Building a Market: The Regulatory Roadmap Behind Life Settlement Institutionalization

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How Regulation, Policy, and Global Standards Shaped Today's Life Settlement Market

As institutional investors increasingly explore life settlements as a compelling alternative investment, the importance of a strong regulatory and legal foundation cannot be overstated. Life settlements offer unique characteristics. They are largely non-correlated to traditional markets, provide potentially attractive risk-adjusted returns, and can support broader financial planning goals. However, like any financial product involving individual consumers, life settlements must be governed by clear and robust regulation to ensure transparency, mitigate risks, and protect stakeholders. This legal and regulatory foundation is not just a protective measure; it is critical for scalability and long-term growth of the industry.

This white paper outlines the historical and legal milestones that have helped shape and mature the life settlement market, demonstrating why institutional investors can now approach this asset class with confidence.

> **1911 – Grigsby v. Russell: Establishing Life Insurance as Transferable Property**
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> In a landmark decision, the U.S. Supreme Court ruled in Grigsby v. Russell that a life insurance policy is a form of private property that can be freely assigned by the policyholder. This decision laid the foundation for the life settlement industry by affirming the ownership rights of policyholders to sell or transfer their life insurance contracts. Justice Oliver Wendell Holmes famously stated that "so far as reasonable safety permits, it is desirable to give to life policies the ordinary characteristics of property."
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> This ruling confirmed the fundamental property rights necessary to treat life insurance as a financial asset, legitimizing the secondary market that would develop nearly a century later. This case serves as the legal underpinning that supports the enforceability and tradability of policy interests.

While the Grigsby v. Russell ruling established the legal foundation for life insurance policies to be treated as transferable property, it would be many decades before a formal, organized secondary market for life insurance policies began to take shape. For much of the 20th century, the notion of selling a life insurance policy prior to death remained a theoretical legal right with limited practical application. Life insurance was viewed primarily as a private contract between the insurer and policyholder, with little awareness or infrastructure to support transactions in the secondary market. It wasn't until the 1980s and 1990s, amid the AIDS crisis, that the concept of "viatical settlements", which is narrowly focused on purchasing life insurance policies with terminally ill insureds. This was the first marketplace that enabled policyowners to obtain liquidity by selling their policies to third-party investors, but it was limited just to those with terminally ill insureds.

The viatical settlement marketplace was an important step, as this early activity laid the groundwork for what would become the modern life settlement industry. By the late 1990s, life expectancy estimation techniques had improved, institutional capital began entering the space from hedge funds and other private investment firms, and the market evolved beyond viatical settlements to include policies held by seniors who were not terminally ill (the life settlement market). Yet despite this activity, the industry operated with little regulation, leading to inconsistencies in practices and growing concern among consumer protection advocates and state insurance regulators.

> **2000 – National Conference of Insurance Legislators Adopts Life Settlement Model Act**
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> The momentum for comprehensive oversight culminated in the year 2000, when the National Conference of Insurance Legislators (NCOIL) took the first major step in formalizing the life settlement market by adopting its Life Settlement Model Act (Model Act), a turning point in establishing consumer-oriented regulatory standards for this emerging asset class.
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> NCOIL introduced its Model Act to address the increasing number of life settlement transactions and to ensure adequate consumer protection. This Model Act created a formal structure around life settlement transactions, including licensing requirements for providers and brokers, mandated disclosures, and advertising standards.
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> By standardizing the treatment of life settlements, NCOIL's model gave states a legislative framework to regulate market participants and protect consumers. It marked the beginning of serious legislative attention to the industry and served as a catalyst for widespread adoption of life settlement regulations.

Even though the adoption of the Model Act marked a significant step toward legitimizing and standardizing a rapidly emerging industry, as the volume and complexity of life settlement transactions grew, it became clear that additional oversight and clarity were needed. States began referencing the NCOIL framework to draft legislation, but discrepancies in implementation revealed gaps in consumer protections and regulatory consistency, particularly as more policies were sold by seniors who were not terminally ill.

