The Producer’s Guide to
The Life Settlement Market

Getting involved, finding success, and looking out for your clients’ best interests
# The Producer’s Guide to the Life Settlement Market

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Debunking the Life Settlement Myths

A primer on the secondary life insurance market

Like many other transactions you oversee, life settlements are designed to protect and maximize the resources of the policyholder. Unfortunately, and often unfairly, negative PR and a lack of understanding about this important financial tool have turned it into the black sheep of the insurance product family over the years. In reality, life settlements are too useful to ignore, and you may be doing your senior clients a great disservice if you do not have this product in your business portfolio.

In essence, a life settlement is the facilitation of a life insurance policy that sells for less than the face amount of the policy and more than the cash surrender value, said Brian Staples, former director of life insurance for the Kentucky Department of Insurance and current president of Right LLC, a consulting firm specializing in the secondary market.

Through a life settlement, policy owners can often make three to four times the amount of the policy’s cash surrender value. Thus, a life settlement turns a life insurance policy into a more liquid asset — one that is more valuable to the consumer.

Boiled down, a life settlement is really about financial empowerment. It’s about choice. For clients who no longer need their policies and who may require additional resources to cover medical expenses or cost-of-living increases, the ability to sell their policy to a third party can be an invaluable solution — much more profitable than surrendering or lapsing on a policy.

Here are three other points that are critical to our understanding of life settlements.

1. **LIFE SETTLEMENTS ARE NOT VIATIONAL SETTLEMENTS**
   In their short, 12-year history, life settlements have often been confused with other types of settlements. Chief among these are viatical settlements, essentially the parent of life settlements, from which the industry sprung in the late 1990s.

   Viatical and life settlements are similar in that they both involve the sale of a life insurance policy on the secondary market, but their fundamental purpose is different. Darwin Bayston, executive director of the Life Insurance Settlement Association, said that defining the difference between viaticals and life settlements is an ongoing goal for his organization.

   “A life settlement involves a transaction with someone who’s merely 60 years of age or older, whereas viatical settlements always deal with a person who is terminally or chronically ill, and does not have a life expectancy beyond two years,” Bayston said.

   This life expectancy difference is important because it changes the often-held perception that a life settlement buyer is “betting” on a policyholder’s life. While the policy value does rely on the owner’s life expectancy, it is also determined by the amount of the death benefit and the cost of future premium payments. And the death benefit payout does not need to be imminent — or at least not as imminent as some might think: In Agent Media’s 2011 Life Settlement Market Study, lifespan estimates ranged up to 110 months from the time of transaction. This helps put the life settlement on par with any other financial sale, erasing doubts about its legality or benefit to the seller.

2. **LIFE SETTLEMENTS HELP THE FINANCIALLY DISTRESSED**
   As the Life Settlement Market Study showed, an overwhelming number of producers said that the clients they represented sold their life insurance policies in order to pay for living expenses (78 percent) or medical bills (56 percent). This means that, while life settlements may traditionally be considered a tool for the wealthy, they actually provide a much-needed service for people with real financial needs. This is particularly true in a down economy.

   “Life settlements are best applied to financially distressed retirees who can no longer afford premium amounts because of the recession [and the corresponding] decline in home values, or who simply no longer need their policy because of the extension of the Bush tax cuts [or other changes in their estate plan],” said Clark Hogan, managing director at Opulen Capital.

   The data suggests that, very often, life settlements can help seniors who are not financially prepared for retirement — a growing concern in recent years. Now more than ever, life settlements provide a key service to people with unmet financial needs.

3. **LIFE SETTLEMENTS ARE A LEGAL RIGHT**
   Increasing state regulation means that the legal and ethical standing of life settlements is coming less and less into question. Yet we are still a ways off from embracing the idea that engaging in a life settlement is a right that should be protected. For Chris Orestis, president of Life Care Funding Group, this idea of legitimacy is at the core of the life settlement definition.
“I would say that the ability to transfer the ownership of a life insurance policy from its current owner to a third party is the legal right of every life insurance policy holder,” Orestis said.  

In order to facilitate this right, however, agents have a fiduciary responsibility to understand and explain this option to their clients. This requires education and regulatory knowledge. It is a challenge, but a rewarding task.

“Every settlement case that we’ve closed has been of tremendous financial impact to the policy owner, where once there was a burden,” Hogan said.

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What would be the biggest help to you in the successful completion of a life settlement transaction?

Note: Results reflect responses by those agents who HAVE NOT completed a life settlement transaction

- Additional training/education: 45%
- Removal of prohibitions on this activity by my insurance company: 22%
- Heightened consumer awareness about life settlements: 7%
- Effective marketing material/point-of-sale tools: 7%
- Assistance with the transaction process: 5%
- Better information about the provider or funder: 2%
- More transparency in the bidding process: 1%
- Reduction of barriers to participation in this transaction by state laws: 1%
- Other: 10%

Source: Agent Media/LISA 2011 Life Settlement Study
What to Expect in a Life Settlement Transaction

THE BROKER PROCESS

In Agent Media’s Life Settlement Market Study, 39 percent of agents said that they have worked through a life settlement broker. A broker acts as a liaison between an agent and a life settlement provider, collecting life expectancy information, soliciting bids, and negotiating for the highest possible settlement.

One of the broker’s greatest assets is networking power: Close relationships with providers means that a broker can generally obtain more bids than a lone agent. In turn, this means that your clients are more likely to get a competitive price for their policies. On average, the broker process can take anywhere from three weeks to three months, said Clark Hogan, managing director at Opulen Capital. Here’s how it works:

Step 1: Broker and agent consult to evaluate a potential client’s current financial picture, including age and policy size and type. If a settlement seems like a suitable tool for the client’s needs, the broker will fill in any gaps in understanding of life settlements, and will explain what fees might apply as the transaction moves forward.

Step 2: The broker collects documentation to submit to one or more life expectancy providers. There is no medical underwriting required. This process typically takes two to four weeks.

Step 3: Once the expectancy numbers are in, the broker packages the information together and submits to a network of active providers. The number of submissions depends on client demographics.

Step 4: Providers evaluate the package and start their bid process, which takes an additional one to three weeks, on average.

Step 5: In an effort to negotiate the trade higher, the broker pulls the highest bids and returns these to the marketplace with a shortened bid window.

Step 6: The broker will take a few of the highest bids (say, three) and submit to the client in a bid report card, which shows the policy settler the gross amount of the settlement, any charges placed on that by the brokerage, and the net settlement amount.

Step 7: The agent reviews the bids with the policyholder. If the policyholder finds one of the bids suitable, the transfer of ownership begins. The broker commits to an offer, creates closing documents, and oversees the sign-off and notification of the insurer.

Step 8: Once the sign-off is complete, funds are typically submitted to an escrow account and then released to the seller. A portion of the funds is distributed to the agent and broker for the agreed-upon commission and fee.

Step 9: Upon the death of the original policyholder, the death benefit is paid in full to the provider.

THE PROVIDER PROCESS

Fifty-three percent of agents in this year’s study stated that they have performed past life settlements directly with a provider. This takes the intermediary out of the transaction, and, in some ways, simplifies the process. In addition, experienced agents are sometimes able to submit bids to multiple providers, just as a broker would. When choosing a provider, agents rank compliance, customer service, and ease processing as the three most important traits.

Step 1: The agent collects documentation — including a client application, policy copies, and medical records — from the policyholder and submits the data to one or more providers.

Step 2: Each provider reviews the materials and submits the medical records to a life expectancy provider.

Step 3: Once life expectancy numbers are in, the provider(s) again review the materials and settle on a market value, which they then offer to the agent in a formal bid. The market value changes from provider to provider, as each firm has an individual demographic that fits their needs.

Step 4: The agent shares the bid numbers with the policyholder. If they accept a bid, the provider sends a closing package to confirm the sale, which the policyholder reviews and signs.

Step 5: Once the provider has signed closing documents, the insurer is notified of the transaction. All future premium payments will come from the provider.

Step 6: Once written verification of the ownership change is complete, the settlement fee is deposited in an escrow account, where the payment is released to the policy seller. The agent’s commission is then paid.

Step 7: Upon the death of the original policyholder, the death benefit is paid in full to the provider.
Life Settlement Encyclopedia of Terms

- **Accelerated death benefit.** A policy rider that allows the insured to collect an agreed-upon percentage of the death benefit prior to their death, if they become terminally ill. The remainder of the benefit is then paid out upon the death of the insured.

- **Cash surrender value.** The amount the insurer pays to the insured upon the policy surrender. This usually amounts to between 3 and 5 percent of the face value of the policy.

- **Lapse.** The termination of a life insurance policy, resulting from a policyholder’s failure to pay the premium. With lapsed policies, the policyholder loses the entire value of their investment.

- **Life settlement.** A life insurance policy that the policyholder no longer wants or needs, and which is sold to a third party for a sum less than the face value of the policy but more than the cash surrender value.

- **Surrender payment.** A fee often deducted from the amount the insurer owes when a policy owner surrenders a policy.

- **Viatical settlement.** The sale of a life insurance policy to a third party, wherein the seller is terminally ill and has a life expectancy of no more than two years. The policy seller receives a percentage of the death benefit at the time of sale; the purchaser receives the full death benefit upon the death of the insured.

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**When working with a provider, rank the following in terms of importance:**

<table>
<thead>
<tr>
<th>Service</th>
<th>Absolute must-have</th>
<th>Near must-have</th>
<th>Nice to have but not essential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance</td>
<td>87%</td>
<td>9%</td>
<td>3%</td>
</tr>
<tr>
<td>Customer service</td>
<td>78%</td>
<td>19%</td>
<td>3%</td>
</tr>
<tr>
<td>Easy processing</td>
<td>57%</td>
<td>39%</td>
<td>4%</td>
</tr>
<tr>
<td>Marketing support</td>
<td>54%</td>
<td>29%</td>
<td>17%</td>
</tr>
<tr>
<td>Highest offer</td>
<td>40%</td>
<td>46%</td>
<td>13%</td>
</tr>
<tr>
<td>Faster close</td>
<td>31%</td>
<td>54%</td>
<td>15%</td>
</tr>
<tr>
<td>High commissions</td>
<td>19%</td>
<td>33%</td>
<td>48%</td>
</tr>
</tbody>
</table>

*Source: Agent Media/LISA 2011 Life Settlement Study*
How to Take Your First Steps in the Life Settlement Market

BY JOHN YAKER

You know the stories and statistics — the life settlement industry continues to blossom; a growing number of brokers and agents are turning life insurance policies into substantial cash for clients and themselves; and in a struggling economy, more and more seniors could benefit from life settlements.

