

Supplemental Slide Deck
Trust Owned Life
Insurance (TOLI)
Insurance Basics
That Challenge
Trustees
By Richard Weber

Universal Life Insurance policies
don't have PREMIUMS!

At least not in the conventional
sense of what you may be used to
with other forms of life insurance



“What’s it gonna cost?”

**Is answered by an agent’s
input into an “app” in which
he/she chooses amongst a
number of input variables**

“What’s it gonna cost?”

Is answered by an agent’s input into an “app” in which he/she chooses amongst a number of input variables for which you may have no idea how much risk you are taking with those assumptions!

**Because the answer to
“What’s it gonna cost?”**

is the calculation of a *planned premium* that is not guaranteed. You are at risk for the “sufficiency” of what has to be paid to assure the policy will sustain over the insured’s lifetime.

“What’s it gonna cost?”

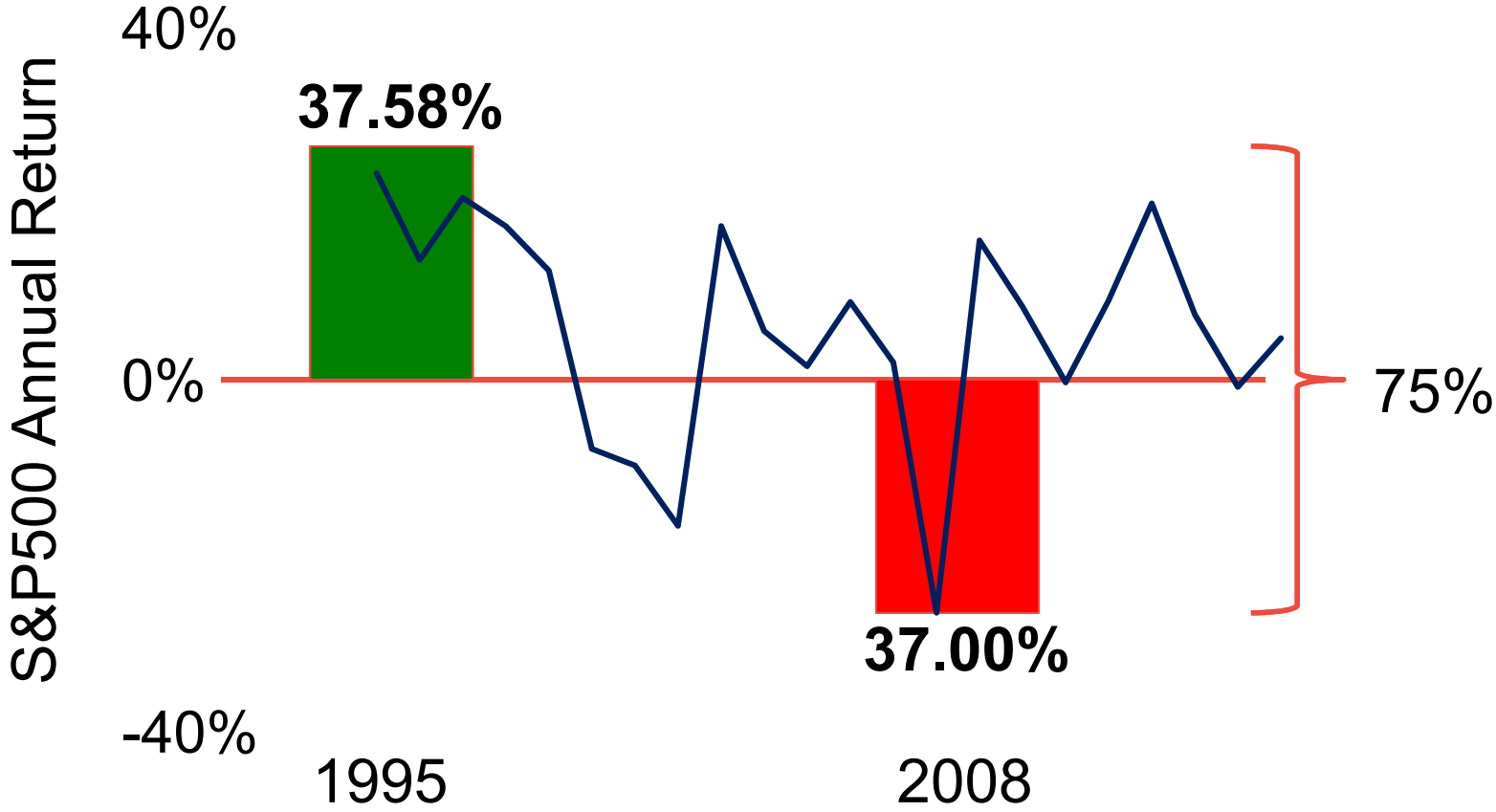
In most cases depends on how aggressive – or conservative – you allow agent-selected parameters in the “app” – especially the crediting rate assumption – because it will be used as a **CONSTANT in **ALL** calculations!**

Essential Question:

