# INVESTOR NOTES

## "What's in Your Wallet?" Towards a Transparent Life Settlement Marketplace

### Introduction

The life settlement market has continued to prove itself as a means of unlocking the value of an unwanted or unneeded life insurance policy. In today's investing environment, consumers may have more reason than ever to supplement their retirement income with the proceeds of a life settlement (and to rid themselves of the obligation to pay premiums on a policy they no longer want). However, as regulators, policymakers and ILMA have consistently pointed out, if this marketplace is to reach its full potential, increased transactional transparency must be one of its hallmarks.

While most participants agree that transactional transparency is essential, there is significant debate over what it means and how best to achieve it. In addition, many investors in the secondary marketplace for insurance policies may not fully appreciate why issues of transparency matter to them.

### Defining Transparency: the $ in your pocket

Transparency matters: only when a seller can see how many dollars have been taken out of his/her own pocket and been put into that of brokers, agents etc, can he/she truly know if the deal was good value. More than anything else, transactional transparency refers to a policy owner's ability to determine how much money he or she received from the gross proceeds of a life settlement, as compared to how much money the brokers, agents or other intermediaries earned in fees. As with many transactions involving intermediaries (including primary sales of life insurance policies), broker's and agent's commissions and other fees can be hidden from the consumer in any number of ways. In some cases, a broker may disclose to the consumer only the "net" amount of settlement proceeds, hiding the total amount paid by the seller. In other cases, a broker may attempt to obfuscate the amount of fees charged by disclosing them as a percentage of a policy's death benefit, rather than as a dollar amount or as a percentage of the settlement price. A broker may hide offers from consumers – offers that would ultimately deliver higher settlement proceeds to the consumer – in order to settle the policy with a purchaser that will provide the broker with a higher commission or that will not require disclosure of the broker's commission. These practices may rise to the level of a breach of a broker's fiduciary duties to the policy owner and have been, and will continue to be, the subject of investigations by state and federal authorities.

### Why it Matters

In the long term, transparency helps create a fair playing field encouraging greater levels of consumer confidence and participation. With greater confidence in the market, advisors will be more willing to discuss life settlements with policy owners.

In addition, transparency should result in greater competition among brokers, leading to reduced transaction costs, better net sales prices for policy owners and, perhaps, better returns for investors.

Increasingly, institutional investors have avoided doing business with intermediaries that refuse to fully disclose all compensation received by brokers, agents and other intermediaries. In addition to the potential reputational risk in being associated with providers and brokers who fail to disclose such compensation, there have been a number of regulatory actions and suits concerning failure to disclose compensation. It remains to be seen how these actions may affect secondary market purchasers, especially if policy sellers are granted rescission rights with respect to policies they sold to providers. The New York Attorney General is currently pursuing such a remedy against one provider. Additionally, as many institutional investors only purchase policies originated with full transparency of fees, a policy settled in a transparent life settlement may be more liquid and have a higher resale value on the tertiary market.

**Achieving Transparency**

Transaction transparency has been a part of ILMA's "Guiding Principles" since the organization's founding. To that end, ILMA has advocated for common-sense disclosure provisions in life settlement laws introduced across the country. While considerable progress has been made in this arena, ILMA also has promulgated a form compensation disclosure statement, a document that our member organizations require their intermediaries to use in life settlement transactions. The transaction disclosure form is designed to provide the policy owner with all relevant information about the purchase price and fees paid in the transaction, including the gross price paid for the policy, the amounts paid out of such gross price to intermediaries, and the amount of such fees expressed as a percentage of the gross price as well as the face amount of the life policy.

In short, ILMA believes that transaction transparency is something that all market participants should agree upon because in the long term, it is in everyone's best interest.

**Resources & Credits**

ILMA Disclosure Statement

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**About the Institutional Life Markets Association, Inc. (ILMA)**

The Institutional Life Markets Association, Inc. (ILMA) is a not-for-profit trade association comprised of a number of the world's leading institutional investors and intermediaries in the longevity marketplace, formed to encourage the prudent and competitive development of a suite of evolving longevity related financial businesses, including the businesses of life settlements and premium finance. ILMA's members include: Credit Suisse; EFG Bank; Goldman, Sachs & Co.; JP Morgan Chase & Co.; Mizuho International plc; UBS AG; and WestLB AG.

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