It seems like the perfect time to get involved in the industry. What you may not know, however, is how to take the first step. Each state has its own licensing requirements, and many in the general public remain completely unaware of the life settlement process. Even among your network of potential professional partners — such as CPAs, estate planners, and financial advisors — education and awareness can be limited.

On the whole, it can seem like too high of a hurdle to climb. In truth, however, getting involved with life settlements is too potentially lucrative for you to become discouraged by the obstacles.

FIRST STEPS

As with any successful journey, the path to life settlement success begins with a single step. In this case, you must first determine your state’s licensing requirements and fulfill them. Most states now require some form of licensing, each with its own variances. Becoming licensed not only provides the legal requirements you need, but also gives you credibility in the eyes of your potential clients and partners. The best place to start learning about licensing and regulation is through the Life Insurance Settlement Association (LISA) at www.thevoiceoftheinsuranceindustry.com.

When you’ve become a licensed life settlement agent, it quickly becomes your responsibility to become an educator, not a salesperson. Remember, the public is still largely unfamiliar with this $16 billion-and-growing industry, and many professionals are not far ahead of them.

The temptation will be strong to begin by simply cold-calling CPAs, estate planners, and other professionals who serve a client base that could greatly benefit from life settlements. Many agents have learned the hard way that this is neither an effective nor an efficient way to jump in. If you are visiting or calling 30 or 40 professionals on a daily basis, you are unlikely to schedule meetings with more than 5 percent of the people you visit, and less than 10 percent of those will wind up doing business with you.

Clearly, this is not a terrific return on investment. Rather than spending time cold-calling, I highly recommend establishing and maintaining a database of all financial professionals operating in the areas in which you are licensed and reaching out to them regularly. Creating educational marketing materials that can be viewed electronically at the professional’s convenience gives you an edge over more traditional outreach methods.

Having an established database and emailing that database allows you to reach hundreds of professionals, providing them with easy access to information about life settlements and your business. Before long, many of them will come to understand that life settlements can be a crucial component of their clients’ portfolios.

Another important step is to find the largest and most influential professional associations in your coverage area. By scheduling presentations in front of associations and business groups, you can speak to dozens of professionals simultaneously. You can check with your local and state chambers of commerce to begin this process.

If you have space in your budget, it can also be very wise to work with a marketing and public relations professional. Having assistance in crafting your business’ message and delivering it to your key audiences can begin to bring not only financial professionals, but also consumers, to your door. Consider how many people watch the local newscasts or read the local newspaper. If you can have stories placed on your behalf explaining the benefits of life settlements and positioning yourself as a leading expert on the topic, you will be in the very positive position of having people come to you seeking information without having to contact them first.

PREPARING FOR SUCCESS

Because you’re presumably going to find your services in increased demand, it’s incumbent upon you to prepare a professional presentation to deliver to all of your key audiences. A well-designed PowerPoint presentation that thoroughly but succinctly provides education to financial professionals and consumers will relay your information in a powerfully persuasive manner.

Even though your marketing and educational efforts have laid the groundwork for financial professionals, you must always remember that many of them do not understand the concept of a life settlement, and their time to learn is limited. A strong presentation will convince them that it is a breach of fiduciary responsibility not to give their clients the fullest possible information about life settlements. Your PowerPoint presentation will be extremely useful when meeting with associations and groups composed of estate planners, CPAs, and other professional organizations.

Remember to always drive home the value of a life settlement versus the value of a cash surrender or policy lapse. Explain in great detail how people older than 65 are suddenly faced with not having...
the retirement income they had expected because of the sagging economy and how life settlements can fill the void. And, wherever possible, include at least one case study.

THE ROAD AHEAD
Clearly, there is a great deal of groundwork to be laid before you achieve success in the life settlements space. As with any new venture, there will be a learning curve and you'll make mistakes along the way. But keep your eyes on the prize. You are part of a multibillion-dollar industry, and with a little work, you can deliver outstanding results to people who need them.

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5 STEPS TO GETTING STARTED IN LIFE SETTLEMENTS

1. Learn the licensing requirements in the states in which you wish to operate.

2. Build a database of financial professionals in your area and touch base with them regularly.

3. Research professional associations in your area and plan life settlement presentations to those groups.

4. Create and use effective promotional and educational materials to send to your database, and prepare presentations for your local groups.

5. If your budget allows, think about using a marketing/PR professional to reach more prospects and connectors.
Demystifying Life Settlements: Educate Yourself, Then Your Clients

BY RONALD C. ALEXANDER

Nearly half of all producers aren't involved in life settlements because they don't understand the concept, according to the Agent's Sales Journal's 2010 Life Settlement Market Study. The study also showed that 50 percent of agents never even speak about life settlements to clients who are 75 or older.

These statistics are alarming given the fact that, every year, many seniors lapse or surrender policies, but only $8 billion to $12 billion of an estimated $177 billion of eligible death benefit is ever settled. Since settlements typically yield more than a policy's cash surrender value, seniors who dispose of their policies without evaluating life settlements could be missing significant opportunities.

But if you don't know the benefit of life settlements yourself — as 48 percent of producers don't — you can't expect to educate your clients on their options. It's time to get educated.

IDENTIFYING PROSPECTS

Since you have to find cases before you process them, it's important to understand how to identify life settlement prospects. Every Section 1035 exchange, lapse, surrender, or convertible term expiration for senior clients is a great place to start. In today's market, ideal candidates include:

- **Insured:** 70 or older, with a life expectancy of 120 months or less
- **Policy type:** Universal life, survivorship life insurance with one deceased, or term convertible to universal life
- **Death benefit:** $500,000 to $5 million
- **Premium:** Minimum level annual premium less than 6 percent of death benefit
- **Carrier rating:** A- or better by A.M. Best
- **Maturity:** Age 100 or greater
- **Contestability:** Past the state-required minimum

Also important is demonstrable “health arbitrage” that was either present at issuance because of a table shave program or has resulted from a decline in your client’s health. Policies with other criteria may have market value, but the above profile characterizes the majority of cases that are selling today.

LIFE SETTLEMENT PROCESS OVERVIEW

The process for selling your client’s life insurance policy resembles that of an impaired risk case. You qualify the opportunity, build an informal case, get quotes, apply formally to the selected buyer, undergo buyer underwriting, and then, about four to six months from the start, distribute funds to your client. Let’s take a look at each step in the process.

1. **Qualifying opportunities.** Once you identify an opportunity that appears to qualify based on the above criteria, you should estimate the policy value. If you run an illustration on the minimum-level premium to maturity for the policy in question, you can use valuation software, or work with a broker that has such tools, to generate a range of values that show what your client’s policy may be worth based on various market rates and health conditions. For example, if you had a $1 million policy with a cash surrender value of $50,000 on an insured with a standard life expectancy of 10 years, this analysis may tell you that if your client is healthier than average, the policy’s market value is $40,000. If they’re of average health, it may be worth about $120,000, and impaired health would net around $200,000. Obviously, if your client is as healthy as ever, pursuing a life settlement would likely be a waste of everyone’s time; at average health, after fees, the case would be marginal; and if impaired, a worthwhile pursuit.

2. **Developing the informal case.** Given the volatility of our capital markets, it’s difficult to predict the buying appetite of life settlement funding providers at any point in time. As such, it’s important that as much of the available market as possible review your case to optimize its potential value. To do this, you need to prepare an informal application that includes detailed policy information, medical records, life expectancy reports, and all required authorizations.

3. **Getting quotes from funding providers/buyers.** After the informal application is complete, you should submit your files to multiple funding providers for analysis and valuation. At any point in time, these buyers could have a backlog of several thousand policies to evaluate. It typically takes about 15 days to receive bids or declines from multiple buyers. Some buyers will request additional information to clarify the data they are using in their analysis, which may extend the timeline. It’s important to note that most offers will come with expiration dates that, given the excess supply of policies for sale, can be very real; after these deadlines,

"ALEXANDER," page 10
buyers will simply re-allocate your funds to another policy. If you receive a quote that your client feels is appropriate and they decide to sell the policy, you’ll need to complete the funding provider’s formal application and other closing documents.

4 **Completing the formal application.** As with an informal life case, the buyer’s offer is contingent whether the formal underwriting process supports the submitted information. In this part of the process, there’s often a lot of paperwork to be filed with state departments of insurance. The formal application will ask your client to confirm a lot of information, complete ownership transfer documentation, and provide additional details required by the selected buyer. Your clients should complete these documents and return them to the buyer within two weeks of accepting an offer.

5 **Responding to funding provider underwriting.** Once the funding provider receives the formal application and other required documents, formal underwriting will begin. This process entails verifying all information you have submitted and investigating any discrepancies. Buyers frequently request additional information or documents during this stage, and it’s important that you and your client respond to inquiries as quickly as possible. If the information used to provide the initial quote can be verified, then the transaction moves forward with the original offer. If, however, material differences are discovered, the buyer may change or even withdraw the amount offered. Underwriting typically takes one to four weeks, depending on the accuracy of your information and your responsiveness.

6 **Receiving funds.** After underwriting, the funding provider will place your client’s funds into escrow, usually at a large U.S. bank. The bank, as the escrow agent, then asks your client’s insurance company to transfer policy ownership to the buyer. Carriers are not always responsive to these requests and can take up to 30 days to comply. Once the bank receives confirmation that ownership has transferred, it usually distributes the sale proceeds to your client within 48 hours. Most states require that buyers give your client at least two weeks after receiving funds to rescind (or unwind) the entire transaction for any reason. Once this rescission period has passed, commissions are paid.

And that’s it. Now that you understand how life settlements work, you should, at minimum, be able to help your senior clients optimize the value of their policies as an alternative to 1035 exchanges, lapses, surrenders, and convertible term expirations.

Ronald C. Alexander is the senior vice president of secondary markets for Crump Life Insurance Services. He can be reached at ron.alexander@crump.com.

