

*Market Conduct Final Examination Report*

***SOUTH BAY ACCEPTANCE CORPORATION***

*Florida Company Code: 19674*

*Date: July 26, 2023*

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## Executive Summary

A market conduct examination of South Bay Acceptance Corporation (“South Bay” or “Company”) was performed to ascertain the Company’s compliance with the applicable provisions of the Florida Insurance Code as required by Section 627.834, Florida Statutes (“F.S.”).

## Company Operations

South Bay is a foreign Premium Finance Company licensed to offer premium finance agreements in Florida on December 5, 2013. South Bay has its administrative office in Jacksonville, FL. The Company finances 12-month commercial and personal lines insurance policies. South Bay accepts insurance finance business from a large number of insurance agents throughout Florida. Policies financed are typically in the excess and surplus lines markets and general and professional liability lines of business. The policies are usually financed for a period of nine months.

Total Premiums Receivable in Florida during the examination scope period was as follows:

Year	Total Premiums Receivable in Florida (Per Schedule A of the Annual Report)
2021	\$916,362
2020	\$744,644
2019	\$719,369

Section 627.828(1), F.S. requires premium finance companies to maintain a net worth of \$35,000 or a net worth of \$10,000 if a surety bond or other acceptable collateral is approved by the Florida Office of Insurance Regulation. The Company met the requirements of Section 627.828(1), F.S. by reporting the following statutory net worth:

Year	Statutory Net Worth as of December 31 <sup>st</sup> (Per the Balance Sheet of the Annual Report)
2021	\$25,971,679
2020	\$22,234,146
2019	\$1,086,171

Section 627.836(2), F.S. requires premium finance companies to file an annual report with OIR and remit the annual report filing fee to the Florida Department of Financial Services (“DFS”) by March 1<sup>st</sup> of each year. The Company met the requirements of Sections 627.836(2), F.S. by timely filing both the annual report and the annual report filing fees prior to March 1<sup>st</sup> for each year during the examination scope period as follows:

Year	Date Annual Report Filed with OIR	Date Annual Report Filing Fees Remitted to DFS
2021	02/24/22	02/18/22
2020	02/26/21	02/22/21
2019	02/20/20	02/11/20

## Purpose and Scope of the Examination

The Florida Office of Insurance Regulation (“OIR”) has primary responsibility for the regulation, compliance and enforcement of statutes related to the business of insurance premium financing and the monitoring of industry markets. Due to this responsibility, OIR conducted a market conduct examination of South Bay pursuant to Section 627.834, F.S. The examination scope period was from January 1, 2019 to December 31, 2021. The examination was performed by members of OIR’s Property and Casualty Market Regulation business unit.

The purpose of a market conduct examination is to review the premium finance company’s operating practices to determine if they comply with the applicable provisions of the Florida Insurance Code, rules related to the business of insurance premium financing, the provisions contained within a premium finance contract issued by the Company, or orders issued by OIR. A common element of all market conduct examinations is to evaluate a premium finance company’s business practices to promote the protection of insurance-buying consumers and to hold entities regulated by OIR accountable when issues or violations are found.

The examination began April 1, 2022 and ended July 25, 2023. The last examination of South Bay was completed as of December 31, 2018. That examination concluded the Company’s records were in good standing.

## Complaint Statistics

As of December 31, 2021, DFS Division of Consumer Services reported receiving one complaint related to premium finance agreements issued by South Bay to insureds during the examination scope period.

A review of the consumer complaint by reason category, as assigned by DFS, reflects that the complaint was made by a consumer who reportedly needed assistance with obtaining a premium refund. As of the date of this report, the complaint was closed after DFS obtained a refund for the consumer. DFS did not issue a notice to OIR of an alleged violation of the Florida Insurance Code.

Complaints Reported to DFS by Consumers	
Year	Number of Complaints
2021	1
2020	0
2019	0

## Examination Procedures

The conduct of this examination and the procedures, statistical sampling and examination processes used were consistent with and in accordance with those standards and procedures contained in the *Market Regulation Handbook* promulgated by the National Association of Insurance Commissioners (“NAIC”).

In preparation for the examination, the Company was requested to provide the total number, or universe, of premium finance agreements entered into during the examination’s scope period. The Company was also requested to identify premium finance agreements that were cancelled or received a refund from an insurer prior to the end of the premium finance agreement’s contract term. The Company reported entering into a total of 2,449 premium finance agreements during the examination scope period. Of the 2,449 premium finance agreements, 524 premium finance agreements were either cancelled or received a refund from the insurer or premium finance company prior to the end of the agreement’s term.

To facilitate a thorough review of the Company’s premium finance agreements and corresponding documentation, the total universe of premium finance agreements was divided into two categories: Premium Finance Agreements and Cancellations and Refunds. Each of the two categories were evaluated for compliance with the Florida Insurance Code.

