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Life Insurance Industry Needs CPA-Quality Advice More Than Ever

By Barry Flagg, Dave Buckwald, and
Brad Sprong

Certain best practices and ethical standards from the certified public accountant profession could greatly benefit life insurance policy issuers and policy holders alike, say life insurance advisors Barry Flagg, Dave Buckwald, and Brad Sprong.

Power of Life Insurance, Wisdom of CPAs

Recent legislation significantly changed estate tax planning by ending the ability for one to “stretch” out retirement benefits over a longer period than the life of the decedent. Separately from this, beginning in 2026 an individual’s lifetime exemption will revert from its current \$12.9M back to where it stood before the 2017 Tax Cuts and Jobs Act, about half that amount. These two factors, and others, compel advisors to review wealth transition plans and consider various ideas for developing such plans.

Life insurance is a powerful vehicle to help stabilize families at a time of crisis and despair. It can provide benefits such as:

- **Tax-free death benefits.** I.R.C. [§101\(a\)\(1\)](#) states in general that “gross income does not include amounts received under a life insurance contract, if such amounts are paid by reason of the death of the insured.”
- **Tax-deferred growth of cash values.** Cash value increases in a life insurance policy are not taxed to the policyholder as long as the policy remains in force (*Theodore H. Cohen v. Commissioner*, [39 T.C. 1055](#), 1056 (1963); *Abram Nesbitt, II v. Commissioner*, [43 T.C. 629](#) (1965); Reg. [§1.446-1\(c\)\(1\)\(ii\)](#)).
- **Non-taxable withdrawals.** Withdrawals from life insurance contracts that are not modified endowments, are treated as a withdrawal of basis first, and are taxed only to the extent that they exceed basis ([§7702\(f\)\(7\)\(B\)\(iii\)](#)).
- **Non-taxable loans and possible exemption from estate taxation.** Loans from in-force insurance policies that are not modified endowments, are received income tax free ([§72\(e\)\(5\)\(A\)\(i\)](#)). The tax preferences of a life insurance policy make it critical for clients to consider life insurance policies as part of their wealth transition plan.
Certified Public Accountants (CPAs) may be called upon to assist their clients with advice on understanding the performances and tax consequences of such investments. While CPAs should not provide investment or legal advice, the common practice of scanning policy illustrations to select likely outperformers should give way in favor of a more in-depth understanding from the CPA profession.

Filling the Gap in Insurance Regulation

The life insurance industry has a long history of promoting life insurance products in response to various regulatory and non-regulatory events. However, costs charged inside cash value life insurance policies can often negate the benefits these policies are designed to address.

In addition, current regulations in most states permit agents, brokers, and insurers to “quote” low premiums while charging steep costs and not disclosing the even steeper risks of additional premium calls or policy lapses. Therefore, the traditional exercise of comparing quoted premiums or illustrated cash values under the National Association of Insurance Commissioners (NAIC) Illustrations Model Regulation is insufficient.

CPA-Quality advice, as defined by the AICPA Code of Professional Conduct, can fill this life insurance gap. The AICPA Code of Professional Conduct requires CPAs to:

1. Be guided by their principles, ensuring “clients’ interests are best served [when] members . . . serve the public interest [by] resolving conflicts . . . with integrity, . . . objectivity [and] independence.”
2. Provide Due Care by “requir[ing] . . . competence and diligence . . . to render services . . .

carefully [and] thorough[ly according to] applicable technical and ethical standards,” and

3. Review sufficient relevant data “to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.”

Many CPAs struggle to apply these principles to life insurance product evaluations and recommendations, because decision-support for life insurance product recommendations has been governed by NAIC Life Insurance Illustrations Model Regulation #582 (as adopted by each state), which lacks several elements of the AICPA Code of Professional Conduct principles considered above.

Specifically, NAIC’s model regulation doesn’t require disclosure of *any* data as to costs, performance, or risk. Therefore, following NAIC’s model regulation won’t generate sufficient relevant data for a diligent selection or a reasonable basis for product recommendations or decisions regarding life insurance policies.