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**What aspects of life settlements would you like to know more about?**

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<tr>
<td>Funding sources</td>
<td>51%</td>
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<tr>
<td>Selling tools</td>
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<tr>
<td>Providers</td>
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<td>Bidding/sales process</td>
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<tr>
<td>Brokers</td>
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<tr>
<td>Escrow agents</td>
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</tr>
<tr>
<td>Other</td>
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Source: Agent Media/LISA 2011 Life Settlement Study
Increasing Client Awareness: It’s Never Too Early to Bring Up Life Settlements

If your clients don’t know about the secondary market, don’t be shy — talk it up

BY M. BRYAN FREEMAN

By now, most insurance professionals have at least a passing familiarity with the secondary market for life insurance. After all, viatical settlements entered the mainstream more than 20 years ago, with life settlements debuting 10 years after that.

Still, many producers are challenged by their clients’ lingering lack of awareness about life settlements. The solution is simple: Begin the client education process earlier. In fact, you may want to broach the topic of settlements when you begin the life insurance sale.

Most clients understand life insurance as a form of protection and an investment, but if they know that a life policy is more flexible and liquid than previously thought, they may be apt to purchase sooner, or at least feel more comfortable with the decision.

Let me be clear: I am not talking about stranger-originated life insurance (STOLI) or any similar arrangement through which a life policy is purchased solely to flip it. The up-front settlement education is intended to enhance only your legitimate sales.

By including the life settlement option among the exit strategies discussed at the outset of a life policy sale, some agents have enjoyed an unanticipated byproduct: settlement of an existing life policy for a family member or associate of the client.

Most often, this occurs when a baby boomer client learns about settlements during the sales process and realizes that the sale of an existing policy may be an appropriate option for an older parent.

If this scenario seems like it would happen infrequently, consider that life insurance currently held by people older than 65 (those just ahead of the boomers) is estimated to be in excess of $500 billion. About 20 percent of those policies may be eligible for settlement — a sizeable market in and of itself.

INSURANCE EVOLVES

Beyond educating clients about settlements at the time you place a life policy, it also is important to consistently remind them about a life insurance fact that they may be unaware of: Life insurance is not the fixed product that many clients perceive it to be. It often changes dramatically, and it can be “upgraded.”

Today’s policies are built very differently from the policies of two and three decades ago, which means that a policy your client holds today may not be best suited to the needs it was originally purchased to meet. A “new model” policy may be a better option for them — and they may not know there is an alternative to allowing the current policy to lapse or surrendering it for a cash value.

As their agent, you could help settle an existing policy and sell a new, better-suited policy (or perhaps some other product). Clients will appreciate that a settlement can help partially or completely fund new coverage.

LEARN — AND SHARE

Of course, you can’t educate clients about the secondary market for life insurance if you yourself know little about it.

You must have accurate, up-to-date facts to share — which means having information about everything from when a client may qualify for a settlement to settlement regulations (stringent regulation makes settlements safe for consumers — another strong selling point).

And while it is good for producers to be exposed to a balanced array of settlement information, you can’t serve your clients’ best interests by sharing anti-settlement propaganda. Certainly they need to know of the risks, but they should not be frightened away from a healthy alternative that may be a viable option for their circumstances.

If you know settlement basics, stay abreast of settlement news through industry media; you might consider partnering with a colleague who has more settlement experience.

Also try sharing breaking news of the secondary market for life insurance with clients and potential clients through calls, letters, newsletters, articles, speaking engagements, social media, and more. You’ll be planting the seeds that may bear fruit later, all while demonstrating your thought leadership on this and related topics.

M. Bryan Freeman is the founder and president of Habersham Funding LLC, a life settlement provider. He can be reached at 888-874-2402 or bfreeman@habershamfunding.com.
How to Build Awareness of Life Settlements Through Effective Marketing

» BY RON ALEXANDER

The economic downturn has significantly reduced the values of both investment portfolios and real estate. Unfortunately for many seniors, retirement income and estate values have followed. As a result, this is an ideal time to review your senior clients’ life insurance and determine if the needs for which it was originally purchased still exist.

Following are four steps to help build awareness among consumers about the opportunity presented by the life settlement market in today’s economy.

1 DEFINE YOUR APPROACH

One of the first decisions you need to make is whether life settlements will be a reactive or proactive part of your practice. If reactive, you will simply wait for opportunities to present themselves. If proactive, you need to determine who to target and how to identify opportunities.

In today’s market, ideal candidates are over 70 years old and possess a universal life policy with a death benefit between $500,000 and $10 million, a minimum annual premium to maturity less than 5 percent of the death benefit, and a cash surrender value less than 25 percent of the death benefit.

Also important is demonstrable “health arbitrage” that either was present at issuance because of overly generous underwriting or has resulted from a decline in your client’s health. Other criteria may qualify a policy to trade, but these characterize the majority of cases that are selling.

Now that you know the types of clients and policies to target, you need to identify opportunities. Every Section 1035 exchange, lapse, or surrender that you process is a great place to start. A more proactive next step would be to conduct insurance “portfolio” reviews for clients or prospects who may qualify. Trading a policy could be recommended whenever any of three insurance re-allocation strategies are appropriate for a senior client:

» Improve insurance – In this case, a client would sell a policy to fund a term conversion or to buy a replacement policy that enhances coverage or lowers premium.

» Increase income – A client would sell a policy and buy an annuity or simply use the sale proceeds to supplement retirement income; this strategy could also be used in lieu of long term care or disability insurance, or to fund a charitable gift.

» Improve investment – Clients would sell a policy (often key-person or corporate or charity-owned) to fund an alternative investment offering better or more immediate returns.

2 IDENTIFY YOUR SOLUTION

Whether you decide to approach this on your own or partner with a broker, you should ensure that you:

» Have a standardized, consistent process that you can communicate to clients

» Offer a solution that is compliant with the laws in the states where your clients reside

» Use actuarial-based pricing software to value policies before you market them

» Market your clients’ policies to multiple institutional funding sources

» Have transparency to all offers and fees

» Can rapidly scale your solution to meet increased client demand

» Have certified errors and omissions coverage for the transaction

3 PROMOTE YOUR PRODUCT LINE

Once you establish your solution for trading policies, it’s important that you make your clients and prospects aware of it. An email blast or a postcard mailing is a simple way to get the word out. To ensure success, however, you should integrate traded policies into your practice’s marketing plan so that clients believe this is an area in which you’re proficient. Try:

» Promotion via Web site, email content and footers, on-hold messaging, or a dedicated section in newsletters

» Product line listing on business cards, fax cover sheets, and agency stationary

» ALEXANDER, page 13
» **ALEXANDER**, from page 12

- Inclusion in seminar marketing, both as the focused and secondary topics.

As you contemplate new marketing campaigns for trading policies and ways to respond to client interest, you should explore the resources of your industry partners. Most firms offer frequently asked questions, case studies, and other educational material that will help your clients understand your solutions.

### Manage Expectations

Once clients are aware and accepting of your traded policy solution, some will choose to use it. Understanding the transaction process and setting realistic expectations is often the primary difference between great and awful client experiences. The multi-buyer, traded policy process is similar to that of an impaired risk case and typically takes four to six months from identifying the opportunity to receiving compensation.

Major process steps and milestones include:

- Qualifying the case and estimating the policy’s market value
- Completing informal inquiry paperwork with your client
- Developing the case file with medical records, life expectancy reports, and policy information
- Marketing the case to multiple institutional buyers
- Receiving quotes and selecting a buyer
- Completing the buyer’s formal application (i.e., closing documents) with your client
- Responding to buyer underwriting requirements
- Receiving buyer approval and notification that funds have moved into escrow
- Awaiting ownership transfer by the carrier
- Receiving client proceeds
- Awaiting client rescission period (in regulated states)
- Receiving compensation

If you lock in your approach, develop a comprehensive solution, promote your capability, and manage expectations, you’ll be marketing a competent life settlement product line to your clients and be on your way to creating a successful new revenue stream for your business.

Ronald C. Alexander is the senior vice president of life settlements for Crump Life Insurance Services. He can be reached at ron.alexander@crump.com.
As the life settlement industry continues to grow, professionals must focus on education, due diligence, and compliance to ensure that, while maximizing the opportunities presented by life settlements, they also minimize compliance risks. Professionals representing policy owners in the sale of a life insurance policy have certain fiduciary duties and, as such, must fully understand how to act in the best interests of their clients.

THE REGULATORY LANDSCAPE
Many state legislators have been particularly concerned with issues surrounding stranger-originated life insurance (STOLI) practices. STOLI is a practice or plan to initiate a life insurance policy for the benefit of a third party investor who, at the time of policy origination, has no insurable interest in the insured. Such practices violate insurable interest laws and are generally viewed as fraudulent or unethical. These concerns have been addressed in model act amendments introduced by NCOIL in 2007 and by the National Association of Insurance Commissioners (NAIC) in 2006. STOLI transactions may be deemed to violate insurable interest laws or newly enacted anti-STOLI laws in nearly all states — even in so-called “unregulated” states that have not adopted life insurance settlement acts.

Because of the dynamic regulatory environment, and regardless of which model act one supports, professionals need to pay attention to developments in states where they conduct business and steer clear of any STOLI transactions.

LIÉNSING REQUIREMENTS
Many states have licensing requirements that apply to financial professionals, producers, brokers, and settlement providers. All industry professionals need to pay close attention to these licensing requirements, as well as other individual state requirements and privacy laws.

Professionals must ensure that they are working with or through properly licensed sources. Proper licensing should be verified before exchanging information with any person engaged in the business of life settlements. Professionals should also be wary of funding sources that operate solely in unregulated states or other firms that “rent out” state licenses to another firm.

Karen Huston Canoff is chief compliance officer and general counsel of Life Settlement Solutions. She can be reached at info@lifesolms.com or 858-576-8067.
Finding Qualified Life Settlement Prospects:
Dealing with the 2009 ‘Hangover’

The past year was rough for those in the life settlement market, but 2010 may look brighter

BY ROBERT SETTLLOW

As the new decade gets into full swing, those in the life settlement sector may view the glass as either half full or half empty. Not unlike most other sectors, the settlement industry began seeing considerable changes in the fourth quarter of 2008. But in this beleaguered economy, there are always winners and losers.

The first step is to look unflinchingly at the challenges that still face the life settlement market. And the second — yet more important — step is to fine-tune the process, because there is still tremendous headroom in which agents and their clients can prosper.

Let’s first take a look at the challenges. It has been well documented that the settlement industry was hit with three major issues in September 2008 — "the triple whammy."

