Choosing a Qualified Life Settlement Provider

by M. Bryan Freeman

As any market watcher can tell you, new products and services develop when needs and opportunities converge. And that's just what has brought the life settlement industry to new heights. Here, we'll examine how savvy financial and insurance professionals can harness this robust market to their clients' advantage.

You see, life settlements are quickly becoming an investment of choice for many institutional investors. At least half of all major international institutional investors are expected to deploy some of their capital in this market in the next few years. That puts significant capital into the life settlement business at a time when Baby Boomers are aging and discovering how life settlements can provide additional retirement income.

In fact, as the first major wave of Baby Boomers enters the retirement years, an additional $100 billion in life insurance coverage is expected to qualify for purchase in the life settlement marketplace. Life insurance held by those over 65, who are just beyond the Baby Boomer years, is already estimated to be in excess of $500 billion. Perhaps, $100 billion of these policies are eligible for life settlements. So, it's clear that this market has large growth potential and deserves ongoing focus by these institutional investors.

Insurance and financial professionals will see their clients' need for life settlements and begin to understand the opportunities. So, it follows that advisors will need to choose a partner to bring their clients true value from life policies that have become too expensive to maintain; are not performing up to expectations; or for which the original need no longer exists. Also, rapidly evolving regulations point to insurance and financial professionals' fiduciary duty to bring this alternative to their clients. But, we'll talk more about regulation later.

Choosing a Provider Confidently

For now, we'll address how to choose a qualified life settlement provider. Some of the things should look for are common to other industries. You should also look at a provider's quality, competence, and dependability related to efficient and effective life settlement transactions. Consider the following questions:

- **Does the provider have proven industry experience?** For instance, how long has the life settlement provider or its principals been in the industry? Remember, the volume of transactions may not be as important as the reputation built through solid business practices.
- **Is the provider affiliated with respected industry organizations?** Membership in the Life Insurance Settlement Association (LISA) is a positive signal. I may be a bit biased on this point, given that I serve as an officer of the LISA. Even so, I can tell you that I have seen industry players come and go. But, the stalwarts invest in the industry by working to build a strong and reputable climate for all involved.
- **Does the provider use proven, reputable professionals as escrow agents, with money held in reputable independent financial institutions?**
- **Does the provider work with regulators to bring responsible regulation to the industry?** Reputable life settlement firms want proper regulation and they work to ensure that it is put in place.
- **Does the provider have an in-house legal department?** This demonstrates a commitment to do things right and shows that the company has the knowledge and resources to operate in a complex and regulated environment.
- **How many states have licensed the provider for the purchase of viatical set-**

tlements, life settlements, or both? This is another indication of the investment the provider has made in properly and legally establishing itself in the industry.

- **Is the provider licensed in at least 15 states?** This indicates its ability to meet regulatory requirements and pass muster with regulators over a broad range of inspections. (California does not license life settlement providers.) Do not deal with an unlicensed provider when a license is necessary – whether the provider is located in the policy seller's state, in another state, or outside the U.S. A few providers claim that a license is not required because they are located outside the U.S. This is false.
- **Does the state insurance department have any complaints about the provider or legal action against it?** Verify that the provider is licensed to do business in your state.
- **Does the provider perform due diligence on all parties in a life settlement transaction?** That's just good business and indicates the provider's concern to only be involved in responsible transactions.
- **Does the provider have errors & omissions coverage for life settlement transactions?**
- Does the provider otherwise offer assurances that it will adhere to all insurance laws and regulations and the LISA's Code of Business Conduct?

The heavily regulated life settlement industry requires a major commitment of capital and time. So look for a provider that's adequately capitalized, is experienced, and is well thought of.

Also look for simple cues. How long has the company been in business? Does it have a physical address or does it only want to give you an Internet address or private mail box?" Look for established reputations that indicate a commitment to the industry and a strong knowledge base of insurance and settlements. People who have participated in developing good, responsible regulation are more likely to have solid ethics.

Do some Internet investigation. Do a Google search or otherwise look up the names of companies and their principals, which will tell you a lot. It's amazing what you will find out. Have they written about the industry or have they been written about? Are they associated with multiple industry meetings? Do Internet references indicate full-time association with other types of businesses?"

Being an LISA member is a solid indication that the provider is investing in this industry; is interested in teaching others about it; and is not afraid to work with peers toward a stronger business for all involved.

A Practical Look at Domestic Regulation

As you might expect, life settlement regulations have been established to protect insureds, policyholders, insurers, advisors, providers, and others. No settlement legislation or regulation excludes non-U.S. based providers. With that, I would note that regulation is a positive endorsement of the settlement concept.

Many state laws and the NAIC model regulation recognize that insurance professionals are uniquely qualified to conduct life settlement business since they hold a life license. I expect the trend toward producer authority to continue nationwide. (Producer authority is when life agents can transact settlements based on their life license.) It remains to be seen whether California will eventually have producer authority. Life producer authority for life settlements is in the best interests of California policy holders. Life agents know the most about life insurance and they know the most about their clients' needs. Further, life agents help clients when they surrender policies and make withdrawals and loans. It just seems logical for agents to be able to handle settlements within the scope of their life licenses.

Since California is a viatical-only state, anyone can do a life settlement without a license. So, it's all the more crucial to do your due diligence about which provider you work with. You should also know that there is a bill pending in the California legislature that would create full viatical settlement and life settlement regulation. In the near future, it seems probable that the state will embrace broader legislation and regulation life settlements.

When Will You Know if a Settlement Is Right?

Many agents happen onto potential life settlement scenarios in the normal course of business. Others look at client portfolios to find the opportunities. Here are some scenarios that agents and other professionals can look for to signal the need for a life settlement:

- A replacement policy is warranted, especially one that would normally use a 1035 exchange to fund the new coverage.
- Escalating premiums make the policy unaffordable or at least not the best investment at that time.
- A policy is in danger of lapsing. The value of those lapsed policies is enormous. Incredibly, 80% of all universal life policies lapse before paying a claim according to the March 4, 2005 *Bernstein Report*.
- A policy is simply not performing as expected.
- The insured or owner could benefit from a different type of life coverage. For instance, instead of single life coverage, a first-to-die policy would suit the client better; it would be advantageous to have a trust; or children own the policy.
- Wealth accumulation makes the policy unnecessary or wealth accumulation necessitates a new or different policy.
- The insured's health changes.
- The estate or tax law changes.
- There are changing personal circumstances, such as divorce or retirement.
- There are changing business circumstances, such as the sale or purchase of a business, bankruptcy, or a decreased need for a key-person policy.

When you work with a life settlement provider with which you are comfortable, you'll soon be able to recognize settlement scenarios as second nature. And, with solid provider partnerships in place, you'll be ready to act.

I believe that the industry will purchase $10 billion to $15 billion of insurance policies in this calendar year alone. In a market that's growing by at least 20% a year, there is ample opportunity for smart advisors to play a part. If you intend to be one of them, learn to recognize a provider that will bring value to your business and your clients and collaborate with them toward mutual success. ❏

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