Best Interests: A Better Way

To assist the CPA, among other interested parties, both the federal Securities and Exchange Commission (SEC) and the New York Department of Financial Services (NY DFS) have issued “best interest” rules for life insurance product recommendations. These are more consistent with the AICPA Code of Professional Conduct and other fiduciary guidelines. The purpose of its guidelines, along with the SEC Regulation Best Interest (SEC Reg BI), is to require more than NAIC illustration comparisons as decision-support. (Attorneys for the life insurance industry lobbied to “expressly include” illustration comparisons, but NY DFS rejected this request.) Instead, product recommendations should be based on costs that are justified, performance that is reasonable, and risks that are appropriate to relevant suitability information, and made with the care, skill, prudence, and diligence of a prudent person, considering only the interests of the consumer.

SEC Reg BI imposes a Disclosure Obligation for costs (i.e., product-level fees), the largest of which is cost-of-insurance (COI) charges, which are not disclosed in either the product prospectus or a NAIC-compliant illustration. SEC Reg BI also includes a “Care Obligation” requiring reasonable diligence, care, and skill in making product recommendations.

Defining a client’s best interests for life insurance product recommendations in terms of costs, performance, and risk is well established as the appropriate methodology. The Financial Industry Regulatory Authority, which issued IM-2210-2(c), asserts that it is inappropriate to compare a life insurance policy with another product based on hypothetical performance. To back up policy illustrations, any comparison must disclose all material differences, which could include investment objectives, costs and expenses, liquidity, safety, guarantees or insurance, and the risk of fluctuation of principal or return. Omitting any of these considerations might cause communications to be misleading, according to FINRA Rule 2210(d).

Inappropriate Illustrations

Why are illustration comparisons so unreliable? Let’s look at an example.

Below are illustrations for two different products: a traditional universal life (UL) policy and an indexed universal life (IUL) policy with some stock market participation. Such illustrations are routinely used to imply or suggest that low premiums are a proxy for low costs.

However, let’s review excerpts from the actual insurer-generated illustrations showing anticipated costs as well as earned interest calculated at a 5.0% assumed rate. As you can see in Figure 1, the UL product charges \$30,463 in premium loads, \$122,760 in fixed administration expenses (FAEs), and \$991,804 for COI charges, totaling of \$1,145,027 through policy year 50. (Figures 1-4 courtesy One Team Financial.)

Figure 1

Based on Current Charges and an initial Current Rate of 5.05%

Policy Year	Planned Premium	Premium Charge	Admin/ Contract Charges	Insurance Charges	Amount Credited	Policy Value	Surrender Charge	Net Surrender Value
41	0	0	2,455	38,017	47,979	225,463	0	225,463
42	0	0	2,455	42,873	52,697	232,832	0	232,832
43	0	0	2,455	48,330	57,973	240,019	0	240,019
44	0	0	2,455	54,482	63,888	246,970	0	246,970
45	0	0	2,455	61,409	70,478	253,584	0	253,584
46	0	0	2,455	69,049	77,748	259,828	0	259,828
47	0	0	2,455	77,499	85,757	265,631	0	265,631
48	0	0	2,455	86,918	94,678	270,936	0	270,936
49	0	0	2,455	97,330	104,532	275,683	0	275,683
50	0	0	2,455	108,672	115,285	279,841	0	279,841
Totals:	169,240	30,463	122,760	991,804	1,255,628			

On the other hand, the insurer with the IUL product represents it will charge a total of \$822,421: \$15,252 in premium loads, \$4,500 in administration and rider

charges, \$372,677 in FAEs, and \$429,992 in COIs over 50 years, as shown in Figure 2.