2001 – National Association of Insurance Commissioners Revises Viatical Settlements Model Regulation

Recognizing the need for broader coordination, the National Association of Insurance Commissioners (NAIC) acted in 2001 by revising its Viatical Settlements Model Regulation to address life settlements. This marked a shift from focusing exclusively on viaticals to a more comprehensive view of the secondary market for life insurance. The NAIC revisions aimed to reinforce disclosures, define clearer standards of conduct, and align regulatory expectations across jurisdictions, all of which were critical for establishing investor confidence and strengthening consumer protection.

The revisions included expanded definitions to encompass life settlements, enhanced consumer disclosure requirements, and clearer operational guidance for providers.

This move by the NAIC helped harmonize state-level regulation with a broader interpretation of life settlements. Institutional investors benefited from the increased transparency, which laid the groundwork for assessing the risk and compliance practices of industry practitioners.

The market continued to expand, attracting new investors, brokers, and policyholders. However, the lack of a centralized voice for the industry created challenges in advocating for consistent standards, educating stakeholders, and dispelling misconceptions. Without coordinated representation, the industry risked fragmentation and heightened regulatory scrutiny, particularly as media attention and consumer advocacy groups began raising questions about transparency and investor motivations.

2004 – Formation of the Life Insurance Settlement Association

To address this growing need for industry leadership and credibility, the first major trade association in the U.S. to represent the life settlement industry was formed. The creation of the Life Insurance Settlement Association (LISA) marked a pivotal step in organizing market participants under a common mission: to promote responsible growth, ethical practices, and meaningful engagement with regulators and policymakers. By providing education, advocating for best practices, and serving as a liaison between the industry and regulatory bodies, LISA helped bring greater professionalism and legitimacy to the life settlement space, key factors in supporting the asset class's long-term appeal to institutional investors. LISA also became a vital resource for policy, compliance, and regulatory updates.

Following the formation of the LISA, the life settlement industry began to mature in both visibility and operational sophistication. With a formal trade association now advocating transparency, ethical standards, and consumer education, regulators and policymakers had a clearer partner to engage with as they considered how best to protect policyholders while allowing the market to develop. At the same time, the industry continued to attract new capital, particularly from institutional investors seeking non-correlated assets with strong risk-adjusted return profiles.

This momentum led to a rapid increase in state-level regulatory activity. By 2005, 25 states had enacted specific legislation governing life settlements, marking a significant turning point in the formal oversight of the industry. These laws, many of which were based on either the NCOIL or NAIC models, included consumer protections such as mandatory disclosures, licensing of market participants, and prohibitions on deceptive practices. For investors, this expanding regulatory framework reduced legal uncertainty and helped establish a more stable environment for deploying capital into the asset class.

As state-level regulation of life settlements gained traction, the industry entered a phase of rapid growth but also increased scrutiny. While most transactions involved legitimate policy sales by seniors seeking liquidity, a concerning trend began to emerge: the rise of Stranger-Originated Life Insurance (STOLI). These arrangements involved third parties initiating policies on individuals, often with no insurable interest, with the sole intent of the investor retaining ownership of the policy and selling it once the policy was past the insurance company's contestability period. STOLI practices threatened the credibility of the life settlement industry, undermining the principle that life insurance should serve a protective function, not just as an investment vehicle.

2007 – NCOIL and NAIC Revise Model Acts to Address STOLI

In response to this growing risk, both NCOIL and NAIC acted in 2007 by revising their model acts to directly address STOLI-related abuses. These updates aimed to preserve the integrity of the insurable interest doctrine and implement stricter safeguards against speculative policy origination. The revisions reinforced the distinction between legitimate life settlements and exploitative schemes, helping restore confidence among regulators, policyholders, and institutional investors alike. This period marked a maturation of the industry, where regulatory oversight evolved to keep pace with innovation and market behavior.

These revisions were critical in maintaining the legitimacy and ethical standards of the industry. They reassured investors that the market was taking proactive steps to combat abuse and maintain the core principle of insurable interest.

As the U.S. life settlement market gained structure and legitimacy, global interest in the asset class also began to grow. Institutional investors, particularly in Europe, recognized the potential of U.S. life settlements as a non-correlated, yield-generating asset. However, much like the early days of the U.S. market, the European investor community lacked a dedicated organization to provide transparency, education, and guidance on best practices in navigating this complex asset class.

