Longevity & Mortality Investor

Volume 02
Issue 08
August 2026

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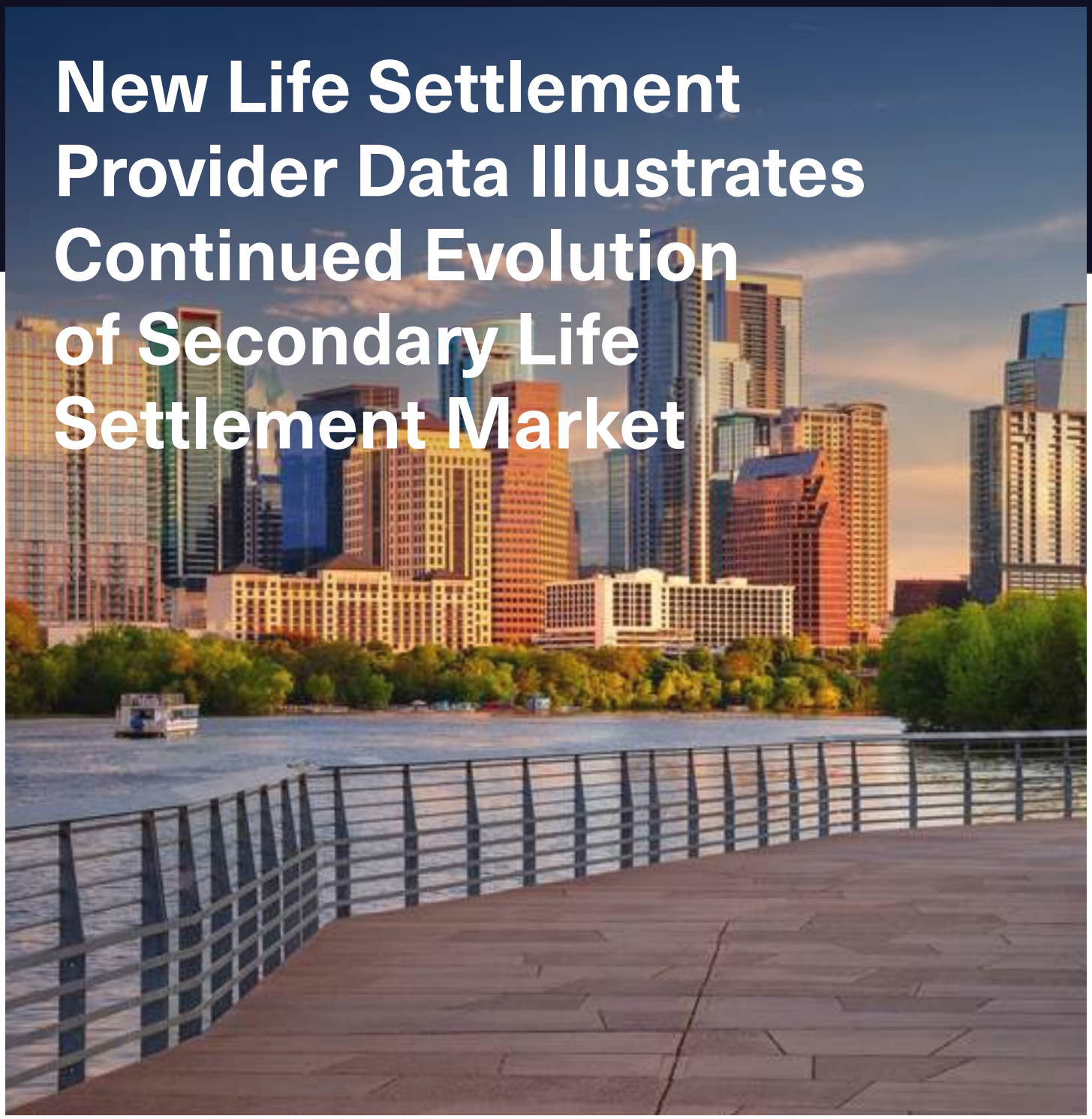
New Life Settlement Provider Data Illustrates Continued Evolution of Secondary Life Settlement Market



www.lminvestor.com

Longevity & Mortality Investor
ISSN 2978-5219
Volume 2, Issue 08
August 2026

Publisher
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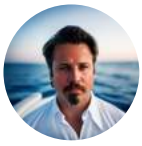
Editor's Letter, Volume 2, Issue 08, August 2026



Chris Wells
Managing Editor
Longevity & Mortality Investor

The European Life Settlement Association (ELSA, publisher of Longevity and Mortality Investor) published the 2026 edition of its *Licensed Provider Matrix* recently so *Greg Winterton* spoke to **John McCarroll**, General Counsel and Chief Compliance Officer at **Fifth Season Investments** and **Chris Conway**, Managing Director at Vitaro Group to get their thoughts on what can be inferred from this year's update in *New Life Settlement Provider Data Illustrates Continued Evolution of Secondary Life Settlement Market*.

Both innovation and regulation continue to influence activity in the UK's pension risk transfer market and the first half of this year is no different. *Mark McCord* spoke to **Matthew de Ferrars**, Pensions Partner at **Pinsent Masons** and **James Mullins**, Partner and Risk Transfer Specialist at **Hymans Robertson** to get their thoughts on the main talking points from H1 in E*nd-Game Clarity Shaping UK Pension Risk Transfer Market but Large Schemes Still on the Sidelines*.

A recent decision by the Delaware Court of Chancery brings some clarity to life settlement investors regarding the statute of limitations in the state. *Greg Winterton* provides a summary overview of the details in *Litigation Update: Estate of Martha Barotz v. Wilmington Savings Fund Society, FSB, et al*.

Successful life settlement investing is influenced heavily by having a clear understanding of the insured's life expectancy at the time of policy acquisition, but **Fergus Bescoby**, Head of Medical Underwriting at **CG Analysts**, says that ongoing medical record reviews are a similarly critical part of managing life settlement portfolios and explains why in *The Crucial Role of Regular Medical Record Reviews in Life Settlement Investments*, a guest article.

