

VLSAA
Viatical and Life Settlement
Association of America

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VIA E-Mail

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Letter of Comment No: /
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Date Received:

Mr. Larry Smith
Financial Accounting Standards Board
401 Merritt, #7
Norwalk, CT 06856

Dear Mr. Smith:

The Viatical and Life Settlement Association of America (VLSAA) appreciates the opportunity to provide comments on the proposed FASB Staff Position Number 85-4-a (FSP) issued in connection with guidance for the accounting of investments in life settlement transactions. The VLSAA is very supportive of the position taken by FASB Staff in this proposed FSP.

We would like this opportunity, however, to clarify certain assumptions used by FASB Staff in developing these positions. Throughout the FSP, Staff has assumed that the life settlement provider was the entity conducting the investing activity in a life settlement transaction. In fact, a life settlement provider, in today's market, usually acts as a facilitator between the owner of the policy and the ultimate investor. The life settlement provider is charged with ensuring that the parties to the transaction comply with certain regulatory procedures. In a typical life settlement transaction, the ultimate investor is usually an institutional investor and not a life settlement provider. In fact, most state laws define the Provider as the entity which "facilitates" the transaction. As a result, the life insurance benefits are usually paid to the institutional investor (or its special purpose entity) and not the life settlement provider as described in paragraph 2(c).

Carrying this concept further, the first sentence in paragraph 5 should be changed from "...given the investing activity that the life settlement provider is conducting" to "given the investing activity the *financing entity (or any other entity that is the ultimate holder of a settled life insurance policy or certificate)* is conducting" (emphasis added). Under most current regulations, and adopted national Models of the National Association of Insurance Commissioners and the National Conference of Insurance Legislators, financing entity is defined as:

An underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a provider, credit enhancer or an entity that has a direct ownership in a policy or certificate that is subject of a sales contract, but,

Whose sole principal activity related to the transaction is providing funds to effect the life settlement or purchase of one or more policies, and

Who has an agreement in writing from one or more providers to finance the acquisition of sales contracts.

A financing entity does not include a non-accredited investor or purchaser.

(Definition from the NCOIL and NAIC Model Acts and contained in many state regulations)

The term *life settlement provider* should also be replaced with the term *financing entity* in paragraph 6 so that paragraph should read:

6. The objective of the disclosures required by this FSP is to provide users of financial statements with information about the composition of a *financing entity's* portfolio of life settlement contracts and its evaluation of that portfolio. (emphasis added)

The notice issued by FASB Staff also invited comments on the appropriateness of measuring life settlement contracts at fair value subsequent to the purchase date. We agree with the Boards opinion that fair value is not an acceptable measurement attribute subsequent to purchase because fair value cannot be reliably determined. We base our conclusion on the following reasons:

1. There is no active tertiary market in life settlement contracts. Life settlement contracts are rarely transferred in the normal course of business at this time.
2. To our knowledge, there are currently no active markets for investments sufficiently similar to life settlement contracts that would allow quantitative differences to be objectively determined.
3. Estimation of the market price is not viable. This is because the inputs into determining a re-pricing of this asset are not readily available. Among other things, privacy regulations prevent investor access to health information on the insured subsequent to purchase, absent a waiver. The financing entity generally does not know the identity of the insured. Most times, knowledge of identity remains with the life settlement provider and tracking/monitoring agent. Should the insured grant a waiver, it would be extremely expensive and time consuming to gather this information. Given the limited business decisions available to the holder of the investment on day two (pay premiums or lose the investment) periodic re-estimation of the fair value is not economically feasible.
4. Modeling of the market price is not a viable option because the mortality tables do not provide adequate input given the self-selecting nature of the tables and the age of the population of the insureds engaging in life settlement transactions. While

experiential inputs might eventually provide a model, the expense, reliability and limited usefulness make stochastic modeling of day two values an unlikely undertaking for all but the largest portfolios.

We, therefore, believe that investment –basis accounting provides a simple, consistent accepted and understood alternative to fair value. We also believe that investment basis is an objective valuation that approximates fair value for this asset class.

Very truly yours,

Brad C. Thompson CPA