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Would SFDR Article 9 Compliance Deliver an Asset Flows Boon for EU Life Settlement Funds?

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Editor’s Letter
Volume 2, Issue 3, March 2023

Chris Wells
Managing Editor
Life Risk News

March 2021 saw the European Securities and Markets Authority (ESMA) announce its Sustainable Finance Disclosure Regulation (SFDR), the bloc’s first attempt of a process to standardise the ESG investment space. *Greg Winterton* spoke to **Rainer Gruenig**, CEO at **Plenum Investments**, to ask whether Article 9 compliance would be a tailwind for the life settlement market in *Would SFDR Article 9 Compliance Deliver an Asset Flows Boon for EU Life Settlement Funds?*

The traditional life insurance underwriting approach is a manual one, which can take between four to six weeks, sometimes more. The insurtech sector is driving significant change in this approach and *Aaron Woolner* spoke to **Alby Van Wyk**, Chief Commercial Officer at **Munich Re Automation Solutions** and **Aaron Shapiro**, CEO of **Dayforward**, to get their thoughts on the effect that the insurtech market is having on this approach in *AI and Algorithms Driving Change in Life Insurance Underwriting.*

In the carrier rescission case of Columbus Life Insurance Company versus Wilmington Trust, N.A., filed in 2021, the Arizona Supreme Court is being asked if a life insurance company can contest the validity of a policy based on a lack of insurable interest after the two-year contestability period expires, as required by Arizona law. *Jeffrey Davis* spoke to **Jule Rousseau**, Partner at **ArentFox Schiff**, about the implications of this one for *A Question for the Arizona Supreme Court: Is the Two-Year Contestability Period Sacrosanct?*

This month’s Roundtable sees life expectancy underwriters take center stage. *Greg Winterton* spoke to **Chris Conway**, Chief Development Officer, **ISC Services**; **Vince Granieri**, CEO, **Predictive Resources**; **Phil Hall**, Manager of Product and Business Development, **Longevity Holdings**; **Sean Malone**, President and CEO, **Longevity Services**; and **S. Jay Olshansky**, Chief Scientist and Co-Founder, **Lapetus Solutions**, to get their thoughts on the current state of and outlook for their space going forward.

Our first commentary piece this month covers climate change and longevity risk. **Nicola Oliver**, Director of Life and Health at **Medical Intelligence**, explains all in *The Impacts of Climate Change on Mortality.*

Our poll for February 2023 asked, What is holding back more investment firms from actively participating in the life ILS market? Life Risk News readers have a range of views on this one.

Our second commentary piece this month covers unlicensed participants in the life settlement market. **Chris Conway**, Chief Development Officer, **ISC Services**, explains what institutional, end investors need to be aware of when conducting due diligence on the space in *Prudent Due Diligence Key to Mitigating Life Settlement Unlicensed Operator Risk.*

This month’s Q&A takes a look at ELSA’s Master Agreement for Tertiary Transactions (MATT). *Greg Winterton* spoke to **Philip Siller**, CEO at **BroadRiver Asset Management**, one of the firms involved in creating the MATT in 2019, discusses the origins of the document and its most salient points.

In Canada, the topic of ‘life settlements’ comes up every so often. Most recently, in 2021, lawmakers in Ontario tried to get Bill 219 through, which would have provided a regulated secondary life insurance market in Canada’s most populous province, but it failed to get through. *Greg Winterton* spoke to **Daniel Kahan**, CEO of **Viaticus Canada**, to get his views on what needs to happen for Canadian seniors to get a country-wide secondary market for life insurance in *Will Canada Ever Get a Secondary Market for Life Insurance Policies Available to All?*

If you’re interested in getting in touch, whether that’s with an idea for a topic that you’d like to see covered, or just to offer some feedback, please drop the team a line at editor@liferisk.news. In the meantime, on behalf of ELSA, we hope you enjoy this new issue of Life Risk News.

Would SFDR Article 9 Compliance Deliver an Asset Flows Boon for EU Life Settlement Funds?

Author:
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Life Risk News

Two years ago, the European Commission (EC) implemented its Sustainable Finance Disclosure Regulation (SFDR), a framework that provides a level of standardisation for investment funds with regards to the environmental, social and governance claims made by these funds domiciled in the bloc.

The 'dark green' funds – 'Article 9' funds – are funds that deliberately have some type of sustainability as their objective and meet certain criteria. Article 8 funds are those which don't necessarily have ESG factors as the core objective of the fund, but at the very least, they 'do no harm'. Many large institutional investors in Europe have ESG mandates of some kind, making the Article 9 tag a competitive advantage for investment funds that meet the criteria, certainly when it comes to environmental concerns, which is where the vast majority of the EC's efforts have focused thus far.

> "If the regulator would accept an overall argument that we are providing capital to individuals that is higher than the surrender value which therefore creates a positive social impact - that could be accepted by the regulator as enough to qualify for Article 9."

Life settlement funds can't be Article 9 funds, but that's because the EC hasn't laid out the rules for the social-based leg of the ESG stool – it's only the environment pillar that has had criteria decided to date. But they do meet the criteria to market themselves as Article 8-compliant funds, for two main reasons. The first is the cash benefit provided to the policyowner at the point of sale at multiple times the surrender value of the policy; the proceeds from which can be used to fund anything ranging from medical bills to paying off a mortgage (there are no restrictions).

This is seen by the industry as a benefit to thousands of American consumers each year and is something that the industry itself promotes consistently.

The second is that life insurance companies are considered to be strong ESG-friendly counterparties. The environmental footprint of these firms is much smaller than many others, and the concept of life insurance is that it's helping people, which is a societal positive, so the ESG ratings agencies look more favourably on life carriers versus their property and casualty cousins, which may be insuring a coal mine, or a tobacco factory, for example.

Still, Article 8 is not Article 9. But EU lawmakers will define the requirements for funds with a focus on the social eventually, which could go some way to determining whether life settlements could qualify for Article 9 status. The challenge for the life settlement space, however, is whether it gets a seat at the table during those discussions.

"If the regulator would accept an overall argument that we are providing capital to individuals that is higher than the surrender value which therefore creates a positive social impact - that could be accepted by the regulator as enough to qualify for Article 9," said Rainer Gruenig, CEO at Zurich-based Plenum Investments Ltd. "But the life settlement market is smaller than many others. Therefore, we don't have as much influence in Brussels as the traditional asset classes. We'll have to wait to see if there is anything specific that the life settlement industry can align with to justify Article 9."

If life settlements don't make the cut, does it matter? Will that impact asset flows into the space negatively? Gruenig says that Article 8 is currently sufficient for the vast majority of investors. For now ESG tends not to be the starting point for initial conversations with potential clients.

"The conversations we have currently start with the risk-return profile, they don't start with ESG," he says. There's a lot to explain about life settlements before we get anywhere near ESG, but when we do, then the social benefit of the space is always a pleasant surprise for those who are less familiar with life settlements."

The European life settlement market will have to wait to find out whether these funds can be 're-branded' as Article 9 or not. For Gruenig, it's a no-brainer, but whilst he doesn't think it'll impact asset flows, the bigger picture would be a tailwind to the space.

“I personally believe that EU domiciled life settlement funds should be Article 9. Our industry creates a positive impact for policyowners by realising a higher cash value for their policy, and their spending creates and sustains jobs. Life Settlements thus make a small but effective contribution to solving the problems surrounding old-age poverty and the financial effects of rising life expectancies including but not limited to helping seniors to pay for their health care costs. We’re a positive business,” he said. “But while I don’t think that it would make a significant difference to allocations from investors in the short term, Article 9 compliance would at least provide us with the opportunity to be involved in the impact conversation, which is important strategically for our market.”

> **“I personally believe that EU domiciled life settlement funds should be Article 9. Our industry creates a positive impact for policyowners by realising a higher cash value for their policy, and their spending creates and sustains jobs. Life Settlements thus make a small but effective contribution to solving the problems surrounding old-age poverty and the financial effects of rising life expectancies.”**

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AI and Algorithms Driving Change in Life Insurance Underwriting

Author:
Aaron Woolner
Contributing Editor
Life Risk News

The traditional life insurance underwriting approach sees an agent speaking to a customer, who then fills out an application form. This is then manually underwritten, a process which might involve getting a fluid sample from the policy holder and maybe some extra medical records, and could take between four to six weeks, sometimes more.