First, two of the leading life expectancy firms (AVS and 21st Services) amended their mortality tables, resulting in considerably longer life expectancies. These changes created havoc among purchasing groups, forcing many out of the business.

Second, the industry became totally saturated with 2-year-old STOLI (stranger-originated life insurance) policies. The STOLI issue has been a thorn in the life insurance industry’s side for the last few years. Fortunately, almost all new legislation issued by state insurance regulatory bodies expressly forbids STOLI transactions, and the settlement industry has done a terrific job of self-policing and eliminating most of the existing paper.

Third, the credit markets froze and crippled the flow of money into the settlement space.

What does all of this mean? Well, the net result of the triple whammy is that fewer policies can be sold on the secondary market today, and producers need to be much more knowledgeable and aware when discussing a potential life settlement with their clients.

Does this mean the life settlement industry is dead? Far from it. Keep this in mind: There is $9 trillion in life insurance policies in force in the United States today. And even if only a small fraction of policyholders sell them on the secondary market, the market could reach $500 billion, according to The New York Times. In addition, the wealth management firm Sanford Bernstein indicates that the target market for life settlements will grow three times as fast as the overall population over the next 25 years. In other words, life settlements are already in the process of bouncing back and will provide seniors with an alternative solution for a very long time.

In the meantime, here are a few thoughts to keep in mind when you’re looking at who among your clients and prospects may qualify for a life settlement.

1 Any senior who has experienced a fundamental change in health may benefit enormously from a life settlement. Although there are fewer buyers in the marketplace, when the right policy enters the market, we see a very healthy and voracious appetite.

So what then, you may ask, is the “right” policy? The answer is relatively simple: any senior who has experienced a fundamental change in health since the policy was issued.

2 Family-owned businesses are another ripe target. Interestingly, we have seen a large increase in submissions from advisors representing family-owned businesses. Typically (but not in every case) these businesses have been affected by the sluggish economy and can no longer justify the premium payments on a policy insuring the life of the head of household or other family members. In many cases, the children are now running the day-to-day operations of the organization, rendering the parent’s policy unnecessary.

3 Clients in their late 70s, 80s, and 90s should still consider an evaluation. Those insureds with life expectancies in excess of 15 years will find the current market unreceptive. Under the new mortality tables, a healthy insured younger than 75 is no longer a good candidate for a life settlement.
But for those with life expectancies that exceed the actuarial tables, it still makes sense to provide an evaluation if client expectations are managed appropriately. Remember: Once a client has decided to lapse or surrender their policy, a life settlement is always worth investigating in that a client will only sell if they are provided with an offer that exceeds the cash surrender value.

Although it is unlikely that we will return to the frenzied buying environment that existed before the crash of September 2008, the prospects for life settlement transactions remain strong. Different players will likely enter the market with a different focus on what types of policies they wish to purchase. Liquidity will eventually loosen, and activity will accelerate as seniors realize that they need less insurance — or a different kind of insurance — or that their premiums are too expensive, or that their policy’s return on investment is far from optimal.

For those who are willing to adapt to the new rules and weather the temporary hangover, the glass is not just half full — it’s overflowing.

Robert Setlow is a managing partner for The Life Settlement Company of America. He can be reached at 973-486-3000 or robert@lscoa.com.
Identifying Life Settlement Opportunities in Your Book of Business

BY SCOTT DIMUZIO

The tremendous growth in the life settlement marketplace has brought many opportunities to agents and their clients, but a potential settlement transaction demands that the agent carefully determine the appropriateness of the settlement for a specific client, and then manage expectations during the process.

The possibility of a settlement can be identified only after the decision is made to discontinue the policy, when an agent and their client jointly determine that a life insurance policy is no longer needed. Given the integral role played by an agent during the initial purchase and ongoing management of the policy, it is critical that the settlement broker respect the agent/client relationship. Having familiarity with the client’s financial situation places the agent in a position to gauge the suitability of a life settlement transaction.

LIFE SETTLEMENT ‘TRIGGER EVENTS’

A policy can become obsolete for the client’s purposes when their children reach financial independence, the client divorces, a spouse dies, or long-term financial obligations are paid off. But changes in personal priorities, estate planning, or even business circumstances can also lead to the same decision, which typically involves a desire to discontinue premium payments and the acknowledgment that the potential cash from the transaction is needed.

Possible reasons for selling a policy tend to fall into one of five categories:

1. POLICY ECONOMICS
   - Policy owner’s insurance needs have diminished
   - Premium payments have moved out of line with expected benefits
   - Policy owner wishes to dispose of the existing policy to execute a more appropriate one
   - Overall economics of the policy have deteriorated

2. FAMILY CIRCUMSTANCES
   - Medical or family emergency
   - Long term care obligations
   - Divorce
   - Death of spouse
   - Bankruptcy
   - Financial independence of children

3. PERSONAL OBJECTIVES
   - The owner wishes to accelerate charitable or planned giving contributions
   - Stock market volatility has diminished retirement income
   - Policy owner prefers to invest in other opportunities

4. BUSINESS PLANNING
   - Business loans secured by a policy have been repaid
   - Changes in business circumstances, eliminating the need for a key-person policy or buy-sell agreement coverage
   - Poor business conditions disrupt cashflow

5. TAX CONSIDERATIONS
   - Legislative changes have reduced exposure to estate taxes

GREAT EXPECTATIONS

As is the case with any transaction, the expectations and assumptions of the client should be carefully managed throughout the entire process. This is especially important today, given the realities of the current settlement market. Barely noticeable to many, with attention focused on troubled equity, bond, and mortgage portfolios, the life settlement market struggled in 2008. The credit markets, which started to tighten...
up in the fall of 2007, have had a profound, game-changing impact on the settlement industry and its processes.

As a result, and nearly without warning, advisors watched relative settlement offers for clients’ policies plummet, assuming they could secure any offer at all. In other instances, offers were pulled before they could even be presented to the policy owner, or strict take-it-or-leave-it offers were extended with very short deadlines for acceptance. Not surprisingly, deal flow receded, while confusion and indecision replaced the rampant confidence so apparent in the market just a year earlier.

All this would have made settlements difficult enough, but industry participants are also contending with a dramatic “rule change” that is more directly impacting the process. In late 2008, dominant life expectancy report providers adjusted their projections upward, meaning that if insured parties would live longer, policy buyers would have to wait longer to collect, and, in reaction, offers for policies would be forced down.

So the sorting out continues. The pressures of the financial markets will likely continue to be evident in buyer behavior, manifested by marginally higher discount rates utilized for pricing and continued policy and insured selectivity. Bottom line: With the tables turned, and more policies available than funds, the buyer’s market remains.

But looking forward, there are reasons for optimism. The current credit market issues and related problems do not detract from the intrinsic appeal of the life settlement transaction. The settlement often remains a very good alternative to the cash surrender of a policy. Still, it goes without saying that we urge our partner agents to do whatever is in the client’s best interest, including when it means keeping the policy in-force for the near-term.

In addition, new potential funders are showing genuine interest. Buyers from Europe and South America have been particularly vocal. This will eventually put upward pressure on policy prices. All that said, sellers of policies may continue to contend with uncomfortably short decision-making timeframes when considering offers.

In this environment, it is crucial to inform clients as to the marketability and potential value of a policy. Case documentation must be gathered prior to preliminary marketing in order to present potential buyers with a thorough understanding of a policy’s value, product features, and ownership structure. A carefully prepared case can help to ensure an uneventful, timely close.

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Part 3 | Opportunities

Using Life Settlements as an Estate Planning Tool

BY GEOFFREY A. WEG

In a life settlement, a third-party purchaser buys an in-force life insurance policy for its fair market value. That value is typically more than the policy's cash surrender value but less than the death benefit. The policy's seller — who is generally 70 or older and has a life expectancy of two to 12 more years — is not restricted in how they use the proceeds from the sale of the policy. The third-party buyer becomes liable for all further payments and premiums on the policy, and they receive the full amount of the death benefit upon the death of the former policyholder.

The emergence of the secondary life insurance market creates several estate planning opportunities for individuals and businesses that are seeking to dispose of a life insurance policy prior to its payout. It also provides an attractive alternative to two options policyholders had before the life settlement market began flourishing.

LESSER OF TWO EVILS

First, before the life settlement market began to come of age, an individual who wanted to dispose of their life insurance policy had only two options. For one, he or she could simply stop making premium payments and let the policy lapse. This option has a major drawback: Once the policy lapses, the beneficiaries no longer have the right to receive the death benefit when the insured dies.

The policy owner could also return the policy to the insurance company for its cash surrender value. If there was any cash surrender value, this is a more attractive option than allowing the policy to lapse, since the policyholder will receive at least some financial benefit. However, the cash surrender value on a life insurance policy is rarely, if ever, equal to or higher than the fair market value that can be had in the life settlement market.

ESTATE PLANNING APPLICATIONS

Life settlements might be effectively used as an estate planning tool when a policyholder’s circumstances change because of health, financial difficulties, or some other issue that places a greater financial burden on the policyholder. With a life settlement, that financial burden can be alleviated with the proceeds received from the policy’s sale. Moreover, one of the most attractive benefits of a life settlement is that there are no limitations on the use of the settlement proceeds for the insured. There are, however, income tax implications that must be considered.

A somewhat different scenario allows for the utilization of a life settlement as an estate planning tool when a client is underinsured. This scenario is based on the concept that every individual has a certain level of insurability and that many people (especially wealthy people) fail to insure themselves up to their personal “limit” of insurability. The life settlement market allows the client to purchase a new policy to insure themselves up to their insurable limit and sell the policy for its “fair market value” at some future time. Upon the sale, the client will receive the settlement proceeds and will be relieved of all future payments and premiums on the policy. Moreover, the settlement amount will typically exceed the amount of premiums paid over the holding period.

Under any of these circumstances, the estate planning advisor and client should carefully weigh the financial, tax, and other consequences of selling the policy. Although the client will receive settlement proceeds, the policyholder is sacrificing the future death benefit.

Accordingly, the advisor and client may consider the impact on the insured’s beneficiaries, the impact on the insured’s long-term financial health, and the effect, if any, on the insured’s estate’s ability to pay estate taxes, among others. Such issues can significantly reduce the viability of a life settlement as an estate planning tool for the client. If necessary, the insured can use the policy as leverage to borrow funds, rather than sell the policy in a life settlement. But despite these questions, life settlements are now a legitimate estate planning tool and can provide substantial benefits to policyholders in various situations.