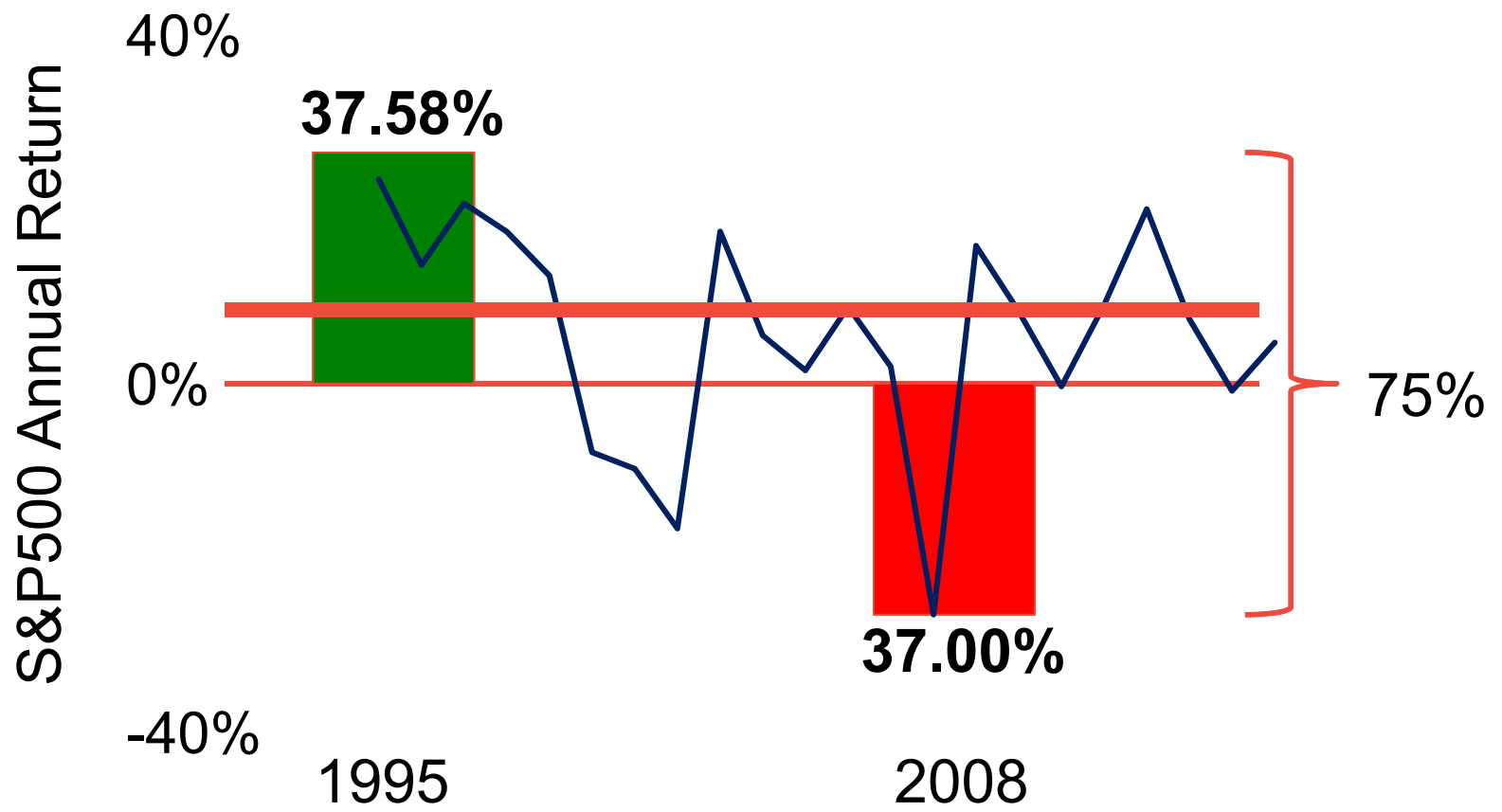
**WHAT CREDITING RATE
SHOULD BE USED TO
CALCULATE PLANNED PREMIUMS?**

IUL
VUL
UL

Especially when we experience VOLATILITY in **VUL** and **IUL**



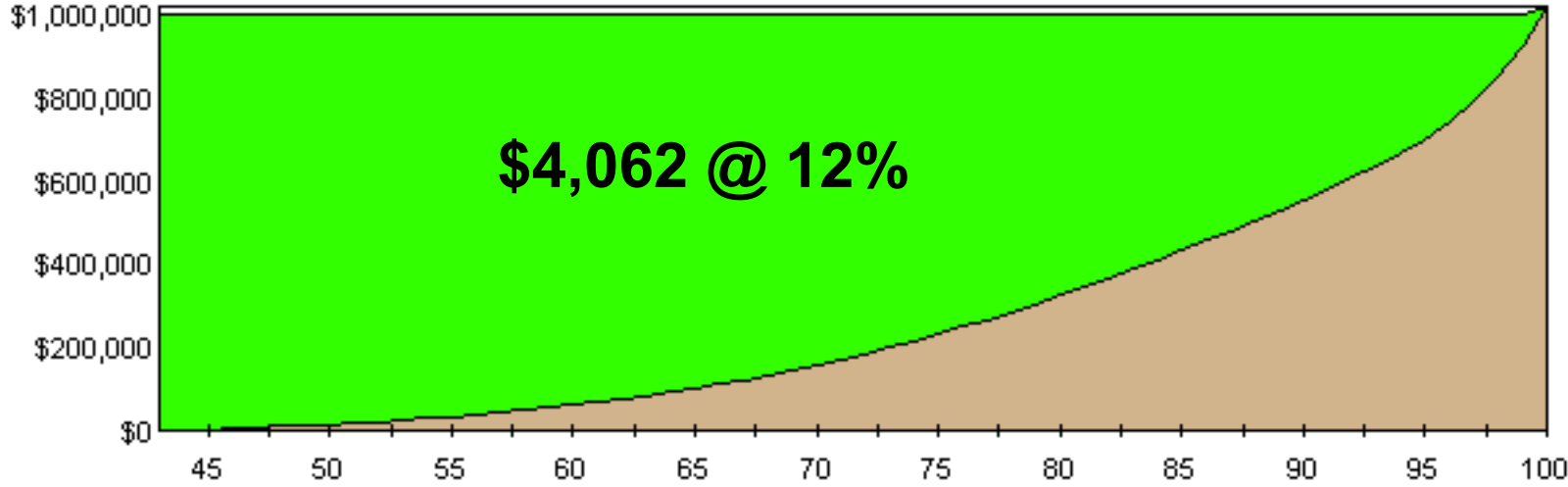
... Not CONSTANCY

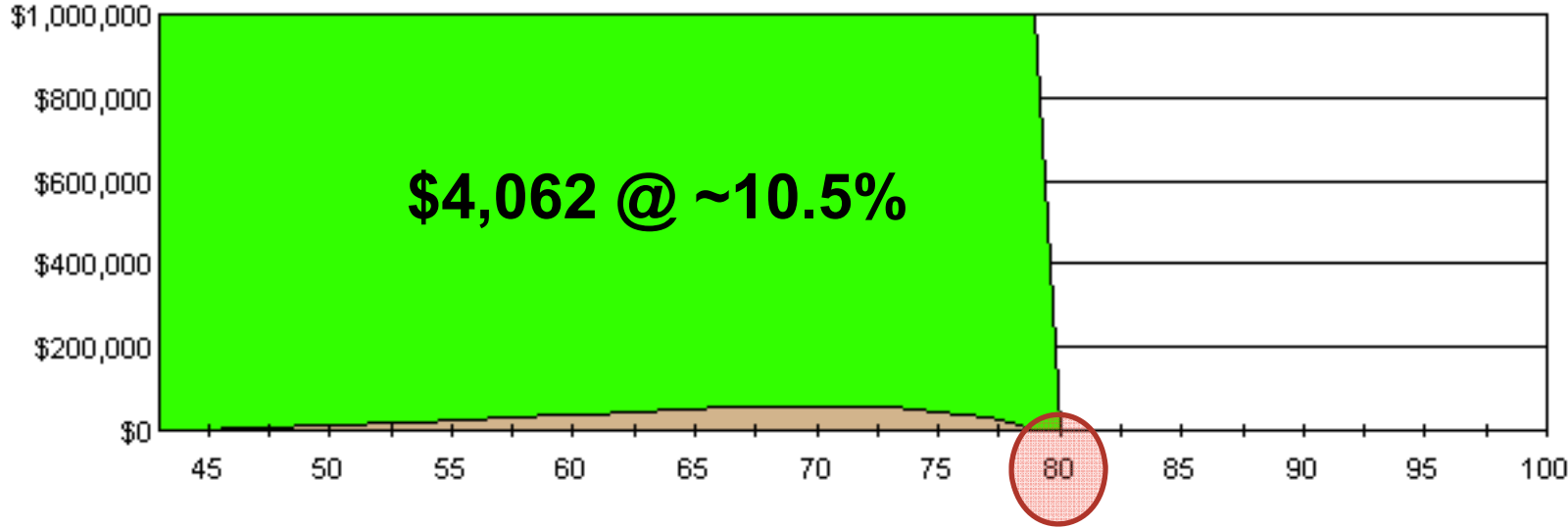


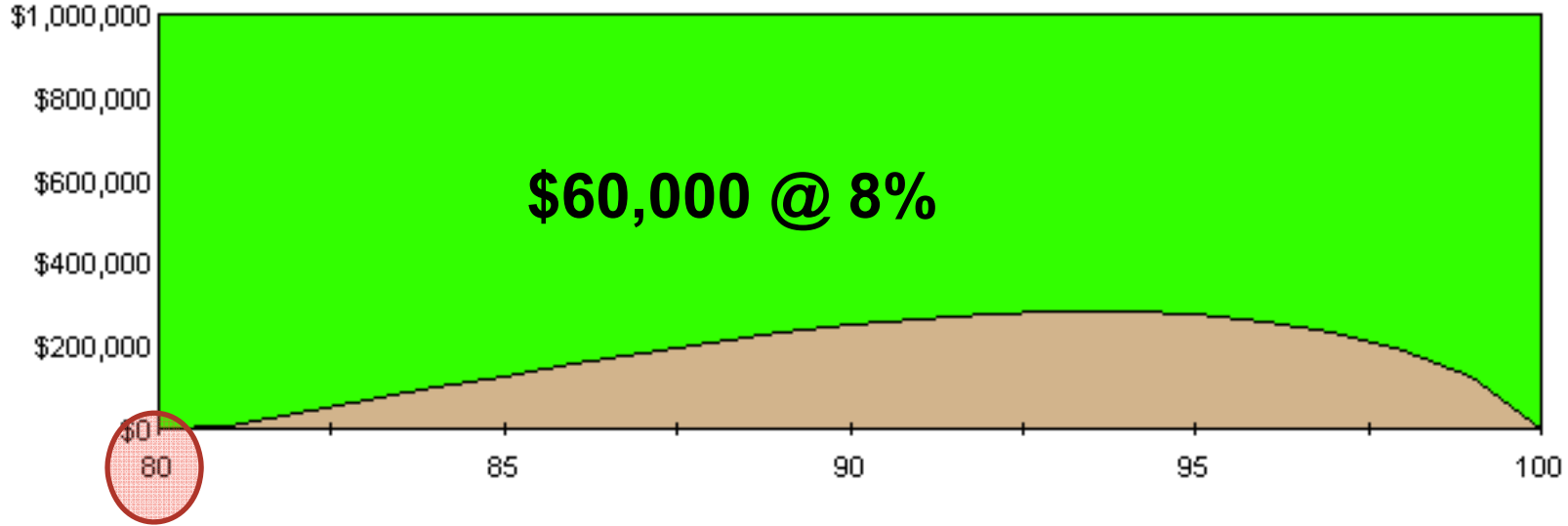
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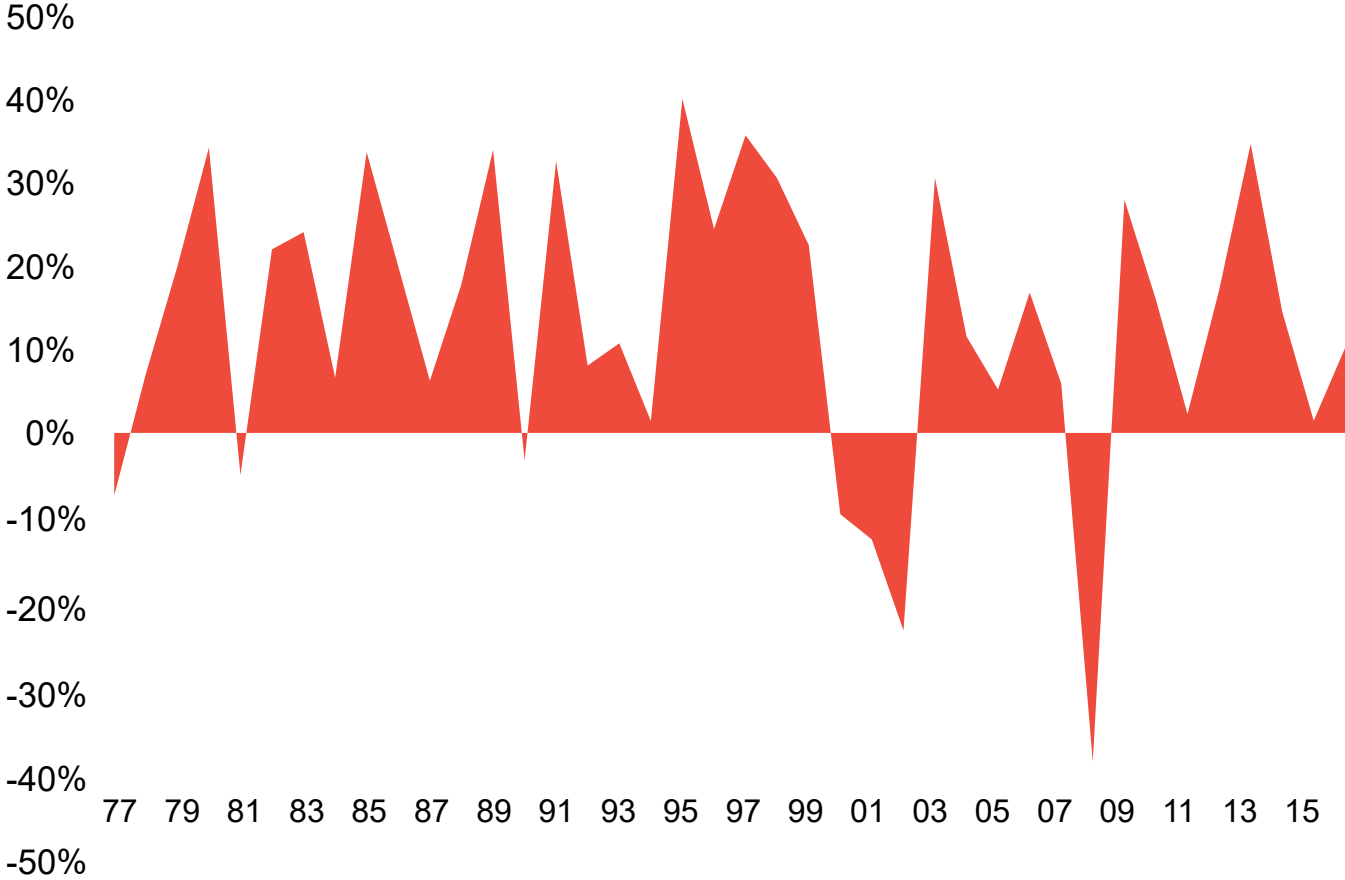
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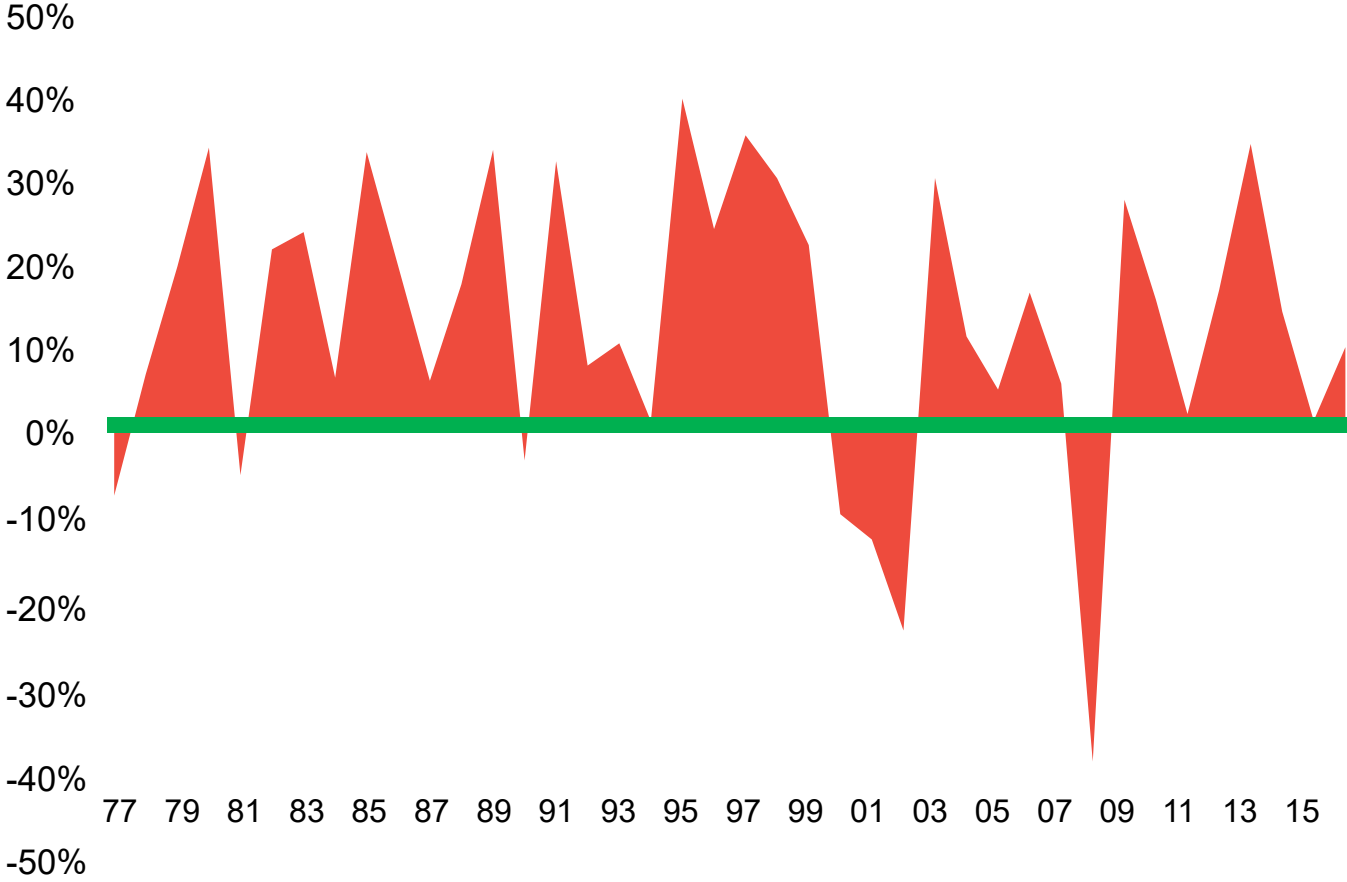
IUL creates a crediting rate “collar”