The insurtech sector is driving significant change in this approach, fuelled by an explosion in the availability of data, the quality of data, and the technology available to analyse it.

“Taking out a life insurance policy now only needs to take a few minutes to complete online. Algorithms automatically look up third party data sources, run the results through systems and the customer gets a quote right away and they can check out instantly,” said Aaron Shapiro, CEO of US-based digital insurance company Dayforward. “The underwriting can now, in most cases, be entirely automated, which is a dramatic change to how underwriting is normally done in the US.”

> **“Taking out a life insurance policy now only needs to take a few minutes to complete online. Algorithms automatically look up third party data sources, run the results through systems and the customer gets a quote right away and they can check out instantly.”**

According to Alby van Wyk, chief commercial officer (CCO), at Munich Re Automation Solutions (MRAS), a lot of traditional insurers have implemented automated underwriting systems, with rule engine systems that achieve good straight through acceptance rates, but he says it is important to distinguish between the US approach to life insurance underwriting and practice in the rest of the world. “The way the US does underwriting is different compared to the rest of the world, so we look at them as two distinct market approaches. We have been deploying similar solutions into such diverse territories as Japan, Brazil, China, India, South Africa, France, and it all works because they generally have similar approaches to underwriting.

Whereas in the US, insurers have upfront access to large data sets that simply aren’t available elsewhere, hence the need for a different solution,” he said.

Sydney, Australia-based Van Wyk says over a dozen different data sources are available to US life insurers which don’t exist in European or Asian markets. He cites driving records, pharmacy, and electronic health records, as examples of data points which a US life insurer has easy access to.

“Few of those data sources exist elsewhere. In the US, the focus is really about getting access to those data sources and using that data as part of the underwriting process,” he said.

Another difference between underwriting in the US and the rest of the world is the two year, non-contestability period for American life insurance contracts after they go into force. Within this time, the insurer can review the policy for fraud or misrepresentation by the policyholder. If no evidence is found by the insurer within 24 months the policy is incontestable even if the holder has lied by, for example, hiding a previous medical condition. In other countries, insurers are able to review policies at any point - even reclaiming pay-outs which are later found to be fraudulent.

“The two-year non-contestability period - and electronic access to third party data sources in North America - is largely why US life insurers do all the heavy upfront underwriting because it’s almost impossible to refuse a claim in the US after that point.” says Van Wyk.

Dayforward does use a human underwriter for complex cases or policies over a certain value. The company’s system scores each potential policy holder and produces a confidence interval for that specific rating. Too low, and the insurer gets a human underwriter to make an assessment.

“That just takes a few minutes, and the underwriter either adjusts it, and then the system improves, or they say it’s fine and a price is issued. Over time, automated underwriting gets better and better,” said Shapiro.

Whilst Shapiro believes that insurtech will produce more consistent and accurate underwriting eventually, for now, the focus for the space is aiming at achieving results that are on par with humans.

"The goal is to achieve parity with humans but underwrite instantly as opposed to a weeks-long process, and there's no human error. So, at the moment, I would say a human could do a more accurate job on a complex case. But for more basic cases firms like ours can do a better job because we are more reliable and instantaneous."

"A lot of insurers have implemented rules-based automated underwriting systems and are now receiving good Point of Sales straight-through-acceptance rates. This varies considerably by market but could be up to 80% in some cases. The question is, what's next?" added van Wyk.

> **"Using AI reduces the need for medical evidence, which cuts costs and improves the customer experience significantly," van Wyk says. "There are many use cases for the use of AI in insurance, including models to stream-line underwriting, triage applications, predict early claims as well as non-disclosure."**

One answer could be AI, and van Wyk said that insurers in many markets are looking to make better use of both as part of the underwriting process.

By analysing historical data, Munich Re's AI team observed that large numbers of cases were referred for manual underwriting, but they were ultimately classed as standard risks. By learning from historical underwriter decisions an AI model was developed, reducing the number of time-intensive and expensive requests for medical records.

"Using AI reduces the need for medical evidence, which cuts costs and improves the customer experience significantly," van Wyk says. "There are many use cases for the use of AI in insurance, including models to stream-line underwriting, triage applications, predict early claims as well as non-disclosure.".

There may be multiple uses for insurtech to streamline an insurer's businesses and Shapiro is confident that this points to a life insurance industry where all policies are eventually underwritten automatically.

"This is absolutely the future and I believe all the big carriers are working on projects relating to automation underwriting. Any US life insurance executive will tell you that the future of underwriting is automation. The question is: how do we get there?"

A Question for the Arizona Supreme Court: Is the Two-Year Contestability Period Sacrosanct?

Author:
Jeffrey Davis
Contributing Editor
Life Risk News

In the carrier rescission case of Columbus Life Insurance Company versus Wilmington Trust, N.A., filed in 2021, the Arizona Supreme Court is being asked if a life insurance company can contest the validity of a policy based on a lack of insurable interest after the two-year contestability period expires, as required by Arizona law.

Oral arguments are set for mid-March and a decision is expected in 60 days.

The dispute involves a $2.5 million Columbus Life Insurance Co. second-to-die life insurance policy taken out by a husband and wife, Howard and Eunice Peterson, in 2003 who were then 81 and 79 years old, respectively. The Petersons applied for the policy following a retirement seminar and Howard Peterson passed away in 2016. Mrs. Peterson passed away in 2018 and the policy's owner, Wilmington Trust, filed a claim to recover the death benefit, 18 years after the policy had been originated.

> **"Among the issues the case could decide: whether a carrier can wait as long as possible to sue on STOLI grounds, collect more in premiums due to that delay, and then keep the premiums."**

Columbus Life Insurance Co. refused to pay Wilmington Trust's claim, and instead filed suit claiming that the policy lacked insurable interest from its inception and is void ab initio, or that it had no legal effect from inception. According to court filings, during that 18-year period Columbus Life Insurance Co. collected at least $1.5 million in premiums on the policy.

"This is a case about stranger-originated life insurance or STOLI: A pernicious phenomena where investors use senior citizens as tools to create life insurance policies—not for the benefit of the seniors or their families—but as human life wagers to benefit the investors," according to a Supplemental Brief submitted by Columbus on January 24, 2023. "More than a hundred years ago, this Court recognized that human-life wagering violates public policy and that policies created for this purpose are void. That common law rule has never been abrogated, and instead has been codified and bolstered."

Among the issues the case could decide: whether a carrier can wait as long as possible to sue on STOLI grounds, collect more in premiums due to that delay, and then keep the premiums. "Remarkably, Columbus also asserts that it should be allowed to keep the premiums that it received on this policy that it now says never existed," according to the filing by attorneys for Wilmington Trust.

As the case proceeded in U.S. District Court in Arizona, there was a pause to see if the policy can be enforced, and on August 10, 2022 Judge Diane Humetewa of the United States District Court for the District of Arizona in Phoenix issued an order requesting a response from the Arizona Supreme Court. The question: "Does Arizona law permit an insurer to challenge the validity of a life insurance policy based on a lack of insurable interest after the expiration of the two-year contestability period required by A.R.S. § 20-1204?"

In the brief filed to support the question, Columbus Life Insurance Co. said the answer is "yes," arguing the policy was "void ab initio" because it was an "illegal wagering contract" in violation of Arizona law.

"The court should decline Wilmington's efforts to allow its STOLI investor clients to profit from illegal human life wagering and prevent Arizona from becoming a favored jurisdiction for the next wave of STOLI," the Columbus Life Insurance Co. attorneys asserted.

Attorneys for Columbus Life Insurance Co. did not respond to a request from Life Risk News for additional comments on the case.

Attorneys for Wilmington Trust say the proper answer is "no," in part summarizing the argument this way: "This Court addressed substantially the same question sixty years ago, in another case in which a life insurer sought to escape liability by rewriting the clear language of the statute. Ancient principles of statutory construction, as well as relevant public policy considerations, illustrate why the answer should be no, as do the facts that led to this question being presented."

"If Columbus legitimately felt that the Policy lacked insurable interest, then it could and should have made that contention during the contestability period (or, even better, when it underwrote the Policy)," according to the filing.

“Columbus has gone to the courts instead, asking them to do now, after the insureds are no longer alive, what the insurer failed to do many years ago: underwrite the Policy. The statute exists to preclude the exact type of belated challenge to the policy’s validity that Columbus brings here and to relieve Arizona courts from the burden of performing this function. Columbus treated the Policy as valid for more than 16 years, and this Court should reject its attempt to rewrite Arizona law to further its pursuit of a windfall.”

