

STROOCK

SPECIAL BULLETIN

SEC Recommends that All Life Settlements be Treated as Securities

July 22, 2010

Introduction

Earlier today, the SEC's Life Settlements Task Force released a staff report (the "Report") making a number of recommendations relating to the life settlements industry. This **Stroock Life Settlements Special Bulletin** highlights the key recommendations contained in the Report, as well as the implications these recommendations could have on the industry.

Key Implications for the Life Settlements Industry

- Life settlement providers would be required to register as broker dealers.
- Advisors recommending life settlements as investments would be required to register as investment advisors.
- Life settlement funds would be required to register as investment companies, absent an applicable exemption.

Key Recommendations from the SEC Report

The rapid growth of the life settlements market over the past several years has raised concerns regarding the patchwork of regulation and inconsistent regulatory oversight. The Report calls for the establishment of more uniform regulations governing all market participants and the development of market conduct standards. Specifically, the Report recommends that the SEC:

- recommend that Congress amend the statutory definition of "security" to include all life settlements, whether singular or fractional, and regardless of whether the underlying life insurance policy is a variable or non-variable policy;
- monitor the overall development of the life settlement securitization market;
- instruct its personnel to continue monitoring whether life settlement brokers and providers are in compliance with applicable legal standards of conduct; and

- encourage both Congress and state lawmakers to consider more robust regulation relating to life expectancy underwriters.

The adoption of these recommendations would have significant implications for the life settlement industry. Intermediaries in this marketplace would be required to register as broker-dealers or registered investment advisers, and would otherwise be subject to oversight by the SEC and the Financial Industry Regulatory Authority (“FINRA”), which require adherence numerous rules and guidelines designed to protect investors and increase transactional transparency. In addition, absent an exemption, certain companies would be required to register as “investment companies” under the Investment Company Act of 1940, as amended.

By Boris Ziser and Thomas Weinberger, Partners in [Stroock’s Life Settlement Practice Group](#). Joseph R. Selvidio, an associate in Stroock’s [Structured Finance](#) and Life Settlement Practice Groups, assisted in the preparation of this Stroock Special Bulletin.

Stroock is a long-time leader in representing clients in life settlement and premium finance transactions, with the expertise not only to navigate the insurance, life settlement, lending and securities law aspects of such transactions, but also to analyze the tax implications and structure the transaction within the applicable parameters.

This **Stroock Special Bulletin** is part of a series of articles by the Life Settlements Practice Group to keep clients and friends of the firm informed of significant developments in this fast-changing industry.

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