S&P 500 1977 - 2016



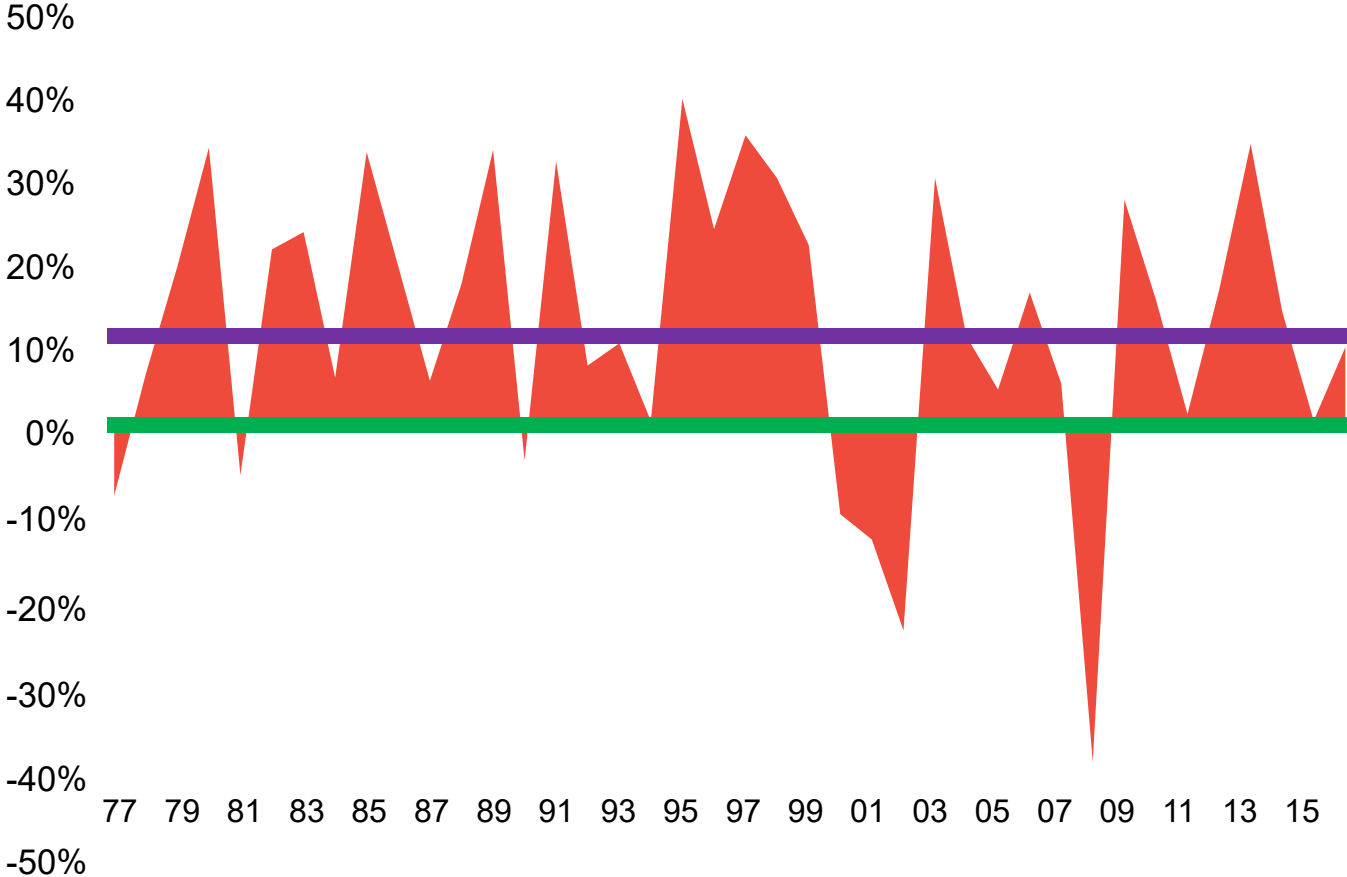
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S&P 500 1977 - 2016



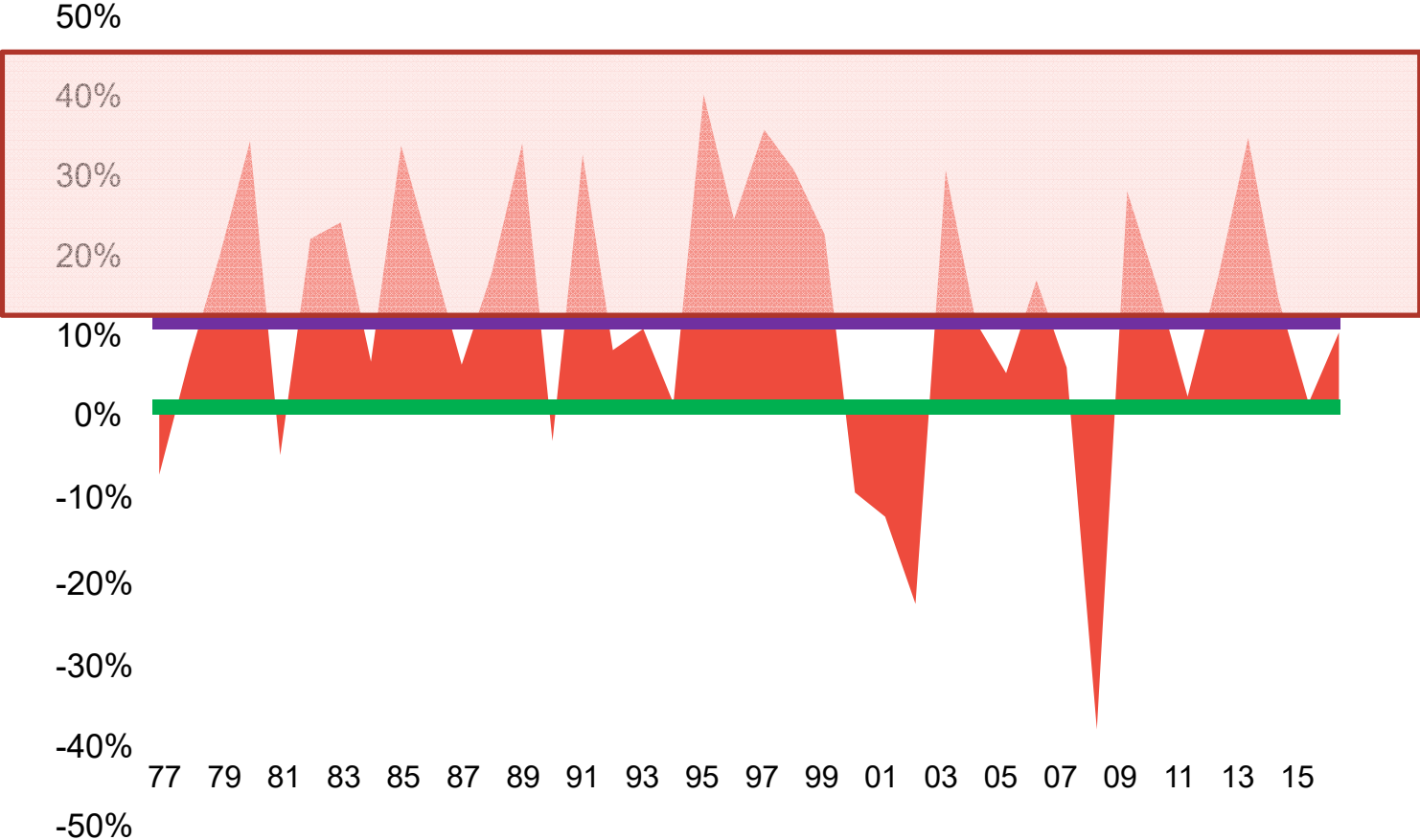
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S&P 500 1977 - 2016



