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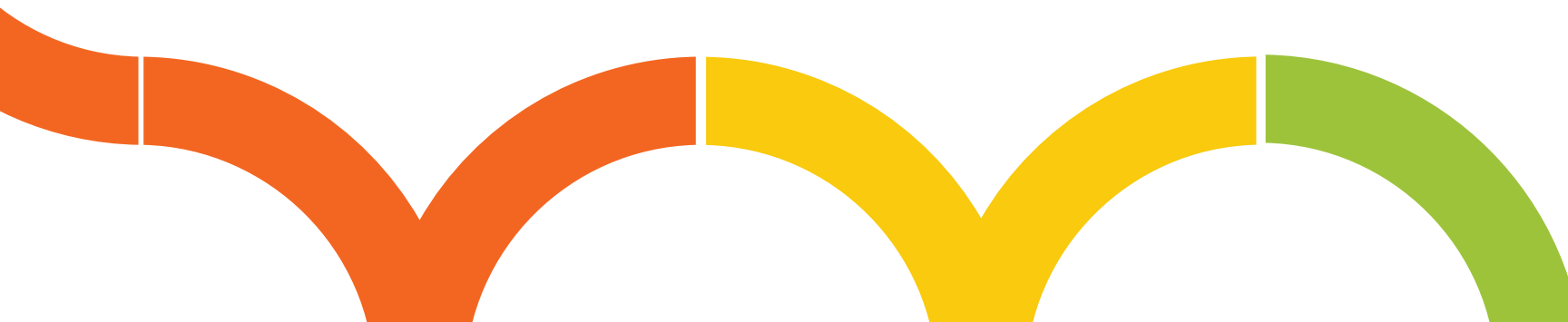
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# The Financial Risk of **Life and Annuity** Unclaimed Property

Looking to manage the financial risk of life and annuity unclaimed property? Redesigning your business process is just one of the many helpful suggestions this article makes. **By Ronald Poon-Affat, Leanne McQuade and Denis Farmer**



In the last year, state treasury and insurance regulators in the United States have become markedly more active in the unclaimed property area of the life and annuity industry. Consumer protection is suggested as the driver; however, it's important to look at the macro factors. What elements may have made it a priority now? And, with so much lack of clarity around the issue, what should an insurer do to manage the financial risk?

So why now? As mentioned, regulators cite consumer protection. Some in the industry, though, feel it may be a result of poor state financials, and a way of raising capital. Unclaimed property laws address transfer of property to states, the amount of time until funds are transferred, and what may be recovered by the owner. Typically, unclaimed property transfers to

the state five years after knowledge of an insured's death. As well, once ownership of unclaimed funds is transferred, or escheated, the ownership varies from state to state. Most unclaimed property remains, well, unclaimed once transferred to the states. If funds are claimed, some states pay the beneficiary the value of the policy as of the date of death and do not pay the accumulated interest.

Some states, on the other hand, are legally obligated to pay all accrued interest on the policy as well.

Looking at the history of unclaimed property, guidelines of the Model Unclaimed Life Insurance Benefits Act, new regulations by individual states, and regulations already agreed to by settling insurance companies are critical in identifying what actions insurance companies should take to avoid an investigation and mitigate financial exposure.

Standard business process redesign should be the starting point. When doing so, insurance companies should take a global approach and understand that business process redesign that touches on operations, legal, finance and IT will provide that best solution. As well, once a deceased insured is identified, establishing processes and technology that bubble up the policies in a meaningful way to facilitate effective and proactive management should be considered. This should include supporting tools for workflow management and audit that lend themselves to detailed and summary level transparency without being cumbersome or intrusive to normal business operations. The process could be a very repetitive task; however, with the right technology in place, operations can focus on investigation and remediation, analytics, dashboarding and document management, thereby minimizing process costs and providing actionable and traceable information for management. Regardless of the motivating factors, legislative attention will continue in this area, and proactive measures to mitigate investigation and fines should be undertaken.

To look at the history, unclaimed property laws originated in Europe and have been in existence since feudal times. The basis is "escheat," the common law doctrine by which the property of a deceased without heirs is transferred to the crown or states. Interestingly, since the time of Henry III, the English monarchy took particular interest in escheat as a source of revenue. In modern times, unclaimed property laws in the United States began in the 1950s with the National Conference of Commissioners on Uniform State Laws (NCCUSL) approving the Uniform Disposition of Unclaimed Property Act in 1954. The act was amended in 1966 and completely revised in 1981 to become the Uniform Unclaimed Property Act (UUPA). A

## More On Life And Annuity

**THE NEXT SOA LIFE AND ANNUITY SYMPOSIUM** will be held May 6 – 7 in Toronto, Canada, at the Sheraton Centre Toronto Hotel. Diverse session topics are expected to include:

- The latest life and product development industry studies,
- Canadian focused topics,
- new financial models,
- new regulatory developments, and
- topics of interest to international attendees.