On 1st July, the South Dakota Supreme Court issued a unanimous decision affirming summary judgment in favour of a life settlement investor, holding that the investor was entitled to retain the full $10m death benefit under a life insurance policy that the insured's estate had sought to void as an alleged stranger-originated life insurance (STOLI) arrangement. **ArentFox Schiff**'s Insurance & Reinsurance Practice Group explain the ruling and its impact in *South Dakota Supreme Court Upholds Life Settlement Investor's Right to Retain $10 Million Death Benefit*, a guest article.

Completing a bulk purchase annuity buy-in transaction remains an important step in the de-risking journey of a corporate defined benefit pension scheme but different sized plans have different considerations. *Greg Winterton* spoke to **Yona Chesner**, Head of Pensions Investment at **Cartwright Pension Trusts**, to get his take on what should be top of mind for trustees of small to mid-market DB pensions in this month's *Q&A*.

The VM-22 regulation was introduced at the beginning of the year in the US and there is a potential impact of the new framework on pricing – and therefore, activity – in the country's pension risk transfer market. *Greg Winterton* spoke to **Richard de Haan**, Global Risk Modelling Services Leader at **PwC** in New York to get his thoughts on the market generally and how far along insurers are in adopting the new rules in *US Life Carriers Eyeing VM-22 for a Pension Risk Transfer Pricing Advantage in 2027*.

I hope you enjoy the latest issue of *Longevity and Mortality Investor*.

New Life Settlement Provider Data Illustrates Continued Evolution of Secondary Life Settlement Market

Author:
Greg Winterton
Contributing Editor
Longevity & Mortality Investor

The 2026 update to the European Life Settlement Association's (ELSA, publisher of Longevity and Mortality Investor) *Licensed Provider Matrix* suggests a continuing evolution of the secondary life settlement market.

On the surface, that claim might appear counterintuitive. ELSA's annual exercise to map the landscape of licensed life settlement providers – the buyer of record of life insurance policies in the industry's secondary market – identified 30 firms that were licensed in at least one state at the beginning of this year, down 1 from the 31 recorded in 2025, and the providers in this market this year collectively held a total of 685 licenses, down 25, or 3.5%, compared to 2025.

While five new licenses were added in aggregate, 30 were not renewed, which might be viewed as a reduction in competition (and capacity) in the secondary market — and therefore, reduced consumer access — but according to John McCarroll, General Counsel and Chief Compliance Officer at Fifth Season Investments, looking under the hood tells a different story.

> **"There is a lot of consideration that goes into whether a provider wants to be licensed in any given state. Each state's insurance department enforces its own regulatory framework, reporting rules, net worth requirements, and legal liability, so maintaining active licenses across all 40-odd, regulated jurisdictions can easily run into hundreds of thousands of dollars annually in direct and indirect overhead"**
> **- John McCarroll, Fifth Season Investments**

"The firms dropping licenses are generally those that have been exiting the market over the past few years," he said.

"Some states license providers for more than one year, so the reality has been that some of the firms that have dropped off the list in recent years haven't been meaningful participants in the market for a while."

Texas and Maryland lost the most licenses this year, dropping three each, but despite that, the Lone Star State remains in the top spot for consumer choice, with 24 different potential buyers for a life insurance policy. Connecticut, Florida, Indiana, Iowa, and Massachusetts each dropped two licenses.

There were gains, however. And Arizona and New York — two populous states with high concentrations of wealthier seniors, the cohort that delivers the majority of the paper to the secondary market each year — each added a license, as did Idaho. 26 states saw no change.

While overall license numbers across the space have dipped, the decision to let a license expire is rarely straightforward. Indeed, the operational and regulatory reasons why a life settlement provider might choose to drop licenses are numerous.

"There is a lot of consideration that goes into whether a provider wants to be licensed in any given state. Each state's insurance department enforces its own regulatory framework, reporting rules, net worth requirements, and legal liability, so maintaining active licenses across all 40-odd, regulated jurisdictions can easily run into hundreds of thousands of dollars annually in direct and indirect overhead," said McCarroll.

"Add to that the fact that the more populous states account for a higher percentage of the policies seen in the secondary market and it may be that a provider might not feel the cost benefit analysis of being licensed in a certain state ticks their boxes."

The reduction in the total number of provider licenses does not seem to have impacted the market's ability to get deals over the line – at all.

In April, life settlement provider Coventry published its 2025 Life Settlement League Table Report, which details the number of policies purchased, the amount paid to consumers, and the aggregate face value of these policies, using market data derived from public records filings and provider disclosures.

The data compiled by Coventry shows that the total number of policies purchased in the secondary market rose from 2,697 in 2024 to 2,972 in 2025, an increase of more than 10% year-over-year. Total death benefit purchased increased to approximately $3.79bn (up from $3.59bn in 2024),

while total consideration paid to policy sellers rose to over $652m, up from $632m.

According to Chris Conway, Managing Director at Vitaro Group, even if the number of licenses fell by a statistically significant amount, the where is just as important as the number but even so, the impact on activity at the market level would be negligible.

"The trend you're seeing in the provider market is a consequence of the development of the secondary life settlement market. For consumers, choice is excellent in most states. For investors in life settlements, you can see how the number of licenses has almost zero impact on transaction levels. In some markets, fewer participants can meaningfully impact transactions. That's not the case in the life settlement market"
- Chris Conway, Vitaro Group

"If the market lost a lot of licenses from states where there are already fewer firms participating, then it could be that supply from those states becomes smaller, as reduced access would mean fewer bids, other things being equal," he said.

"But when you look at the states that provide the bulk of the supply — New York, California, Florida, Texas, etc. — there is plenty of competition and consumer choice there. Even cutting the number of licenses in half in those states would likely not impact aggregate transaction numbers. You'd just have a smaller number of providers buying more policies."

It would be little surprise to the market, then, if the shrinkage continues next year, and the year after. But the trend towards a soft-oligopolistic structure simply reflects a market that continues to evolve.

"Our market has had its fair share of growing pains in the past two decades, and there have been a couple of instances of taking two steps forward and then one step back," said Conway.

"But the trend you're seeing in the provider market is a consequence of the development of the secondary life settlement market. For consumers, choice is excellent in most states. For investors in life settlements, you can see how the number of licenses has almost zero impact on transaction levels. In some markets, fewer participants can meaningfully impact transactions. That's not the case in the life settlement market."

