVOR THOMAS

NU Online News Service, Oct. 3, 2008, 3:55 p.m. EDT

Long term care insurer Penn Treaty American Corp. says it has suspended sales of new policies and voluntarily agreed to submit a rehabilitation plan to the Pennsylvania Insurance Department Jan. 1, 2009.

If Penn Treaty, Allentown, Pa., cannot find a buyer or secure substantial financing, its auditors may declare the company is no longer a going concern, the company says.

Penn Treaty says its primary insurance subsidiary will become insolvent under the plan unless new financing is found to replace reinsurance agreements that were recently terminated.

The company says its subsidiaries have notified their primary reinsurer, Imagine International Reinsurance Ltd., that they intend to take back all policies reinsured under several agreements Jan. 1.

The company says its surplus has been enhanced by about \$145 million as a result of the reinsurance agreements. In taking back the reinsured policies, Penn Treaty's primary insurance subsidiary would be considered insolvent under Pennsylvania statute, unless the company can find another strategy for maintaining an adequate surplus by Jan. 1, the company says.

Penn Treaty's primary reinsurance agreement with Imagine reinsures "substantially all" long term care insurance policies issued before 2002 on a 100% coinsurance basis. The company can recapture the reinsured policies only on Jan. 1 of any year, subject to 90 days' advance notice.

Penn Treaty's annual cost for the reinsurance has been about \$14 million to \$15 million. Beginning in 2009, this cost is estimated to be about \$22 million to \$33 million due to penalty clauses in the agreement, Penn Treaty says.

Penn Treaty estimates that the increased costs

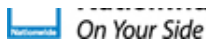
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would delay its ability to recapture the reinsured policies by at least 10 years. Its additional costs over those 10 years would exceed \$200 million, for which the company's policyholders would receive about \$100 million of additional claim protection.

The company says in its announcement that it is "continuing the review of strategic alternatives."

Penn Treaty American announced in August that Imagine, Bermuda, had withdrawn its offer to back older LTC insurance policies sold by 2 Penn Treaty subsidiaries, Penn Treaty Network America Insurance Company and American Network Insurance Company.

Penn Treaty told Imagine that it considered the reinsurer to be in breach of contract for failing to continue to underwrite the policies under a reinsurance agreement completed in 2005.

On June 30, 2005, Imagine agreed to reinsure all in-force LTC policies Penn Treaty issued before Jan. 1, 2002.

Under a second agreement in December of that year, Imagine promised to reinsure 75% of new LTC policies issued by the 2 subsidiaries.

Imagine reinsures substantially all Penn Treaty's LTC policies issued before 2002, providing about \$200 million in annual premium and covering over 100,000 policyholders nationwide, Penn Treaty says.

According to Penn Treaty, Imagine declined to continue backing the older policies because Penn Treaty failed to win approvals for rate increases on the policies from some state regulators.

In its announcement, Penn Treaty says it would pursue legal remedies for its dispute, including possible arbitration.

When Penn Treaty announced the dispute in August, a representative for Imagine declined to comment.

The insurer says its arbitration demand remains in effect and that it reserved its rights to take additional actions, including the right to pursue damages against the Imagine.

Penn Treaty says before the dispute it was negotiating in good faith with Imagine to modify future fees and recapture provisions of the agreements. When it claimed Imagine had breached the primary agreement, Imagine then halted all negotiations, making the agreement financially detrimental to the insurers' shareholders and policyholders, Penn Treaty says.

On Oct. 2, Penn Treaty notified Imagine it intends to take back the reinsured policies on January 1, 2009, recognizing that policyholder surplus would be in the red by \$100 million to \$120 million following the move.

The Pennsylvania Insurance Department approved the recapture, Penn Treaty says. The department declined to comment but noted that Penn Treaty's "existing policies remain in effect and

claims are being paid.”

Penn Treaty had previously announced it had engaged Friedman, Billings, Ramsey & Company, Arlington, Va., to look for prospective investors or buyers for the company by mid- October. Penn Treaty “intends to evaluate the offers made, if any, and if it is determined that an offer is in the best interests of the company and provides for adequate statutory surplus, the company hopes to receive a binding agreement for any selected proposal before January 1, 2009,” according to the company’s announcement.


If the company does not receive an agreement by Jan. 1, 2009, the company has asked the Pennsylvania Insurance Department to place its insurance subsidiaries under voluntary rehabilitation. Under such a plan, the subsidiaries would operate under the rehabilitation plan overseen by the state’s insurance commissioner.

Penn Treaty says it will start selling new policies again only if it can enter into an agreement that provides adequate surplus to do so.

The New York Stock Exchange has suspended trading of Penn Treaty shares of common stock and will delist the company’s common stock from its exchange as a result of the rehabilitation plan.

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