Figure 2

Non-Guaranteed Values (EOY) @ 5.00%

Yr	Age	What You Pay	What We Deduct					What is Added	What Your Policy Values Are			
		Premium Outlay	Non-Guaranteed Premium Loads	Admin and Rider Charges	Non-Guaranteed Coverage Charge	Non-Guaranteed Cost of Insurance	Total Charges	Interest Credit	Accumulated Value	Policy Surrender Charge	Cash Surrender Charge	Alternate Accum Value
41	85	0	0	-90	-6,562	-16,425	-23,076	39,891	666,610	0	666,610	78,244
42	86	0	0	-90	-6,562	-17,339	-23,991	40,722	683,340	0	683,340	62,193
43	87	0	0	-90	-6,562	-18,307	-24,958	41,536	699,918	0	699,918	44,844
44	88	0	0	-90	-6,562	-19,321	-25,973	42,330	716,276	0	716,276	26,123
45	89	0	0	-90	-6,562	-20,355	-27,006	43,101	732,371	0	732,371	5,983
46	90	0	0	-90	-6,562	-21,402	-28,053	43,846	748,163	0	748,163	0
47	91	0	0	-90	-6,562	-22,794	-29,445	44,660	763,378	0	763,378	0
48	92	0	0	-90	-6,562	-24,218	-30,869	45,324	777,833	0	777,833	0
49	93	0	0	-90	-6,562	-25,630	-32,282	46,046	791,597	0	791,597	0
50	94	0	0	-90	-6,562	-26,894	-33,546	46,614	804,666	0	804,666	0
Total		258,500	-15,252	-4,500	-372,677	-429,992	-882,421	-1,368,587				

Note that the \$169,240 premium outlay for the UL policy (Figure 1) is much lower than the illustrated amount for the IUL policy (Figure 2: \$258,500). That doesn't make sense if the UL policy's total costs are much higher than those of the IUL policy — \$1,145,027 vs. \$822,421 — as revealed above.

The answer, as often is true in policy illustrations, is that the amount of assumed interest credited is not as it appears. Thus, CPAs should look closely at policy costs separate from the interest component.

Interest credited to a policy in any given year will be calculated starting with the end-of-prior-year policy account value, adding new premium contributions, deducting COIs and policy expenses, and then multiplying that result by the applicable interest rate. For instance, the interest credited on an account of \$110,000, plus \$0 in premiums, less \$9,000 in COIs and expenses, would be a little over \$5,000 at the 5.00% rate indicated in the illustrations here.

However, the amount shown to be calculated and credited in these UL and IUL policies is hardly 5.0%. As revealed in Figure 3, the account value of the UL policy is projected to be \$110,461 at the end of policy year 25. Adding premium contributions of \$0 and subtracting \$9,137 in total policy costs (\$0 in premium

loads, \$2,455 in FAEs, and \$6,682 in COIs) would bring us to \$101,324. Ignoring such math, the UL illustration shows the account value growing to \$115,493. The amount credited is shown as \$14,170, which at almost 14% is nearly triple the 5.0% supposedly assumed.

Figure 3

Based on Current Charges and an Initial Current Rate of 5.05%

Policy Year	Planned Premium	Premium Charge	Admin/Contract Charges	Insurance Charges	Amount Credited	Policy Value	Surrender Charge	Net Surrender Value
21	0	0	2,455	3,824	6,091	116,703	0	116,703
22	0	0	2,455	4,252	6,068	116,065	0	116,065
23	0	0	2,455	4,745	6,020	114,884	0	114,884
24	0	0	2,455	5,313	5,940	113,057	0	113,057
25	0	0	2,455	5,964	5,823	110,461	0	110,461
26	0	0	2,455	6,682	14,170	115,493	0	115,493
27	0	0	2,455	7,432	16,281	121,887	0	121,887
28	0	0	2,455	8,309	17,377	128,500	0	128,500
29	0	0	2,455	9,309	18,583	135,319	0	135,319
30	0	0	2,455	10,429	19,899	142,333	0	142,333
Totals:	169,240	30,463	73,656	97,996	175,208			

Similarly, Figure 4 shows the account value of the IUL policy is projected to be \$392,777 at the end of policy year 25; in year 26, policy costs are expected to be \$15,470, which would drop the value to \$377,307.

To reach the accumulated value of \$408,904 at the end of year 26, as shown in Figure 4, the interest

credit for year 26 is put at \$31,597. However, the \$31,597 shown to be credited on \$377,307 is clearly *not* 5.0% but instead closer to 8.0%. Although the degree of exaggeration of interest earnings in the IUL policy is less than in the UL product, the comparison of illustrations is clearly *not* “apples-to-apples.”