End-Game Clarity Shaping UK Pension Risk Transfer Market but Large Schemes Still on the Sidelines

Author:
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Longevity & Mortality Investor

The first half of 2026 has been marked by a partial clearing of the mists surrounding endgames for UK defined benefit (DB) pension schemes looking to de-risk.

The Pension Schemes Act received Royal Assent earlier this year and regulators offered further guidance on superfunds and surplus sharing, giving members and trustees more certainty over the status of alternatives to bulk purchase annuity (BPA) deals. Meanwhile, insurers received more concrete indications of how funded reinsurance will be regarded by market overseers.

With the prospects of more pension risk transfer (PRT) options, transactions so far this year have been confined to smaller schemes as the larger ones wait for final details on this expanded range of choice.

> **"I wouldn't say there are any real blockers to schemes going ahead with transactions, but there are quite a few industry and regulatory developments to play out... My sense is that quite a few of the bigger schemes have been pausing their de-risking plans while they weigh up their options, particularly run-on and release of surplus"**
> **- Matthew de Ferrars, Pinsent Masons**

"I wouldn't say there are any real blockers to schemes going ahead with transactions, but there are quite a few industry and regulatory developments to play out," said Matthew de Ferrars, Pensions Partner at law firm Pinsent Masons.

"My sense is that quite a few of the bigger schemes have been pausing their de-risking plans while they weigh up their options, particularly run-on and release of surplus."

The Act gives DB pension schemes easier access to surpluses that sponsors can use to boost member benefits or reinvest in the company (or both). That's now possible for a larger number of schemes as rising interest rates in the past few years have lifted their funding positions; according to LCP, about 55% of schemes are at buy-out levels of funding, up from 43% the year before.

The details about how surpluses can be extracted and used are due to be published early next year after industry consultation and appetite for run-ons appears to be high: A separate LCP survey this year found that 90% of schemes polled in a webinar said they intended to release surplus under the new flexible regime.

The Act is also seen as having opened the way for the creation of more superfunds with the codification of the structures' operating rules and the removal of one of the eligibility tests that had placed impediments on their formation.

With details again being hammered out, and due for publication in 2028, the move could see new funds join the existing Clara Pensions superfund, which saw a fifth scheme add its members and liabilities in April. A second fund, TPT's run-on structure, applied for a licence with The Pension Regulator (TPR) in 2025.

Last year's surplus-sharing deal that saw Stagecoach Group Pension Scheme offload its pension risk to Aberdeen Group further added to the list of end-game options and highlighted innovation in the market that could provide more PRT vehicles.

"I think there will be more of that," said James Mullins, Partner and Risk Transfer Specialist at Hymans Robertson, noting that the regulator and pensions minister had said they would look into the suitability of such deals.

"I think that option will remain viable. They might tighten up some of the requirements or insist that you get clearance from TPR, which would be a sensible change."

The trend towards smaller-scheme transactions continues from last year when aggregate deal value dropped to £38.1bn but more transactions were completed than any year before. This growth has left an estimated 500 schemes in the post-transaction stage working towards a buy-out in the next few years, according to Hymans Robertson.

Another continuing characteristic of the UK PRT market is the forging of new innovations by insurers to win business in a competitive market that TPR said could bring between £200bn and £400bn to market over 10 years.

With bottlenecks building in the post-transaction space, the 10 insurers in the PRT market have been offering to take on more of the

responsibilities of administrators to bring bought-in schemes to buy-out faster.

According to Hymans Robertson, several insurers are providing data cleansing and guaranteed minimum pension equalisation services. These are two critical stages in the road to a scheme's wind-up that are time-consuming and can contribute to wind-ups taking 18 to 36 months to complete after a buy-in.

> **"There's a big disconnect between what the insurers would love to do if there was more demand coming through, compared to what's actually coming through. That's creating some challenges for the insurers and in particular, it's creating a very highly competitive market"**
> **- James Mullins, Hymans Robertson**

Insurers are also investing in artificial intelligence applications to accelerate the process, the report said. They are also bolstering member experience to attract more schemes, something that resonates not only after wind-up.

"Member experience with the insurer post buy-out is clearly important, but the really key thing that people don't always think about is good member experience on the transition to buy-out," de Ferrars said.

Potentially clouding insurer appetite for PRT deals, however, has been the regulatory hard-line taken against funded reinsurance strategies, which help capital providers offset longevity and investment risks that they take on with BPA deals.

In its CP8/26 consultation paper, the Bank of England's Prudential Regulation Authority (PRA) proposed increasing the capital buffers insurers must put aside to offset the cost of any reinsurance deal defaulting.

The PRA is acting out of concern that funded reinsurance has given rise to "misaligned incentives" and "underestimated risks". The overall impact is difficult to predict and may have a slight impact on pricing as funded reinsurance helps insurers offer more competitive deals.

Buoyancy in the PRT market and the highly competitive pricing environment may yet be tested in other ways. Insurers have amassed capacity of around £60bn but demand from schemes is a little over half of that, at £35bn, said Mullins.

"There's a big disconnect between what the insurers would love to do if there was more demand coming through, compared to what's actually coming through," he said.

"That's creating some challenges for the insurers and in particular, it's creating a very highly competitive market."

Mullins attributes this to the decline in big-scheme deals. Last year, there were only two transactions that exceeded £2bn, and most of those completed this year have been in the small-to-medium range, according to Standard Life.

With deal volumes for the year forecast at between a moderate £40bn and a record £55bn, according to LCP data based on insurer feedback, he said it would only take another couple of big deals for 2026 to register the sorts of blockbuster volumes of 2023 and 2024.

"A lot of this is down to randomness – the randomness of when the big deals decide to make their move," Mullins said.

Litigation Update: Estate of Martha Barotz v. Wilmington Savings Fund Society, FSB, et al.

Author:
Greg Winterton
Contributing Editor
Longevity & Mortality Investor

A decision in June by the Delaware Court of Chancery in *Estate of Martha Barotz v. Wilmington Savings Fund Society, FSB (Barotz)* resulted in a partial win for the defendants.