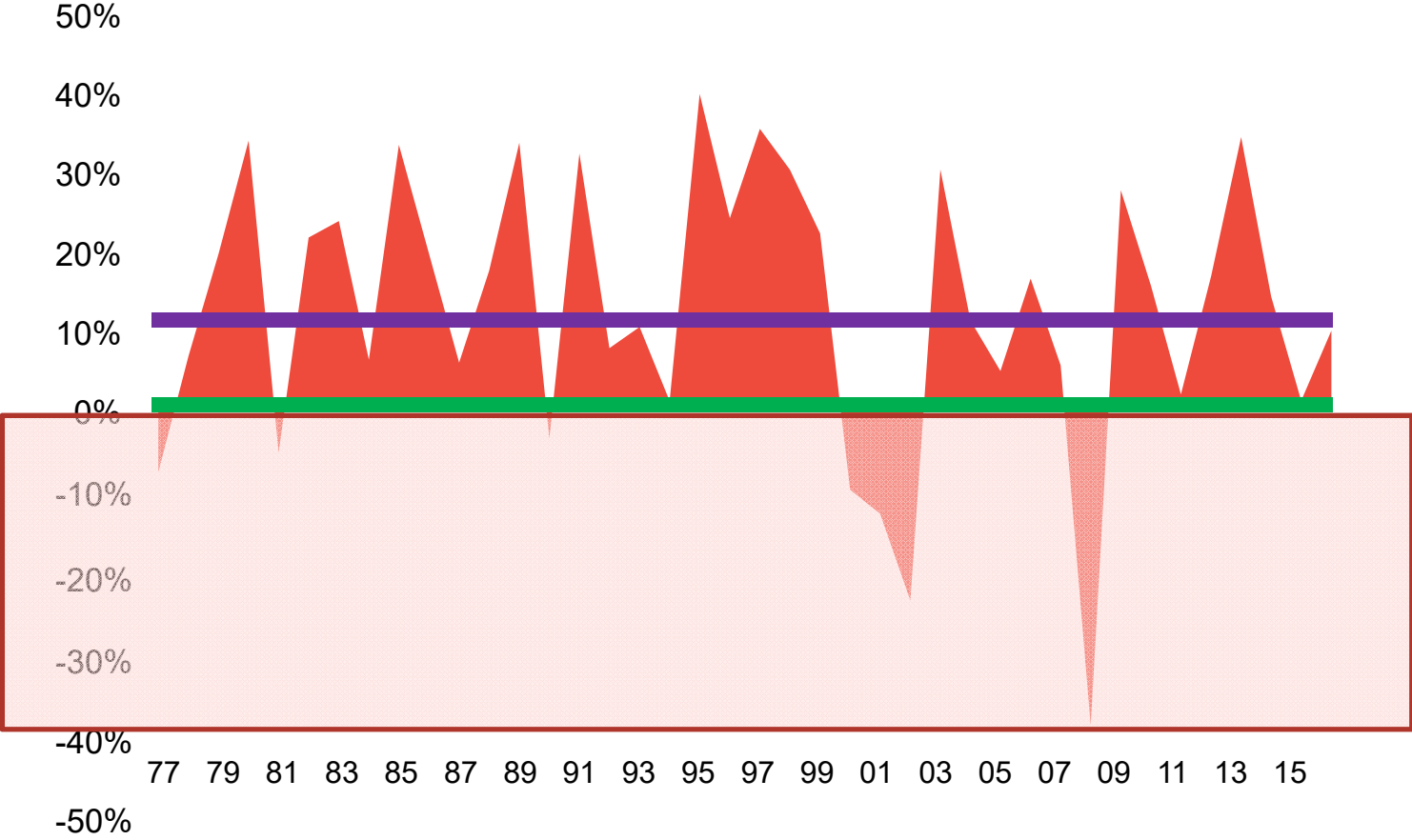
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S&P 500 1977 - 2016



IUL creates a crediting rate “collar”

S&P 500 1977 - 2016





Indexing Methods: Point-to-point Variability

**Do you know what the “S&P500”
(with dividends) achieved in 2010?**



Indexing Methods: Point-to-point Variability

**Do you know what the “S&P500”
(with dividends) achieved in 2010?**

15.10%



Indexing Methods: Point-to-point Variability

**Do you know what the “S&P500”
(with**OUT** dividends) achieved in 2010?**

13.27%



Indexing Methods: Point-to-point Variability

**Do you know what the “S&P500”
(with**OUT** dividends) achieved in
August 2010?**

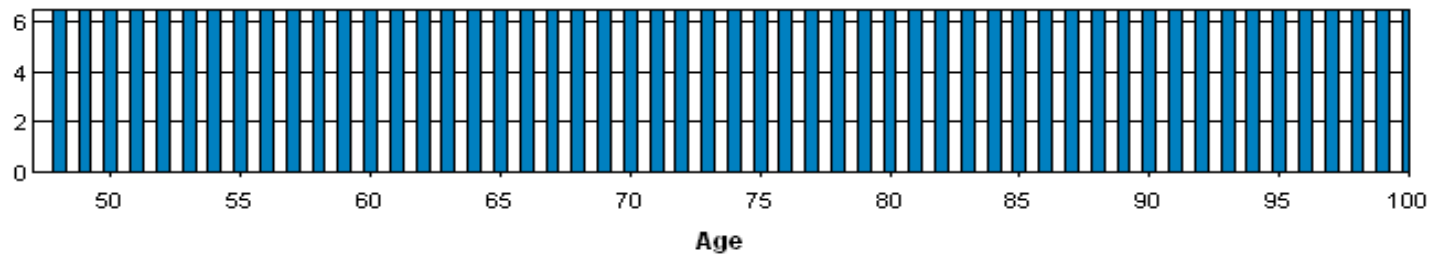
Indexing Methods: Point-to-point Variability

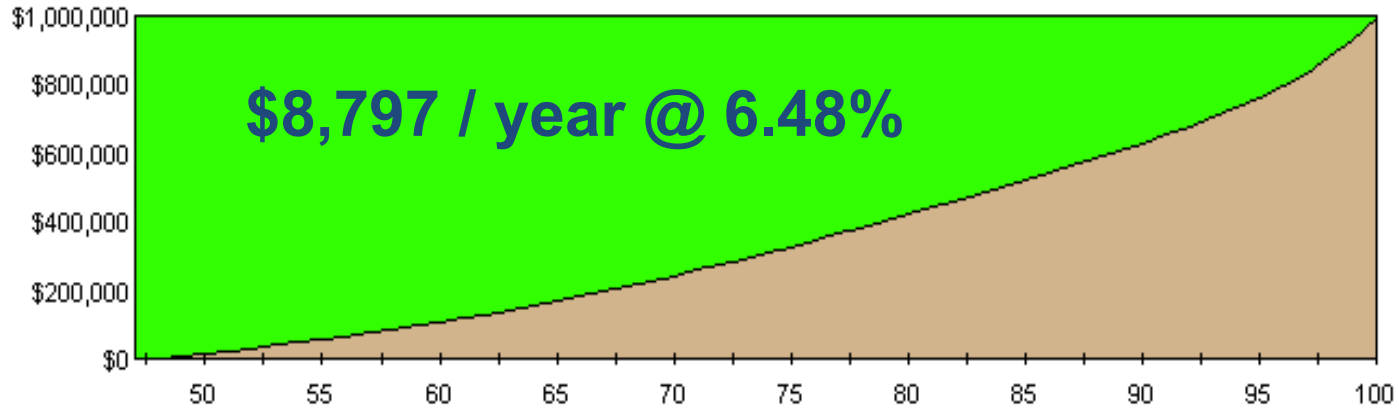
	Policy Date	Annual P2P Return (2009 – 2010)
Client A	August 3	11.75%
Client B	August 13	6.57%
Client C	August 18	10.56%
Client D	August 26	1.86%

Trust Owned Life Insurance (TOLI)

