



## **LIFE SETTLEMENT PROVIDER BEST PRACTICES**

The standardization of life settlement origination practices is critical to promote the growth of life settlements as an asset class. Standardized origination practices will protect consumers and investors and promote liquidity in the tertiary market for life settlement policies. Historically, diligence, disclosure and documentation practices have varied significantly among life settlement providers. As a result, investors may be unable to re-sell policies as new investors have a lack of confidence in the diligence conducted at the time of policy acquisition and the documentation may be substandard for what a discerning buyer requires. Accordingly, the Institutional Life Markets Association (“ILMA”) has developed the following minimum compliance and diligence procedures, which procedures should supplement any compliance and diligence procedures already employed by life settlement providers (Providers).

Providers should not purchase policies from policy sellers<sup>1</sup> and insureds who are not represented by an intermediary such as a broker, agent, financial advisor or attorney (each an “Intermediary”), unless the policy seller has demonstrated with supporting documentation (such as bank account statements, brokerage account statements, real estate holdings and tax returns) that they have a net worth of at least \$1,000,000. In transacting with seniors, it is appropriate to require that seniors be advised regarding the transaction or that the seniors have the knowledge and experience with financial matters and investments to fully understand the transaction.

- A. Each Intermediary, known to the Provider as being compensated in the transaction, must:
- (i) be certified by the Provider to have passed a due diligence check. Specifically, the provider must:
    - (a) verify the identity of each Intermediary
    - (b) confirm that no insurance, securities or professional licenses of the Intermediary currently are suspended or revoked. Evaluate past revocations or suspensions to determine if there is a pattern of improper conduct.
    - (c) confirm that the Intermediary is not or was not a party to any litigation in the previous 10 year period involving claims of misrepresentation or fraud by the Intermediary. This confirmation may be accomplished by a representation from the Intermediary, absent any actual knowledge of the Provider to the contrary.

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<sup>1</sup> If the policy seller is a trust formed by the insured, the Provider should look through the trust to the insured in connection with this section A.

- (ii) execute an agreement with the Provider in which the Intermediary agrees to the items set forth on Exhibit A; and
  - (iii) execute in connection with the consummation of any life settlement transaction an Intermediary Certificate including the items set forth in Exhibit B.
- B. Providers should use a Life Settlement Package that conforms to the list of documents set forth in Exhibit C.
- C. Providers should complete a phone interview with the insured and the policy seller (if multiple policy owners, a single representative owner is sufficient) covering the items set forth in Exhibit D.
- D. Providers should use the ILMA form Life Settlement Transaction Disclosure Statement (Statement) or comparable form for all of its settlement business that adheres to the requirements of the Statement.
- E. Providers should not purchase any policies, or the beneficial interest in any policies, that have been directly or indirectly transferred during the contestability period to a person without an insurable interest in the life of the insured, unless an exception is allowed by an appropriate life settlement statute.
- F. Providers should develop and follow procedures designed to determine whether any policy premiums have been financed where the policy or any interest therein secured a part or all of the loan, and disclose to the investors in writing if any such financing was involved.
- G. Providers should retain or have on staff a medical professional or underwriter capable of comparing policy applications to medical records for material discrepancies. If discrepancies are found, Providers should implement practices such as (i) ensuring that the medical records which include a discrepancy were provided to the insurance company at the time of underwriting, (ii) contacting the insurance company to determine whether the carrier had knowledge of the discrepancy, and/or (iii) any other method designed to ensure that any discrepancies were not caused by the fraud of the insured or insurance applicant. The Provider should be in compliance with all applicable laws regarding insurance fraud. The Provider must have a written procedure in place for reporting fraud to regulatory authorities.
- H. Providers should implement enhanced due diligence for policies that are less than four years old at the time they are being settled to ensure that the policies were not originated for the benefit of a person who does not have an insurable interest in the life of the insured. At a minimum, the enhanced due diligence items set forth in Exhibit E should be implemented.
- I. Providers should have an anti-fraud plan designed to detect fraud by the policy seller, insured and Intermediaries.

- J. Providers should have a privacy policy designed to protect the identity of personal information of insureds.
- K. For transactions that occur in states which do not regulate life settlements, Providers should follow substantially the same processes and procedures that they employ in regulated states that are designed to protect the policy seller and insured.
- L. Providers shall make available to their funding sources all life expectancy estimates they have on a file being evaluated for purchase and shall not engage in the practice of arbitraging life expectancy spreads.
- M. A Provider must be licensed in at least one state and be held accountable for the laws and regulations of that state.
- N. The Provider must make available all state or federal insurance compliance and/or market conduct reports to its financing entity or investors.
- O. Providers must use an independent escrow agent for each settlement.
- P. Providers must fund the independent third party escrow account prior to executing change of ownership documents. Providers must have funds in the independent third party escrow account before having executed documents in their possession that will facilitate the full transfer of ownership to the investors or financing entity.
- Q. Funds must be released from the policy seller(s) within three (3) business days of being notified that the change of ownership and beneficiary have been recorded by the carrier, unless otherwise required by applicable laws.

