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Winged Keel Group Insights

Sounding the Alarm: Client Lawsuits Highlight Concerns Regarding Index Universal Life and Financed Life Insurance Plans

Winged Keel Group Insights is a publication designed to educate and build awareness around life insurance topics and solutions that may address certain needs of your clients and their multidisciplinary goals.

On October 28, 2025, NASCAR legend Kyle Busch, issued a statement to "sound the alarm" on a "hidden insurance scam" that allegedly cost his family millions.

In a press release and a video shared on social media, Busch referenced a structure pitched as "smart retirement planning" and a way to "set up your children's future." It involved the purchase of Indexed Universal Life (IUL) policies that fell short of projections and alleged misrepresentations and omissions regarding policy performance, risks, and volatility.

Also, in a recent case in Montana, a judge allowed a lawsuit to move forward where a family purchased two premium-financed life insurance policies ($67.5 million in insurance benefit), only to see the policies perform poorly once cap rates were reduced and interest rates surged in 2023. According to the complaint, in 2025, the debt amount on the loans used to pay policy premiums was $8 million higher than the policy values.

These cases share common elements: an alleged lack of transparency from advisors regarding the impact of volatility and non-guaranteed cap rates on policy performance, aggressive sales proposals, and clients who are very unhappy with the state of their policies.

The Winged Keel Group Insight from October 2023 addressed this very topic, offering perspective on non-guaranteed cap rates and rising inflation, and the potential negative long-term effects on IUL transactions. The piece also highlighted concerns regarding estate planning strategies that use "premium-financed" life insurance policies, or life insurance policies funded by loans from third-party lenders where the cash value of the policies secure the loan.

Learning from the two cases above, clients should be wary of aggressive and complicated sales proposals, especially if they promote "free insurance" or the results appear "to be good to be true." We continue to see instances of clients being shown premium-financed life insurance proposals with unrealistic long-term assumptions and a lack of downside risk disclosures. Clients should review these proposals with skepticism and review existing premium-financed arrangements in the current and evolving macroeconomic environment.

It is especially important to reassess the return assumptions based on reduced cap rates and the use of leverage where the loan arbitrage may have illustrated a positive spread at inception and has turned neutral or negative in the short-term (and potentially beyond).

What Happened, What Now

Generally speaking, current and illustrated policy crediting rates do not look as favorable today as they once did for many IUL policies, the life insurance product most commonly used in premium-financed arrangements. The largest driver of this underperformance is reduced cap rates. Where most current cap rates were between 11% and 13% in 2018 or 2019, those caps are generally between 6% and 11% today, and in most instances the carriers have the ability to drop them to as low as 3%. When you couple this with a normalization of interest rates starting in late 2022, a very large percentage of financed IUL transactions are underwater, with a low probability of escaping this negative cycle.

In 2023, Winged Keel Group asked this question: Will these two concurrent and convergent trends lead to a perfect storm for premium-financed life insurance? Recent legal action, which details higher interest accruals and policy performance falling well short of projections, seems to have answered the question with an emphatic "yes."

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With a high-profile client sounding the alarm, those considering a premium-financed IUL policy should certainly pause and make sure there is a clear understanding of the complexity of the structure. Clients with financed IUL policies in place should, at a minimum, carefully review their policies to better understand the current state and what options they have going forward.

Assumptions Made at Plan Inception

To support advisors and clients in these efforts, we want to reiterate key points made in our 2023 article.

While all premium-financed IUL policies are unique and nuanced in certain aspects, the success or failure of these arrangements is based on these three central elements:

1) Assumptions used at plan inception
2) Policy crediting rates (e.g., current and guaranteed cap rates and floors)
3) Loan borrowing rates

While there are many modelling assumptions that go into a premium-financed life insurance plan, there are several key assumptions that are central or salient:

- **Insurance Policy Assumptions:** Were the earnings/crediting rates of the policy stress tested based on reduced cap rates? If not fixed, were the internal policy charges and loan expenses stress tested?
- **Collateral Requirements:** How will the loan be secured? For a financed IUL policy, collateral requirements typically involve pledging additional assets in addition to assigning the policy to the lender. Common forms of acceptable collateral include cash, cash equivalents, marketable securities, or a letter of credit. The lender may also require a "margin" to account for risk and market volatility. Subject to the performance of the underlying policy and interest rates, some clients have been surprised to receive collateral calls especially when they were sold on collateral not being required after the policy funding had been completed.
- **Loan Interest Payments:** Are interest payments accrued to principal or are they paid currently? Accruing loan interest payments eliminates current outlay but increases the overall sensitivity of the plan to increasing interest rates with potential adverse results.
- **Timing of Loan Repayment:** Is the loan to remain outstanding until the death of the insured, or will it be repaid in 10 or 20 years? The duration of the loan facility is often two to ten years, at which point the client must refinance the loan with either the existing lender or potentially a new lender. Death as a loan repayment strategy may be appropriate only if the insured is within ten years of life expectancy, but otherwise this is not a prudent approach.
- **Capital Source for Loan Repayment:** If the loan is to be repaid before the death of the insured, is the intent to repay the loan solely from the policy cash value? Most reprojections indicate there will not be sufficient cash value to repay the loan and also fund remaining policy expenses.

Institutional or corporate clients with premium-financed arrangements use consultants and actuaries to stress test their plans at inception and on an ongoing basis. However, we do not see this level of scrutiny, advice, or administration in the estate planning context.

Policy Crediting Rates

A higher rate environment is generally positive for policy crediting rates, but it is a bit more complicated when it comes to IUL policies.