The symposium is a two-day event that includes insightful and industry-leading keynote speakers and a networking reception. For more information, visit [www.soa.org/las](http://www.soa.org/las) or use the QR code.





final revision was made in 1995, and all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin Islands have unclaimed property laws based on the UUPA.

Insurance companies established their operational and financial procedures based on the UUPA and until recently this sufficed. In the last year, however, the activity by legislators indicates that insurance companies again need to revise their processes. Although exact rules for each state are still to be defined, it's important to look at the direction legislation is going to identify how to proactively redesign business processes and mitigate financial exposure.

In the last year, the National Association of Insurance Commissioners (NAIC) formed the Investigation of Life/Annuities Claims Settlement Practices Task Force. This task force is in the process of conducting examinations of the top 40 insurance companies, which represent 92 percent of the industry's market share. Already, there have been several multistate settlements with

the largest insurance companies. Most notably, MetLife's settlement is estimated at \$700 million, while Prudential and John Hancock have settlements of \$17 million and \$10 million, respectively. As well, the

insurers have agreed in their settlements to revise practices and are based largely on the National Council of Insurance Legislators' (NCOIL's) new Model Unclaimed Life Insurance Benefits Act. Interestingly, none of the states leading the investigations have adopted NCOIL's model act, which includes California, North Dakota, New Hampshire, Pennsylvania, Illinois and Florida. However, the New York Attorney General's office has been involved in a parallel probe of the top insurers, and new legislation has passed there.

The Model Unclaimed Life Insurance Benefits Act was passed last November (2011) by NCOIL; however it is up to individual states to adopt and, if adopted, does not have to be in the exact form recommended by NCOIL. Currently, legislation has been adopted in Kentucky, Maryland, Alabama and, as mentioned, New York; however, it has failed

in Tennessee. Although the act aims at revising insurance companies' processes significantly and more uniformly, there are concerns that the act does not clearly define new guidelines for handling unclaimed life

and annuity policies. At the heart of the issue are several things that the examinations and the act seek to address. The use of the Social Security Administration's Death Master File (DMF) is not consistently applied to annuity and life

insurance policy claim processing. In some cases, the DMF is used to stop annuity payments from continuing to go out the door to the policyholder, but it is not employed to stop premium collection for life insurance policy payments coming in. An insurance company should ensure consistent use of the DMF across all lines of business. As well, currently the dormancy period for escheat of benefits of life and annuity policies to the state does not commence until "due notification of death."

### ... proactive measures to mitigate investigation and fines should be undertaken.

With the onus on the beneficiary, the clock does not commence until the insurer receives a death claim. Hence, if a beneficiary does not know it is such, there is no reason for it to contact the insurance company. Therefore,

the policy can stay on the insurer's books indefinitely, or until the policy reaches a limiting age based on mortality tables. The legislation seeks to shift the burden to the insurance companies by



requiring insurance companies to conduct a monthly or quarterly sweep of the DMF. Rather than waiting for an investigation to commence or for states to pass the legislation, insurance companies should proactively conduct a monthly sweep of the DMF to identify deceased insureds. Best practices are not always employed post notification of death as well, and the new model act aims to remedy this. Once a deceased is identified, the insurance company should confirm the death of the insured, determine if benefits are due, document good faith efforts to locate the beneficiary, and provide claim forms to the beneficiary to make a claim. If unable to contact the beneficiary, policy proceeds would be escheated to the state within state regulations.

The catch, though, is that while the NAIC and NCOIL are insisting on proactive and more frequent use of the DMF, as of Nov. 1, 2011, the Social Security Administration will no longer disclose protected state records of deaths, which are records the Social Security Administration acquires from the

states. Therefore, about 4.2 million records in the DMF will be removed from the public files and only made available to federal agencies. Furthermore, of the 2.8 million deaths annually reported to the DMF, only 1 million will be available to the public. This presents a challenge to those in the industry—increased regulatory attention and a less comprehensive DMF file. I'm currently unaware of any proposed government solutions, either. Following the proposed legislation and sweeping the DMF will suffice, despite the insufficiency of information. To employ best practices, however, evaluating toolset options that better identify deceased and unclaimed policies would be wise. Historically an isolated back office operations issue, the issue of unclaimed property should be on the active radar screen of management as a financial risk to be managed. Business process redesign should be the starting point and include the use of technology to facilitate effective and proactive management. Supporting tools for workflow management and audit will allow for transparency without being cumbersome or intrusive to normal business operations. With the right technology in place, operations can focus on investigation and remediation, thereby minimizing process costs and providing actionable and traceable information for management. A proactive approach will not only avoid regulatory examinations and keep you in compliance, but will ensure you

are carrying out best practices for the benefit of your company and its policyholders. **A**

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