2009 – Formation of the European Life Settlement Association

In response to this need, the European Life Settlement Association (ELSA) was founded in 2009. ELSA's mission was to promote high standards of governance, investor protection, and market transparency for participants investing in U.S. life settlements from Europe. Its formation was timely, as European pension funds, family offices, and institutional allocators increasingly sought exposure to the asset class. For both U.S. and international investors, the emergence of ELSA complemented the efforts of U.S.-based groups like LISA, expanding global credibility and helping to align international standards with the maturing regulatory environment in the United States.

For international and cross-border investors, ELSA plays a similar role to LISA in providing regulatory clarity, investor protection, and promoting high standards of practice.

As interest in U.S. life settlements grew among European institutional investors, ELSA provided a much-needed platform to promote best practices, increase transparency, and establish standardized guidelines for investing in this complex asset class. Its efforts helped demystify the U.S. life settlement market for European allocators, aligning their expectations with evolving regulatory norms in the United States. This international recognition further validated the asset class and encouraged greater institutional participation on both sides of the Atlantic.

At the same time, a significant gap remained in the U.S. market: many policyholders, particularly seniors, were still unaware that selling their life insurance policy was even an option. While the market had grown, and regulation had improved, low consumer awareness was limiting the number of policies available for settlement.

2010 – NCOIL Adopts Life Insurance Consumer Disclosure Model Act

In response, NCOIL adopted the Life Insurance Consumer Disclosure Model Act (The Act) in 2010. This Act requires insurers to inform policyholders, especially those at risk of lapsing or surrendering their policies, about the option of pursuing a life settlement. The Act was a critical step in connecting consumer rights with market access, ensuring that the benefits of a more transparent and regulated industry could be realized by the very individuals it was designed to serve.

The Act elevated consumer awareness and created greater deal flow in the secondary market. For institutional investors, it meant a growing supply of policies entering the market from more informed sellers.

The adoption of The Act marked a turning point in the industry's efforts to ensure policyholders were fully informed about their options. As this model legislation began to influence state-level policymaking, awareness of life settlements among seniors increased, leading to a gradual rise in the volume of policies reaching the secondary market through legitimate channels. This surge in activity highlighted the growing importance of regulatory harmonization across states, as varying rules still created complexity for both providers and institutional investors seeking multi-jurisdictional exposure.

By 2013, the life settlement market had achieved a critical milestone: 43 states and Puerto Rico had implemented laws regulating life settlement transactions. With over 90% of the U.S. population living in a jurisdiction where the asset class was now governed by specific statutes, life settlements had effectively transitioned from an emerging, loosely defined niche to a broadly recognized and regulated financial product. This widespread adoption brought a level of legal clarity and operational consistency that greatly enhanced the attractiveness of the asset class for institutional capital, providing the compliance infrastructure needed to support large-scale investment.

With regulatory frameworks in place across most of the U.S. states by 2013, the life settlement industry entered a period of consolidation and refinement. The broad acceptance of life settlement laws helped establish a more predictable and standardized market environment, which was essential for attracting institutional investors and enabling more sophisticated deal structures. However, regulators and policymakers recognized that ongoing engagement was necessary to ensure the marketplace remained fair, transparent, and responsive to the needs of aging policyholders.

2016 – NCOIL Re-Adopts Life Insurance Consumer Disclosure Model Act

In 2016, NCOIL reaffirmed its commitment to consumer protection and industry oversight by re-adopting The Act. This re-adoption reinforced the importance of maintaining clear communication with policyholders about their options, particularly as demographic shifts increased the number of seniors evaluating how to fund retirement and healthcare needs. For investors, this signaled that regulatory bodies were not only committed to initial oversight but also to the long-term stewardship of the asset class—supporting confidence in the sustainability and ethical integrity of the life settlement marketplace.

Continued regulatory support reinforced the long-term viability of the market, further de-risking the asset class for institutional investors and making it easier to underwrite and structure compliant transactions.

Following the re-adoption of The Act, it became increasingly clear that life settlements were no longer a fringe financial strategy, they were becoming a mainstream tool for seniors seeking to unlock the value of their life insurance policies. This renewed regulatory commitment also reflected a broader shift in public policy, where financial planning for retirement and long-term care was taking center stage. With rising healthcare costs and longer life expectancies, policymakers and regulators began looking for ways to help seniors access liquidity without relying solely on traditional savings or government programs.