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THE RIGHT TIME FOR A SETTLEMENT

One of the most common situations where a life settlement may be appropriate is when the owner no longer needs their life insurance policy. This could happen if the insured outlives their potential beneficiaries or when an insured “key-man” retires.

In such cases, the policy owner could receive a much greater value from a life settlement than they could from the cash surrender value, and certainly a great deal more than what they would receive when the policy lapses. Moreover, in cases where the policy is superfluous, the insured shouldn’t be concerned with any possible detriment to a beneficiary or heirs resulting from the sale of the policy.
Life Settlement Application: Uncovering Hidden Value in Key-Man Coverage

BY RONALD M. ROTH

One of the best ways to make yourself an important resource to your clients and centers of influence is by helping them see value in certain situations in which they saw none before. Many agents have sold insurance to executives of small to medium-sized businesses that fall into this category.

When the insurance was purchased, the company and executive both believed that if the executive lived to retirement, the “key-man” policy they bought would expire. The growth of the secondary market for life insurance policies, however, creates an opportunity for these policy owners that did not exist a few years ago. Today, many of these policies can be settled and create unexpected proceeds. As an agent or broker, you should be familiar with the concept of life settlements so you can help your clients uncover the value that could be hidden in key-man coverage that they neither need nor want any longer.

The two most popular approaches to insuring the key executive of a company are either to use a term policy that will remain in force until the executive’s projected retirement date or to use a cash value product. In cases where cash value products are used, the cash value can be returned to the corporation upon surrender of the policy to repay the corporation for part or all of its premiums, or it can be transferred to the insured as part of a retirement package. In any of these cases, the viability of settling the life policy should be explored before any coverage is cancelled or surrendered.

In most cases, the retiring executive must be older than 65, generally with a policy of more than $100,000, to consider a life settlement. If the insured is younger than 65 and has minor to moderate health issues, these are also cases that can be considered. Following is an explanation of how you can use a life settlement to create or enhance value for your executive client.

- **Settling key-man term policies.** This is the hidden jewel for some of your clients. Many financial institutions will buy term insurance policies, convert them, and then hold them until the insured’s death. The key to being able to utilize this strategy is that the term insurance must have an intact convertibility option. If the policy is no longer convertible because of the client’s age (or was not a convertible policy to begin with), then it will probably have no value on the secondary market. But in situations where the term policy is still convertible, any value created by settling the policy is “found money” for your client. Since the client was most likely planning on letting the policy lapse with no value, by settling the policy and creating unexpected funds, you have helped your client uncover a hidden asset within what was previously nothing more than a necessary expense. The value of any term insurance policy is determined by any number of factors, including the client’s age, life expectancy, and the premiums of the policy to which term insurance is being converted.

- **Settling cash value policies.** In situations where the key-man coverage was funded with policies that contain cash value, the approach is to enhance rather than create value. Since these policies already contain some value, the question is, can the policy be settled for an amount greater than its cash surrender value? If so, you have again helped your client by enhancing the value of their policy and returning more money to either the retiring corporation or the retiring executive. The factors that determine the policy’s value on the secondary market are again the client’s age and life expectancy, but with cash value policies, the amount of cash value in the policy will be factored together with projected premiums in the equation.

In addition to creating more value for your clients, life settlements can be a profitable market for the agent. In many cases, the agent would receive a fee or commission on the life settlement portion of this transaction, as well as receiving a commission on the conversion of the term insurance policy itself. Since life settlements are regulated on a state-by-state basis, be sure to check the licensing, commission allowances, and disclosure regulations of any state in which you are considering transacting a life settlement. In addition, if you are an agent or registered representative, you should consult your primary carrier or broker-dealer to ensure that you are in compliance with their rules governing life settlements.

As the secondary market grows, advisors will have an increasing fiduciary responsibility to inform their clients of all of their potential exit strategies from their life insurance policies. FINRA Rule 2320 requires that “a member shall use reasonable diligence to ascertain the best market for the subject security and buy or sell in such a market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.” This could be applied to the life settlement transaction as follows: If the client is considering surrendering a policy and a more favorable price exists on the market, you should assist in guiding your client to the best market in order to achieve the best price for their policy.

» ROTH, page 21
secondary market, it would seem that Rule 2320 would mandate that the settlement market be at least considered by the agent or broker as part of their due diligence process. By considering a life settlement upon the retirement of a key executive, you can help your clients uncover hidden assets while also fulfilling your fiduciary responsibilities.

Ronald M. Roth is founder of Genesis Asset Advisors LLC. He can be reached at rr@genesisknows.com.

What additional products have you sold as a result of a life settlement transaction?

Note: Results reflect responses by those agents who have completed at least one life settlement transaction

Source: Agent Media/LISA 2011 Life Settlement Study
Advanced Sales Strategies Using Life Settlements

5 new ways your clients’ unneeded life policies can start working for them

» BY LARRY SIMON

For insurance agents working with life settlements, considering more advanced sales strategies can help expand your business while benefiting eligible clients. Life settlements have a wide variety of applications, including business, estate, and advanced planning strategies such as charitable giving. Recent dramatic declines in the financial and real estate markets and the corresponding reductions in estate and small-business values may have resulted in significant changes in the financial situations and needs of your clients.

When reviewing with your clients the options available to help them address their changing financial circumstances, then, it is important to remember that a life settlement can turn a no-longer-needed or under-performing life insurance asset into a realized source of revenue.

**SITUATION 1**

**Term conversions**

Term policies are commonly perceived to have no cash or settlement value. However, in the life settlement marketplace, term policies, especially those with conversion options still in effect, can be evaluated based on the value of the policy after it’s been converted. Many of these cases can then become viable settlement cases. For example, eligible seniors can choose to convert a term contract to a universal life (UL) policy and transact the converted UL policy in the settlement marketplace. To accomplish this, advisors compile information on the post-converted policy and submit it to settlement providers for evaluation. Those providers may then issue pricing offers based on that converted policy. Should the client accept the offer, the term policy is usually converted during the closing process.

This option allows the insured to access the settlement market using their current term life insurance policy and realize the proceeds of the settlement for a variety of purposes, including newer, more appropriate insurance coverage. Combining term conversions and the life settlement marketplace can also benefit financial professionals, as conducting such transactions can result in higher revenues for the advisor’s business. This can include compensation on the life settle-

**OTHER THAN FINANCIAL OR INSURANCE PRODUCTS, WHAT OTHER EXPENSES DO YOUR CLIENTS USE THEIR LIFE SETTLEMENT PROCEEDS FOR? (PERCENTAGES)**

*Note: Results reflect responses by those agents who have completed at least one life settlement transaction*

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Source: Agent Media/LISA 2011 Life Settlement Study
ment transaction, the conversion based on target premium, and the purchase of new life insurance. It is important for advisors to verify that their clients can obtain new insurance coverage before transacting a life settlement. If a client’s health has deteriorated and the client cannot obtain new insurance or the premiums would be cost prohibitive, then the term conversion (without a life settlement) might be the only viable option for that client to obtain permanent coverage.

SITUATION 2
Restructuring life insurance
Financial professionals know that their clients’ insurance needs can change over time, and policies do not always perform as well as expected, leaving many seniors with escalating premiums. This can cause them to surrender or lapse policies, often for low cash payouts. Financial professionals working with clients in this situation can offer life settlements as a way to get rid of underperforming life insurance and use the proceeds to purchase more appropriate coverage for their clients’ current needs.

SITUATION 3
Business insurance
Life settlements can greatly benefit those dealing with business life insurance, as business owners and executives can use the financial transactions as a way to deal with policies that are no longer necessary. This approach could be used in the case of:

- The retirement of a key executive, leaving a business with unneeded key person policies
- The dissolution of partnerships (rendering buy-sell agreements unnecessary)
- The receipt of policies as part of a retirement package by executives who do not wish to pay the substantial premiums or tap into the policy’s funds to keep the policy in force
- A change in business ownership (sale of the business), causing changes in succession plans and reducing/eliminating the need for insurance that was purchased to fund estate tax liabilities on the value of that business
- Exit strategies for benefit programs, including split-dollar plans allowing executives to retire any debt owed to the firm, purchase additional insurance, and create cash reserves
- The proper (market) asset valuation of business-owned life insurance (as opposed to simply valuing policies at cash surrender value) when calculating the value of a business for appraisal or sale purposes

By properly advising business insurance clients on the availability and requirements of the life settlement market, advisors can ensure that business owners are able to take the steps to effectively access the secondary market through the potential sale of a business insurance policy in the future.

SITUATION 4
Charitable giving
Many senior clients have strong associations with charitable organizations. However, some may wish to donate an amount that exceeds the assets they have on hand. Those same seniors may be funding life insurance policies that they no longer need. In other instances, seniors and charities continue to fund life insurance policies that are being used in some type of charitable giving strategy that offers a deferred benefit to the charity. You may have several opportunities here to fulfill clients’ wishes to make more immediate donations during their lifetimes and charities’ needs for immediate funds through the settlement of these policies and use of the proceeds to make immediate donations. Often, seniors do not want to simply donate their policies to charities, leaving the nonprofit with ongoing premiums and administrative obligations. Life settlements can solve this problem by allowing clients to use the proceeds from a life settlement to make a simple cash donation. This option also allows clients to see their gifts make a difference during their lifetime, as the charitable organization will be able to use the funds from the life settlement immediately.

SITUATION 5
Split-dollar exit strategy
Life settlements can also be used as an exit strategy for existing split-dollar arrangements where an executive is the insured on multiple policies owned by multiple trusts and the company is owed money for advances. In such an instance, the client may settle the policy to terminate the split-dollar arrangements, eliminate ongoing premium payments, repay the company for the advances, acquire additional life insurance at little/no net cost, and profit from the sale of existing policies. In the typical split-dollar arrangement, an irrevocable trust and limited liability company (LLC) are formed, and the trust borrows funds from the bank to contribute to the LLC. Once funded, the LLC purchases an immediate annuity, sets aside funds for an additional policy, and creates a cash reserve. The income stream from the single payment immediate annuity (SPIA) is used to finance loan interest, life premiums on a new policy, taxes, and a cash reserve.
To exit the split-dollar arrangement, the existing life insurance policies are sold on the secondary market and settlement proceeds are used to repay the executive’s employer for the split-dollar advances and end the arrangements. The remaining balance, if any, is then added to the cash reserve. The SPIA continues to finance premiums on the new insurance policy and loan interest for the bank loan, but the client no longer funds premiums to the trusts for the policies transacted in the settlement market. Ultimately, the death benefit of the new insurance policy repays the bank loan.

