

# The Life Settlement Industry Outlook for 2007

by Larry Simon

Much has happened in the past year, signifying the rapid growth of the secondary market for life insurance. The life-settlement industry is attracting more institutional funding and more insurance distribution firms, broker-dealers, and other entities are entering the market. The industry association is also becoming more prominent. A recent report by Bernstein Research reveals that the life-settlement market may reach \$161 billion sooner than the original expectation outlined in the March 2005 report.

In 2007 and beyond, regulation is likely to affect the growth of the life-settlement industry – affecting the confidence of eligible policyholders and investors alike. There will be many proposals to regulate life-settlement transactions in 2007.

Broker commission disclosure was the most-discussed topic at a recent conference of the Life Insurance Settlement Association. The association supports broker commission disclosures. The National Assn. of Insurance Commissioners (NAIC) proposed changing the Viatical Settlements Model Act to require full disclosure of all broker commissions. While the NAIC Viatical Settlements Model Regulation is not law, it was developed to encourage states to adopt uniform standards to regulate the life-settlement industry. Under the proposal, settlement brokers would have to provide disclosures in a document by the seller, including the following:

- All offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract.
- Any affiliations or contractual arrangements between the life settlement broker and any person making an offer in connection with the proposed life settlement contract.
- The broker's compensation and the method of calculating it. This includes anything of value given to a life settlement broker for placing a policy.

More states are expected to require disclosures of the amount and method of calculating commissions paid to settlement brokers and agents. The primary argument is that the broker/agent acts as the seller's fiduciary representative and fiduciaries have long been held to a high standard of full disclosure.

Even without legislation, institutional capital markets are considering requiring commission disclosures as a condition of

funding settlement transactions. All securitization-rating agencies will require commission disclosure. In addition, forward-thinking brokers are already providing full disclosure voluntarily. Some find it to be a marketing advantage in working with agents and sellers. New disclosure requirements may narrow margins in terms of percentage of commissions paid. But, the opportunity to expand the volume of case closings should more than make up for it. Some large distribution networks are disclosing commissions voluntarily and placing caps on commissions to provide better service to clients.

Larger institutional capital providers are becoming more comfortable with life settlements because the industry is maturing with stronger regulations, transparent marketing practices, and candid disclosures to the consumer.

Broker commission rates will become increasingly competitive as regulators move toward requirements for broker commission disclosures. As a result, the key differentiation points between life-settlement firms will be the service they provide for life-settlement transactions.

## Proposal for a Five-Year Moratorium on Resales

The first Life Insurance Finance Association (LIFA) conference was held in New York in November 2006. Conference leaders addressed concerns about insurance regulators who want to impose a five-year ban on the re-sale of life-insurance policies in the secondary market in order to stop the sale of stranger-initiated life insurance transactions. According to LIFA, the ban would not address violations of insurable interest in stranger-initiated life-insurance transactions. It would merely re-characterize these transactions as regulated life settlements.

Stranger-initiated life-insurance transactions rely on moving the ownership of trusts that own life-insurance policies. The use of trust ownership transfer may put the indirect transfer of the policy ownership outside the scope and requirements of the NAIC Viatical Settlements Model. So, the five-year ban would not address this problem, LIFA says. In fact, experts attending the conference said the five-year ban would hurt consumers who want to sell traditionally owned policies. It would also hurt policies financed through premium-finance loans, which do not bear the characteristics of stranger-initiated life insur-

ance after the standard two-year contestability period for estate planning purposes.

Nonetheless, NAIC adopted amendments to the Viatical Settlements Model Regulation, including the five-year ban on a policy that is "financed with the specific intent to be sold to investors."

## Bridging the Knowledge Gap

As the life-settlement industry grows, expect leading firms to develop innovative ways of educating agents and brokers. Life Settlement Awareness Month promises to address the educational needs of agents and brokers. For information, visit [www.lifesettlementawarenessmonth.com](http://www.lifesettlementawarenessmonth.com).

Consider joining the Life Insurance Settlement Association (LISA), which provides information to brokers and agents on the industry. As a leader in promoting responsible regulation, LISA has contributed language to laws governing the industry in most U.S. states. These efforts have resulted in more public awareness of this valuable financial service. For more information, visit [www.lisassociation.org](http://www.lisassociation.org).

## Finding Credible Business Sources in the Life-Settlement Industry

Gather information from several competitive companies when evaluating business sources in the life-settlement industry. Target those with the most experience and the best resources and reputation. The following guidelines can help you make the right choices for your clients:

- Solicit bids from experienced and ethical providers.
- Select a company that is licensed or otherwise qualified to do business in the state in which the policyholder lives.
- Look for experience, preferably at least \$1 billion in purchased aggregate face value to date.
- Confirm that the company is funded institutionally and would not re-sell the contract to an individual investor.
- Check with the state attorney's general office or state insurance department for any complaints or legal action against the settlement provider.
- Make sure clients consult with professional tax advisers. □

*Larry Simon is president of Life Settlement Solutions Inc. in San Diego. The management of Life Settlement Solutions, Inc. has purchased life insurance policies in excess of \$1 billion aggregate face value to date. For more information, visit [www.ls-corp.com](http://www.ls-corp.com).*