> **“There is something inherently wrong with a carrier having an unlimited amount of time to challenge, and if successful, getting to keep the premiums.”**

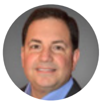
Most of the states have decided this question by either statute or court decision and have gone different ways on the issue, said Jule Rousseau, an attorney with ArentFox Schiff LLP in New York who is representing Wilmington Trust. For example, New York placed the burden on the insurance company and Wisconsin decided via statute. Delaware’s 2011 Price Dawe decision held that policies that lack insurable interest are void.

Commentators cited in the court documents say the more enlightened view is New York’s position, where the Court of Appeals placed the burden on the insurance company to act within two years. This is the first time Arizona will address the question and the answer will determine the status of many cases.

“But there is something inherently wrong with a carrier having an unlimited amount of time to challenge, and if successful, getting to keep the premiums,” Rousseau said.

Roundtable
Life Expectancy Underwriters

Chris Conway
Chief Development Officer
ISC Services



Vince Granieri
CEO
Predictive Resources

Phil Hall
Manager of Product & Business Development
Longevity Holdings

Sean Malone
President & CEO
Longevity Services

S. Jay Olshansky
Chief Scientist and Co-Founder
Lapetus Solutions

The life settlement industry in particular is a heavy user of life expectancy estimates and it's an area that continues to undergo significant change due to the influence of new data, more complete data, and technology. Life Risk News' *Greg Winterton* spoke to **Chris Conway**, Chief Development Officer, **ISC Services**, **Vince Granieri**, CEO, **Predictive Resources**, **Phil Hall**, Manager of Product and Business Development, **Longevity Holdings**, **Sean Malone**, President and CEO, **Longevity Services** and **S. Jay Olshansky**, Chief Scientist and Co-Founder, **Lapetus Solutions** to get their views on the current state of their sector, its challenges and opportunities.

GW: How accurate are life expectancy forecasts generally at this point in time when compared to, say, 10 years ago, and what can you point to that supports your answer?

CC: Accuracy is better and what's driven that is time – those that have been around long enough have been able to build a body of work for statistical significance. But there are nuances to the notion of accuracy in our space. One is that even if you're consistently wrong, an outside party can at least measure against you. It makes the product more useful to the user if you're consistent and if you identify where you're off or wrong, and why. You might only have seen an impairment three times, for example, and that might be the root of an inaccuracy – that's not enough data at all to build into a model. If you're consistent with how you approach comorbidities, and you've been able to do that long enough, you can demonstrate the efficacy of your work.

One other thing I'd mention here. We've been due diligenced only three times in the past five years. That's probably because life settlement fund managers don't think it's necessary. But I'd say to any end investors reading this that given the role that LEs play in the life settlement space, they should drill down into this more. If they ask, managers will have to do it. Investors need to know what data managers are using to make their investment decisions.

PH: We obviously believe our life expectancy forecasts are very accurate. What's driving that is decades of experience and data to test our life expectancy predictions; between our two underwriters, we've underwritten over 100,000 lives. Ten years ago, only around 7,000 of those lives had matured, which at the time made it difficult to assess specific performance. However, today, over 45k of those lives have matured, giving significant insights into how our underwriting has performed.

SM: LEs are more accurate now without a doubt and will likely be more accurate in another ten years. We need time to analyse historical data to improve our Actual to Expected results and we have better tools available for more comprehensive death searches now compared to just three years ago which means we can now update our A/E results quicker with better data to understand where we may be missing the mark. Obviously, our target is 100% A/E with minimal variability and having access to recent data gives us better visibility into performance.

VG: I'm going to nit-pick a little at the use of the word 'generally'. LE accuracy is best measured company by company. Companies who have significant experience and accumulated data are in the best position to build appropriate tables and methods. Those who employ the appropriate disciplines: clinical underwriting, IT, and actuarial can build data-driven models and processes that generate better results. Some of the key modelling techniques, assumptions, even results we use in developing our tables and debits are identical to those of folks who are on the cutting edge of aging research. But while there are plenty of smart folks who understand underwriting or longevity, it's about properly applying those disciplines to the specific life settlement market that counts. We've talked a lot about having more data and that is vital, but it's also important to remember that survival probabilities of certain diseases are rapidly changing as well, so it's not enough to look backward. Having said all that, given 10 more years of data and experience, LEs are more accurate today.

JO: Accuracy is complicated. If 1,000 people come to us and asked, 'how long are we going to live?', you're not going to know the answer to this definitively until they all die. It's not possible to figure out a true A to E because you would have to wait too long. There's also nuances like the range for accuracy. The state of Florida provides this range to LE providers, and most companies use that data. Let's say it's a 48-month range – if someone therefore dies between 18 and 22 months on either side of that point estimate, it's considered accurate, so by that standard, accuracy is excellent. If you take a life table and look at the probability that someone will live for 20 years, they will be precise 5% of the time. The answer to this question is incredibly nuanced. But A to E is a complicated concept in the world of life settlements.

GW: In terms of the life settlement market, a trend prevails where fund managers are increasingly 'insourcing' the LE analysis function – i.e., doing it themselves. Is this something you're concerned about or not, and why?

VG: I am reminded of an old TV commercial that involved some high-performance driving; it was later parodied by comics. The disclaimer at the end of the commercial – we are professionals, don't try this at home! That's not to say in-house underwriting can't be successful, but I think folks understate the commitment it takes to run a successful underwriting program. I'm coming up on the tenth anniversary of founding Predictive Resources, and Roger [Tafoya, Predictive Resources Chief Underwriter and COO] and I were focused on life settlement underwriting for five years before that. Underwriting the human longevity risk has been my singular commitment for over 15 years. And mortality is forever evolving – 15 years ago multiple myeloma was a death sentence and lymphoma nearly so. Not anymore. Given the constant changes and the necessary skill set, data and focus to build an effective longevity practice, my advice is to be careful out there.

SM: No, I am not concerned with this trend. I understand that different fund managers have their own unique strategy or specialty and having underwriters in-house helps them implement that strategy. I think the diversity of risk appetites and approaches among the different fund managers makes the industry run efficiently, but it does not threaten LE providers. We believe we have the best underwriters in the industry and that our process yields consistent, high quality results.

CC: One of the challenges is that we know nothing about the credentials of the people doing that work in-house for the manager. Doctors are not trained to underwrite. Just because you're a medical doctor, doesn't mean you're trained to assess LE in life settlements any more than an environmental lawyer can litigate a murder case.

The in-house person might not have the tools and resources available to assess micro longevity.

It is possible that the information that an investor has access to, post purchase in the tertiary market, is vastly different to the information we have. We can't assess what we don't know and they are working with different data - they bought the policies they bought. Most don't look back at what they didn't buy to figure out if what they bought was what they should have bought. There's a certain bias there because the manager chose the policy in question. If you didn't choose a policy and the data related to it, you don't know if that was the right choice, and a few thousand policies is not a large enough sample size versus what actuaries use in life insurance underwriting. I'm aware that managers are 'in-sourcing' but I haven't seen a corresponding drop-off in demand and I think that's because the managers still want an independent, objective offering.

JO: You have to ask the fundamental question about the expertise of the people that are doing the evaluation in house. If they don't have the expertise, the peril is that the reliability is going to be way off. We don't only use physicians; we use population scientists with decades of experience in survival analysis as well. I doubt that many fund managers have this level of expertise. Also, I'd question the trade-off of whatever it costs to do it in house, and how much time might be saved versus sacrificing reliability. And we turn something around in two and a half days – I doubt many managers do it faster in-house.

The other thing working to our advantage is that we have access to a vast medical and scientific literature and a history of learning from assessments that we have completed. We can go back and review any patient with impairments that are the same as the one we're analysing now. That creates a level of consistency that's important. And lastly, we have no vested interest in the LE being long or short. It is what it is. One of our clients once said to me that we tend to come in with shorter LEs -- my response was that he should then stop sending us files on people that are very sick. If someone said they all seem to be long, my response would be to stop sending us so many healthy people. They are what they are. Firms like ours are independent third parties. In order for this industry to operate honestly you have to have independent LE providers.