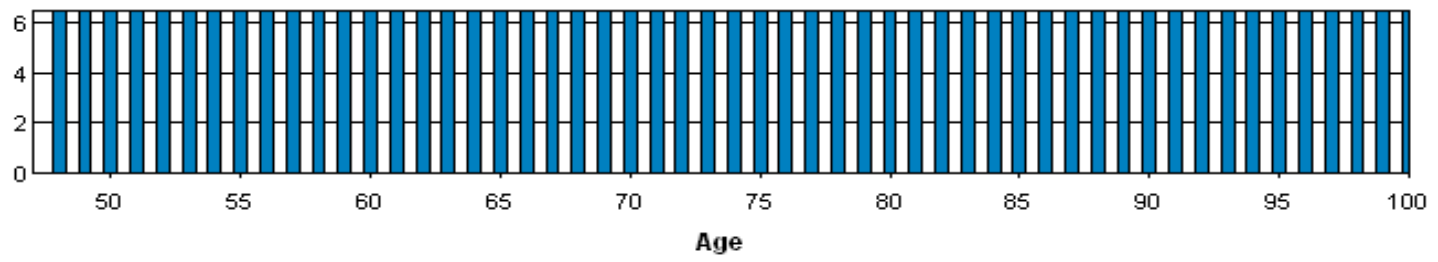
**Why VOLATILITY
matters**

0% Guaranteed Minimum / 11% Cap / 100% Participation / 1 YR P2P S&P500



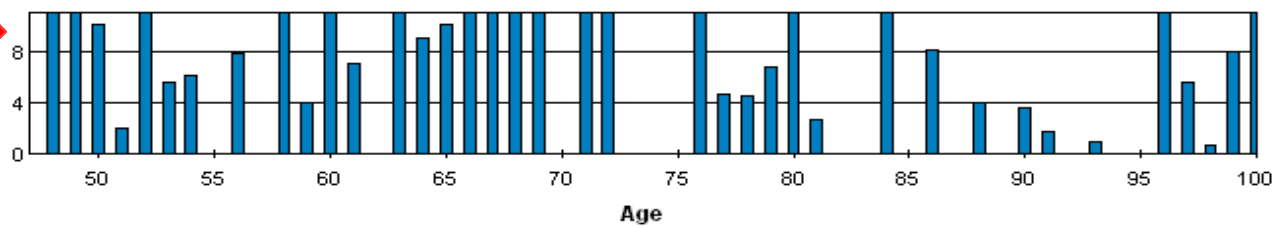


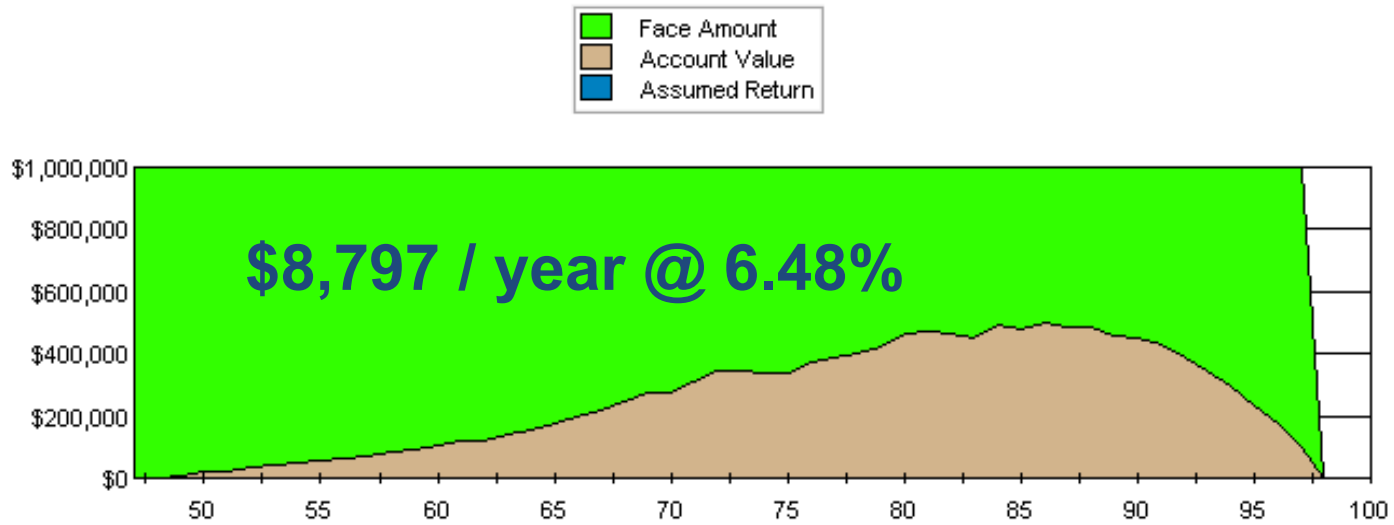
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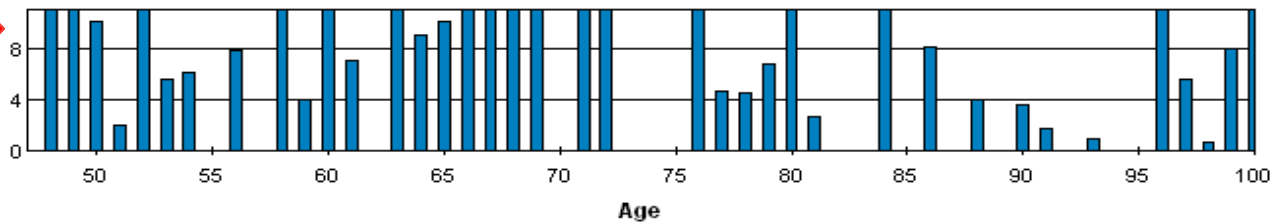
RANDOM

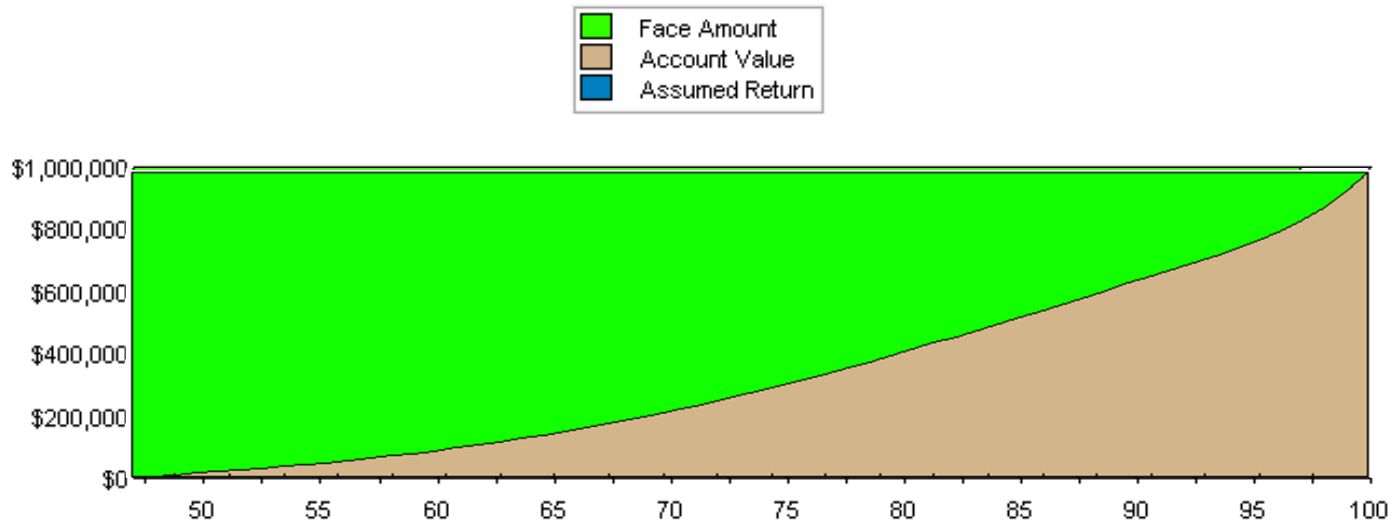




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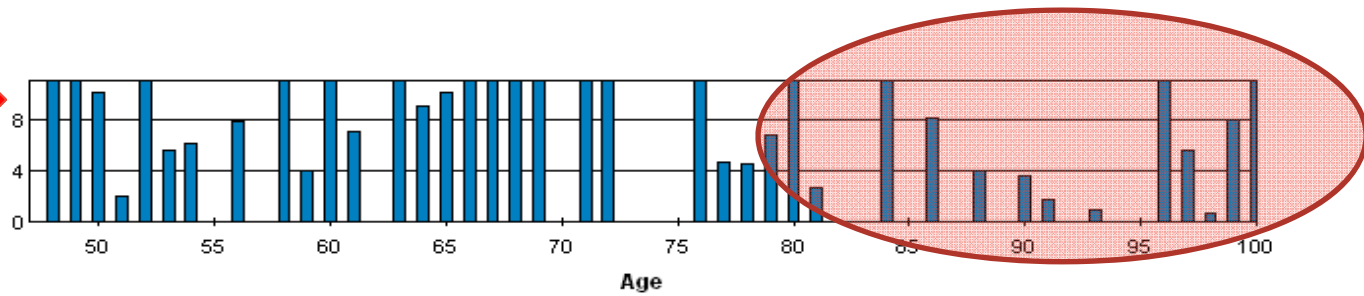
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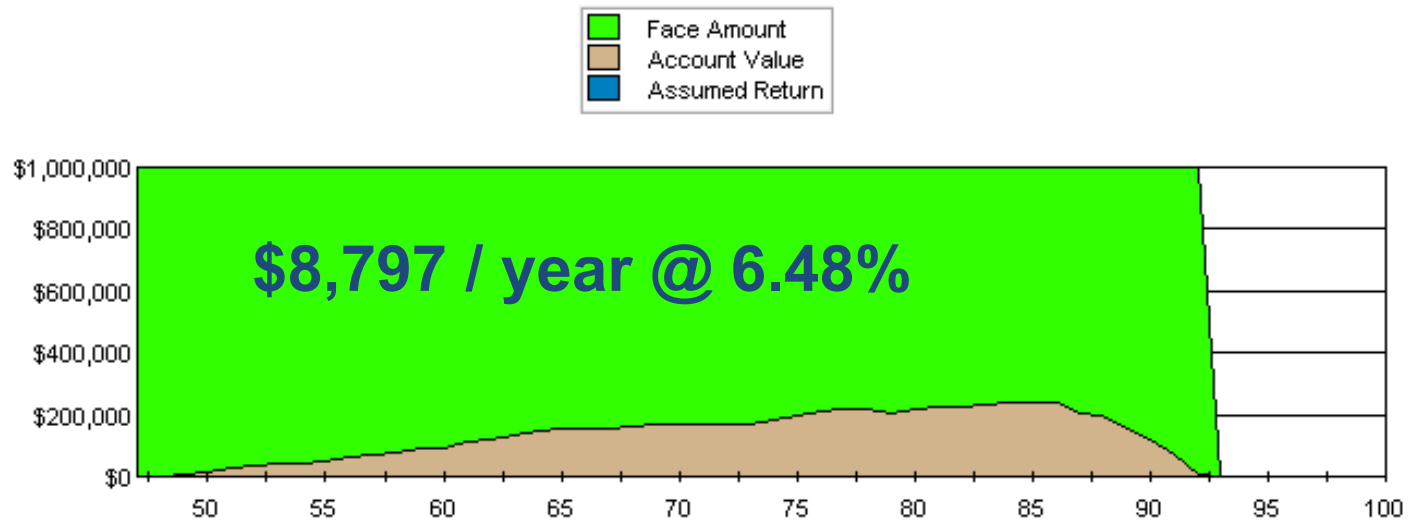




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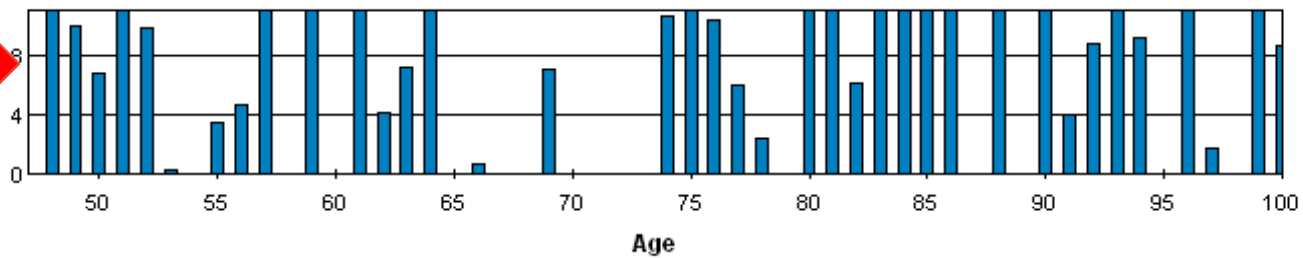
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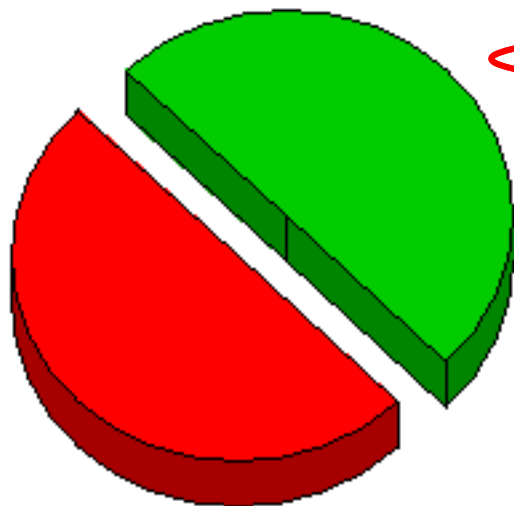
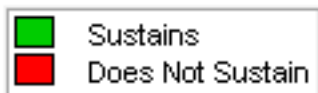


