



# THE STATE OF FLORIDA

## OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

AMERICAN GENERAL LIFE INSURANCE COMPANY

December 8, 2014

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## EXECUTIVE SUMMARY

In June 2006, the Florida Legislature enacted the Freedom to Travel Act, which modified Florida's Unfair Trade Practices Act by placing prohibitions on life insurance limitations upon an individual based solely on the individual's past lawful foreign travel or future lawful travel plans. The Florida Unfair Trade Practices Act also prohibits the refusal to insure, or continue to insure, based on the individual's race, color, creed, marital status, sex, or national origin.

Rule 69D-2 Florida Administrative Code, became effective in October 2006 to implement the provisions of Section 626.9891, Florida Statutes. This rule establishes guidelines and reporting requirements for insurer anti-fraud special investigative units (SIU) and insurer anti-fraud plans.

The following represent general findings, however, specific details are found in each section of the report.

<b><u>TABLE OF TOTAL VIOLATIONS</u></b>			
<b>Statute/Rule</b>	<b>Description</b>	<b>Files Reviewed</b>	<b>Number of Violations</b>
627.4091(1)	Failure to provide a specific reason for the denial of a life application	115	9

## PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of American General Life Insurance Company (Company) pursuant to Section 624.3161, Florida Statutes. The examination was performed by Fatzinger Consulting, Inc. The scope period of this examination was January 1, 2013 through December 31, 2013. The examination began June 20, 2014 and ended November 14, 2014.

The purpose of this examination was to review compliance with Sections 626.9541(1)(g), 626.9541(1)(x), 626.9541(1)(dd) and 626.9891, Florida Statutes, and Rules 69O-125.003 and 69D-2, Florida Administrative Code.

The examination included a review of the following:

- Life application underwriting file samples to determine if an application was denied, issued in a manner other than applied for, terminated or canceled solely on the individual's past or future lawful foreign travel experiences, or on the applicant's national origin.
- Administrative and underwriting file samples for issued policies to determine if the policy was terminated, canceled, or had a benefit change based solely on the individual's past or future lawful foreign travel experiences, or on the insured's national origin.

- Reinsurance agreements to verify if any of the agreements place any limitations as a result of the applicant's past and/or future foreign travel or the applicant's place of birth.
- Anti-Fraud Plans to verify filing and implementation.

In reviewing materials for this final report, the examiner relied on records provided by the Company. Procedures and conduct of the examination were in accordance with the *Market Regulation Handbook* produced by the National Association of Insurance Commissioners.

### COMPANY OPERATIONS

The Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on June 19, 1961. The Company is authorized to offer life, variable life, group life and annuities, variable annuities, credit life, credit disability, and accident and health coverage in the State of Florida.

During the exam period, the Company marketed and sold whole, term, universal, and variable life insurance in Florida. Products are sold via an Independent Brokerage model, except for one small subset of the Company that distributes products via a career/captive model.

Total Direct Premiums Written in Florida for Life Insurance was as follows:

Year	Total Written Premium In Florida (Per Schedule T of the Annual Statement)
2013	\$228,251,378

### LIFE APPLICATION REVIEW

#### APPLICATION FORMS REVIEW

Only one life application provided by the Company for review contained a travel question and that was a payroll deduction application. It asked for travel information only if the person applying for coverage was not a US citizen. No other life application asked about travel. Most applications, excluding supplemental applications, ask for place of birth or citizenship.

1. **The Company responded "no" to question 3 on the Freedom to Travel survey, which asked if the Company used life insurance applications in Florida that included questions related to future travel. Form AGLA1000-MP-FL (0305) included a future travel question.**
  - a. **COMPANY RESPONSE:** The Company responded "no" to the survey because the form was to have been replaced by AGLA1000-WS-FL REV0310, which did not have the travel question and approved by the OIR on March 4, 2010. As a result of the examination, the Company discovered that the revised form had not

been moved into production due to an administrative oversight. The Company states the revised form has been posted to their internal website; a Product Announcement is being released to agents to immediately begin using the revised form; and a field shipment is being sent to local offices. The Company has verified that no underwriting decisions were based on an affirmative answer to the travel question on form AGLA1000-MP-CL (0305).

- b. **CORRECTIVE ACTION:** The Company should ensure that forms are placed into production as soon as form approval is received from the Office of Insurance Regulation.

The Company provided telephone interview scripts; most contained travel questions, but with a note that the travel questions were not to be asked of Florida and Georgia proposed insureds. Two contain citizenship questions that ask for residency and travel information for proposed insureds who are not US citizens.