PH: This is not something that concerns us – indeed this is something we welcome. It makes a lot of sense for investors, when deploying millions of dollars of capital, to hire their own medical staff to evaluate cases. But even when this is the case, we believe there will always be a demand for our products. Often, investors demand independent evaluations of life expectancy, to avoid any potential conflict of interest, or simply to get alternative views.

Our underwriting products take differing approaches between doctor intensive medical underwriting and more data driven analysis. Investors can benefit from seeing underwriting being taken from different approaches to get a more complete picture on any given individual or block of lives.

GW: Are there any other industries besides the life settlement market that you are working in that you are supplying your life expectancy underwriting skills and capabilities to? If so, what are they, and what's the opportunity set?

SM: We are focused on supporting the life settlement market only. We don't want to get distracted by pursuing other industries at this point since there is plenty of work available for us in providing LEs for life settlements. If that were to change, then we might consider branching out to other industries.

JO: We are also on the front end of life insurance underwriting; we help insurance companies by providing assessments using remote tools based on AI. It's all done online, there is no need for blood or urine, you get assessments in five minutes. The insurance companies then triage the individuals that require more detailed medical underwriting versus those that go through our accelerated process.

Wealth management is the other one. Survival and future health are at the foundation of planning for retirement. When considering the purchase of an annuity or insurance product associated with retirement, we provide rapid assessment of survival dynamics and help people and their advisors make better decisions for retirement. There's also a gene that's associated with longevity that we can detect as well, so we provide genetic analysis to the life settlement market to help with right tail protection.

PH: Yes, we're also in several other markets. Our Fasano business has been active in the life contingent structured settlement space for a while and has also provided underwriting services to numerous life insurers for workers comp, life, and annuity underwriting. We have worked with a number of other different areas and industries where our expertise is applicable. We believe there are a wide variety of industries and businesses where our insights into senior mortality is applicable, and these are markets we intend to pursue over the coming years. The eventual goal is to use this dataset to both predict mortality with accuracy and reverse engineer methods to identify signals for elongated longevity.

VG: If you can underwrite life settlements, you can underwrite anything. Because there is no such thing as a rejected case in life settlements, the process, underwriting engine and other tools have broader applicability to several other spaces, including structured settlements, life underwriting and impaired risk annuities. We have been asked to build predictive models for the healthcare and assisted living markets as well.

CC: There are two markets we are attempting to attract. The first is the wealth management / financial planning space. The number one concern here for an individual, and therefore their RIA, is the fear of outliving the money they have to live on – classic longevity risk. The underlying work we do – assessing micro longevity risk - is applicable to that marketplace.

The second is the senior living industry. They are taking longevity risk that's a bit different. This is a very large population, and it can be underwritten, so there is a possibility that an insurance product could be developed that is tied to longevity risk taken by the senior care industry that's distinct from healthcare costs. Our industry could apply what it has learned here.

GW: What's your view on the 'insurtech' space – specifically, technology firms funded by venture capital money – in relation to your sector. Are you incorporating any of the technology that some of these start-ups are developing and have you noticed any improvement as a consequence of this? If not, why not?

JO: We are always looking for something that enhances predictive power, we don't rule anything out. If there's some new wizard tool, I'm all ears. We're scientists, after all, but we have to assess it to determine whether it works, how much it costs, how much value it adds relative to what we're already doing. The science of epigenetics is the next big thing; biomarkers for risk assessment are potential game changers. We created one ourselves called facial analytics - you upload a photo and we can detect whether someone is a smoker or former smoker based on their face.

VG: Insurtech is an important sector for the entire insurance industry. But these new technologies are not just in the purview of startups - legacy carriers are very active as well. As digital health data became more prevalent, we have been able to leverage the new tools and models. We are constantly looking at new technologies and incorporating into our systems that help improve the quality of our LEs but also improve our processes and R&D. It's important though, to understand that, like driverless cars, the promises of electronic health records disrupting the underwriting process may be further away than we think or hope.

PH: We have not been using any products or technologies specifically provided by "insurtech" firms, however we do strongly believe that using data and modern techniques such as machine learning and artificial intelligence can help improve our underwriting.

Our team of data scientists and engineers use cluttering edge models to develop algorithms with predictive value.

Our ITM 21st business has already developed our Longevity Risk Model, which uses advanced machine learning techniques to find complex interactions between both medical conditions found through traditional underwriting and non-traditional sources of data such as consumer and environmental data. This allows us to gain deep insights that traditional underwriting and human review could never find. We believe these kinds of tools can lead to significant advances both in the life settlement space and other industries.

The dataset I mentioned earlier - over 100,000 lives and 45,000 deaths - has been a great asset to iterate predictive models. Insuretech firms have added a lot of value in P&C and health space for years, and finally are starting to add value in the life & annuity space. Insuretech firms with unique models will always be something we would consider partnership opportunities with.

CC: Most 'insurtech' is supporting the primary market, not the secondary market, and in the life space, a lot of the activity is enabling case management and moving through the process. We are employing some new tools and technology, but I wouldn't necessarily describe that as insurtech. For example, we're using more data ourselves which isn't insuretech like you phrase it, but it's based on technology. We apply human oversight to all of it because while there is a growing market for raw data, it's a mess. It needs to be normalised, verified, and validated. A doctor might check the smoker check box, by mistake, and the non-smoker box later on in the records. We see this type of error all the time -producing useable health data in the US is still a very labour intensive, human interactive activity. But again, that's not insurtech from the VC world's point of view.

SM: We have to stay aware of whatever advantages we can gain by implementing new technology. We have already seen the benefits of automating chronologically sorting large medical files, which can be a tedious manual process. We're keeping an eye on developments in the A.I. space, but right now we haven't implemented anything from a third party insuretech firm.

GW: What are some of the challenges that the LE underwriting space faces at the moment, and what can be done to remedy those?

PH: Underlying health record technology is something that's been discussed for a decade but has only seen marginal improvement. Electronic health records, in complete and accurate structured data, is something the industry has been promising but has not yet delivered fully actionable tools.

Our process involves many layers of data cleansing and sorting that would not be required if electronic health records were fully available. Also, Covid showed us that unpredictable black swan events can impact mortality as well. These conditions are hard to predict, and it will take time to understand the long term impact and how that might affect future mortality assumptions and predictions.

SM: Our biggest challenge is managing the ebbs and flows of case volume in order to meet our goal of completing cases in 3-5 business days. We often get inundated with cases from multiple customers all at once and we have to work extra hard to complete our work without sacrificing quality or consistency. Another challenge arises from incomplete medical records. We may be aware that there are more current meds available for a particular case, and our turnaround time will be affected while we wait for our customers to track those down.

CC: The biggest challenge we have is that we cannot make any client, or the market, buy more of our services even if we could prove that they should because it's very hard to gain market share other than by being the shortest LE in the market; there is a bias in the industry to try and figure out the shortest LE as that results in the highest price and nearly everyone is compensated in one way or another based on valuation.. There are also few, if any, barriers to entry. There are over a dozen companies purporting to do this work– it's very difficult to explain to someone why company A is better than company B.

There's also a difference of opinion about technology and how it can solve the problem we address in this business. We disagree that it's a math problem for a couple of reasons. Access to information that we need to do our job is constrained at the source in terms of availability and quality and consistency; the belief that the healthcare system always gets it right is unfounded. That's ongoing. The other constraint is a difficulty in differentiating between underwriting and actuarial activities. They are distinct. People perceive them as being the same. Actuaries consume the output and use that analysis to influence the work going forward. An actuary and an underwriter are not the same at all.

The third challenge is that what goes on in the general population does not have as much influence as people would like to believe on the selected population with which we deal. The process is driven by economics. We look at a microcosm of a microcosm. Larger population trends may have an impact, but they are not doing so right now and we're not seeing that right now.

JO: I'm not sure about 'challenges.' I'd go back to the trend of fund managers doing life expectancy analysis in-house; that's not something that concerns us because over time, those that do will face economic penalties from making mistakes. Then, they'll come back to us. But there is a potential impact on the industry here. The life settlement market has to be an industry based on trust and honesty. Once you lose that trust then you have a reputational issue that makes the whole industry shrink. We and the other companies doing this are brokering in honest assessments. That's the bigger picture challenge.

VG: A big concern is data integrity. When the Social Security Death Master File was purged a number of years back, it threw us for a loop. Without accurate deaths, there can be no accurate Actual -to-Expected analysis. Although third-party providers rushed in to fill the gap, the results were still incomplete years later. We recently developed a process which resulted in finding 20% more deaths than were conventionally found.