0% Guaranteed Minimum / 11% Cap / 100% Participation / 1 YR P2P S&P500

RANDOM



Random Trials - Index Universal Life



Policy Specifications

Death Benefit: \$ 1,000,000

Funding Premium: \$ 8,797.00

Guaranteed Minimum Rate: 0.00 %

Crediting Rate Based On: S&P500 1-year Index

Cap / Participation Rate: 11.00 % / 100.00 %

Policy Expenses = 81% Policy Standard

Max. 5-year Rolling Lapse Interval: 94 to 98

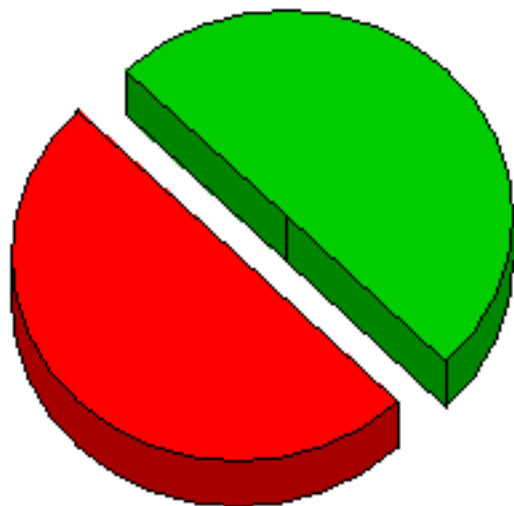
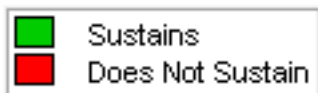
Policy Performance Statistics

Trial Illustrations:	1,000
Trials Sustaining (50.1 %):	501
Life Expectancy Death Benefit (Age 88):	\$ 1,053,000
Age 100 Death Benefit:	\$ 1,630,000
Trials NOT Sustaining (49.9 %):	499
Age first Lapse:	89

Investment Statistics

Average Arithmetic Mean:	6.33 %
Average Geometric Mean:	6.51 %
Average Standard Deviation:	1.32 %

Random Trials - Index Universal Life



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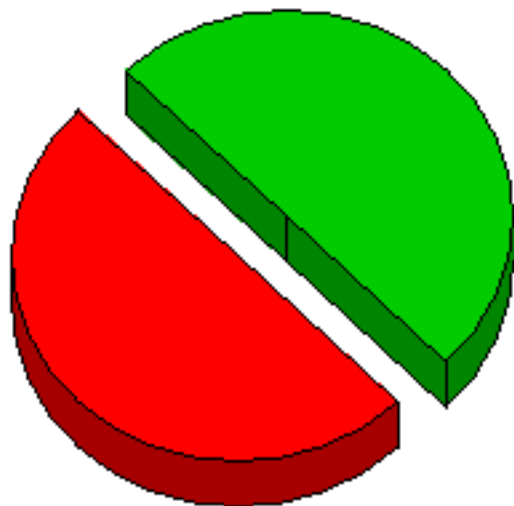
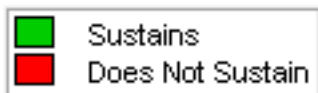
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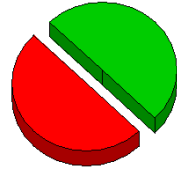
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What's the Right Premium?

As Illustrated – 19% Expense Deviation / 11% Cap / “Endow” Age 100

Probability of Success



Illustrated Premium

\$8,797

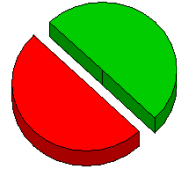
11% “Average” Cap

50%

What's the Right Premium?

As Illustrated – 19% Expense Deviation / 11% Cap / “Endow” Age 100

Probability of Success



Illustrated Premium

\$8,797

11% “Average” Cap

50%

Average Life Expectancy

88

First Lapse Age

89

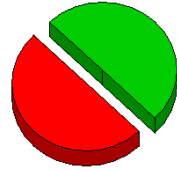
Illustration Rate

6.48%

What's the Right Premium?

As Illustrated – 19% Expense Deviation / 11% Cap / “Endow” Age 100

Probability of Success



Illustrated Premium

\$8,797

11% “Average” Cap

50%

Average Life Expectancy

88

First Lapse Age

89

Illustration Rate

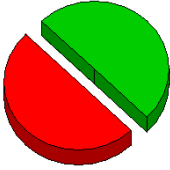
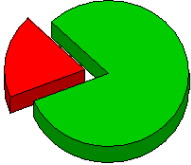
6.48%

Is **50%** OK?

What's **YOUR** minimum
Probability of Success
threshold for your life
insurance policy?

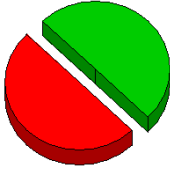
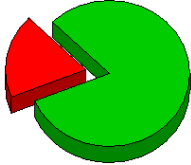
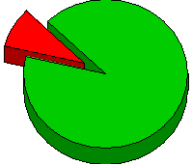
What's the Right Premium?

As Illustrated – 19% Expense Deviation / 11% Cap / “Endow” Age 100

Probability of Success		
Illustrated Premium	\$8,797	\$9,500
11% “Average” Cap	50%	80%
Average Life Expectancy	88	88
First Lapse Age	89	89
Illustration Rate	6.48%	5.96%

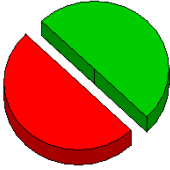
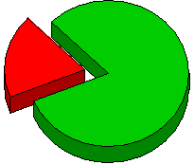
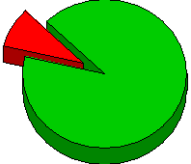
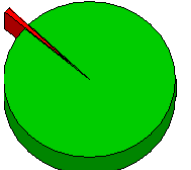
What's the Right Premium?

As Illustrated – 19% Expense Deviation / 11% Cap / “Endow” Age 100

Probability of Success			
Illustrated Premium	\$8,797	\$9,500	\$10,000
11% “Average” Cap	50%	80%	90%
Average Life Expectancy	88	<hr/>	
First Lapse Age	89	89	92
Illustration Rate	6.48%	5.96%	5.62%

What's the Right Premium?

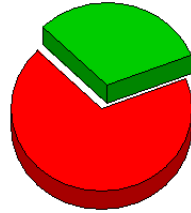
As Illustrated – 19% Expense Deviation / 11% Cap / “Endow” Age 100

	Column 1	Column 2	Column 3	Column 4
Probability of Success				
Illustrated Premium	\$8,797	\$9,500	\$10,000	\$11,000
11% “Average” Cap	50%	80%	90%	99.9%
Average Life Expectancy	88	<hr/>		
First Lapse Age	89	89	92	97
Illustration Rate	6.48%	5.96%	5.62%	5.01%

What's the Right Premium?

