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Low-Hanging Fruit

Executive perceptions and strategies on squeezing the most out of structured settlements.

By Taylor Smith

Executives have long recognized the importance of maintaining a structured settlement program within their property and casualty claims operations. In the last CLM Litigation Management Study, which included approximately 50 senior claims executives in early 2011, structured settlement programs ranked as the most commonly implemented vendor program—present in more claims organizations than court reporting, surveillance, records retrieval, and a long list of other important vendor types.

In 2011, 64 percent of respondents reported having a formalized structured settlement program, with higher penetration levels (73 percent) in organizations with correspondingly higher levels of legal activity. In the three years that have followed, numerous factors have influenced the use of structured settlements: lower interest rates, fluctuating litigation inventory levels, and new Medicare reporting requirements all have played an important role in structure frequency and referral rates.

In 2014, the National Structured Settlements Trade Association (NSSTA) commissioned CLM Advisors to conduct a small, focused study of how senior claims executives perceive the value of structured settlements and the value that structured settlement consultants bring to the table. NSSTA is the professional trade association that represents more than 1,200 licensed consultants, attorneys, insurance companies, and other professionals who provide structured settlement options to accident survivors and their dependents.

This article summarizes several of the more relevant findings drawn from interviews with senior claims officers from 10 diverse insurance carriers. Each of the claims organizations that participated in the study shared one common attribute: they do not have their own life or underwriting markets for structured settlements, meaning that each relies on structured settlement consultants for quoting and presentation. In addition, the carriers selected represent a wide diversity of claims types, geographic presence, and litigation volume.

General Trends

Compared to six years ago, study participants suggested that the overall use of structured settlements has decreased. However, when compared to three years ago, 70 percent reported no decrease in volume, and, in fact, 30 percent reported that utilization has actually increased, which may suggest that the market is rebounding.

The effect of interest rates: Eight of the 10 respondents identified the low interest rate environment as the primary cause for a decrease in utilization when compared to six years ago or longer. Importantly, however, is that 20 percent felt that the use of structures has an intrinsic value to each case, regardless of interest rate levels. Elements of those values are summarized in greater detail below.

Most claims organizations have a formal structured settlement program: Ninety percent of study respondents said that their organizations maintain a "formalized structured settlement program," in which they have an exclusive or preferred relationship with one or more providers. While a 90 percent penetration rate is higher than the 64 percent penetration reported in 2011, the sampling size of this study makes it difficult to identify whether this increase is reflective of a broader industry trend.

Approximately 70 percent of these organizations provide their claims professionals with a choice of pre-screened companies with which to work, with 25 percent maintaining a relationship with four providers or more. Roughly 30 percent maintain an exclusive relationship with one company.

Ownership of structured settlement programs varies: Study participants identified a wide variety of "ownership structures" for the success or failure of their structured settlement programs. Roughly 80 percent identified a single executive role; however, those roles and titles differed widely, with primary responsibility falling to vendor management, compliance, field claims, the chief claims officer, or other executive stakeholders.

Measurement of referrals and successfully written structured settlements: When it comes to having a process for measuring the frequency of successfully written structured settlements, only 50 percent reported having such a process. Thirty percent of the participant organizations measure how frequently they obtain a quote for a structured settlement.

Use of predetermined criteria as to when to secure a structured settlement referral: While some organizations have a clearly delineated process for how to secure a quote or make a referral to their service partners, participants reported no preset criteria that would dictate when to make a referral. Significant reliance is made on the individual judgment of the file handler as to when to utilize a structured settlement consultant.

Using Structured Settlement Consultants

The senior claims executives involved in the study identified a number of important values that they believe structured settlement consultants bring to the table on claims in which they are involved. Generally, these values fall into two primary categories:

- **Financial/Technical** – The ability to explain the structured settlement, shepherd the quote process, and amend the terms of the structured settlement as required by case negotiations.
- **Case Facilitation** – The ability to present the benefits of the structured settlement to both plaintiff counsel and the claimant, provide viable needs-based options, help to focus the case on resolution instead of differences, and assist in the evaluation of the case.

Involving a structured settlement consultant makes cases more likely to settle: Importantly, 90 percent of participants reported their belief that, when a structured settlement consultant is involved, claims are "more likely to settle."

Roughly a third of study participants feel that the value offered by structured settlement consultants may not be understood by their front-line claims handlers: Respondents attributed this lack of understanding to two primary factors:

- Lack of experience, or less experience, in working through high-value settlements.
- Lack of exposure to the "10 percent of consultants" who bring expertise in facilitating case resolution.

General Value

Each executive was asked to react to a number of stated value propositions related to the use of structured settlements and structured settlement consultants. Of the 13 value propositions presented, three resonated most strongly. These were:

- Structured settlements effectively address claims for future medical expenses.
- Structured settlements are effective as a negotiating tool (needs-based and bridge-the-gap concepts).
- Structured settlements effectively address claims for future lost wages.

In addition, the fact that a structured settlement consultant can be used in the settlement process at no cost to the carrier resonated very favorably.

Several value propositions were ranked as neutral by study participants. These included:

- Structured settlements create lower claims payouts.
- Structured settlements create earlier claims resolution.
- A structured settlement can help to lower claims costs by achieving earlier settlement.

Finally, the values of structured settlements that resonated least effectively with the executives were:

- Using a structured settlement is a benefit to society because it prevents early dissipation of proceeds that cause some claimants to ultimately become dependent on taxpayer-supported government benefits.
- Structured settlements are equally effective on lower and higher exposure claims.
- Using a structured settlement consultant adds additional work for my organization.

Other Value Areas

While the structured settlement industry holds out as a key value proposition, the fact that using a structured settlement can save on average 35 percent savings on Medicare Set-Asides (MSAs), the majority of study respondents did not have a clear understanding of how these savings could be achieved. This disparity reflects a significant opportunity for further education and dialogue on this issue.

Education around the relationship of structured settlements to MSAs was echoed when participants provided greater insight into how consultants could add more value to their services. Suggestions included:

- Education about the benefits of structured settlements generally would be most helpful when the claims organization has less experienced claims professionals.
- Consultants could provide more information about the facilitation role they play during the settlement process.
- Consultants are in a superb position to identify how claims handlers are performing during the settlement process for the claims organization's management team.

Study participants appeared to be in agreement that more can be done to take advantage of the value of structured settlements—and the value of structured settlement consultant—within their organizations. Three key study findings suggest that this is an area of interest to executives. The findings include:

- Seventy percent of respondents believed that their competitors are more advanced when it comes to using structured settlements effectively.
- A full 100 percent stated that their organizations could be doing more when it comes to proactively using structured settlements as part of a strategy to resolve claims effectively.
- Quantitatively, respondents felt that they are only using structured settlements on two-thirds of the claims on which they "should be."

Given that nine out of 10 executives involved in the study believe that a case is more likely to settle with a structured settlement consultant involved, the opportunity to maximize referral rates might be viewed as an exciting area of low-hanging fruit.

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