I'd also rank transparency as another concern. It's very difficult to assess the quality of an LE for the same reason that it's hard to judge whether a particular life insurance product is good – so much of what's needed to do so occurs in the future, and by then it's too late to do much about it. There is still asymmetry of information among players. In medicine, there's something called outcomes-based health care, where the results drive the process. That's a good thing. In life settlements, recently, I have seen a push toward outcomes-based LE provider selection, where industry players openly lobby for certain outcomes. I'm not saying that some healthy discourse isn't appropriate, but it has become excessive. Unlicensed, inexperienced, and unqualified LE providers have entered the market with inaccurate or low quality LEs. Not all mortality tables are alike or appropriate; not all underwriting processes are either. The things I have already mentioned – focus, communication, transparency, and commitment – I'm hoping that they will help resolve these issues and others yet to come. And Chris hit on an important point – our world of life settlements is an alternative universe to the rest of society. It's not the same socio-economic environment and doesn't play by the rules that apply to the general population.

GW: What's the outlook for the LE underwriting space in the coming 12-24 months; what will we be reflecting on this time next year?

CC: For the sector at large, hopefully there will be a movement on the part of life settlement businesses to focus on licensed, registered, legitimate operators and not continue to add more voices to the cacophony. But I think the life settlement market has proven itself to be more resilient to macroeconomic factors than most businesses and the volatility in the public markets is a tailwind will allow our industry to grow. As I mentioned, there is interest elsewhere in the world related to micro longevity underwriting. That diversifies our business and sector.

VG: We are at a very interesting time in that annual mortality improvement isn't a given any longer. While we don't yet know the exact role played by the Covid-19 pandemic in this phenomenon, it will be important to distinguish the pandemic's effects versus those that may be more permanent (including long Covid-19). I feel good about our space, despite my above concerns. More than ever, long term players recognize the value of independent LE providers singularly focused on delivering the most accurate LEs possible and assisting them with their processing challenges.

JO: I'm anticipating significant growth in our space because players are doing a good job of educating consumers about the value of life settlements and that in turn drives our business. Most consumers do not understand they have a valuable policy that belongs to them that can help them address some of their unmet financial needs. Financial advisors are being educated on the value of life settlements as well. There are tens of thousands of them who are not familiar with life settlements and there's been a concerted effort to do exactly that, and I expect an uptick in the number of policies coming to market in the life settlement world. I'm optimistic, so much so that I don't know if we have the capacity to handle it.

PH: We think the biggest thing over the next year or two in the LE underwriting space will be seeing how the newer market entrants will evolve, and how willing they will be to share their performance and data. In many ways some of the newer market entrants are at the position our underwriters were in years ago. In the same way that we have made our data available to help investors understand our performance, we think it is going to be critical to see something similar happen with newer underwriters.

SM: It's difficult to predict given the economic climate of high inflation and high interest rates, which can be opposing forces for different segments of the industry. For example, the secondary market will likely benefit from high inflation as more insureds feel the need to tap the equity of their life insurance policies. Conversely, the tertiary market may slow down with less capital inflows as borrowing becomes more expensive. Still, given the fact that more baby boomers are reaching ages eligible for life settlements, I think the industry will continue its upward trajectory in the years to come.

The Impacts of Climate Change on Mortality

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Human activities have accelerated biosphere change on this planet. Key drivers of the climate crisis include the burning of fossil fuels and deforestation. As a result of these drivers, organisms have been moved around the planet, habitats have been fragmented, polluted, or entirely lost, and biodiversity has been watered down and, in some areas, vanished. The health impacts of these activities include amongst other things, increased respiratory and cardiac disease as a result of particulate matter (PM) in the air that we breathe, heat stress through rising global temperatures, and increasing infectious disease outbreaks arising from biodiversity loss.

These impacts are set out below.

Infectious disease

Zoonoses, or diseases of an animal origin, comprise a large percentage of all newly identified infectious diseases as well as many existing ones. Around 60 per cent of human infections are estimated to have an animal origin.[1]

> "Evidence suggests that the frequent emergence of novel zoonotic diseases is linked to the changing global environment including fragmentation of natural ecosystems, pollution, intensive livestock cultivation, and unsustainable and aggressive chemical-based agriculture."

Evidence suggests that the frequent emergence of novel zoonotic diseases is linked to the changing global environment including fragmentation of natural ecosystems, pollution, intensive livestock cultivation, and unsustainable and aggressive chemical-based agriculture.

Land use has changed significantly in the last 100 years with humans having used up over half of the terrestrial land on the planet. 75% of the land surface is significantly altered, 66% of the ocean area is experiencing increasing cumulative impacts, and over 85% of wetlands (area) has been lost. And as humans transform wild animal habitats, the likelihood of human-animal interactions increases which increases the chance of zoonotic disease emergence.[2]

Drivers of spillover include greater human and animal contact which likely arises as a consequence of livestock rearing, deforestation, and wildlife hunting and trade.[3]

Domestic animals play a significant role in the transmission of various diseases to humans and in many cases, they work as amplifiers of pathogens emerging from wild animals.[4]

It is important to note that infectious diseases arise from a combination of the above drivers that combine to amplify disease risk, rather than any individual driver acting in isolation.[5]

[1] https://royalsocietypublishing.org/doi/10.1098/rsif.2014.0950

[2] https://wellcome.org/news/zoonotic-disease-explained#how-do-pathogens-spread-between-animals-and-people?--0134

[3] https://www.science.org/doi/10.1126/sciadv.abl4183

[4] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7563794/

[5] https://www.who.int/docs/default-source/climate-change/qa-infectiousdiseases-who.pdf?sfvrsn=3a624917_3

Significant associations have been observed between epidemics and deforestation mostly concerned the countries of the intertropical zone with high forest cover, such as Brazil, Peru, and Bolivia in South America, Democratic Republic of Congo and Cameroon in Africa, Indonesia, Myanmar, and Malaysia in Southeast Asia, among others.[6]

In particular, the increase in land areas converted to palm-oil plantations show a positive association with the number of vector-borne disease outbreaks. However, it is not only forest clearance that is responsible of outbreaks of infectious diseases, but also reforestation or afforestation, particularly in countries outside the tropical zone.[7]

In addition, it has been shown that there is a positive relationship between the increase of cattle head and the number of outbreaks of human diseases from the period 1960–2019.[8]

The baseline expected annual mortality from viral disease epidemics with the current world population is 3.3 million lives.[9]

Vector-borne diseases, (largely those that are caused by the bite of infected insects like mosquitoes, ticks, and sandflies, which act as carriers, or 'vectors'), account for more than 17% of all infectious diseases, causing more than 700,000 deaths annually.[10]

For instance, dengue is the most prevalent viral infection transmitted by the Aedes mosquitoes. More than 3.9 billion people in over 129 countries are at risk of contracting dengue, with an estimated 96 million symptomatic cases and an estimated 40,000 deaths every year.[11]

Hot weather temperature extremes

> "We are witnessing increased frequency and severity of heat waves globally, exposing life to elevated temperatures at extremes unlike anything recorded over the last 150 years."

We are witnessing increased frequency and severity of heat waves globally, exposing life to elevated temperatures at extremes unlike anything recorded over the last 150 years.[12] Particularly in tropical regions, increased warming could mean that physiological limits related to heat tolerance (survival) will be reached regularly and more often in coming decades.[13]

The hottest years on record since the mid-19th century have nearly all occurred within the past decade.[14] Thermal stress associated with the heat waves during those warm years has directly, widely, and negatively affected all planetary life, including increased mortality of humans globally. It is proposed that the unusually extreme heat waves of the early 21st century will be the norm during summer into the late 21st century.[15]

The human body responds to heat stress in two primary ways: redistributing blood flow towards the skin (vasodilation) to improve heat transfer from muscles to skin and subsequently to the environment, and secreting sweat onto the skin, which subsequently evaporates and removes body heat. This physiological response can lead to increased cardiac demand and in those with pre-existing heart conditions, a compromised cardiac oxygen delivery.[16]

[6] https://pubmed.ncbi.nlm.nih.gov/33842581/

[7] https://pubmed.ncbi.nlm.nih.gov/33842581/

[8] https://pubmed.ncbi.nlm.nih.gov/32834060/

[9] https://www.science.org/doi/10.1126/sciadv.abl4183

[10] https://www.who.int/news-room/fact-sheets/detail/vector-borne-diseases

[11] https://www.who.int/news-room/fact-sheets/detail/vector-borne-diseases

[12] https://www.pnas.org/doi/10.1073/pnas.0913352107

[13] https://pubmed.ncbi.nlm.nih.gov/34419205/

[14] https://journals.physiology.org/doi/full/10.1152/physiol.00040.2018

[15] https://journals.physiology.org/doi/full/10.1152/physiol.00040.2018

[16] https://pubmed.ncbi.nlm.nih.gov/34419205/

> "Climate models tell us certain regions are likely to exceed those temperatures in the next 30-to-50 years. The most vulnerable areas include South Asia, the Persian Gulf, and the Red Sea by around 2050; and Eastern China, parts of Southeast Asia, and Brazil by 2070."