The case involves an estate suing to recover the death benefits of a life insurance policy taken out on the life of Martha Barotz in 2006. The ruling by Vice Chancellor Laster applies the precedent set by the Delaware Supreme Court in *Estate of Norman Frank v. GWG DLP Master Trust Dated 03/01/06, et al (Frank)* in February this year that held that claims by estates to recover the death benefits of so-called STOLI (stranger-originated life insurance) policies — which are generally illegal in the US states as they are considered a wager on human life — are subject to a three-year statute of limitations. *Frank* did not clarify when the statute of limitations begins to accrue. The *Barotz* decision did so.

Barotz concluded that the Estate was on "inquiry notice", meaning that the Estate had sufficient information to have known of its claim, in February 2021.

The Estate did not file suit against the downstream investors who ultimately received the death benefit proceeds back in 2019 until April 2024, which the Court of Chancery found to be too late.

"That is not a reasonable time to wait before filing suit, rendering the Estate's reliance on fraudulent concealment ineffective," said Vice Chancellor Laster in his ruling.

The *Frank* decision did not specify when the three-year statute of limitations begins to accrue because the Delaware District Court did not certify that question to the Supreme Court. Thus, the "inquiry notice" standard referenced by Vice Chancellor Laster in *Barotz* provides an additional layer of clarity to life settlement investors on how courts measure the filing window.

The original complaint contained seven counts covering constructive fraudulent transfer, actual fraudulent transfer, fraud claims, disgorgement, and the improper dissolution of the trusts which received the death benefit. While the Court of Chancery dismissed the fraud, disgorgement, and transfer claims as untimely, it denied the motion to dismiss regarding the improper dissolution of trust claim. This allows the Estate to proceed with its accusation that the defendants dissolved the first two intermediate holding entities without making adequate reserves for claims the trustee knew or should have known of.

Under the Delaware Statutory Trust Act, § 3808(e), a trustee responsible for winding up an entity must pay or make reasonable provision for all obligations—including contingent claims reasonably likely to arise within ten years—before distributing assets.

Vice Chancellor Laster concluded that no statute of limitations applies to this specific wind-down claim and furthermore, the court held that trustees cannot escape responsibility by arguing they were merely "directed trustees" taking instructions from beneficial owners, and that standard "no-recourse" provisions in the trust agreements do not protect trustees from statutory dissolution violations.

Vice Chancellor Laster's ruling on the motion to dismiss is an interlocutory order; a temporary, mid-case decision, not a final judgment. The court was required to accept all of the allegations of the Complaint in favour of the Estate on the defendant's motion to dismiss, including that the trustee knew or should have known of the Estate's claim for the death benefit. The next steps in cases such as *Barotz* would therefore tend to be that the parties proceed directly into discovery and a trial for Counts 4 and 5 of the original complaint (the improper dissolution and veil-piercing claims).

Dublin Life Settlement Symposium

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ELSA

The Crucial Role of Regular Medical Record Reviews in Life Settlement Investments

Author:
Fergus Bescoby
Head of Medical Underwriting
CG Analysts

> "Medical underwriters are central to the life settlement process. Their job is to review the insured's overall health, looking at medical history, current conditions, lifestyle factors, and any changes that could affect LE"

Successful life settlement investing is influenced heavily by having a clear understanding of the insured's life expectancy (LE). Almost all life settlement investors produce an LE during the initial policy due diligence process because it informs the bid—life settlements are valued via a discounted future cash flows basis, working backwards from the expected policy maturity date.

But updating the LE throughout the life of the investment plays a similarly critical role in best practice life settlement portfolio management, because changing LEs impact the net asset value of the fund. In this article, we explore why ongoing medical record reviews are a critical part of managing life settlement portfolios and the value they provide over time.

The Moving Target: LE Volatility

LE isn't a fixed number in the life settlement market—it's an estimate that changes as new medical information becomes available. Since that estimate has a direct impact on both future premium costs and expected returns, investors need to understand what can cause it to change over time.

- Longer than expected (extension risk): Improvements in medical treatment can allow people to live much longer than originally projected. Conditions that were once considered life-limiting may become manageable for years, extending the insured's lifespan. Periodic updates to actuarial mortality tables can also lead to longer LE estimates.
- Shorter than expected (impairment risk): A serious new diagnosis can quickly change the outlook. Progressive conditions such as Alzheimer's disease or other forms of dementia, along with significant physical decline or major health events after the policy is purchased, may substantially reduce the insured's expected lifespan.
- In line with expectations: Sometimes there are no major surprises. If the insured's health changes broadly as anticipated during the original underwriting process, LE estimates are likely to remain relatively stable.

The Role of the Medical Underwriter

Medical underwriters are central to the life settlement process. Their job is to review the insured's overall health, looking at medical history, current conditions, lifestyle factors, and any changes that could affect LE. Drawing on all of this information, they estimate the insured's remaining lifespan and provide the analysis investors rely on when assessing a policy. For particularly complex medical cases, they may also consult a Medical Officer before reaching a final opinion.

Their involvement doesn't stop once a policy has been purchased. As part of ongoing portfolio management, underwriters periodically revisit each case to determine whether the insured's health has changed in a way that could affect the original LE estimate. These regular reviews help ensure that policy valuations remain as accurate as possible throughout the life of the investment.

The Impact of Modern Medical Advancements on Longevity

Medical advances are constantly changing the outlook for many health conditions, which is why LE estimates can't be treated as a one-time exercise. New treatments, better technology, and a growing focus on prevention are

> "AI is still finding its place in healthcare, but it's already showing real promise. By helping clinicians spot cancers and cardiovascular disease earlier, it has the potential to improve outcomes through earlier diagnosis and treatment"

helping people live longer and enjoy a better quality of life than was possible just a few years ago.

A few examples stand out:

Heart disease

Better medications to control cholesterol and blood pressure, along with procedures such as angioplasty and stenting, have dramatically improved survival rates for people with cardiovascular disease.

Cancer

The outlook for many cancer patients has changed considerably. Targeted therapies and immunotherapy are helping some people live much longer, even with cancers that were once associated with very poor survival.

GLP-1 medicines

Drugs like semaglutide have transformed the treatment of obesity and type 2 diabetes. As well as helping patients lose weight and manage blood sugar, they're reducing the risk of serious cardiovascular and kidney complications.

Organ transplants

Advances in surgery, donor matching, and anti-rejection medication mean organ transplantation is now a realistic long-term treatment option for many patients with advanced organ failure.