By considering more advanced strategies, financial professionals will be able to help clients and grow their own businesses and increase revenue. 

Larry Simon is director, chief executive officer, and president of Life Settlement Solutions Inc. He can be reached at 858–576–8067.

**LIFE SETTLEMENTS: A CASE STUDY**

**Christian Evulich, vice president of business development, Amrita Financial**

Since Christian Evulich specializes in life settlements and premium financing, most of his clients are a little older than the boomer bracket of 47 to 68. However, he recently helped one California resident who got badly burned by the real estate market. In 2008, this client had a net worth of more than $2.5 million. One year later, his worth had fallen to less than a million.

“The problem was that, even though all the properties he owned were above water, once you factored in transaction costs, they weren’t really worth anything,” Evulich said. “They’d been refinanced to death.”

The client did have a universal life insurance policy, however, so Evulich suggested a life settlement. Although the client was only 68, he had health impairments that could help obtain a more favorable settlement. Evulich considered his overall situation and how much he would need to turn his troubled assets around, and calculated a reasonable expectation of what the policy might vet.

“We were able to shop the policy around and get him a $150,000 settlement, and that was enough to get him out of the water,” Evulich said.

Part 4 | Pitfalls

4 Mistakes That Will Devalue a Life Settlement Transaction

How many of these mistakes have you made — and how can you stop?

» BY NOAM S. WEISS

ike all markets, the life settlement market continues to evolve, and these market developments, both major and minor, can frequently have repercussions throughout a life settlement transaction. One thing hasn’t changed, however: These transactions can be complex and time-consuming.

The most important component of making these transactions work is your ability to maximize providers’ life settlement offers. After all, the whole objective is to find the market value for a life insurance policy. However, simply having the best offers isn’t enough. Offers can expire, and the real goal is not to get a number, but rather to put money in the hands of the policy owner. The structure and execution of a deal can make an enormous difference in not only the magnitude of these offers, but the probability of “if” and “when” they will close. These deals still take months to set up and weeks to close — assuming that everything runs smoothly, with no complications.

With that in mind, here are four common mistakes that may devalue your client’s life settlement transaction.

1 MISMANAGING THE TIMING OF A DEAL

Experience tells us that a life settlement transaction does not happen in a vacuum. After all, by definition, a life settlement is often triggered by some other change in the policy owner’s circumstances — the sale of a business, a major change in portfolio size, health changes, etc. These initiating factors will often topple many dominos, and you should make sure each coordination is properly managed in order to synchronize the sequence of events.

The timing of a deal is important on the buy-side for other reasons, as well. Life settlement providers, the entities that will be making offers and purchasing policies, prefer to buy cases that will sell quickly. There are many reasons for this, most important of which is that the providers are in the business of managing capital and do not want to tie up funds on a deal that won’t close. They prefer to help clients and place funds on cases that move forward, reducing the time costs of their money.

2 FAILING TO SET REALISTIC EXPECTATIONS

In life settlements, as in life, expectations can change everything. Properly set expectations can provide the perspective and emotional distance your clients need in order to make sound decisions. By beginning that process early, it will be easier to evaluate any life settlement offer properly. When you start to consider factors such as sunk costs, opportunity costs, tax implications, and replacement products, new opportunities and challenges will present themselves.

One specific trap many clients fall into is thinking that if a policy is worth a certain amount today, it will be worth something more than that in the future. Regrettably, this usually is not the case because of the way life expectancy underwriting works. Given time, many health issues become less of a mortality factor. Furthermore, the access to funds at any given time can greatly affect the pricing of a life settlement offer.

3 FAILING TO KEEP PREMIUM PAYMENTS CURRENT

The policy owner is responsible for premium payments until ownership has officially changed. Moreover, many insurance carriers will not issue illustrations, verify coverage, or change ownership if the premiums are not paid and a policy slips into a grace period.

This means that no matter what stage a deal is in, it is vital that all premiums remain up-to-date. Failure to do so can delay and even kill life settlement transactions. Worse yet, failure to pay the premiums can reduce the value of a policy or even lapse a policy during the process, eliminating any value it may have once had.

Another reason to make sure your client avoids grace periods and the potential lapsing of a policy is the requirement that policies sold on the life settlement market be outside of the carrier’s contestability and suicide period. This is the timeframe the carrier has to appeal or dispute a death claim. The added risk associated with owning a policy during this period is too great, and possibly even outside of the law in some states. Therefore, you must be aware of a carrier’s right to
reinstate that contestability and suicide period should a policy lapse or otherwise go unpaid. This right varies widely from carrier to carrier and product to product, but can be a lethal element in any life settlement transaction.

**AVOIDING DISCLOSURE**

The underwriting process for a life settlement offer is designed to uncover key facts about any policy. Given the market’s current slant toward a buyer’s market, most legitimate life settlement providers will simply discard or underprice policies that don’t present themselves as clean business. Was the policy premium financed in any way? Is there a policy loan? What about collateral assignment? Has the ownership ever changed hands? These are just some of the questions that need to be accurately represented on a life settlement application. With disclosure, these policies can still garner offers; without it, they will not.

After all the hard work you and your partners put into any given life settlement, make sure your transaction doesn’t unravel thanks to any one of the above mistakes — or even a combination. Know your stuff, and know your pitfalls. You’ll be doing your client a great disservice otherwise. ▼

Noam S. Weiss is the managing partner of Settlement Benefits Association, a life settlement brokerage. He can be reached at 888-255-0444.

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**What is your biggest challenge with offering life settlements?**

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Source: Agent Media/LISA 2011 Life Settlement Study
Counseling your client to make a fully informed decision about the initial purchase of a life insurance policy includes educating and reassuring them about all of the unique options a life insurance policy holds. In addition to the more traditional options inherent in a life policy, a proper education should include discussing life settlements as an optional future exit strategy. All parts of a life settlement should be discussed, including one concern many have: the protection of the seller and insured's private and confidential information (PCI), such as medical and financial records.

When you first begin considering life insurance policies, you and your client will rightfully think about the future value of the policy to the consumer — of course, the death benefit amount, the cash surrender value, and other forfeiture options. The values inherent in a policy have formed the core of the life insurance industry’s sales strategies for nearly 100 years. This inherent value is derived from liquidity; that is, the client’s ability to turn the policy into cash if and when needed.

There are two built-in features of a life policy that allow the client to harvest a better return than the policy’s pre-determined built-in cash value. One is the terminal illness advance death benefit option. Another built-in feature is the right to assign, or sell, the policy to another party for cash or other consideration. This second quality of a life insurance policy is often unknown or misunderstood by clients but has been used for more than 200 years and has recently become more popular as an exit strategy for unwanted policies.

So, the responsibility falls to you as the agent to properly educate your client about all these liquidity options as early as the initial policy sale. In fact, educating the consumer about this early in the sales process correlates to improved sales.

Your client should be fully aware of the available possibilities for realizing the value of the policy they are buying. In turn, you must be educated enough about all these options to intelligently discuss the positives and negatives of each, to dispel any false notions held by the client or other involved professionals (such as a financial advisor, accountant, or attorney), and ultimately work with those other professionals and the client to determine the best course of action.

In some cases, one of the most appealing options available to realize the value of a life insurance policy prior to its maturity can be a life settlement (including both life and viatical settlements). And again, when assigning a policy in the secondary market for life insurance, there is a transfer of PCI inherent in the transaction.

### A Brief History

In the early years of the settlement industry, PCI was only shared between the seller’s broker or agent and the purchasing provider. Generally, the provider did not pass the PCI on to the investor who would eventually own the policy. This created several issues. For instance, without PCI, the investor could not accurately value the policy or even verify the existence of the policy. A few bad actors took advantage of the industry practice to commit fraud by selling investors non-existent policies or the same policy to several different investors.

As the legitimate industry advocated for change to stop these fraudulent practices by a few, the reaction was swift and extreme; these measures likely saved the settlement industry from other bad players but created new issues which needed to be addressed. Legislatures and departments of insurance across the country began to regulate the transfer of PCI, thereby creating more transparency for investors. The consequence was that many parties involved in settlement transactions and subsequent sales must treat PCI with the care that it deserves.

While there have been no reported breaches of PCI linked to life settlements to date, PCI concerns related to settlements have caused many states to pass laws or adopt rules to better address this issue. For instance, nearly every state in which life settlements are regulated subjects all PCI collected during the transaction to other state and federal laws applicable to confidential medical information. Additionally, settlement laws explicitly limit the disclosure of PCI to certain parties and for certain reasons, many requiring specific consent of the seller and insured. Moreover, other states, including Texas, require that any entity that keeps track of the insured’s health status following the transaction must be licensed with the insurance department.

It is undeniable that the protection of PCI has been recognized and addressed throughout the states that regulate the settlement industry. To ensure that your client explores all potential avenues of realizing the maximum return on the life policy that they buy from you, you should proactively share this information. Not only will you be fully educating your client, but you are helping dispel the false notion that disclosing PCI for a settlement carries a higher risk than doing so for other financial transactions.
YOUR ROLE IN PROTECTING PCI

If your client is considering a life settlement, insist that he or she sell to a licensed provider. Out of the states that regulate settlement transactions, all but one (Michigan) requires brokers and providers to be licensed to settle a life insurance policy.

While licensure does not guarantee that a PCI breach will not occur, it does reduce the risk of your client’s PCI falling into the wrong hands. For instance, an entity that has become licensed is more likely to have an understanding of the law and the responsibility for protecting and properly handling your client’s PCI. Furthermore, the licensure process is rigorous and expensive; a licensed entity is likely to make more responsible decisions regarding PCI because that entity has an incentive to avoid failures that could result in loss of the valued license.

And, because of financial responsibility requirements associated with licensing, the licensed entity is more likely to have financial and insurance coverage to cover your client should an unfortunate PCI breach occur. Finally, it is illegal to conduct a life settlement using an unlicensed broker or provider, and is a felony, for instance, in Georgia.