Dehydration is also a problem which can lead to decreased blood volume which exacerbates cardiovascular strain that also results in acute kidney injury and failure. High internal temperatures (39–40°C), combined with ischaemia (poor oxygen supply) and increased oxidative stress after blood redistribution, can cause cell, tissue, or organ damage, with the brain, heart, kidneys, intestines, liver, and lungs at the greatest risk.[17]

One of the measures of our ability to cope with extreme heat is the heat index. This is a measure of what the air temperature feels like to our bodies when relative humidity is factored in. In addition, there is the wet-bulb temperature, which is the lowest temperature to which an object can cool down when moisture evaporates from it. Once the wet-bulb temperature exceeds 35 degrees Celsius (95 degrees Fahrenheit), no amount of sweating or other adaptive behavior is enough to lower the body to a safe operating temperature.[18]

Climate models tell us certain regions are likely to exceed those temperatures in the next 30-to-50 years. The most vulnerable areas include South Asia, the Persian Gulf, and the Red Sea by around 2050; and Eastern China, parts of Southeast Asia, and Brazil by 2070.[19]

Analysis also tells us that those most vulnerable include residents in primarily urban areas with high housing density, less open space, and high proportions of elderly, minority populations, and lower income households.[20]

Heatwave exposure in the 2010s was largest for the low-income region and smallest for the high-income region (2.4 vs. 1.7 billion person-days per year). Thus, despite similar overall populations during this period, the poorest region observed over 40% higher exposure to heatwaves as compared to the richest region.[21]

This is mainly due to increasing heatwave trends in highly populated low-income regions, such as eastern India and Bangladesh. In fact, the lowest-quartile income region is expected to experience 1.8- to 5-fold higher heatwave exposure than each higher income region from 2060 to 2069.[22]

Populations living in a warmer climate are more adapted to cope with high temperatures, and more susceptible to cold weather. In the UK, without adaptation, heat-related deaths would be expected to rise by around 257% by the 2050s from a current annual baseline of around 2000 deaths, and cold-related mortality would decline by 2% from a baseline of around 41,000 deaths.[23]

However, given the speed of climatic changes and numerous physiological constraints, it is unlikely that human physiology will evolve the necessary higher heat tolerance, highlighting that outdoor conditions will remain deadly even if social adaptation is broadly implemented.

Unless global warming is curbed as a matter of urgency and appropriate adaptation measures are taken, about 350 million Europeans could be exposed to harmful climate extremes on an annual basis by the end of this century, with a 50-times increase in fatalities compared with now.[24]

[17] https://pubmed.ncbi.nlm.nih.gov/34419205/

[18] https://www.gavi.org/vaccineswork/deadly-heatwaves-how-high-temperatures-affect-body

[19] https://www.gavi.org/vaccineswork/deadly-heatwaves-how-high-temperatures-affect-body

[20] https://www.sciencedirect.com/science/article/pii/S003335061730327X

[21] https://agupubs.onlinelibrary.wiley.com/doi/full/10.1029/2021EF002488

[22] https://agupubs.onlinelibrary.wiley.com/doi/full/10.1029/2021EF002488

[23] https://pubmed.ncbi.nlm.nih.gov/33036459/

[24] https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(17)30082-7/fulltext

> “The climate crisis has both direct and indirect impacts on human health, and we stand at a dire crossroads in terms of human health.”

Air pollution

One of the primary components of air pollution is particulate matter, which is fine soot that is produced through the combustion of fossil fuels. It is classified according to its size in microns. The smallest, PM 2.5, is about thirty times smaller than the width of a human hair. The diameter is so small that it is able to cross into the bloodstream from the lungs.

Exposure to PM 2.5 has been associated with increased risk of death due to cardiovascular disease, cerebrovascular disease, chronic kidney disease, COPD, dementia, type 2 diabetes, hypertension, lung cancer, and pneumonia. This burden is disproportionately borne by those from disadvantaged communities.[25]

Risk remains elevated even at levels below the current European and North American standards and WHO guideline values. In fact, there is no safe level of exposure to PM 2.5. This also includes for exposure to nitrogen dioxide, and black carbon.[26]

Analysis of the impact of air pollution in England on future morbidity burden estimates that there could be an additional 1.3 million cases of disease attributable to PM 2.5 exposure between 2017 and 2035. This includes an additional 350,000 cases of CHD, and 274,000 cases of diabetes.[27]

Future premature mortality under projected future emission scenarios could be a possibility under stringent air pollution controls.[28]

Summary

The climate crisis has both direct and indirect impacts on human health, and we stand at a dire crossroads in terms of human health. Mitigation must come in the form of a global effort to reduce carbon emissions and halt deforestation; this will also require a rethink of how we feed our planet.

[25] https://pubmed.ncbi.nlm.nih.gov/31747037/

[26] https://www.bmj.com/content/374/bmj.n1904

[27] https://pubmed.ncbi.nlm.nih.gov/29990358/

[28] https://pubmed.ncbi.nlm.nih.gov/29250104/

March 2023 Poll Results

What Is Holding Back More Investment Firms From Actively Participating in the Life ILS Market?

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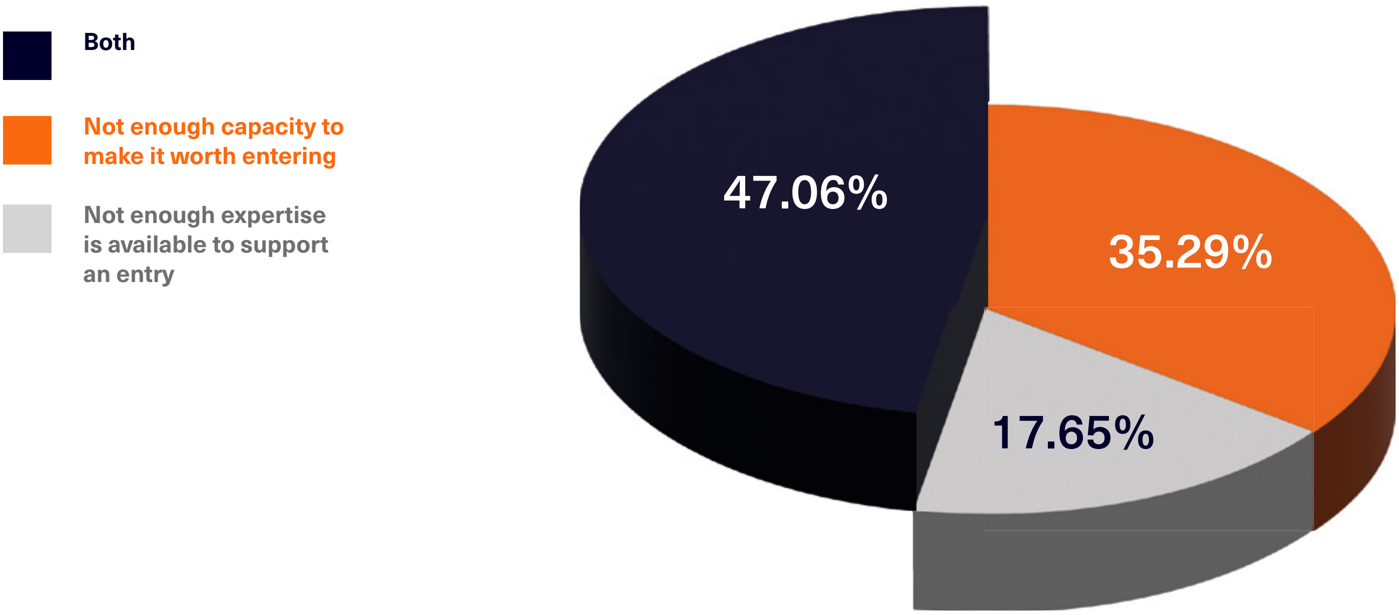
The life ILS market is a relationship and network-driven one, which, when compared to other alternative asset classes – including its close cousin, the life settlement market – is small and heavily populated by actuaries, which are in short supply generally,

So, for our poll in February 2023, we wanted to ask Life Risk News readers why they think the space isn't larger. Three choices were offered; not enough capacity to make it worthwhile, not enough expertise to support an entry, or both.