Figure 4

Non-Guaranteed Values (EOY) @ 5.00%

Yr	Age	What You Pay	What We Deduct				What Is Added	What Your Policy Values Are				
		Premium Outlay	Non-Guaranteed Premium Loads	Admin and Rider Charges	Non-Guaranteed Coverage Charge	Non-Guaranteed Cost of Insurance	Total Charges	Interest Credit	Accumulated Value	Policy Surrender Charge	Cash Surrender Charge	Alternate Account Value
21	65	0	0	-90	-8,748	-3,955	-12,793	27,201	331,811	0	331,811	210,775
22	66	0	0	-90	-8,748	-4,433	-13,271	28,013	346,553	0	346,553	210,419
23	67	0	0	-90	-8,748	-4,957	-13,795	28,914	361,672	0	361,672	209,526
24	68	0	0	-90	-8,748	-5,530	-14,368	29,762	377,066	0	377,066	208,037
25	69	0	0	-90	-8,748	-6,155	-14,993	30,704	392,777	0	392,777	205,885
26	70	0	0	-90	-8,748	-6,632	-15,470	31,597	408,904	0	408,904	203,208
27	71	0	0	-90	-8,562	-7,111	-13,763	30,061	425,202	0	425,202	199,994
28	72	0	0	-90	-8,562	-7,611	-14,263	31,016	441,955	0	441,955	196,210
29	73	0	0	-90	-8,562	-8,127	-14,779	31,987	459,163	0	459,163	191,828
30	74	0	0	-90	-8,562	-8,663	-15,314	33,036	476,885	0	476,885	186,818
Total		258,600	-16,262	-2,700	-241,445	-95,399	-354,796	-673,181				

The above review is not an isolated example of unreliable illustration comparisons, and the authors strongly encourage the CPA to review carefully these illustrations.

Alternative Avenues

According to Veralytic Research, which offers fiduciary-oriented advisors tools for measuring the competitiveness of internal policy costs and the reasonableness of performance expectations against the universe of peer-group alternatives, the pricing and performance of all cash value life insurance products is a function of just a few factors:

- Cost of insurance charges (COI) for death benefit claims;
- Policy Expenses (E) for policy design, underwriting, distribution and administration; and
- Investment gains and/or interest income (i%) credited to policy cash values in excess of COIs and E.

In other words, premiums are always based on the following formula in minimum — premium defined — death — benefit policy designs, and policy performance is always based on the following formula in maximum — accumulation defined — contribution policy designs:

Figure 5

$$\text{Premiums/Performance} = \text{Cost-of-Insurance Charges (COI)} + \text{Policy Expenses (E)} - \text{Policy Interest/Earnings (i\%)}$$

This formula can be used to evaluate the pricing of either proposed coverages or in-force policies (the insurance policy’s premium has been paid, and coverage now applies to the policyholder). First, separate policy costs into either COIs or policy expenses (E). Then, group expenses as (1) FAEs, (2) cash — value — based “wrap fees” (Mortality & Expenses, or M&Es), or (3) premium loads.

Because these costs vary from year to year, resulting in hundreds of cost figures that are difficult to evaluate or compare, such evaluation and comparison

becomes much more practical when “normalized” to account for differences in amounts and timing. This normalization of varying policy charges computes a single value for each pricing component by adjusting for differences in timing at the rate of interest/earnings at which the policy cash values would otherwise grow, if not for the deduction of the given charge(s). Normalized values can be compared with industry benchmarks for each pricing component. (See Figure 6, courtesy of Veralytic.)

Figure 6

Cost of Insurance (COI) Charges				Policy Expenses			Premium Loads				
	Policy Under Evaluation	Institutional Pricing Benchmark	Benchmark for All Policies	% of Cash Value	Policy Under Evaluation	Institutional Pricing Benchmark	Benchmark for All Policies	% of Premium	Policy Under Evaluation	Institutional Pricing Benchmark	Benchmark for All Policies
Weighted-Average Annual COI	\$13,166	\$12,940	\$14,734	M&E Risk %	0.05	0.55	0.60	State Tax %	2.35	2.35	2.35
				Other %	0.00	0.00	0.00	Fed DAC Tax %	1.50	1.50	1.50
				Total %	0.05	0.55	0.60	Carrier %	0.00	0.00	0.00
				Loan Spread %	0.75	1.00	2.00	Load(s):	0.00	0.00	0.00
				Fixed Charges				Sales/Service %			
				Per Policy Yr	\$2,529	\$1,728	\$1,728	Load(s):	3.15	3.65	3.65
								Total %	7.00	7.50	7.50