The Company reported the universe of premium finance agreements for each category as follows:

- 1,925 Premium Finance Agreements; and
- 524 Cancellations and Refunds.

For purposes of this examination, the two categories were defined as follows:

- Premium Finance Agreements: The initial premium finance agreement entered into during the examination scope period that completed the full term of the agreement (the premium finance agreement was not cancelled midterm or the insured was not eligible for a refund); and
- Cancellation and Refunds: The initial premium finance agreements entered into during the examination scope period that were either cancelled prior to the end of the agreement’s term or were eligible for a refund from an insurer or the premium finance company.

The NAIC’s *Market Regulation Handbook* provides guidance regarding sampling methods utilized during market conduct examinations. A minimum confidence level of 95% is used to make inferences when a universe population is greater than 200 and permits those results to be extrapolated to the population of all premium finance agreements. The examiners reviewed a total of 198 randomly selected premium finance agreements. The number of randomly selected premium finance agreements in each sample is consistent with the recommended sample size for non-claims in the NAIC’s Market Regulation Handbook’s Acceptance Samples Table. Examination results with a 95% confidence level permit those results to be extrapolated to the population of non-claims in each of the two premium finance agreement categories. Based on the total universe of South Bay’s premium finance agreements subject to this examination, the total sample size required to achieve a 95% confidence level in both categories was determined to be 227.

The 227 randomly selected premium finance agreements consisted of:

- 114 premium finance agreements; and
- 113 cancellations and refunds.

In reviewing materials for this report, the examiners relied on records and information provided by the Company.

## Findings

### Premium Finance Agreements

This portion of the examination focused on the Company's use of approved forms and rates and evaluated specific statutory components required by the Company in the execution of premium finance agreements, including but not limited to finance charges, service fees, late and non-sufficient fund fees, and products financed. To determine the Company's adherence to these statutory requirements, the examiners reviewed and analyzed each sampled premium finance agreement to determine if the agreement was executed in compliance with the Florida Insurance Code.

**Finding 1:** The examiners determined that in one instance out of 114 premium finance agreements reviewed, an error percentage of .087%, the Company accepted an executed premium finance agreement that was not signed by or on behalf of the insured as required by Section 627.839(1), F.S.

**Company Response:** The Company agreed with the finding.

**Finding 2:** The examiners determined that in two instances out of 114 premium finance agreements reviewed, an error percentage of 1.7%, the Company imposed an insufficient funds charge of \$15 on installments that were paid within the installment due date, in violation of Section 627.841(4), F.S.

**Company Response:** The Co agreed with the finding and refunded the insufficient funds charges.

### Cancellations and Refunds

This portion of the examination focused on the Company's premium finance agreements entered into during the examination scope period that were either cancelled prior to the end of the agreement's term or were eligible for a refund from an insurer to determine compliance with the Florida Insurance Code. The review evaluated specific statutory components pertaining to cancellations and refunds.

**Finding 3:** The examiners determined that in six instances out of 113 premium finance agreements reviewed, an error percentage of 5.3%, the Company provided less than ten days written notice to the insured of the intent to cancel the insurance contract, as required Section 627.848(1)(a), F.S.

**Company Response:** The Company agreed with the violations.

**Finding 4:** The examiners determined that in 44 instances out of 113 premium finance agreements reviewed, an error percentage of 38.9%, the Company used the Notice of Cancellation form that was not filed with or approved by OIR, as required by Section 627.838(1), F.S.

**Company Response:** The Company agreed with the finding.

**Subsequent Event:** The Company filed the Notice of Cancellation which was approved on May 16, 2023.

## **Recommendations**

The following recommendations were compiled from the Findings contained within this report, and observations noted during the examination. The Company is to provide a written report to OIR of actions taken on each Recommendation within 60 days of the Company's receipt of the Final Examination Report.

It is recommended that the Company:

- Ensure that all premium finance agreements accepted by the Company are signed;
- Ensure that insufficient funds charges are not inappropriately charged;
- Ensure that insureds are provided with no less than 10 days' written notice of the intent to cancel the insurance contract unless payment for the installment in default is received within 10 days; and
- Ensure that only forms filed with and approved by OIR are utilized and issued to insureds.

## **Conclusion**

This market conduct examination of South Bay was designed to review and evaluate whether the Company's handling of premium finance agreements was in compliance with the provisions of the Florida Insurance Code. During the examination, OIR identified findings and made recommendations for remediation to be implemented by the Company.

This examination report and the observations contained therein are the result of a factual, data-driven analysis of the Company's premium finance agreements and practices related to the cancellation and refund of premiums to insureds. This report contains a number of recommendations for improvement that should be implemented by the Company. It does not document what regulatory or administrative action may be taken by the OIR. Any such action taken as a result of this market conduct examination will be the subject of a separate Order issued by the OIR.

## **Examination Final Report Submission**

The OIR hereby issues this Final Report based upon information from the draft report, additional research conducted by the OIR, and additional information provided by the Company.



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