Medical technology

From robotic-assisted surgery to continuous glucose monitors and wearable devices, technology is making it easier to treat disease, monitor patients, and catch problems before they become serious.

Healthier lifestyles

Smoking rates have continued to fall, more people are taking part in routine screening programmes, and there's a much greater awareness of the benefits of diet and exercise. All of these factors are contributing to longer LE.

Artificial intelligence

AI is still finding its place in healthcare, but it's already showing real promise. By helping clinicians spot cancers and cardiovascular disease earlier, it has the potential to improve outcomes through earlier diagnosis and treatment.

For medical underwriters, these developments aren't just interesting—they can have a direct impact on LE assessments. Staying up to date with changes in medical practice is an important part of the role, as is working with actuaries when new evidence suggests mortality assumptions or condition-specific ratings need to be updated.

The Oncology Revolution: Saving Lives and Challenging Investors

The impact of medical advances on investment valuation is particularly evident in oncology. An investor may acquire a life insurance policy based on the expected survival of an insured with a particular cancer, using historical mortality data to estimate LE. However, the introduction of a new biologic or targeted therapy can significantly improve outcomes, extending survival well beyond the original projection. In some cases, an individual diagnosed with stage IV cancer—once associated with a very limited LE—may respond so well to treatment that they live for many years, or even return to a near-normal quality of life.

For life settlement investors, this creates longevity risk. When an insured outlives the original LE estimate, premiums and fees must be paid for longer than expected, delaying the eventual death benefit and reducing the investment's internal rate of return. Ongoing reviews of medical records help identify when an insured starts receiving new therapies, enabling underwriters to reassess LE and investors to update their financial projections. If treatment

substantially extends LE, investors may conclude that continuing to fund premiums and fees is no longer commercially viable and choose to let the policy lapse. At the same time, these reviews also identify the development of unrelated medical conditions that could shorten LE, ensuring valuations remain as accurate as possible.

Frequency of Medical Record Reviews

Maintaining an up-to-date picture of an insured's health requires medical records to be reviewed on a regular basis. In most cases, updated reports should be obtained every 12 to 24 months. More frequent reviews, however, are appropriate where an insured has a serious, unstable, or rapidly progressing condition. In these cases, obtaining medical information every six months—or even quarterly—helps ensure that significant changes in health are identified as soon as possible. This is especially important for individuals with early signs of cognitive decline, where regular neurological assessments can provide valuable insight into the rate and extent of disease progression.

"Maintaining an up-to-date picture of an insured's health requires medical records to be reviewed on a regular basis. In most cases, updated reports should be obtained every 12 to 24 months. More frequent reviews, however, are appropriate where an insured has a serious, unstable, or rapidly progressing condition. In these cases, obtaining medical information every six months—or even quarterly—helps ensure that significant changes in health are identified as soon as possible"

Challenges in Compliance and Authorisation

Obtaining medical information on a consistent basis is not always straightforward. As time passes, some insureds become less responsive, making it more difficult to secure updated health information. Administrative issues can also arise when requesting medical records, particularly if HIPAA or other medical authorisations need to be renewed or if a healthcare provider refuses to accept the limited power of attorney signed when the policy was sold. Despite these practical challenges, regular access to current medical records remains essential for effective risk assessment and portfolio management.

The Ongoing Role of Service Providers

Many life settlement investors engage specialist service providers to manage the day-to-day administration of their policies. These providers liaise with healthcare organisations to obtain medical records, ensure the necessary HIPAA and other regulatory authorisations are in place, and oversee the secure handling of sensitive medical information.

The timing of medical record requests is usually determined by the investor and reflects the insured's health status and the level of monitoring considered appropriate. Service providers then carry out these requests on the investor's behalf, while also managing premium payments, policy administration, and regulatory compliance. This allows investors to concentrate on portfolio management and broader investment decisions rather than the underlying operational processes.

Mitigating Risk and Ensuring Compliance

Life settlement investments are subject to inherent valuation risk, making regular medical record reviews an important part of the investment process. Access to current clinical information enables investors to identify material changes in an insured's health at an early stage and incorporate them into updated LE assessments. Without this information, valuations may rely too heavily on historical actuarial assumptions that reflect population averages rather than an individual's actual medical condition. Regular medical reviews reduce this risk by supplementing actuarial models with current, patient-specific clinical evidence.

Failing to carry out these reviews can result in inaccurate valuations, increased lapse risk, liquidity challenges, and portfolios that no longer reflect the underlying risk profile. It may also create regulatory and governance concerns. If an investor decides to sell a policy before maturity, the absence of recent medical records can significantly reduce its marketability, as prospective purchasers are unlikely to value the policy confidently without a reliable assessment of the insured's current LE. Regular reviews also demonstrate an appropriate level of due diligence, supporting the fund manager's fiduciary

> "Regular reviews of medical records are a fundamental component of life settlement portfolio management. They support more accurate LE assessments, identify material changes in an insured's health, and help investors satisfy ongoing regulatory and compliance requirements"

responsibilities and regulatory oversight obligations.

Conclusion

Regular reviews of medical records are a fundamental component of life settlement portfolio management. They support more accurate LE assessments, identify material changes in an insured's health, and help investors satisfy ongoing regulatory and compliance requirements. Effective monitoring depends on the coordinated efforts of several parties. Medical underwriters interpret the clinical information and assess its impact on LE, service providers obtain and manage the medical records and related documentation, and actuaries use the updated data to revalue policies and identify investments that are performing above or below expectations.

Incorporating regular medical reviews into the ongoing management of a life settlement portfolio enables investors to make better-informed decisions based on current clinical evidence rather than outdated assumptions. This reduces longevity risk, improves the accuracy of portfolio valuations, and supports more effective long-term investment management.

Fergus Bescoby is Head of Medical Underwriting at **CG Analysts**

South Dakota Supreme Court Upholds Life Settlement Investor's Right to Retain $10 Million Death Benefit

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Viva Capital Trust v. Garrett

On July 1, the South Dakota Supreme Court issued a unanimous decision affirming summary judgment in favor of a life settlement investor, holding that the investor was entitled to retain the full $10 million death benefit under a life insurance policy that the insured's estate had sought to void as an alleged stranger-originated life insurance (STOLI) arrangement.

