Life Insurance Industry:
Beneficial Effects of Audits, Settlements, Cooperation and Customer Service
1999 – 2001:
Many large insurers demutualize, providing window into problem of “lost” insureds

Feb. 2008:
First wave of multistate life insurance examinations by Verus

Feb. 2011:
First resolution through GRA is reached (John Hancock)

May 2011:
NAIC establishes task force to investigate claims settlement practices and use of DMF information

2012:
Additional GRAs are reached with other large insurers

2013:
Audits continue; additional GRAs reached with companies under audit
FUNDAMENTAL PRINCIPLES

- Consumers buy life insurance expecting their beneficiaries will be paid when they pass away.

- Consumers **do not** expect that it will be the insurance companies, and not their beneficiaries, who benefit from the use of the funds after their death.

- Unclaimed property laws are designed to allow the state to take custody of these funds so that they may locate the owner and ensure timely payment.

- Recent insurance industry audits have helped make sure this happens.
**GRAs: Four Cornerstones**

**Resolution of Audit Through the GRA:** The GRA provides a template for resolving these audits and ensuring that companies comply with their obligations to attempt to locate beneficiaries and escheat unclaimed property. Among other things, under the GRA, an insurer agrees that:

- The dormancy period is triggered based on the date of death, without regard to when the Company may consider itself to have had “notice” of the death;

- DMF listings constitute *prima facie* proof of death and property are escheated based on DMF matches without the need for obtaining a copy of a death certificate.

- Death benefit proceeds escheated include 3% interest compounded annually from 1995 or the date of death, which is later, without regard to whether the Company had notice of the death or a claim or proof of death was ever filed.

- Agreed upon match rules will be applied during the matching process.
**GRAs: Match Rules**

**Importance of Match Rules:** One of the most significant aspects of the GRA is the “match rules” (Schedule B), which require escheatment of property even when the insurer’s records do not match perfectly against the DMF. This significantly increases the amount of property that otherwise would be escheated if a 100% match against the DMF were to be required.
# Operation of the GRA: Examples of Actual Matches Made by Verus

## Matches with Wrong First & Last Name & SSN

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Red = Data Mismatch
PARADIGM SHIFT

HISTORICAL PROCESS

- Companies relied on beneficiaries to file claims
- Policies belonging to “lost” insureds go unpaid
- Technology advances
  - Annuity business units make use of DMF
  - Life business units mostly do not
Audits have led to an industry-wide change in the way life insurance claims are handled.
In July 2012, NCOIL adopted its Model Unclaimed Life Insurance Benefits Act calling for regular DMF comparisons by insurance companies.

- A number of states have adopted or are considering adopting legislation based on the Model Act.

- Some participants in the insurance industry have attempted to have amendments made to the Model Act so that it would only apply to policies issued after the date of enactment.

- The changes being lobbied for would substantially eliminate the benefits of the DMF comparisons for both the immediate and long term future.
On April 1, 2013, the Kentucky Circuit Court rejected both of these arguments and granted summary judgment for the Kentucky Department of Insurance.

As the Court explained: “Here, the legislature has sought to remedy the problem of insurance companies holding on to funds that should be paid to beneficiaries upon the death of the insured. The traditional industry practice allows insurance companies to stick their heads in the sand and ignore publicly available data regarding the deaths of their insureds, to the detriment of the beneficiaries (and the public).”

The Court continued: “The statute merely confirms the right of beneficiaries to the money the insured’s premiums have already paid for . . . . No insurer will be required to pay more than it is already contractually obligated to pay, and no beneficiary will receive more than the insured premiums obtain.”
Some insurers have ignored fundamental principles and resist changes being made throughout the industry by taking the following positions:

- They will not compare their data against publicly available sources to determine which insureds passed away with active life insurance policies;
- They will not let the states (through Verus) perform these comparisons as part of the audit process; and
- They will not report these unclaimed benefits until they have received outside notice of the death of the insured and the dormancy period has passed.
The United States Supreme Court has conclusively rejected the argument that satisfaction of conditions contained in a life insurance policy regarding receipt of notice and proof of death from the beneficiary is necessary for benefits to be considered unclaimed:

“When the state undertakes the protection of abandoned claims, it would be beyond a reasonable requirement to compel the state to comply with conditions that may be quite proper as between the contracting parties.”

OPPOSING INSURER POSITIONS ARE INCORRECT

- States have explicitly codified this concept into their unclaimed property law in various ways:
  - Property is escheatable “notwithstanding the owner’s failure to make demand or to present any instrument or document required” to receive payment. 1981 Act & 1995 Act
  - Property is escheatable even though the policy “has not been surrendered as required.” 1954 Act & 1966 Act
  - Property is escheatable even if the cash surrender value of a policy has been depleted through application of non-forfeiture option of policy after death. 1981 Act & 1995 Act
  - Property is escheatable even if a contractual or statutory limitations period applicable to the owner has run. 1981 Act & 1995 Act
OPPOSING INSURER POSITIONS ARE INCORRECT

➢ The knowledge of the holder – *indeed anything do to with the holder* – is simply irrelevant to assessing whether the owner has abandoned the property.

➢ The insurance companies’ position that the dormancy period begins *when the companies know* the insured has died would render the whole statutory scheme of the unclaimed property laws virtually useless with respect to life insurance benefits.

➢ *If* the dormancy period:

  o Begins only at insurer *knowledge* of death

  o *Companies do not make any inquires* which would give them knowledge of the deaths

➢ *then* the dormancy period would *almost never* be triggered and no unclaimed insurance benefits would be considered abandoned.

➢ Historically, the “knowledge triggers dormancy” position has resulted in the insurance industry remitting virtually no insurance benefits to the states as unclaimed property before the limiting age *prior to* the states initiation of recent unclaimed property audits of the industry.
Insurance companies routinely become aware of the death of an insured from a variety of sources, but may not act on this information absent a formal claim.

Sources of awareness of death include, among other things:

- DMF comparisons performed on certain blocks of business;
- Receipt of returned mail with a death indicator;
- Results of searches for new addresses;
- Calls from relatives, friends or agents of the insured.

The need to identify this type of death information forecloses any attempt by insurance companies to limit access to records to claims information.

Additionally, the ability to identify this type of death information may be adversely impacted by the companies’ CRM systems and record-retention policies.

The problems associated with identifying this type of information further supports the conclusion that dormancy period must be calculated based on the date of death of the insured.
Over $1.8 Billion has been reported to states or returned to/reunited with owners as a result of the currently resolved life insurance audits conducted by Verus.

- $820+ million has been reported to the states to date representing almost 1 million individual properties.

- An additional $1+ billion has already returned to the rightful beneficiaries or reunited with its rightful owners through the due diligence processes related to the GRAs as well as outreach conducted by the companies who have signed GRAs.

- In addition to the above, several hundreds of millions of dollars has been identified and is expected to be reported to the states, returned to the rightful beneficiaries or reunited with its rightful owners by the end of 2013.
“At least $1 billion in benefits from misplaced or forgotten life-insurance policies are waiting to be claimed by their owners.”

“The odds that you’re one of them are 1 in 600, more favorable than your chance of winning $100 on a Powerball ticket. And although you can’t expect a million-dollar jackpot—the average unclaimed life benefit is $2,000—some payouts have been as high as $300,000.”