'Both' was the clear choice with almost 50% of the total, not enough capacity second and not enough expertise third.

There is always strong appetite from insurance companies for solutions to reinforce their balance sheets and free up capital, which is what value-in-force transactions – the largest type of deal in the ILS space – provides.

But this has been the case for many years now, and growth has been absorbed largely by the existing players. It'll be interesting to see whether the incumbents continue to absorb any increased demand or whether new players will begin to enter the space.



Prudent Due Diligence Key to Mitigating Life Settlement Unlicensed Operator Risk

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ISC Services

The option to sell one's life insurance policy in the life settlement market is an attractive one. Whether individuals need the cash for a specific reason, or whether they just don't need the policy anymore, there are many, many companies operating in the life settlement industry that can help the consumer to unlock their policy's value.

However, a surprisingly large number of these companies are neither licensed nor registered with federal and state agencies, even when they should be. One of the life settlement industry's many benefits is that the secondary market – where the insureds sell their policies – is regulated and intermediated, through a well-defined process. Many of these unlicensed actors make all sorts of claims (and excuses) to explain why they are not licensed or registered, but whether they are a broker, provider, asset manager or service provider (e.g., a life expectancy underwriter), most of the arguments they make simply don't hold water.

The life settlement business is regulated in 43 states, but who and what is regulated varies from state-to-state. Individuals and companies that claim they either "don't need" or "aren't subject to" licensing or registration requirements have all sorts of things they point to as the basis for their being unlicensed. First and foremost, being unlicensed does NOT mean they are unregulated.

Again, the life settlement industry is a regulated business. Brokers, providers, and life expectancy underwriters (to a lesser degree) are predominantly regulated by the department of insurance, or a similarly situated agency, in each regulated state. Asset managers and those who accept, manage, and invest money are also regulated by federal agencies (e.g., the SEC and FINRA).

> "Those who claim that they aren't licensed because they "don't need to be," regardless of the arguments they make as to why, raise a simple question: Why not get a license anyway? Even if there are loopholes, a lack of clarity in some areas of the law, or some other excuse, for those who interact with sellers in the marketplace (i.e., those who operate on the "sell side" of the business), getting a license as a broker simply isn't that difficult."

Those who claim that they aren't licensed because they "don't need to be," regardless of the arguments they make as to why, raise a simple question: Why not get a license anyway? Even if there are loopholes, a lack of clarity in some areas of the law, or some other excuse, for those who interact with sellers in the marketplace (i.e., those who operate on the "sell side" of the business), getting a license as a broker simply isn't that difficult.

Texas, for example has hundreds of individuals and companies listed as licensed life settlement brokers. There are exceptions in some states, for attorneys and certain other professionals who, if they are compensated differently for their involvement in a life settlement, may not need a license. Regardless, the requirements for obtaining a license as a life settlement broker in most states just aren't that onerous. So why do unlicensed brokers spend so much time and energy arguing that they don't have to be licensed when being licensed isn't that difficult — is it greed? Sloth? Or could it be they wouldn't qualify if they applied?

One possible answer is that they know that if they are not licensed then they might be able to stay off the regulatory radar. Unlicensed drivers can be charged with motor vehicle infractions, but you cannot put points on a license that doesn't exist. Unlicensed drivers can't buy insurance either, but again, if they are unlicensed there has to be a reason, and maybe it's because there's something in their background that they know, if revealed, would prevent them from qualifying. Staying unlicensed enables them to operate outside the law for a while longer.

What should institutional investors – both those already allocating capital to an existing fund, or those looking to do so for the first time – be considering here?

> "In the life underwriting sector, another form of encroachment is occurring, but it's far more subtle and harder to combat. Only two states regulate the business of estimating life expectancy. It's a difficult and complex thing to regulate and even many life settlement businesses do not understand all it entails. That means that almost anyone can hold themselves out as a life expectancy underwriter."

It's actually quite simple: Choose to work only with registered and licensed parties when interacting with the life settlement marketplace and ensure that the asset managers that you are allocating capital to are doing so as well. There is nothing an unlicensed vendor can do that a licensed company can't do, provided its legal, of course. There's no tangible benefit to working with unlicensed parties, and policies moving through these bad actors could become tainted, worth less than legitimately sourced assets, and potentially entangle investors in legal issues. When conducting due diligence on life settlement fund managers, ask them if their counterparties are licensed or registered and find out where. Then check with the regulators to confirm. A few minutes of due diligence is worth it.

Another form of unlicensed conduct is encroachment. Encroachment is defined by Merriam-Webster as "to enter by gradual steps or by stealth into the possessions or rights of another." In the life settlement industry, there are several examples of encroachment taking place. Life insurance companies, unlicensed life underwriting companies, and unlicensed life settlement brokers and providers are encroaching on the marketplace in various ways. These behaviors are neither legal nor necessary, and the way in which these parties behave misleads and harms consumers, as well as the institutional investors that are allocating capital to the space.

Some life insurance companies are guilty of encroachment by extending Enhanced Cash Value or ECV offers to consumers holding their policies. An ECV offer is the insurance companies' way of trying to buy back a policy they issued in the past before it can be sold in the life settlement marketplace. However, this activity violates most states' life settlement regulations in a number of ways, and NCOIL issued a resolution last year that discourages such activities and prompts regulators to do the same.

One key point however is that an ECV is an offer to buy a policy and that activity is regulated, and in most states, can only be conducted by a licensed life settlement provider. Life insurance companies can apply for a life settlement provider license, but in the main, they haven't. Instead, they have tried to circumvent existing laws and regulations and disrupt the life settlement marketplace, often, as the definition above states, by stealth.

Why? Because as the old adage says insurance companies (including life insurance companies) are not in the business of paying claims; they are in the business of collecting premiums, managing money, and avoiding risk. In other words, because life settlements almost always result in a claim for benefits, every policy the life insurance company can remove from the marketplace is a claim that won't be paid.

In the life underwriting sector, another form of encroachment is occurring, but it's far more subtle and harder to combat. Only two states regulate the business of estimating life expectancy. It's a difficult and complex thing to regulate and even many life settlement businesses do not understand all it entails. That means that almost anyone can hold themselves out as a life expectancy underwriter. Whether more or different regulation is required is one question, but the other is that most investors, who are the parties that hold the micro-longevity risk related to life settlements, don't do enough due diligence before they decide which life expectancy underwriters to accept. For the life settlement industry to grow and develop as it should, only licensed companies should be involved in marketplace.

Unlicensed activities generally, and encroachment in particular, is just one form of unlicensed activity to be concerned about. Another form of unlicensed behavior that has a significant impact on consumers, investors and the industry at large involves the proliferation of investment programs promoted by inexperienced, unlicensed, and in some cases, unscrupulous parties. The risks to which these businesses expose individual investors, policy owners, and the legitimate industry are significant.

A casual browsing of the interest reveals that there are dozens of companies offering life settlements to individual investors.

> “On the investment side of the marketplace, unlicensed promoters offer individual investors policies or interests therein based on a sales pitch that is very attractive – at first glance. Sadly, many of these promoters are doing things behind the scenes that expose investors to all sorts of undisclosed and difficult to uncover risks.”

There are also quite a few individuals and businesses holding themselves out as buyers of policies that are unlicensed. Sometimes these two activities are combined into a single company (or two affiliated companies). Other promoters are associated with other companies that play one or more roles in the legitimate marketplace but are collaborating with unlicensed actors as well.

As a general matter, conflicts of interest abound in this corner of the investment world. In addition, and ironically, consumers who sell their policy to unlicensed or unscrupulous parties may never know if they’ve been misled or harmed. After all, how often does someone who has sold an asset check to see if they were treated fairly after the transaction has closed. Homework not done beforehand is rarely done after the fact, and even if it is, there’s little or no recourse to be had by then.