The practice of benchmarking is well established in the financial services industry: the performance of an

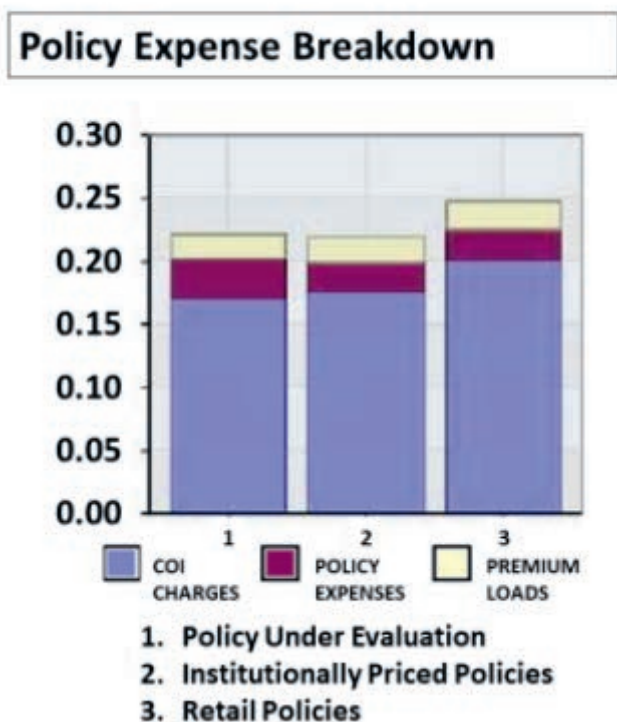
investment is compared to a standard, independent point of reference. Thus, the performance of a mutual

fund may be compared with the Dow Jones Industrial Average, the S&P 500, the NASDAQ, or the Wilshire 5000, depending on the fund's objective.

In the same vein, comparing a given life insurance product's COIs and expenses to industry standard mortality tables and industry aggregate expense ratios reveals actual cost competitiveness or excessiveness. Such comparisons of costs to benchmarks is consistent with prevailing practices in other segments of the financial services business, is compliant with FINRA Rules, and is a value-add for CPAs.

For instance, to understand the competitiveness of total costs relative to the universe of peer-group alternatives, normalized costs can be calculated relative to death benefits (which can fluctuate over time and/or be different among different products), and are then compared to industry benchmarks. (See Figure 7, courtesy of Veralytic, which shows the present value of all policy costs per dollar of death benefit over the expected policy holding period.)

Figure 7



Measuring aggregate costs per dollar of death benefits, relative to benchmarks, also provides insights as to the relative impact and fairness of individual pricing components on overall policy pricing. As shown in Figure 7, COIs typically comprise 85% of total costs, whereas policy expenses and premium loads make up 15% of the total.

A characterization of these costs is as follows:

- COIs are deductions from permanent life insurance policies to cover anticipated payments for death claims.
- Policy expenses include FAEs, which are typically charged for actuarial design, underwriting, new business processing, service and administration.
- Premium loads, which are calculated as a percent of premiums paid in a given year, typically range between 0% and 35%.

Reasonableness of Performance Expectations

Past performance won't guarantee future results, but the reasonableness of performance expectations is a function of historical performance of cash value investment options. Such choices should have acceptable levels of risk, expense ratios, and diversification.