The decision is a significant positive development for investors in the life settlement industry, as it reinforces the enforceability of premium-financed policies where statutory insurable interest requirements are met at inception and confirms that downstream purchasers may rely on the principle of free alienability of validly issued policies.

In 2006, Frank Garrett, Jr., a 78-year-old California retiree with a net worth of approximately $20-25 million (consisting primarily of real estate holdings), obtained a $10 million life insurance policy from MassMutual through a premium financing arrangement. The policy was held by an irrevocable trust established by Garrett and governed by South Dakota law, with a South Dakota commercial bank serving as trustee and Garrett's wife, Jean, named as the trust's beneficiary. The premiums were financed through a nonrecourse loan from a premium finance lender, United National Funding, LLC, collateralized by the policy itself, with a scheduled maturity of seven years. Two independent insurance agents testified during discovery that Garrett's purpose in acquiring the policy was to facilitate estate planning — specifically, to provide liquidity for estate taxes and financial security for his wife — and that the policy was not acquired with any prearranged intent to sell.

> "The decision is a significant positive development for investors in the life settlement industry, as it reinforces the enforceability of premium-financed policies where statutory insurable interest requirements are met at inception and confirms that downstream purchasers may rely on the principle of free alienability of validly issued policies"

After the initial two-year nonrecourse financing period expired, Garrett explored several options, including refinancing and selling the policy on the secondary market, before ultimately surrendering it to the lender's successor, New Stream, in 2009, as satisfaction of the outstanding loan obligations. The policy subsequently changed hands through additional secondary market transactions until Viva Capital Trust acquired it in December 2014. Viva paid over $4.4 million in additional premiums to keep the policy in force. After Garrett died in January 2019, MassMutual paid the $10 million death benefit to Viva's securities intermediary.

In 2022, Garrett's son, as special administrator of the estate, filed counterclaims alleging that the policy was procured through a STOLI scheme that violated South Dakota's insurable interest statute, SDCL 58-10-3, and sought disgorgement of the death benefit under SDCL 58-10-5. The estate also challenged the validity of the underlying trust, alleging fraud, undue influence, and lack of capacity. The circuit court granted summary judgment to Viva on all claims, and the South Dakota Supreme Court affirmed in a unanimous opinion authored by Justice Patricia Devaney.

The court's analysis proceeded on two principal grounds. First, the court held that the estate's claims challenging the validity of the irrevocable trust were time-barred under SDCL 55-4-57(a)(1), South Dakota's statute of repose, which precludes judicial proceedings contesting whether an irrevocable trust was validly created if commenced later than one year after the settlor's death. Because Garrett died in January 2019 and the estate did not file its counterclaims until June 2022, the challenge was untimely by more than two years. The court construed this provision expansively, holding that it applies to any claims that would negate the valid creation of trusts, encompassing allegations of fraud in execution, undue influence, lack of capacity, and even

assertions that the trust lacked a lawful purpose. The court rejected the estate's attempt to characterize its claims as falling outside the statute's reach merely because the ultimate remedy sought was recovery of insurance proceeds rather than trust property.

Second, turning to the insurable interest question, the court applied the plain and unambiguous text of SDCL 58-10-3, which permits any individual to procure insurance on his own life for the benefit of any person, and prohibits procurement on the life of another only where the benefits are not payable to a person with an insurable interest. The court held that regardless of how the term "procure" is defined — whether narrowly as the estate urged or more broadly as Viva argued — the statute is satisfied so long as the policy benefits were payable to a person having an insurable interest in the insured's life at the time the contract was made. Because the death benefits were payable to the trust as policy beneficiary, and ultimately to the insured's wife, Jean, as the trust's beneficiary, and because both the trustee and Jean held statutory insurable interests under SDCL 58-10-4(1) and (6), the insurable interest requirement was met.

> "Although the court acknowledged that many features of the transaction "align with a typical STOLI scheme" ...the court identified several undisputed facts distinguishing this case from situations where courts have voided policies as unlawful wagers"

Although the court acknowledged that many features of the transaction "align with a typical STOLI scheme" — including nonrecourse premium financing, the formation of an irrevocable trust with a lender-selected trustee, a collateral assignment, and the eventual surrender of the policy to the lender — the court identified several undisputed facts distinguishing this case from situations where courts have voided policies as unlawful wagers. These included Garrett's substantial personal wealth and legitimate estate planning motivations, the absence of any upfront payment or financial inducement to the insured, the seven-year loan term (as opposed to a maturity timed merely to the two-year contestability period), the insurer's documented awareness of the premium financing arrangement, and the fact that for over three years the policy proceeds would have been payable to the trust for Jean's benefit.

The court further cited SDCL 58-10-6.1, which expressly provides that no transfer of a validly issued policy shall be invalid by reason of a lack of insurable interest of the transferee, reinforcing the well-established principle from Grigsby v. Russell, 222 U.S. 149 (1911), that a life insurance policy has the ordinary characteristics of freely alienable property.

Notably, the court observed that South Dakota has not enacted anti-STOLI legislation, unlike approximately 30 other states that have done so, and stated that where courts "cannot devise a bright-line rule," the matter "is best addressed by the Legislature." This expression of judicial deference signals that South Dakota courts are unlikely to expand common-law doctrines to invalidate policies that comply with existing statutory requirements, absent legislative action.

The Garrett decision is a favorable ruling for the life settlements industry. It confirms that premium-financed policies are not inherently suspect and will not be voided in South Dakota, where the named beneficiary holds a valid insurable interest at inception. It also establishes that downstream life settlement purchasers may rely on the statutory principle of free transferability without concern that a policy's secondary market history will be used to retroactively invalidate it. Moreover, for policies held in South Dakota trusts, the one-year statute of repose creates a short, definitive deadline beyond which estates cannot mount challenges to trust validity, providing meaningful finality protections for investors.

Finally, the court's textualist approach to the insurable interest statute is consistent with the methodology employed by the Georgia Supreme Court earlier this year in the Leone case (Wilmington Tr. Co. v. Sun Life Assur. Co. of Canada, 323 Ga. 657 (2026)), suggesting an emerging judicial consensus that plain statutory compliance governs the validity inquiry.

By **ArentFox Schiff**'s Insurance & Reinsurance Practice Group

You can find the original version of this article, which is reproduced here in full, at https://www.afslaw.com/perspectives/alerts/south-dakota-supreme-court-upholds-life-settlement-investors-right-retain-10.