On the investment side of the marketplace, unlicensed promoters offer individual investors policies or interests therein based on a sales pitch that is very attractive – at first glance. Sadly, many of these promoters are doing things behind the scenes that expose investors to all sorts of undisclosed and difficult to uncover risks. By the time, the company is in trouble with regulators or the law, it’s too late, and the more time that passes the more money that can be lost.

Take for example the companies that offer individual investors the opportunity to buy individual life settlements. Many of these companies are neither licensed nor regulated, by choice. They argue that they “don’t need to be” or something to that effect, but when something goes wrong, where does the investor turn for help? The answer is that even if there is a place to go, their money is gone, the promoter is gone, and the loss, in real dollars is often significant. The irony is there are plenty of investment companies that are licensed, regulated, and reputable, and for consumers who qualify these compliant firms allow these investors to participate in the marketplace.

So why do these back-alley businesses thrive? It’s because the pitch is usually fashioned around the idea that you can gain access to something that only institutions know and do, but only by going through the promoter’s “back door.” What’s essential for the life settlement industry to continue its recent growth is that the ultimate drivers of this industry – the institutional, investors – continue to advance the intensity, depth and breadth of the due diligence process to ensure that the capital that supports the industry moves through the legitimate, licensed service providers participating in it. , Ultimately – and this is the real benefit of the life settlement space – this will ensure that both consumers and investors are able to secure the best possible outcomes.

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Q&A

Philip Siller

Executive Chair and Co-CEO, BroadRiver Asset Management

ELSA's Master Agreement for Tertiary Transactions (MATT) was first published in 2019. Life Risk News' Greg Winterton caught up with Philip Siller, Executive Chair and Co-CEO at BroadRiver Asset Management, to discuss the origins of the document and its most salient points.

GW: Philip, BroadRiver, in its capacity as an ELSA member, was one of the firms involved in drafting the MATT in the first place. Why did ELSA and BroadRiver feel that some kind of standardised document was important for players in the life settlement's tertiary market?

PS: Standard documentation for recurring transactions is a critical tool for an efficient market. It saves time and it saves money. ISDA documentation for the derivative market and standardized mortgage and security agreements in the real estate and UCC markets are examples. We, and others, saw a similar need for tertiary life settlement transactions and BroadRiver's general counsel led the working group that developed the MATT.

GW: Prior to the invention of the MATT, investors would have had different agreements with different counterparties. How easy has it been to evolve away from that model to a single, industry-wide model, and does the MATT provide enough flexibility when dealing with counterparties with different requirements?

PS: The transition to standardized documentation was surprisingly smooth, which was an endorsement of the care and objectivity of the working group. In my experience, the portions of contracts that eat up the most drafting time are not the business terms, but the allocation of risk terms. By focusing on an objective analysis of the allocation of risk – knowing that the members of the working group might be buyers one day and sellers the next – the working group drafted terms that followed the logic of a tertiary transaction. Almost immediately, the MATT was adopted by market actors.

GW: Are there any knock-on advantages to using the MATT after the initial tertiary market transaction has been completed?

PS: As the industry became more comfortable with the MATT, we discovered that post-closing issues could be resolved with less tension between the parties. Everyone understood that interpretations of the MATT that they were advancing as a buyer in one transaction would be read back to them next time when they were sellers. So, resolution of unexpected transaction glitches have gone smoother.

GW: The MATT is a good example of standardisation in the life settlement market. Are there any other areas of the market, aside from transactions in the tertiary market, where you would like to see new or better standardisation?

PS: My Co-CEO, Andrew Plevin and I started BroadRiver's predecessor twenty years ago with the express purpose of attracting institutional investors to our funds. At that time, there was no consistency across provider documentation concerning even the most basic aspects of life settlements transactions, such as transfer of title and the role of providers versus funders. Broker/consumer contracts also took many forms. And, there were few law firms with expertise in the area.

We understood that institutional investors could not transact in that environment. So, along with some of the institutions themselves (and Coventry, in particular), we worked to promote regulation to protect consumers and standardize transaction terms.

At this point, there isn't much more to do. The industry is well-regulated and contract terms are rarely a source of concern or delay in either the secondary or the tertiary markets.

GW: Lastly, Philip, what tends to be the reaction of investors – your clients – when you discuss the MATT with them? I assume they're pleased that firms like BroadRiver are attempting to usher the industry towards a more standardised, transparent transaction framework?

PS: That's correct. Our clients are diligent in understanding the execution risk around life settlement transactions. Earlier in the history of this asset class, this was an issue. It isn't anymore.

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Will Canada Ever Get a Secondary Market for Life Insurance Policies Available to All?

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American seniors with an in-force life insurance policy have, for a century now, the option to sell it on the secondary market. Whether they need a lump sum, no longer wish to pay insurance premiums or just as part of financial and retirement planning, US seniors can look to the capital markets for an alternative option. There its considered property, with roots dating back to 1911 and the Grigsby vs Russell supreme court decision.

Seniors in most other developed economies don't have that option, but it's not as if other countries haven't tried. In Canada, the topic of 'life settlements' comes up every so often. Most recently, in 2021, lawmakers in Ontario tried to get Bill 219 through, which would have provided a regulated secondary market for life insurance in Canada's most populous province, but it failed to get through. It's the latest setback for those who desire to see such a market in the country; Nova Scotia and New Brunswick, which permitted the market previously, banned it three years ago, in March 2020, leaving only Quebec and Saskatchewan as the two remaining jurisdictions that offer this flexibility.The lack of a decision is frustrating to investors for many reasons, but one nuance of the Canadian life insurance market would be very appealing to potential investors.

> **"In Canada, insurance companies can't increase the Cost of Insurance component of a life insurance policy. There's been lots of litigation around this in the US with regards to some UL COI policies. We have level premium Term to 100 policy in Canada, guaranteed for life, and in some case pays out at age 100 instead of going paid-up. That's something hugely attractive for a potential investor."**

"In Canada, insurance companies can't increase the Cost of Insurance component of a life insurance policy," said Daniel Kahan, CEO of Viaticus Canada in Toronto.

"There's been lots of litigation around this in the US with regards to some UL COI policies. We have level premium Term to 100 policy in Canada, guaranteed for life, and in some case pays out at age 100 instead of going paid-up. That's something hugely attractive for a potential investor."

It's not only investors that would benefit from a regulated market in Canada. The life settlement market in the US consistently promotes what it considers to be the main benefit to consumers of their entire market – that policyowners receive more money from an investor than they would if they simply surrender their policy back to the insurance company (or let it lapse). Many more Canadians would enjoy a similar benefit if there was a country-wide market.

Activity in Ontario gets the most attention, because of its size and influence in politics and economics. However, Section 115 of the province's Insurance Act states:

"Any person, other than an insurer or its duly authorized agent, who advertises or holds himself, herself or itself out as a purchaser of life insurance policies or of benefits thereunder, or who trafficks or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to himself, herself or itself or any other person, is guilty of an offence."

That doesn't leave many options for Ontario residents to access liquidity in their later years if they so need. One option open to them, similar to many other countries, is the equity release / reverse mortgage market. Kahan echoes the frustrations of many that this option only exists for home owners, and whilst it has similarities to the US life settlement market - in that an external party is involved in the space - renters don't have this option.

"Nobody has ever questioned the right of Ontario seniors to downsize and sell their homes to whomever gives them the best price – or, if they are asset rich but income or cash poor, to stay in their homes and take out a reverse mortgage. But when it comes to disposing of their permanent life policies, they can only 'sell' their life policy back to their own life insurer for its cash surrender value or borrow against its CSV from a bank," he said.

When will new legislation come across lawmaker's desks to support a secondary life insurance market in Canada and most importantly, when will it pass? For proponents of the industry in Canada, these are the questions of the time.

> "What needs to happen is that we need a dynamic industry lobby group and a way to promote this to Canadian consumers so that both sides are pushing lawmakers to permit this market. There's no reason that Canada shouldn't have a market similar to the US."

"It's just very unknown right now," said Kahan. "What needs to happen is that we need a dynamic industry lobby group and a way to promote this to Canadian consumers so that both sides are pushing lawmakers to permit this market.

There's no reason that Canada shouldn't have a market similar to the US – we just need to continue to educate politicians and consumers about the benefits of a secondary life insurance market, not only to consumers but also to the life insurers and their agents as demonstrated by the Wharton Study."

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