As Illustrated – 19% Expense Deviation / **10%** Cap / “Endow” Age 100

Probability of Success



Illustrated Premium

\$8,797

10% “Average” Cap

32%

Average Life Expectancy

88

First Lapse Age

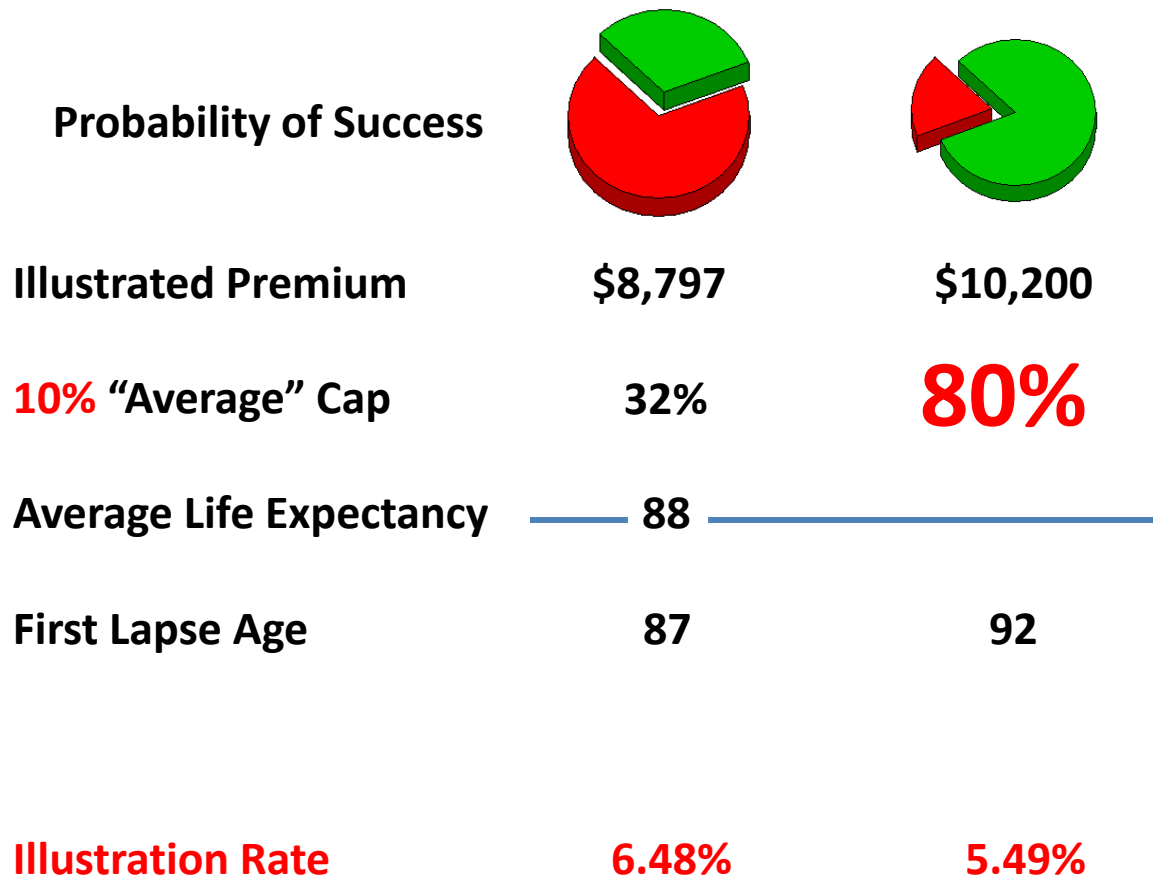
87

Illustration Rate

6.48%

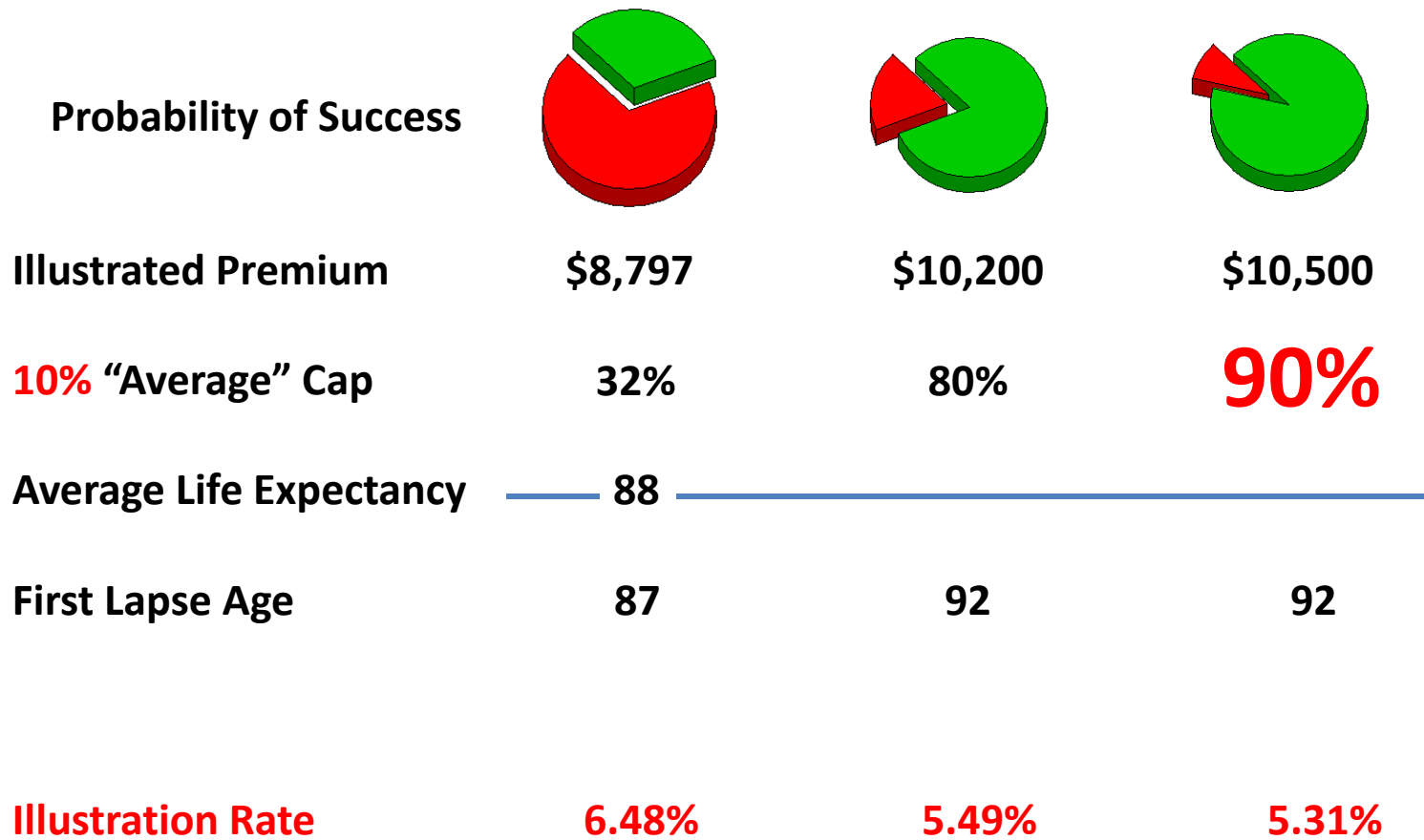
What's the Right Premium?

As Illustrated – 19% Expense Deviation / **10%** Cap / “Endow” Age 100



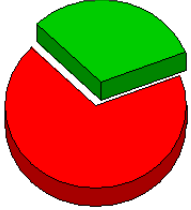
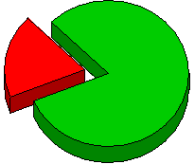
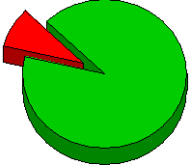
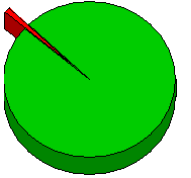
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What's the Right Premium?

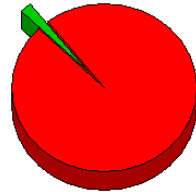
As Illustrated – 19% Expense Deviation / **10%** Cap / “Endow” Age 100

	Column 1	Column 2	Column 3	Column 4
Probability of Success				
Illustrated Premium	\$8,797	\$10,200	\$10,500	\$11,500
10% “Average” Cap	32%	80%	90%	99.9%
Average Life Expectancy	88	<hr/>		
First Lapse Age	87	92	92	97
Illustration Rate	6.48%	5.49%	5.31%	4.74%

What's the Right Premium?

As Illustrated – **0%** Expense Deviation / **10%** Cap / “Endow” Age 100

Probability of Success



Illustrated Premium

\$8,797

10% “Average” Cap

2%

Average Life Expectancy

88

First Lapse Age

81

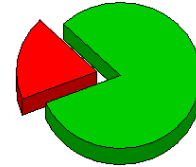
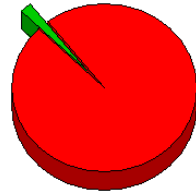
Illustration Rate

6.48%

What's the Right Premium?

As Illustrated – **0%** Expense Deviation / **10%** Cap / “Endow” Age 100

Probability of Success



Illustrated Premium

\$8,797

\$11,400

10% “Average” Cap

2%

80%

Average Life Expectancy

88

First Lapse Age

81

90

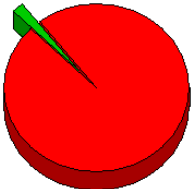
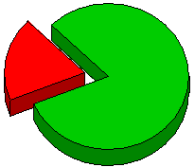
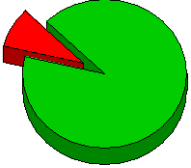
Illustration Rate

6.48%

5.55%

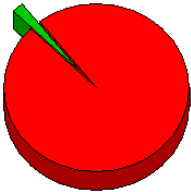
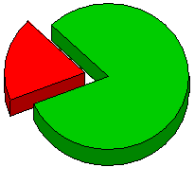
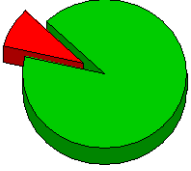
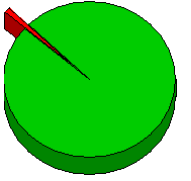
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	Column 1	Column 2	Column 3
Probability of Success			
Illustrated Premium	\$8,797	\$11,400	\$12,000
10% “Average” Cap	2%	80%	90%
Average Life Expectancy	<hr style="border: 1px solid blue;"/>		
First Lapse Age	81	90	92
Illustration Rate	6.48%	5.55%	5.19%

What's the Right Premium?

As Illustrated – **0%** Expense Deviation / **10%** Cap / “Endow” Age 100

	Column 1	Column 2	Column 3	Column 4
Probability of Success				
Illustrated Premium	\$8,797	\$11,400	\$12,000	\$14,000
10% “Average” Cap	2%	80%	90%	99.9%
Average Life Expectancy	88	<hr/>		
First Lapse Age	81	90	92	99
Illustration Rate	6.48%	5.55%	5.19%	4.16%

HANDOUT MATERIAL FOR MARTIN SHENKMAN WEBINAR

What do you mean my policy is Not Guaranteed?

Unlike Term policies or Whole life policies a flexible premium policy is Not Guaranteed. Approximately 45-50% of policies today are Not Guaranteed and appear less expensive

How can a life Insurance policy expire if I paid my premiums on time?

If the premiums were insufficient to keep policy in force based on poorer performance, coupled with years of neglect where a required higher premium wasn't paid.

Isn't the Life Ins Company responsible for making certain this doesn't happen?

It's Not the life Insurance Company's responsibility to monitor a policy that the job of the owner of the policy. Actually the Life Ins Company benefits when a policy expires

What can I do to prevent my policy from expiring prematurely?

The owner should request from the Insurer an 'In force illustration' which will tell you how much longer the policy will remain in force based on the current premium death benefit & current interest rate. Or you can outsource the responsibility to a consultant

Why hasn't anyone told me about this before?

There have been many stories in the WSJ & NYT covering this subject but more coverage is needed to inform the Insured's, their beneficiaries & advisors. It's the owners or trustees job to contract an expert if they don't have the needed skills.

What are my available options to deal with a problem policy?

1. One can pay a higher premium to keep the same death benefit in force..
2. One can reduce the death benefit in order to maintain the same premium.
3. Depending on health, a new policy with additional benefits can be purchased.
4. If over age 70 one may sell a life Ins policy at a higher price as a life settlement
5. Some combination of the above 4 options

Strategies to Maintain the Individually Owned or Trust-Owned Life Insurance Policy

By:
Henry Montag, CFP

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Over the years, many have called attention to the problem of prematurely expiring life insurance and what CPAs and attorneys need to know in order to advise and assist their clients' trustees (usually an eldest son or daughter) regarding the performance and monitoring of the life insurance policy for which they are responsible. This is an issue regardless of whether the life insurance policy is owned individually by the son or daughter or whether they sign as a trustee if a trust exists. In either case, the mechanics are the same.

An increasing number of non-guaranteed universal policies are expiring prematurely due to the reduced sustained low interest rate environment, as well as trustees and advisers who did not know they should have increased their premiums in order to prevent the duration of their life policies from expiring prematurely. This—coupled with a lack of notice from the agent or insurer of the consequences of not increasing premiums—has caused an even greater number of policies to expire years earlier than initially planned.

Non-guaranteed life insurance policies, which account for approximately 52% of existing coverage, have not achieved their intended goals because unskilled trustees did not have the knowledge or qualifications necessary to actively manage the complexities of their life insurance policies. Nor were they advised to delegate that responsibility, just as they would the responsibilities to properly manage their investments or real estate portfolio.

These amateur trustees usually were also not aware that they assumed 100% responsibility for the performance and sustainability of the life insurance policies with which they were entrusted. Even fewer were aware that as a trustee, they had assumed a fiduciary responsibility to manage the life insurance portfolios to ensure that the policy's death benefits would get to those family members who were originally intended as beneficiaries by their parents. In order to accomplish these tasks, the trustees or individual owners are often entirely dependent on their parent's CPA or attorney for assistance and guidance.

Unfortunately, that advice is usually neither sought nor provided. Often, an individual with a six-figure stock or bond portfolio would contact his or her investment adviser once or twice a day, a week, a month, or quarter. Yet that same individual with a seven-figure life insurance portfolio may not have looked at nor reviewed his or her life insurance policy's performance in years.

Most individuals are unaware that their current life insurance policies are not guaranteed to last for the rest of their lives—and that those policies need to be actively managed just like a stock, bond, or real estate portfolio. The old thinking of "buy and hold" must be replaced by a "buy and manage" philosophy to ensure that policies are adequately funded to keep their coverage in force to at least their normal life expectancy.

Whether you are an attorney or a CPA servicing a client or managing a family office, it's imperative that you realize the responsibility of maintaining your clients' life insurance coverage rests with the trustee—and not with the agent or broker that may have initially sold them their policy. Through several webinar polls and surveys, it was discovered that one of the more difficult concepts for many advisers to understand is the reason the insurance agent or

company does not take more responsibility to make certain that a policy stays in force. Doesn't the insurer make money when premiums are paid by an insured?