Q&A

Yona Chesner
Head of Pensions Investment, Cartwright Pension Trusts

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Completing a bulk purchase annuity buy-in transaction remains an important step in the de-risking journey of a small-to-medium-sized pension scheme. Greg Winterton spoke to Yona Chesner, Head of Pensions Investment at Cartwright Pension Trusts, to get his take on the current state of the small to mid-market buy-in space in this month's Q&A.

GW: Yona, for small-to-medium-sized pension schemes looking to secure a buy-in, data readiness, like GMP equalisation and missing member data remains a major roadblock. What practical strategies and/or timelines do you recommend to trustees to get their ducks in a row – while being cognisant of costs?

YC: I'd get the data moving before anything else, because it usually sets the timetable. I don't see GMP equalisation as the roadblock people assume it is: the methodologies are settled, insurers will price and complete on an agreed basis and true-up afterwards, and what's left is normally just more data to collect rather than anything complex. Missing member data is what actually holds schemes up, so pin down the benefit specification with your lawyers early. For a smaller scheme, be proportionate. In this case, spend where it changes the price or a member's benefit, not on chasing every historic gap. Get that right and a well-prepared small scheme can move quickly.

GW: Once a scheme is data-ready, it's not unusual to hit funding or asset roadblocks, such as holding illiquid assets that normally take years to run off. How can a scheme with unique funding backdrops keep an insurer engaged, and what compromises are sponsors having to make to get these deals over the line?

YC: Sort the investment strategy for the transaction first. Take the time to work out what can realistically be realised in your window and plan around what can't. Illiquids need to be looked at early, because they run off over years while a transaction happens over months. There are a few ways through. You can time the deal around the run-off, transfer assets in specie if the insurer will take them, sell in the secondary market to release value early (usually at a haircut), or have the sponsor put something in to bridge the gap. In some situations, a deferred cover policy will work. A deferred policy allows Trustees to get the policy in place, while cover only starts after a couple of years. This can work if cashflows and timings from the illiquid assets is known with confidence, or there is a Sponsor who can step in if needed. Insurers are picking their battles, so the ones that hold their attention are the schemes that turn up organised and actually make decisions.

Continued on next page...

GW: Cartwright has previously highlighted the risk of 'incumbent bias.' When trustees choose to break away from their day-to-day advisers to test the market for a specialised risk-transfer consultant, what specific questions should they be asking?

YC: It may not be that the existing adviser is doing a bad job. At the smaller end, some just don't do risk transfer often enough to have real expertise. But with the bigger names the issue is usually the opposite: they've done plenty of transactions, often more than anyone, but their attention and their economics sit with their largest clients, where the spend per scheme can be many times what a smaller scheme pays. So, a small to mid-sized scheme can end up well down the priority list, run day-to-day by a junior team. Either way, they have an obvious interest in keeping the client, so testing the market is just sensible governance. I'd ask some direct questions. Who will actually run this day-to-day, and how senior are they? Where does a scheme our size sit among your clients, and how do you make sure we're not deprioritised behind bigger clients? How do you get paid, and are there any insurer relationships I should know about? How will you keep insurers competing for a scheme our size when they can afford to be choosy? And how do you take us all the way to buyout and wind-up in a timely manner, not just the buy-in? A good adviser will also tell you when a buy-in isn't the right move at all.

GW: Even if a specialised adviser is brought in, a buy-in might not be the automatic next step. Given your insights into the inner workings of insurers and the alternative of running on, how do you help trustees objectively weigh the security of an immediate bulk purchase annuity against the potential upside of running on, particularly given the recent regulatory developments that are designed to better support that option?

YC: There's no one-size-fits-all answer here, it simply depends on the scheme. Run-on is a more genuine option than it was, and it will be more so again once the Pension Schemes Act changes and the new surplus rules land, expected in 2027. But it isn't a free lunch. You're committing to run the scheme for years, with all the governance, investment expertise and covenant reliance that involves, and the upside, though real, isn't guaranteed. A buy-in gives you certainty instead. For a smaller scheme the running costs are more significant relative to the assets, so more often than not transacting sooner is the more defensible call. Whereas bigger schemes with scale and a strong covenant might take the other view. The adviser's job is to set the trade-off out honestly and advise what is right on a case-by-case basis, not take a cookie-cutter approach.

GW: The insurer landscape is evolving rapidly, with global asset managers buying up established UK insurers. How is this influx of international capital affecting pricing competitiveness, and what new nuances should trustees look for when evaluating an insurer's long-term capital backing and financial strength?

YC: It's very real now. Athora bought PIC and Brookfield bought Just, both completing around April, and L&G has teamed up with Blackstone on sourcing assets. More money and more players are broadly good for price and capacity, but the trade-off is that too much consolidation could lead to fewer options over time. I would advise trustees not to stop at the premium. Look at who actually stands behind the policy and how they're investing the balance sheet, how heavily they lean on funded reinsurance and private credit from the parent. And finally, consider how good the administration will be too. Your members will rely on this insurer for decades.

GW: Looking ahead over the next three to five years, as the bulk purchase annuity market continues to grow more crowded and complex, what do you see as the single biggest structural shift or challenge that UK trustees and corporate sponsors of smaller-mid-sized will face in navigating the endgame space?

YC: The real challenge isn't getting to a buy-in, it's everything after it – and that's where the real measure of success lies. Volumes are heading for record levels. As such the challenge stops being 'can I get a quote?' and becomes whether the whole chain - insurers, administrators, advisers and lawyers - can deliver the work to a high standard and within the timescales needed. The real question is: can they take schemes all the way to buyout and wind-up, and do it well?

In my experience, the back half is where things stall. Things like data true-ups, sorting out benefits, reassigning old annuities across different insurers and the wind-up itself cause most issues. Here the smaller schemes can easily get left behind as focus is directed on the big deals – especially where teams are stretched. So, plan for a busy market. Being well prepared, well advised and well project-managed is what gets you to the front. And choose an adviser you are confident will treat you as a priority, not as a data point.