2017 – NAIC Endorses Life Settlements for Long-Term Care Funding

In 2017, this evolving perspective led the NAIC to formally endorse life settlements as a legitimate method for financing long-term care expenses. This endorsement marked a significant moment for the industry. It wasn't merely about regulating transactions anymore; it was about integrating life settlements into broader financial and healthcare planning strategies. For institutional investors, this policy recognition reinforced the asset class's long-term relevance and utility, positioning life settlements not just as a return-generating investment, but also as a financial solution tied to real demographic and social needs.

This recognition by a major regulatory body provided policy and reputational support for the industry. It also aligned life settlements with broader healthcare and retirement planning strategies, adding value for financial institutions offering holistic client solutions.

This shift in policy thinking aligned with broader demographic trends, particularly the financial strain placed on seniors as they navigated rising medical and care-related costs. As life settlements became more accepted as part of responsible retirement planning, demand increased among policyholders, financial advisors, and investors alike. The industry was no longer just about monetizing unwanted policies, it was about creating viable financial pathways for seniors to age with dignity and security.

2017 – Tax Cuts and Jobs Act Enhances Tax Treatment of Life Settlements

Building on this momentum, the 2017 passage of the Tax Cuts and Jobs Act (TCJA) provided another significant tailwind for the industry. A provision in the legislation allowed policyholders to use a higher tax basis when calculating capital gains from the sale of a life insurance policy, effectively reducing their taxable income from a life settlement transaction. This tax treatment enhanced the financial attractiveness of life settlements for sellers and increased deal flow, further strengthening the investable universe for institutions.

Improved tax treatment encouraged more policyholders to consider life settlements, expanding the available inventory for investors and improving pricing efficiency across portfolios.

With policyholders now able to apply a higher tax basis when calculating gains, the net proceeds from a life settlement became even more compelling, prompting more seniors to explore this alternative over surrendering or lapsing their policies. This favorable tax treatment not only increased market participation but also signaled a shift in how policymakers viewed life settlements: not as fringe transactions, but as financially sound tools for retirement and healthcare planning.

2021 – Proposed Legislation for Tax-Free Rollovers

Recognizing the continued financial pressure facing America's aging population, legislators began to explore additional ways to enhance the utility of life settlements. In 2021, new legislation was introduced that would allow seniors to roll over proceeds from life settlements tax-free into accounts specifically designated for healthcare and long-term care expenses. If passed, this reform would further integrate life settlements into the broader ecosystem of senior financial planning. For institutional investors, this proposal reinforced the long-term viability and growing policy alignment of the asset class, offering not only attractive returns but also a socially beneficial investment narrative tied to healthcare, aging, and financial security.

If this legislation is re-introduced and passed, it would further align life settlements with public policy goals, such as elder care funding. It would also potentially stimulate growth in the market by removing tax friction, improving returns for both policyholders and investors.

CONCLUSION: A FOUNDATION FOR INSTITUTIONAL CONFIDENCE

The life settlement industry has undergone a century-long evolution from a simple legal precedent to a globally recognized and regulated financial market. Each regulatory milestone, whether from the courts, legislatures, or industry associations, has contributed to greater transparency, reduced fraud, improved consumer outcomes, and stronger investor protections.

For institutional investors seeking diversification, non-correlated returns, and stable cash flows, life settlements now stand on a strong legal and regulatory foundation. With coverage across most U.S. jurisdictions and growing international standardization, the asset class is well-positioned for responsible growth and institutional adoption.

AUTHOR

Matthew Paine is a nationally recognized capital markets executive and thought leader in alternative investments, with over two decades of experience leading innovative financial strategies across institutional, retail, and independent advisory channels. As Managing Director of LifeCap, Matthew has been instrumental in pioneering educational platforms for institutional investors seeking exposure to longevity-oriented assets, particularly life settlements.

Matthew has authored numerous educational resources demystifying life settlements and has been published in Advisorpedia, ETF Trends, and NASDAQ. Matthew has delivered keynote presentations on life settlements and other alternative investments to financial and insurance professionals across the U.S., including registered representatives, RIAs, and institutional allocators.

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