ADVOCATE FOR A SAFE PROCESS

Inform your client of the settlement license requirement and the reasons why licensure is important. Ask for a copy of the provider’s license for the state of the policy owner’s residence. Ask the provider questions about how it handles and protects your client’s PCI. Ask the provider if it will track the insured or if it outsources this function, which will require another transfer of PCI. Remember that using a licensed provider offers more protection for you and for your client, which is the primary goal of life insurance.

M. Bryan Freeman has worked in the secondary market for life insurance for 20 years and is the founder and president of Habersham Funding, LLC, a life settlement provider. Jonathan Jarrell is the company’s associate general counsel. He can be reached via 888-874-2402 or jjarrell@HabershamFunding.com.
Steer Clear of Trouble — How to Distinguish a True STOLI From a Life Settlement

BY M. BRYAN FREEMAN

Recently, much information has begun circulating about the practice of stranger-oriented life insurance (STOLI) in the life settlement industry. Some of this information is, however, misleading or just plain wrong. For one, the process of a STOLI transaction is not as simple as a complete stranger choosing an unknown consumer out of a crowd and purchasing a life policy on them without their knowledge, as some reports tend to imply.

But what exactly is STOLI, and how does it relate to both the primary and secondary markets for life insurance?

According to the National Conference of Insurance Legislators’ (NCOIL) definition of STOLI, it is “a practice or plan to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured.”

Among other things, this definition emphasizes that a STOLI occurs at the beginning of a life insurance purchase transaction during the primary policy sale to the purchasing policy owner and with the insured — in other words, between parties who consent, including a consenting insured.

If you’re thinking, “Yes, but doesn’t such a definition bring us awfully close to traditional and even common life insurance sales scenarios such as corporate or bank-owned life insurance?” you’re right.

You need to ask questions; you cannot remain ignorant of the STOLI issue because you can easily stumble into unknown territory and, in doing so, could lose both your livelihood and your freedom — especially if the new provisions in the NAIC and NCOIL Model were to become law in your state. Why? Because each model makes it a felony to violate their provisions.

If you’re thinking, “Yes, but doesn’t such a definition bring us awfully close to traditional and even common life insurance sales scenarios such as corporate or bank-owned life insurance?”, you’re right.

You need to ask questions; you cannot remain ignorant of the STOLI issue because you can easily stumble into unknown territory and, in doing so, could lose both your livelihood and your freedom — especially if the new provisions in the NAIC and NCOIL Model were to become law in your state. Why? Because each model makes it a felony to violate their provisions.

Likewise, if you’re not quite up to snuff on STOLI, a potential life settlement transaction is involved, and you’re not well-experienced with settlements, it can be easy to misconstrue a STOLI arrangement as a non-STOLI arrangement, and vice versa.

IDENTIFYING STOLIS

Examples of STOLI scenarios, derived from the Ohio Department of Insurance Guidelines, include:

- Someone purchases a life policy on an insured — often someone between the age of 65 and 85 — in exchange for an immediate lump sum payment
- Someone offers a contract to a potential insured for “free” or “no-cost” life insurance
- Someone purchases a life policy on an insured (at no cost to that individual) in exchange for a partial payment of the policy’s face value to the insured’s beneficiaries upon the owner’s death
- Someone purchases a life policy or encourages another person to purchase a life policy for the sole purpose of eventually selling the policy to a third party

Also worth noting is what the Ohio Department of Insurance describes as “materially participating in transactions leading up to the purchase of a life policy” within life insurance purchase scenarios such as those described above. Again, it is crucial that you stay informed about stranger-originated life insurance (which is also sometimes referred to as investor-originated life insurance).

It’s not easy to stay on top of all things happening with STOLI, given that there are so many confusing STOLI definitions bandied about by seemingly reputable sources. Of course, some biased sources actually can have an interest in confusing the situation.

That’s why you should look to sources such as NCOIL and your state’s department of insurance. In particular, it is important to note that NCOIL’s STOLI definition is included within that organization’s revised Model Settlement Act. The model law is a targeted attempt to prohibit STOLI transactions while encouraging legitimate life settlements.

According to NCOIL Life Insurance & Financial Planning Committee Chair Representative Michael Ripley, “The end product of our work represents a thoroughly vetted proposal that takes aim only at what’s wrong with the life insurance market — STOLI.”

Even the National Association of Insurance Commissioners (NAIC) did not appropriately address STOLI in its revised Model (Settlement) Act, issued last year. In fact, NAIC leaves the issue open and, therefore, open to abuse.

The good news is that, ultimately, as states appropriately amend their laws to define and stop STOLI from occurring in the first place, such transactions will disappear.

WHAT IS STOLI NOT?

In the meantime, to help you differentiate what is and what is not STOLI, here are three examples of non-STOLI transactions that you may encounter:

» FREEMAN, page 30
A policy held by a family trust, such as an irrevocable life insurance trust (ILIT), that was originally legitimately purchased for estate protection and is later determined to not be needed and is sold as a life settlement.

A policy held by a company on a key executive who leaves employment, leaving the company in a position to sell the policy after four years of owning it themselves and paying premiums on the product.

A policy held by a child on their parent and on which the child borrows the premium in a premium finance loan where, from the outset, there was absolutely no intent to buy the coverage and subsequently sell it.

The bottom line is that, if you are faced with a potential STOLI scenario as it relates to a life settlement transaction and you are not comfortable with your technical grasp of the purchase structure of the policy in question, consult a fellow agent who is adept at such. Ultimately, you, your advisor partner, or your licensed settlement industry provider partner will likely consult a well-informed estate planning attorney for a “reading” of the situation, and it is well worth doing so until the 39 states that regulate viatical and life settlements adopt solid measures that stop STOLI where it starts — at the initial purchase of the life insurance policy.

M. Bryan Freeman is the founder and president of the life settlement provider Habersham Funding LLC. He can be reached at 888-874-2402 or bfreeman@habershamfunding.com.
Part 5 | Regulations

Life Insurance Consumer Disclosure Law: A Lifeboat in the Eye of the Storm

NCOIL model may offer respite for middle-class Americans struggling with long term care costs

» By Chris Orestis

We see it in the headlines almost every day. Between the senior population already in the long term care system and the baby boomers now hitting the Social Security and Medicare age at a rate of more than 10,000 per day, it is now safe to say that the long term care funding crisis has arrived.

“The Silver Tsunami Hits with a Bang!” “Senior Boom Begins Amidst Economic Bust!” The crux of the dilemma is the most basic of economic principles: supply and demand. In the midst of the most persistent economic downturn since the Great Depression, the long term care demand of seniors is growing at a much faster rate than the supply of resources to pay for their care. This demographic and economic disconnect will likely force the government to raise barriers to entry for the three primary entitlement programs: Social Security, Medicare, and Medicaid. It may also result in reduced benefit levels and push more of the responsibility for retirement and long term care funding back on the individual — and the individual’s family.

The wealthy can absorb long term care costs. Government-subsidized care is available for the poorest. But what about the middle class American who doesn’t fit into either of these categories? A small percentage of people have had the foresight and resources to prepare in some degree through long term care insurance. Unfortunately, in the years when sales should have been skyrocketing, they’ve been declining, and the twin trends of rate increases and carriers exiting the market have been severely disruptive.

A much larger number of people in this category own life insurance, leaving them free to use that asset to pay for long term care. Yet over 90 percent of all life insurance policies lapse or are surrendered, and most middle market policy owners are unaware that they can use their insurance policy’s death benefit as a living benefit.

LIFE INSURANCE CONSUMER DISCLOSURE LAW

State governments have started to recognize the dilemma of policy owners who don’t understand the options that are available to them when they consider surrendering or lapsing their life insurance. There are millions of seniors who have been paying premiums for years, and then abandon their policies at the time when they could most benefit from them. To help address that lack of information, a number of states — including California, Kentucky, Maine, New Hampshire, Oregon, Washington, and Wisconsin — have passed or are considering life insurance consumer disclosure laws. In November, the National Conference of Insurance Legislators (NCOIL) passed the Life Insurance Consumer Disclosure Model Act, and despite life insurance industry opposition, it will be introduced into state legislatures across the country beginning this year.

The law requires that life insurance companies inform policyholders older than 60 or with a terminal or chronic condition that there are eight approved alternatives to the lapse or surrender of a life insurance policy. These options include:

» Accelerated death benefit
» Assignment of policy as a gift
» Life settlement
» Policy replacement
» Maintenance pursuant to terms or riders
» Maintenance of policy through a loan
» Conversion from term to a permanent policy
» Conversion to LTCI or a long term care benefit plan

The law also emphasizes that “policy owners should contact their financial advisor, insurance agent, broker, or attorney to obtain further
advice and assistance.” Violation of the law is considered an unfair trade practice and subject to the penalties established by state law.

NCOIL declared that final passage of the Life Insurance Consumer Disclosure Model Law is intended to be “a strong stand for life insurance policy owners and would empower consumers through education about their options.”

The timing of this disclosure law could not be better. The “silver tsunami” has begun, economic conditions remain in turmoil with no significant recovery in sight, and the LTCI market is in disarray. Consumers are looking for solutions to their problems — and they may be able to find them in their life insurance policy.

POLICY CONVERSION
One of the newer options included in the model law is converting a life insurance policy into a long term care benefit plan. This option differs from hybrid policies that can be converted into LTCI (which is also included in the list of eight), instead allowing for the actual exchange of a life insurance policy for a long term care benefit plan.

Not to be confused with an insurance policy, the benefit plan is not issued by a carrier and is not restricted to policies that contain a conversion rider or to the issuing carrier. The policy conversion can be completed for any form of individual or group life insurance, and is not subject to the same limitations and wait periods as LTCI. The entire conversion process can be done in less than 30 days, after which a third-party administrator makes payments on a monthly basis to the long term care provider for the duration of the benefit period. If the insured dies before the period is exhausted, then any remaining benefit amount is paid to the family or named beneficiary as a final expense payment.

Long term care service providers have been quick to embrace this alternative form of payment. State governments are also realizing that there is tremendous value in converting life insurance policies to help pay for the costs of long term care. Life insurance is an unqualified asset for Medicaid applicants, and it has been standard practice to abandon a life insurance policy if it is within the legally required five-year look-back spend-down period. But now, by converting a life insurance policy instead of abandoning it, the policy owner’s care can be covered by the long term care benefit plan for an extended period, and the life insurance asset can be spent down in a Medicaid-compliant fashion while preserving a portion of the death benefit.