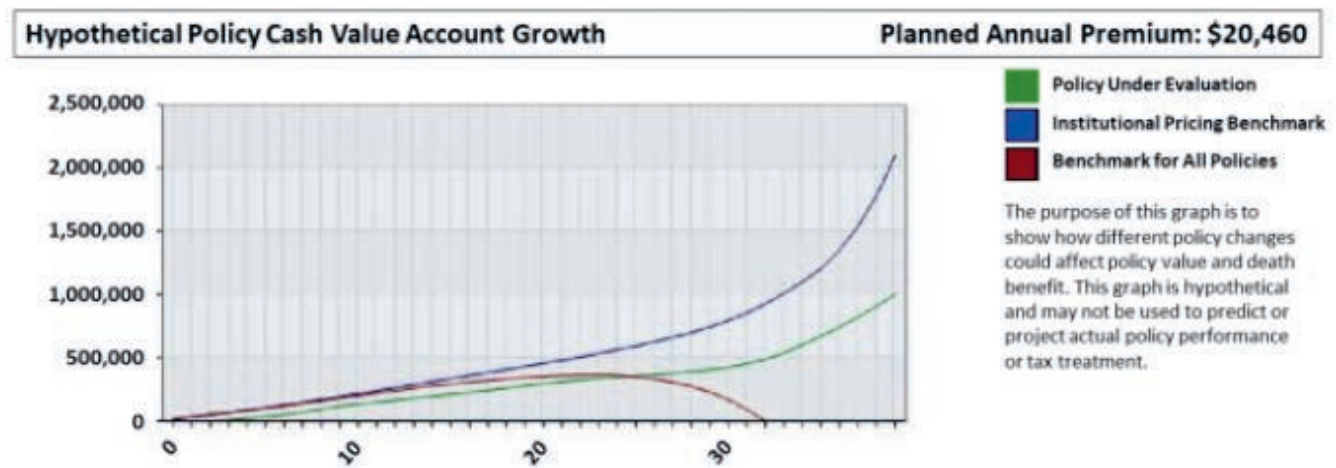
Policy account values in traditional products are invested in the insurer's general account. Here, insurers invest predominantly in fixed-income securities such as high-grade corporate bonds and government-backed mortgages. Traditional products include all forms of universal life insurance and whole life, where investment expenses generally are not disclosed.

Policy account values in variable products are directed by the policy owner among a family of mutual fund—like separate accounts. Typical options include domestic and foreign stock funds, domestic and foreign bond funds, a money market account, and a fixed account that might be similar to the insurer's general account.

Neither cash value-based investment expenses, cash value-based insurance expenses (M&Es), nor life insurance policy earnings are generally illustrated in a consistent manner. Therefore, it's vital for CPAs to understand differences between the rate of return shown in illustrations versus the actual rate of return that is reasonable to expect. Appendix A outlines the key terms policy illustrations may show.

The availability of cash value is also an element of suitability. Cash value, or cash surrender value (CSV), is the amount available to the policyholder for withdrawal or upon policy termination, after the surrender charge. All other factors being equal, the higher the accessible cash value after the deduction of cost of insurance charges, policy expenses, and contingent surrender charges, the more suitable the policy. As such, measuring cash value accessibility against benchmark average cash values is useful in determining which products are in the client's best interest. (See Figure 8 for an example measurement of accessible cash values, courtesy of Veralytic.)

Figure 8



Risk Considerations

Although the premium is often misconstrued as the price/cost of a life insurance policy, that's not the case. Instead, the price/cost is the sum of the expenses deducted from the premium/contribution. As such, the stability of the planned premium payments in a minimum premium defined death benefit policy design, and/or the reliability of projected benefits in a maximum accumulation defined contribution policy, is always a function of the following formula:

$$\text{Premiums/Benefits} = \text{COIs} + E - i\%$$

If costs are greater than expected or interest/earnings are less than expected, additional premiums will be required to maintain expected benefits. Alternatively, expected benefits will be reduced or lost. Therefore, due diligence for product recommendations should consider whether (a) expected cost of insurance charges are consistent with mortality experience, (b) expected policy expenses are consistent with operating experience, and (c) expected policy interest/earnings are consistent with historical performance.

For example, traditional "fixed products" (universal life and whole life) are required to invest assets underlying policy cash values predominantly in high-grade corporate bonds and government-backed mortgages. As such, the policy interest crediting rate for universal life products and the dividend interest crediting rate for whole life products will generally correlate over time with the 5.0% historical rate of return on such assets.

However, NAIC Model Regulations permit illustrations to assume interest crediting rates as high as 14.0%. These assumed rates are generally guaranteed for one year or less (considerably less than the expected holding period for permanent policies), and be-

cause insurers routinely change declared interest rates, proper due diligence requires looking beneath the current policy crediting rate to consider both historical performance of both invested assets underlying policy cash values and corresponding asset class benchmarks.