**EXHIBIT A**  
**Agreements of the Intermediary**

The Intermediary should agree in writing to the following:

1. The Intermediary shall have determined that a life settlement transaction is suitable for the policy seller after having considered all other available options and the Intermediary shall have sufficient knowledge and experience to make such suitability determination.
2. The Intermediary shall act honestly and responsibly and with an undivided loyalty to any policy owner or insured (the “client”) in determining the client’s suitability for a settlement. The Intermediary shall assist the client in understanding the life settlement being offered and alternatives available to the client. The Intermediary shall comply with all laws and regulations applicable to the Intermediary in connection with the transaction.
3. The Intermediary is responsible for the conduct of its employees, agents or other representatives and shall ensure that such employees, agents and other representatives conduct their business in the best interest of the clients. In addition, the Intermediary shall supervise such employees, agents and other representatives and ensure that they have sufficient training to perform their responsibilities. The Intermediary shall be duly licensed and ensure that all of its employees are duly licensed, where required by law, to transact in life settlements.
4. To the knowledge of the Intermediary, after inquiry of the policy owner or the policy owner’s representative, the policy owner did not procure the policy with an agreement to settle.
5. The Intermediary shall disclose in writing to the policy owner, which disclosures shall be made on or before the execution by the policy owner of a contract to sell the policy, all compensation (in dollars), commissions (in dollars) and other items of value being received by the Intermediary and any other agent or producer involved in the life settlement transaction to the extent the Intermediary has knowledge thereof.
6. The Intermediary shall not withhold from the policy owner any written offers made by the Provider or any other bidder who is authorized to conduct business in the state in which the owner resides, provided that the written offer is made prior to the execution of a valid contract.
7. The Intermediary shall not, directly or indirectly, take any action designed to provide, or that has the effect of providing, preferential treatment to one bidder over any other bidder(s) for the policy.
8. The Intermediary shall agree to exert all reasonable efforts to assist the policy owner and the Provider in obtaining or executing all required life settlement forms, the insured’s medical records, policy illustrations from insurers, policy verification of coverage reports and transfer of ownership from the seller to the purchaser.

**EXHIBIT B**  
**Intermediary Certificate**

1. To the knowledge of the undersigned after inquiry of the policy owner and insured or, if the undersigned does not have direct contact with the policy owner and insured, any other agent or broker in direct contact with the policy owner and the insured, neither the insured nor the policy owner procured policy number [**PolicyNumber**], issued by [**CarrierName**] (the "Policy"), with an agreement to sell the Policy.
  
2. Except as noted below, to the knowledge of the undersigned after inquiry of the policy owner and insured or, if the undersigned does not have direct contact with the policy owner and insured, any other agent or broker in direct contact with the policy owner and the insured, only the insured or immediate family members thereof funded the premiums on the Policy.

*If persons or entities other than the insured or immediate family members thereof funded the premiums on the Policies, please provide details below:*

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\_\_\_\_\_

3. To the knowledge of the undersigned, no medical records material to the estimation of the Insured's life expectancy have been withheld from the records that were provided by the undersigned, the policy owner, the insured or any agent or other broker, to (i) the Provider or (ii) any life expectancy underwriter who prepared a life expectancy estimate in connection with the proposed settlement of the Policy.

\_\_\_\_\_  
Signature of Intermediary

\_\_\_\_\_  
Printed Name of Intermediary

**EXHIBIT C**  
**Life Settlement Package**

The Life Settlement Package shall consist of the following:

- Life Insurance Settlement Application, both the Broker's (if any) and the Provider's
- Original or certified copy of the Life Insurance Policy including Schedule(s) and Exhibit(s), together with Life Insurance Policy Application, medical examinations, riders, and proof of insurable capacity used at the time of issuance
- If Life Insurance Policy is lost then a Lost Policy Certificate and Form of Policy
- Authorization for Release of Life Insurance Policy Information
- Authorization for Disclosure of Protected Health Information
- Disclosure Statement as required by applicable law or when not required by law, the NAIC Disclosure form
- Life Settlement Agreement
- Escrow Agreement or Contract
- Consent of the Insured's spouse (if applicable)
- Consent of Beneficiaries (one for each current beneficiary of the Policy)
- Designation of Contacts
- Authorization and Direction to Provide Death Certificate
- Compensation Disclosure Statement
- Letter of Competency or Primary Physician's Statement (if insured is policy seller)
- Valid Insured Identification and Valid Owner Identification, including SSN and Government Issued Photo Identification
- Trust, Limited Liability Company (including corporate resolutions) or Partnership Documents for policy seller and original policy, if applicable
- Verification of Coverage
- All Life Expectancy Reports available before the closing, as requested

- Most Recent Policy Illustration (flag if this differs from the illustration provided at the pricing stage)
- Full Premium History

## **EXHIBIT D**

### **Closing Interviews**

Closing interviews should be conducted for each transaction. The closing interview should either be recorded (in compliance with applicable laws) or the persons conducting the interview should record in writing the responses to the interview questions. Interviews should cover, at a minimum, the following:

1. Confirmation of:
  - (a) name
  - (b) date of birth
  - (c) social security number
  - (d) phone number
  - (e) primary residential address
  
2. Confirm whether any person other than the insured, the insured's family or the insured's estate planning vehicle ever owned the policy or any interest in the policy.