A SOLUTION FOR THE MASSES
It may be some years before a substantial percentage of policy owners use this option. Recently, the concept of using life settlements as a way to monetize a life insurance policy for long term care began to spread, but the challenge there is that life settlement companies focus on high-net-worth individuals with large face policies. For the vast majority of the senior population with life insurance policies worth less than $500,000, a life settlement is not a likely scenario. For most middle class Americans who require long term care today and own a life insurance policy, converting a life insurance policy’s death benefit may be the best option available.

Chris Orestis is president and founder of Life Care Funding Group; a 15-year veteran of both the life insurance and long term care industries; and a frequent speaker, featured columnist, and contributor to a number of industry publications. His blog on senior living issues can be found at www.lifecarefunding.com/blog. He can be reached at 888-670-7773 or chris@lifecarefunding.com.
Life Settlement Regulation: GAO, SEC Recommendations Don’t Hold Water

Best way to regulate life settlements is the way they’re already regulated: by the states

“Offices, clerks, secretaries, inspectors and intendants are not appointed to benefit the public interest, indeed the public interest appears to have been established so that offices might exist.”

- Baron de Grimm and Diderot, Correspondance littéraire, philosophique et critique, July 15, 1765

It is worth reflecting on the words of the 18th century baron when one considers recent Government Accountability Office and Securities and Exchange Commission’s reports regarding the life settlement industry. Both bodies have suggested that there was ample reason and justification for the emergence of the life settlement industry in the last decade: value for consumers. But the reports took distinctly different approaches in suggesting solutions for a variety of problems that have beset the industry.

Essentially, this is what the GAO said: Congress should consider acting.

Essentially, this is what the SEC said to itself: The SEC should find a way to play.

A DESIRE TO GROW

While I recognize the issues raised in these reports, this does not make me any less of an advocate for the continued expansion of the settlement option for consumers. Frankly, the reports’ recommendations for either Congressional intervention or SEC expansion seem to be driven by the desire to grow the entities themselves rather than an inherent need for a change.

Unless there’s some new discovery, the evidence appears to compel a pullback from the idea of federal intervention in the settlement market, and instead suggest that the states are rapidly moving to fill the regulatory gaps.

Let’s look at the statistics: State regulation by insurance regulators now covers more than 80 percent of the population that would potentially engage in life settlements, and federal securities law has been affirmed in most jurisdictions to protect policy investors. A decade ago, the percentage of those covered by state regulation was tiny, and the question of federal or state securities oversight was far from being resolved.

Even the SEC cannot justify the idea that it is equipped to regulate the sale of policies by original owners, and explicitly distances itself from this suggestion. Rather, their recommendation is a patched-together idea that somehow, all participants in insurance product secondary market sales (except the original owner) should be licensed and regulated by the SEC.

Yet media reports show that the SEC has had its hands full with regulating those areas already known to be securities, and has difficulty measuring and reporting the activities currently under its jurisdiction. State securities regulators have made it clear that they have the

CAUTIONARY WORDS FOR PRODUCERS

Although current regulations only prohibit non-securities-licensed individuals from participating in settlement investments, all producers involved in life insurance settlements should:

- Be very cautious about acting as advisors on investments in settlements for their clients
- Be very sure that they are dealing with several providers or experienced brokers that can help them get the best treatment for their client when the client is selling a policy
- Check state licensing laws and make sure they’re qualified to participate in the settlement (www.lisassociation.org)
- Work with the understanding that a fiduciary duty applies to any action for the client in every state that has a law — as of press time, 40 states
- Make sure that they do not lose sight of the client’s benefit, which may arise from either selling or surrendering or keeping a policy
- Understand the process and their role, without stepping over any lines
- Avoid any deal in which their client’s policy purchase is being funded by a third party with the intent of buying a policy in which the client has no real interest
authority and are willing to use it when an inappropriate investment scheme emerges.

**LIFE SETTLEMENTS STILL INSURANCE**

So here is the bottom line on the reports: Congress said that settlements should be considered insurance for purposes of regulation in the recent Dodd-Frank Wall Street Reform and Consumer Protection Act. Only when all insurance products are considered securities will the SEC have the authority and reason to expand its regulation of settlement activity. That day is a long way off.

When regulators find, in their own studies, that they may want to expand, it is little more than a further expression of the primal need to grow — and is far from inevitable in a competitive environment.

Doug Head is the legislative consultant for the Life Insurance Settlement Association. He can be reached at doug@lisassociation.org.

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**What is your opinion of your state’s current regulations regarding the life settlement business? (trend)**

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*Source: Agent Media/LISA 2011 Life Settlement Study*
Life Settlement Regulations Make It Harder to Avoid the Market

The industry may feel that the market competes with insurance policies — but some states are making that stance illegal

BY LORI WIDMER

Here’s a dilemma: Imagine knowing exactly what your client can do to increase their profits from the sale of their life insurance policy.

Now, imagine not being able to say anything about it. That’s exactly the position many producers find themselves in, thanks to the disconnect between what insurers allow and an agent’s regulatory obligation to their clients.

States are rapidly adopting legislation to protect consumers when it comes to the life settlement market, with more than 80 percent of the nation regulating the transactions in some form or another. It’s not the market itself that is at issue, but rather the practice of stranger-originated life insurance (STOLI) — buying insurance with the intent to resell it on the life settlement market, which is prohibited.

These policies were being sold the first time around with the express intent of reselling them for a quick turnaround, and in some cases, premiums were being fronted for the policyholder. As a result, most life insurance policies now have a period during which the policy cannot be resold — typically anywhere from two to five years. This is one of the reasons why insurers and life settlement providers parted ways from the outset. It’s also the reason some states are adopting laws that require agents to disclose the life settlement option to their customers.

The STOLI practice caused an outcry from consumers and has prompted insurance regulators to propose, push for, and adopt laws that now affect life settlements and the way the insurance industry should handle them. As of press time, 38 states had regulatory legislation pertaining to life settlements on the books, with three states (Maine, Oregon, and Washington) specifically requiring that insurers and agents inform policyholders of all their options — life settlements included — rather than presenting an either/or scenario of surrender or lapse.

But here’s the catch: Many carriers do not want agents discussing life settlement with policyholders. Many have gone so far as to ban the mere mention of life settlements to policyholders, and a number of insurers include contract stipulations that expressly prohibit agents from entering into such discussions.

“[Agents are] stuck between a rock and a hard place,” said Doug Head of the Life Insurance Settlement Association (LISA), “the rock being the immovable insurance companies who discourage any settlement activity, and the hard place being consumers who want to know about this option.”

CONSIDER DISCLOSURE REGARDLESS

Luckily for agents, most states do not require producers to disclose the life settlements option to their customers — but the sensible thing for any agent is to adopt a full-disclosure practice, according to Francine Semaya, insurance regulatory expert and partner at law firm Nelson Levine de Luca & Horst in New York.

“If there is another option out there, it needs to be disclosed,” Semaya said. “And the consumer needs to be educated as to what’s best for him or her.”

While agents aren’t typically subject to the same fiduciary responsibilities as investment advisors, they do have a certain level of responsibility to their clients. Agents who want to retain the majority of their clients find the choice is an easy one.

And as more states pass regulations that require full disclosure, experts agree that more insurers will relax the rules for agents, allowing them to offer all the options.

In general, there is more pressure on the insurance industry to be more forthcoming with regard to the life settlement industry and the options it presents. Yet there remain some insurance companies that still refuse to allow their agents to discuss life settlements with their clients. The reasons seem less clear than they once did, since legislation now brings the life settlement market under regulatory control. In New York, for instance, life settlement providers must be licensed with the state insurance department; other states have adopted similar measures.

The regulations define consumer rights and privacy and include enough anti-STOLI language to discourage illegal practices. There’s also an education piece that goes along with much of the legislation, which makes sense if life insurance producers will now be expected to inform clients about their options in the life settlement market. After all, producers need to have a working knowledge of all the moving parts involved in a life settlement arrangement if they’re recommending it as an option.

Moreover, agents have to know where to draw the line. “They can’t be competing against themselves in the life insurance market,” said Semaya. “If they’re life insurance agents, they have obligations and responsibilities, both regulatory and to those insurers they represent. They can’t undermine that.”

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BEWARE THE RISKS
Scott Witt, of Witt Actuarial Services in Wisconsin, said that common sense suggests that consumers should be made aware of all opportunities, especially if the customer has already decided that the best option would be to give up the policy.

However, he cautioned that taking on a fiduciary responsibility could also bring on all the risks normally not associated with insurance agents.

All experts agree that the burden that full disclosure brings on an agent could create more work and more risk than these laws intended. At the moment, agents in the three states that require life settlement disclosure are required to do no more than inform customers of the option. All agree that it’s inappropriate to hide the option for whatever reason.

The bottom line for agents is that the larger risk to the agent comes from the consumer side. If companies are unwilling to inform customers of the life settlement option, agents need to take a more proactive stance. With litigation serving as a ticking time bomb, producers need to weigh what’s more important — serving their contractual arrangement with the insurer, or giving customers full disclosure.

And disclosure is becoming much more difficult to avoid. With so many states adopting legislation, agents can no longer claim ignorance on the issue. Putting the concern of the insurance company’s directives over that of the consumer is dangerous ground — and not just for the agent, said Witt. “If I were a company issuing that directive, that would make me nervous.”

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HELPING CUSTOMERS HANG ON TO POLICIES
Maybe surrendering isn’t the best option for your client’s life insurance policy, but that doesn’t mean a life settlement is, either. It could be that the best option for your client is actually the very policy in question.

Scott Witt of Witt Actuarial Services offered these three simple suggestions for agents when counseling their customers on their options:

› Consider lowering the death benefit. Is the amount still appropriate for the policyholder? The additional coverage could be keeping premiums out of reach, and may benefit from an adjustment that can make things more affordable.

› Adjust the policy type or terms. Consider whether the type of policy is deterring your client’s ability to afford the premiums, and adjust accordingly.

› Work with clients to help them see the intrinsic value. Clients may find the premiums daunting, but the current life insurance policy may be the best one that’s available to them. If your client is in a situation where they can sell the policy, it could be that that policy is their best-performing asset in their portfolio.
Life Settlement Regulations by State

Confused on your state's life settlement regulations? Check out this map, which shows you at a glance which states regulate settlements — and which don't.

Source: Life Insurance Settlement Association