Yona Chesner is Head of Pensions Investment at **Cartwright Pension Trusts**

US Life Carriers Eyeing VM-22 for a Pension Risk Transfer Pricing Advantage in 2027

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The US pension risk transfer (PRT) market recorded approximately $3.8bn in buy-out and buy-in sales in the first quarter of 2026, reflecting a 47% decline compared to the same period last year, according to data collected and published by LIMRA.

But the headline numbers for US market, like its UK cousin, can be distorted by jumbo deals ($1bn+) – or a lack of them – which, along with the impact of a slew of lawsuits alleging plan sponsors breached their fiduciary duty by not selecting the safest annuity available (a requirement of the Employee Retirement Income Security Act), have conspired to account for this year's slow start.

"It's true that there has been something of a trend drop in the market given the legal background to the space. While we're now beyond some of those lawsuits, it does take time for the approvals engine to re-start, but some of those settlements have happened in just the last year, so our anticipation is that some of these discussions are now happening and we're seeing early indications of this activity coming back to the market," said Richard de Haan, Global Risk Modelling Services Leader at PwC in New York.

> **"Firms started preparing before January this year - looking at proposed regulations, views, comment letters. There was a fair amount of field-testing activity prior to VM-22 coming in. Because we have this three-year adoption period, carriers are assessing what underlying liabilities would get the greatest advantage from the regulation, and the biggest impact is their PRT business"**
> **- Richard de Haan, PwC**

"As for the jumbo market, the trend we have seen is that these deals tend to get done in Q4 because of the approvals cycle; roughly - regulatory approval filings in Q2, approval in Q3, deals completed in Q4. So, we're not anticipating many significant announcements until the tail end of the third quarter into the fourth. Will 2026 exceed 2025? It's hard to tell, but we are seeing activity in the smaller and medium end of the market."

The legal risk the US PRT market has been (still is, to some degree) navigating relates to the current topic du jour of US life carriers allocating more investment dollars to private credit assets. While these may be deemed risky by some, less so by others, for actuaries, their concern is appropriately modelling these assets as part of the asset/liability management mechanism, but they are in the process of doing so differently, thanks to the VM-22 regulation, a principles-based reserving framework, which was introduced at the beginning of the year.

For a long time, US firms used rigid, one-size-fits-all formulae to figure out how much money to set aside to back annuity liabilities, but by January 1st, 2029, companies must ditch static mathematic equations entirely in favour of complex computer simulations, testing their financials – which can vary significantly from carrier to carrier - against hundreds of 'real-world' economic scenarios, like crashing interest rates or soaring inflation, to calculate the required reserve.

A three-year optional transition period began on 1st January this year, and de Haan says that firms began the process of analysing the changes to see how they could benefit from them a while ago – a road which leads directly to the PRT space.

"Firms started preparing before January this year - looking at proposed regulations, views, comment letters. There was a fair amount of field-testing activity prior to VM-22 coming in. Because we have this three-year adoption period, carriers are assessing what underlying liabilities would get the greatest advantage from the regulation, and the biggest impact is their PRT business."

A couple of reasons why PRT blocks are so relevant here prevail. First, under VM-22, carriers don't have to use generic industry mortality tables anymore; they can use company-specific, deal-specific data. If a carrier can prove via advanced data modelling that a specific group of blue-collar workers, for example, has a lower life expectancy than the generic national average, they can legally hold lower reserves against that block. Lower reserves mean they don't have to lock up as much capital, making their bid on that pension deal cheaper than a competitor using the old rules.

Second, VM-22 calculates reserves based on the actual assets the insurer buys to back the pension cash flows, rather than a rate prescribed

by regulators. Certain PRT cash flows are highly predictable – particularly those that don't have deferred lives – so insurers with sophisticated investment teams can pick highly specialised asset portfolios that very closely mirror those pension payouts. VM-22 heavily rewards disciplined ALM by lowering the required reserve.

This means that pricing in the PRT space may well come down for certain deals, which would be a significant competitive advantage for those who get to the finish line first. But under VM-22, insurers can no longer look at assets and liabilities in isolation. For volatile products, they must simulate how policyholder behaviour changes across hundreds or thousands of different economic scenarios. While predictable blocks can often avoid this complex stochastic maths by passing strict exclusion tests, the fact that carriers must still build a very large computational infrastructure just to prove they qualify for the simpler rules means the market is unlikely to see a noticeable difference until next year.

> "VM 22 is complicated. Most firms are trying to understand it and figure out their models because of the potential PRT pricing advantage the new regulation will bring"
> - Richard de Haan, PwC

"We carried out a survey recently and in the realm of PRT, as we look at companies who responded to the survey, no-one has early adopted VM-22 yet, and roughly 10% of respondents feel like they will be ready to adopt PRT reserving by this year-end," he said.

"VM 22 is complicated. Most firms are trying to understand it and figure out their models because of the potential PRT pricing advantage the new regulation will bring. The complication is that in order to adopt it, they have to have asset modelling and systems in place so it's difficult to get a pricing advantage this year. Based on our survey results, most of the action to get the reduction because of the PRT reserving will come next year."

VM-22 is not the only ball that the industry is juggling currently. Last August, the NAIC adopted actuarial guideline 55, a new framework designed to provide regulators with more transparency into the asset adequacy of offshore asset-intensive reinsurance structures.

Regulators are currently working through the data from the December 31, 2025, annual statements and they may make some changes to the guideline – potentially this year – which adds another layer of complexity – and opportunity – to the puzzle.

"For year-end 2025, the industry in aggregate feels that the assets backing the onshore reserves, along with the requirement for AG 55, are sufficient to back the liabilities. But the combination of VM-22, and AG-55 – for example, do we re-assess our reinsurance strategy, do we re-assess which third party to use, where should I use onshore vs offshore structures - makes the consideration for companies that much more interesting," said de Haan.

So, plenty to keep the actuaries, operations and tech folks in the US PRT market busy in H2, then. In the meantime, the bulls are positive that, when all is said and done, the balance of this year will see the top-line numbers deficit (compared to last year) erased.

"Typically, the fourth quarter will see the most action - that's been an industry trend," said de Haan.

"The positive outlook folks are anticipating the post-legal situation to deliver a bit of an uptick relative to prior year."

Longevity & Mortality Investor

Longevity & Mortality Investor
ISSN 2978-5219
Volume 2, Issue 08
August 2026

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