It is important to understand that:

- IUL policy performance is tied to annual changes of a stock index such as the S&P 500, without dividends, subject to a cap and a floor (e.g., a guaranteed floor of 0% and, for example, a non-guaranteed cap of 8.5%).
- Insurance companies have complete discretion to adjust the cap on the index and in most contracts, the guaranteed cap rate is only 3%. One of the keys to IUL is to capture as much upside performance in the periods that the S&P generates high returns, so the setting of the rate is critical to long-term performance.
- The most commonly used index is based on the 1-year change in the S&P 500 without dividends. Caps for this index are now in the 6% to 11% range. We are now beginning to see some insurers increase their cap rates, although not nearly as fast as borrowing rates. And more often these increased cap rates are applied to new policies rather than existing policies.
- With the unilateral ability to set cap rates, insurance carriers can reduce cap rates on products previously sold to subsidize products currently available for sale that offer higher cap rates.
- Cap rates, theoretically, are determined based on the interplay between an insurance company's general account yield and option pricing in a non-transparent mechanism. Increased general account yields can lead to a greater options

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"budget." This can potentially be offset by increased equity market volatility, leading to increased options pricing.

- Although some caps have increased modestly recently, it should be noted that caps were significantly higher not that long ago: seven years ago, most caps were in the 11.0% - 13.0% range; five years ago, they were in the 10.0% - 11.0% range, and just three years ago they were in the 9.0% - 10.0% range. Many premium financing programs were based on a continuation of these high cap rates, and perhaps in time they will return to these levels, but getting aligned on expectations going forward is a prudent step.
- Finally, advisors should be aware that many insurance companies have a history of offering higher caps to new IUL policies to attract sales while leaving existing policies relatively unchanged.

An imperfect analogy would be to think of an IUL policy as a structured note inside of a life insurance policy.

It is worth noting that Whole Life (WL) will sometimes be used in premium financing arrangements. The account value of WL policies is credited with a dividend. While dividend crediting rates are expected to hold steady or tick up slightly, there remains the possibility that they will not keep pace when borrowing rates increase.

Loan Borrowing Rates

Most borrowing rates are now tied to the Secured Overnight Financing Rate (SOFR) benchmark rather than LIBOR, plus a fixed spread of between 1.50% - 2.25%.

SOFR was 5.32% on October 3, 2023, having risen dramatically from the July 1, 2022, rate of 1.53%. Assuming a 150basis point spread, the typical borrowing rate was 6.82% compared to 3.03% just a year prior. This highlights that things can change quickly. When expectations are not established and/or there is a lack of understanding of what can happen when rates fluctuate, clients are unhappy, and lawsuits often follow.

Looking back even further, to 2018, the 1- month LIBOR was 2.29%, or a 3.79% interest rate with the 150-basis point spread. Nine years ago, the 1-month LIBOR was 0.53%, or 2.03% all in. These low borrowing rates resulted in the implementation of a high volume of premium financing plans.

It is important to note that SOFR rates today are closer to historical norms. The rates people experienced between 2008 and 2022 were close to 150-year historical lows.

Some plans use floating rate loan facilities where the loan rate resets every year and is set equal to the prevailing SOFR plus the spread. Other plans have a fixed rate loan facility that provides a rate lock for 3, 5, or 7 years. In either case, interest rate locks (or caps) have expired or will soon expire, and interest costs will have more than doubled.

While the discussion thus far has focused on the third-party borrowing, advisors should be aware that the internal policy loan provisions can play a major role in the program. For example, some policies have fixed loan rates and others are variable. If policy loans from the cash value are going to be used to repay the lender, a variable loan rate introduces more uncertainty and volatility. There are also aggressive "indexed loans" with IUL policies where the amount borrowed from the policy receives indexed returns. These indexed policy loans add even more leverage and risk.

How We Can Help

Very few Winged Keel private clients have used IUL or premium financing for estate planning purposes because of the inherent risks, complexity, and uncertainty of the structure.

However, we are often asked to review existing programs structured by other insurance brokers. These reviews involve stress testing under various crediting rate, interest rate, and funding scenarios, as well as exploring alternative design options within the existing policy to enhance potential long-term success. In some situations, we have been asked to take over the management of these programs, which we have done for an annual fee.

From these reviews, we find there are typically three potential outcomes:

1. **Stay the course:** Continue the arrangement under the assumption that interest rates will reduce in future years, the loan facility can be renewed at favorable terms, the stock market produces consistent positive annual returns, and the insurance company maintains a reasonable cap rate on their IUL policies. In many cases, we will recommend the client pay some of the future premiums in cash to minimize the growth of the loan balance over time. In nearly all cases, we recommend paying loan interest annually rather than allowing it to accrue.
2. **Terminate the arrangement by repaying the lender from policy cash values:** The client withdraws cash value from the policy (or takes a policy loan) to repay the lender. If the amount owed exceeds the policy cash value, the client will surrender the policy outright and repay the lender with the surrender proceeds and make up the

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difference with cash. The client will then acquire new life insurance (assuming they are still insurable).

3. **Terminate the arrangement by repaying the lender from other assets:** In this scenario, clients use personal assets to repay the lender. Clients can maintain the existing life insurance and fund remaining premiums personally. They would also have the option of restructuring the existing policy to limit ongoing premium deposits or restructuring the insurance to new policies based on guaranteed pricing or more conservative assumptions.

If you have a client with an IUL policy, especially one funded by a premium financing arrangement, we advise you to take a proactive stance and conduct an in-depth review of the arrangement. Especially with this highly visible public scrutiny of financed IUL, now is the time to reevaluate, reassess, and if appropriate, rehabilitate these programs. It is easier to change course now than in the future.

Please contact us if you would explore what lies beneath the surface of your clients' existing premium finance arrangements.

For more information on Winged Keel Group, please visit our website: wingedkeel.com.

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