*[If the policy is owned by a trust or other entity, confirm whether any person other than insured or insured's family ever had an interest in the vehicle. If any person other than the insured or someone with a clear insurable interest as defined by applicable state law had an interest (directly or through an estate planning vehicle), the investor should be consulted and the Provider should maintain records and provide copies thereof to the investor describing the rationale for accepting the case.]*

3. Confirm who paid the premiums on the policy.

*[If an estate planning vehicle paid, confirm who funded the estate planning vehicle. If any person other than the insured or someone with a clear insurable interest as defined by applicable state law paid premiums, the investor should be consulted and the Provider should maintain records and provide copies thereof to the investor describing the rationale for accepting the case.]*

4. Confirm that the policy was not taken out with the intent to resell.

*[If the policy was taken out with the intent to sell, the Provider should not acquire the policy.]*

5. Confirm whether anyone offered or provided any type of incentives, such as cash or other items of value, in connection with insured or policy owner taking out the policy.

*[If any person offered or provided incentives, the Provider should not acquire the policy.]*

6. Confirm the insured understands that following the sale neither the insured nor any of the insured's family members will have rights to the policy or benefits thereof.

7. Confirm that the insured understands that Provider may resell the policy and all information related thereto to third parties.
8. Confirm that the insured has been advised to consult their own financial advisors.
9. Confirm that the insured understands ongoing obligations to provide updated HIPAA forms when requested by the Provider or subsequent policy owners, if applicable.
10. Confirm that the insured understands that the Provider is not advising the insured and insured is being represented by Intermediaries, if applicable.
11. Confirm with the insured that he/she has been advised that he/she might have depleted his/her insurable capacity and may not be eligible for additional insurance.

**(IF SELLER IS NOT INSURED)**

*[Note: If there is more than one trustee, officer or individual owner (other than the insured), the call can be conducted with a representative trustee/officer/individual owner]*

1. Confirmation of:

- (a) name
- (b) title (if applicable)
- (c) phone number(s) of the trust / company (if applicable)
- (d) address of trust/company/individual owner

Confirm relationship to the insured.

*[If relationship is as an advisor/attorney, corporate trustee etc. and not family member, confirm nature of relationship prior to policy being issued. Providers should maintain records of relationship (including number of years, location of trustee compared to location of insured) and provide the information to the investor.]*

2. Confirm whether any person other than the insured or the insured's family ever owned an interest in the policy through estate planning vehicle or otherwise.

*[If any person other than the insured or someone with a clear insurable interest as defined by applicable state law paid premiums, the investor should be consulted and the Provider should maintain records and provide copies thereof to the investor describing the rationale for accepting the case.]*

3. Confirm who paid the premiums on the policy.

*[If an estate planning vehicle paid, confirm who funded the estate planning vehicle. If any person other than the insured or someone with a clear insurable interest as defined by applicable state law paid premiums, the investor should be consulted and the Provider should maintain records and provide copies thereof to the investor describing the rationale for accepting the case.]*

4. Confirm that the policy was not taken out with an agreement to sell.  
*[If the policy was taken out with an agreement to sell, the Provider should not acquire the policy.]*
5. Confirm whether anyone offered or provided any type of incentives, such as cash or other items of value, in connection with the insured taking out the policy.  
*[If any person offered or provided incentives, the Provider should not acquire the policy.]*
6. Confirm that the owner understands that following sale neither the insured nor any of the insured's family members will have rights to policy or benefits thereof.
7. Confirm that the owner understands that the Provider may resell the policy and all information related thereto to third parties.
8. Confirm that the owner has been advised to consult his/her own financial advisors.
9. Confirm that the owner understands that the insured has ongoing obligations to provide updated HIPAA forms when requested.
10. Confirm that the owner understands that the Provider is not advising the insured and the insured is being represented by agents/brokers.

**EXHIBIT E**  
**Additional Policy Diligence**

If the policy is 4 years old or less and \$1,000,000 or more:

- a. Proof of all premium payments from the owner to the carrier must be provided.
  - i. Provider will accept wire confirmations from the policy sellers account or copies of cancelled checks.
  - ii. If policy owner is also the insured, Provider can accept as proof of payments other evidence that, in the Provider's commercially reasonable opinion, provides proof that policy owner made the premium payments.
- b. For entity owned policies, Provider will need proof of the source of funds provided for the premium payments to the carrier provided in point (a) above.

*[If any person other than the insured or someone with a clear insurable interest as defined by applicable state law paid premiums, the investor must be consulted and will have right to determine whether to proceed. Records of the premium payments shall be maintained.]*
- c. The Insured must provide proof of net worth at time of application for the life insurance policy equal to the lesser of (a) the face amount of the policy and (b) the insured's stated net worth on the policy application.
  - i. Preferred forms of proof include bank account statements, brokerage account statements, tax returns and/or verifiable real estate holdings.

*[Provider cannot accept statements of net worth from their insured, policy owner or their advisors]*