It may be of interest to note, however, that neither the insurance company nor agent has any obligation to manage the policy—that's the responsibility of the trustee. (See *Thompson v. UBS Financial Services*.) As a matter of fact, it's in the life insurance company's best interest when the policy lapses or is surrendered after a number of years—it means the insurer has no obligation to ever pay out a death claim, and all of the premiums they've collected (less expenses) falls to the bottom line as a profit.

People also have difficulty understanding how they could have paid a life insurance premium they were billed for by the insurer on time and for many years—and have those payments be insufficient to keep the policy in force for the rest of their lives. The point is that it was not sufficient to pay the originally billed premium when interest rates were significantly higher. What they should have done was adjust the premium each year based on the current interest rate. In the case of a variable life insurance policy, the performance results of their underlying investments should have been evaluated quarterly or annually. And if there was a shortfall of the anticipated investment results, they should have paid more premium dollars into the life policy.

The successful or unsuccessful transfer of assets earmarked for the next generation will also directly affect the type of relationship you will have—or not have—as the adviser for the next generation of your current clients. It's far better to go to your client with a word of advice suggesting that they proactively review their life insurance portfolio rather than have them come to you after the policy expired to inquire as to why you didn't warn them beforehand.

The attorney played a vital role in encouraging and assisting your clients to initiate or update their will or trust. He or she may have provided your client and their trustee with an exculpatory clause so that your clients' son or daughter, acting as an amateur trustee, will steer clear of any liability for the loss of their beneficiary's monies. A well-thought letter of instruction advising the trustee as to exactly how the grantor would have liked certain matters to be handled can also be a very useful tool after the grantor is gone.

As an accountant, you have an ongoing relationship with your client—one in which you likely set up their Crummey letters, concurred that they required the coverage, and determined that they had adequate cash flow to pay for the premium. But unless you also provided the amateur trustee with an ongoing monitoring system and performance evaluation services, you have not helped them avoid the ultimate erosion of their beneficiary's portfolio. Rather than relying on exculpatory clauses, perhaps the best thing you can do is provide your clients' children with instructions as to how they can obtain the information and guidance they'll need to avoid any type of preventable loss of their life insurance proceeds. Your client values your opinion and trusts your advice—if they didn't, that client would not pay your fees.

Your clients look to you to protect them from anything financial, so how might you explain the loss of an anticipated significant death benefit of an individually owned or trust-owned life insurance policy as a result of miscommunication or neglect by a client's family member? Life insurance can do much for estates of any size, but it does not come with an automatic self-manage function. That piece must be built into every non-guaranteed life insurance policy purchased between the early 1980s and 2003—at which point universal life policies began being offered with a guarantee. This also holds true for the non-guaranteed variety of life products still being offered today—for example, Indexed Universal Life policies (IUL).

Your client's son or daughter is probably not familiar with how their parents' life insurance policy works—nor are they comfortable talking about the subject. It's important that you, as their adviser, take a proactive role and advocate for the next generation by ensuring that your client is aware that reduced sustained interest rates and neglect are not the only causes of a policy expiring prematurely. Today, we must also be concerned with what I call the life insurance industry's "perfect storm," in which many insurance companies have begun to raise the internal cost of insurance (COI) for the first time, thus further exacerbating an already deteriorating situation that adversely affects the duration of the grantor's life insurance coverage. Keep in mind that a performance evaluation report provides a trustee with much needed information. And the sooner the problem is brought to the attention of the client, insured, owner, trustee, grantor, or beneficiary, the more options they will have available and the less costly it will be for them to resolve their life insurance coverage issues.

older and may not medically qualify for an amount of life insurance necessary to satisfy their estate tax needs.

The client's CPA is truly in a position to advocate for the next generation and help the trustee delegate and obtain the necessary expert guidance they'll require to not only prevent a life insurance policy they're responsible for from expiring prematurely, but also to evaluate the ongoing transaction through the same transparent lens they use to evaluate their investment and or real estate portfolio. The tools to evaluate performance and fees and plot them against other comparative index grids are already in place. It's up to you—the client's most trusted adviser, the one they see on an annual basis, and the one that can truly advocate for and protect the life insurance assets allocated for the next generation so they can arrive as initially anticipated. Keep in mind that if you don't advocate by guiding, delegating, and assisting your client's children to do their job, there's a very good chance that no one else will.

Henry Montag, CFP, has been in practice since 1976 with offices in Long Island and New York. He is a principle of The TOLI Center East, which provides independent consultative fee-based life Insurance performance evaluations for trustees, their adviser's, and high net worth individuals regarding the protection of individual or trust-owned life Insurance. He has authored articles for the New York State Bar Association (NYSBA), the TaxStringer, Tax Facts, Trusts & Estate magazine, NcCPAp & the Women's Bar Assoc. He has lectured extensively on the proper utilization of financial products to the NYSBA, NYSSCPA, AICPA, the National Conference of CPA Practitioners, and Financial Service Professionals. He has been a source for The Wall Street Journal, Investor's Business Daily, Investment News, Long Island Business News, Newsday and was featured in Financial Planning. He also appeared on Fox Business News, News 12, & Wall Street Week. He most recently co-authored a book for the American Bar Association in November 2016, "The Advisors' and Trustees' Guide to Managing Risk and Avoiding a Client Crisis."



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The Senior Lawyer



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Avoiding Consequential Liabilities for Trustees of Trust-Owned Life Insurance

By Henry Montag, CFP

The following is an update to an article which appeared in the Spring 2014 edition of *The Senior Lawyer*.

Low interest rates over recent years, combined with neglect on the part of the private owners and trustees, have resulted in an increasing number of non-guaranteed life insurance policies expiring prematurely. The majority of these policies were purchased from the mid-1980s to 2003. The primary reason can be traced back to the early 1980s when prevailing interest rates were 18% to 19% and there were only two types of life insurance policies available:

- Term Life Insurance, in which a specific dollar amount of life insurance was guaranteed to remain in force for a specific period of time and at a specific guaranteed premium, and
- Whole Life Insurance, which was guaranteed to remain in force for the life of the insured as long as he or she paid the stated premium on time. These Whole Life policies contained a tax-deferred accumulation account known as Cash Value, which earned 3% annually.



Universal Life Insurance Policies

With high interest rates in the early 1980s, buyers of life insurance who wanted permanent coverage chose to buy Term Life and invest the difference in other guaranteed investments, as an alternative to Whole Life policies that were only paying 3%.

In 1982, E.F. Hutton Life was the first insurer to combine the two elements, term insurance and an investment component, into a single policy originally called "Total Life," then "Complete Life." By 1983, nearly every major life insurance company offered a "Universal Life" policy.

While the product was designed to pay a competitive interest rate similar to bank accounts and certificates of deposit, its largest drawback was that, unlike its predecessors, a Universal Life policy was not guaranteed to last for the rest of one's life. Instead, policy owners assumed 100% of the responsibility for policy performance. It was up to them to make certain that the policy was adequately funded so that it would remain in force for the rest of their lives.

The Problem

As a result of sustained low interest rates and unintended neglect on the part of owners who owned a policy outright rather than through a trust, or the sons and daughters who acted as accommodation trustees for their parents irrevocable life insurance trusts, as well as the trusted friend or professional adviser acting as a trustee, Universal Life policies are expiring seven to nine years earlier than originally anticipated. It's now apparent that neither many of these owners, nor the Insured, nor the accommodation trustees were aware that they were solely responsible for the performance of their non-guaranteed policies and did not know that they should have increased premium payments to make up for the lower than anticipated earnings caused by reduced interest rates. They treated their policies as Buy and Hold, rather than as Buy and Manage assets.

Solutions

Many grantors, trustees and their advisors mistakenly believe that the life insurance agent or broker is watching over their policy to make certain that it does not lapse. Others believe that the insurance company itself will make sure that premiums are collected so that the policy does not lapse.

However, it is an agent's or broker's role to market and distribute the policy. It is the company's role to administer bills and issue an annual report indicating where the policy stands. It is exclusively the trustees' or private owners' duty to manage the policy to make certain they are not paying more in expenses than they should and that a sufficient premium is paid to keep the policy in force, up to and beyond the insured's normal life expectancy.

When the policy has not been appropriately managed by the private owner or trustee, corrective action involving these options is available to them:

- Increase the premium to maintain the death benefit to a desired age,
- Reduce the death benefit to achieve same results,
- Attempt to exchange to a more competitive policy,
- Consider a "life settlement," a sale at a higher valuation than the cash value (explanation of life settlement on next page),
- A combination of all or some of the above.

Considering these options, what's the best way for an insured or trustee to proceed?

As a first step, they have to inform themselves of the facts and discover whether the policy is in fact a non-guaranteed policy that may be in danger of expiring prematurely. If it is, intervention is needed and the logical source for assistance is a tax or legal advisor, working in conjunction with an experienced Independent life insurance consultant, who would conduct an independent performance evaluation of the policy. To avoid fixing a problem by creating another problem, a request for proposal process should be used to assure that an objective, unbiased consultant is engaged and credible policy evaluation is provided.

The next step is to develop a risk management plan as follows:

1. Formalize a "Trust Owned Life Insurance Investment Policy Statement" that:

- Updates the trustees' / beneficiaries' current death benefit requirement.
- Summarizes the trust's parties and their respective responsibilities.
- Sets out trustee risk management criteria for carrier and product suitability.
- Identifies the life insurance product and policy evaluation duties.



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The Life Insurance Policy Crisis:

The Advisors and Trustees Guide to Managing Risks and Avoiding a Client Crisis

by E. Randolph Whitelaw and Henry Montag

For many years, life insurance was considered one of the most ethical and stable financial services businesses. But this reputation gradually changed. Today there is a life insurance policy crisis and it requires attention in order to avoid policy lapse without value along with allegations of deceptive and misleading practices.

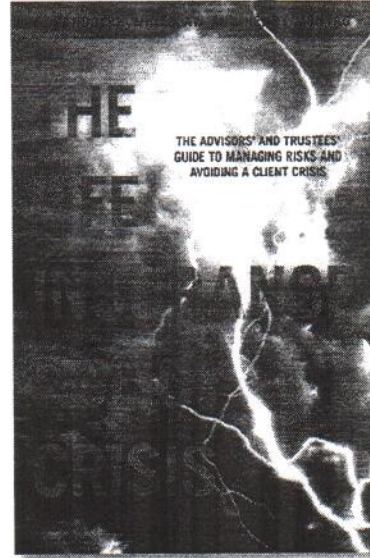
The Life Insurance Policy Crisis pulls back the veil on this looming crisis, and explains the solutions for fixing it. Authors E. Randolph Whitelaw and Henry Montag bring their 75 years of combined experience to explain the intervention process trusted advisors can recommend to policy owners to avoid unexpected lapse, obtain creditable fact-based risk management, and ensure a favorable planning outcome.

Topics include:

- A history of the lapsing life insurance policy crisis
- A fresh look at the sustainability of existing policies
- Reforms that can help all policies remain solvent
- Best practices in litigating against the predatory practices of the life insurance industry

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