Likewise, NAIC-compliant illustrations permit policy earnings assumptions as high as 12.0 % for variable products such as variable life and variable universal life insurance. That's without regard to the actual asset allocation appropriate to the risk profile of the client. Thus, a careful review of such illustrations is warranted by the CPA for reasonableness, comparison of products and related tax consequences.

CPA-Quality Advice for Life Insurance

With life insurance likely to become more common in estate tax planning strategies, there is a growing need for CPA-Quality advice on policy selection and retention. As mentioned above, it is important to remember that CPAs do not provide investment or legal advice, but they should work in tandem with other appropriate advisors and base recommendations on a careful, skilled, prudent, and diligent evaluation of tax consequences, costs, performance, and risks relative to benefits.

If there was ever an asset on a client's balance sheets needing CPA-Quality advice, life insurance is it and now is the time for CPAs to provide this quality advice.

Appendix A

Key terms policy illustrations may show:

Gross Rate. The *gross* policy interest/earnings rate is that rate of return credited to policy cash values reported *before* deduction of *investment*—related fund

management expenses (FMEs) and *before* deduction of cash-value-based *insurance* expenses. The gross rate is typically disclosed in variable life products but not in traditional universal life or whole life products. The reporting of the gross policy earnings rate is somewhat unique to life insurance products as rates of returns for investment products are often reported net of FMEs.

Net Rate. The *net* policy interest/earnings rate is that rate of return credited to policy cash values reported *after* deduction of *investment*—related FMEs, but before deduction of cash value-based *insurance* expenses. Therefore, this net rate equals the gross rate minus FMEs, and as such is most closely analogous to the *investment rate of return* on policy cash values. (Universal life policy interest crediting rates and whole life dividend interest crediting rates are generally reported *after* deducting investment expenses.) This net rate is also consistent with mutual funds’ reporting of earnings *after* the deduction of related investment expenses and is therefore most useful in comparing performance outcomes for different life insurance or other financial products.

Net-Net Rate. The *net-net* policy interest/earnings rate is that rate of return credited to policy cash values reported *after* deduction of *both* investment FMEs and cash value-based insurance wrap fees such as

M&Es. This net—net rate equals the net rate minus M&Es, reflecting the rate of return reported on policy cash values after all cash value-based fees. It also can be referred to as the policy rate of return: the rate of return on policy cash values after deduction of investment and insurance wrap fees.

The net—net rate is the rate of return at which cash values would otherwise grow but for the deduction of all other policy expenses such as COIs, FAEs and premium loads. Thus, it’s the most useful metric for accounting for differences in the timing and amount of different charges in different policies.

Some practitioners may suggest using a gross rate rather than a net rate for accurate policy comparisons. However, the use of a consistent gross rate is valid only when the appropriate cash value allocation is known and made consistent for all products under evaluation.

For instance, consider a comparison of performance and costs between two products with 8.0% gross rates of return but different holdings and fees, as shown in Figure 9 (courtesy of Veralytic). Product A’s cash value allocation is balanced between income and equity asset classes with an average FME of 1.00%. Product B allocates 100% of its cash values to a stable value account with FMEs of 0.25%.

Figure 9

	Product A	Product B
Gross Rate	8.00%	8.00%
Less Investment Wrap-Fees (FMEs)	1.00%	0.25%
Net Rate	7.00%	7.75%
Less Insurance Wrap-Fees (e.g., M&Es)	0.75%	0.75%
Net-Net Rate	6.25%	7.00%

As shown, comparing performance based on a consistent gross rate, but without knowing and making consistent the cash value asset allocation, can result in understated investment expenses and overstated policy performance. In addition, if the asset allocation changes over time, changing investment expenses, and if separate account funds are frequently added to and deleted from a given product, in turn changing investment expenses, comparing performance based on a consistent gross rate will produce inconsistent results. On the other hand, cash value-based insurance expenses are set at the time of policy issue and do not change from that pre—set schedule. Thus, comparing performance based on a consistent net rate will produce consistent results over time.

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