### **UNDERWRITING MANUAL REVIEW**

The Company uses its own underwriting manual, which includes underwriting for travel and its foreign national program. Its travel section includes a statement that Florida prohibits underwriting action based on foreign travel.

### **FILE REVIEW**

The Company provided a data file of 23,922 applications for life insurance during the scope period.

1. **The Company reported it had received 28,824 life applications on its 2013 Freedom to Travel survey, which was 4,902 more than on the listing provided for the examination.**
  - a. **COMPANY RESPONSE:** The Company had included accident and health policies in its response to the 2013 Freedom to Travel survey.
  - b. **CORRECTIVE ACTION:** The Company should exclude accident and health policies from future survey responses.
2. **The Company responded "0" to question #22 on the Freedom to Travel Survey, which asks for the number of applications declined or issued other than applied where the Florida consumer was born in a foreign country. The policy listing provided by the Company identified 30 applications issued with a rating applied where the consumer was born in a foreign country; an additional 24 foreign born proposed insureds were identified during the file reviews of this sample. There were 38 declined applications in the sample files reviewed where the Florida consumer was born in a foreign country.**

- a. **COMPANY RESPONSE:** The Company stated that instead of “0”, the response should have been “unable to determine without examining the underwriting files” because the majority of applications are processed on systems that do not contain ‘place of birth’ entries. Of the four systems from which the Company pulled data for issued policies during 2013, only the Cyberlife system contains data related to place of birth. However, the place of birth field in Cyberlife is not a required field and is often left blank or populated with “00” for “unknown”. The Company is therefore unable to provide an accurate count of applications denied or issued in a manner other than applied for where the applicant was born in a foreign country without examining each underwriting file.
- b. **CORRECTIVE ACTION:** The Company should modify its procedures to record the proposed insured’s place of birth in its administrative systems in order to accurately respond on future freedom to travel surveys.

The examiners reviewed information contained in the life application underwriting files, which could have included but was not limited to, the applications, supplemental application questionnaires, underwriting notes, agent and policyholder communications, medical documentation and other supplemental materials.

### **Declined Applications**

The examiners reviewed a random sample of 115 declined applications. None of the declined applications in the data file were identified as having foreign born applicants.

There were no foreign travel or national origin violations.

- 1) **In 9 instances, the Company sent denial letters to life insurance applicants that did not contain a specific reason for the denial as required by Section 627.4091(1), Florida Statutes.**
  - a) **COMPANY RESPONSE:** The Company agreed with this violation and stated the language in the denial letters should have had more specificity. It explained that on December 31, 2012, Nashville-based American General Life and Accident Company merged into the Company. The letters cited for the violation originated from the Nashville office. The Company has initiated a project that will permit the Nashville-based underwriters to enter specific denial language into its denial letters.
  - b) **CORRECTIVE ACTION:** None required as the Company is taking action to address the violation. The Company should notify the Office of the completion of the project to include specific denial reason into its denial letters.

### **Withdrawn, Incomplete, Not Taken, and Pending Applications:**

The sample population included an additional 699 files from the policy termination list that were marked as canceled, not taken, or during the freelook period. The examiners reviewed 119 applications that were withdrawn, incomplete, not taken, or pending. The files reviewed

consisted of 4 applications where the proposed insured was born in a foreign country and a random sample of 115 from the remaining population.

There were no foreign travel or national origin violations.

### **Applications Issued Other Than Applied**

The data file provided by the Company pulled applications from 4 different administration systems that did not maintain the same information with respect to issued policies. Some of the records indicated if a policy was issued with a rating applied, and some indicated the actual rating tier at which the policy was issued. The examiners combined the population of those that had a rating applied and those that were issued at standard. The examiners reviewed 143 applications from this combined population. The files reviewed consisted of 30 applications where the proposed insured was born in a foreign country and a random sample of 113 from the remaining population.

There were no foreign travel or national origin violations.

### **LIFE POLICY REVIEW**

The examiners reviewed the administrative and underwriting files that supported policy benefit changes and policy cancellations and terminations.

### **Benefit Changes**

The Company provided a data file of 11,839 policies that had changes during the scope. The Company could not determine programmatically if the change required underwriting. It identified 2,443 as requiring, or possibly requiring, underwriting. The examiners reviewed 128 issued policies, which consisted of 14 where the insured was born in a foreign country and a random sample of 114 from the remaining population. Of the 128 policies selected, 66 were actually automatic changes based on terms of the contract.

There were no foreign travel or national origin violations.

### **Policy Terminations, Cancellations and Rescissions**

The Company provided a data file of 26,367 policies that were terminated for any reason during the scope. Files in this data listing that were marked as canceled, not taken, or during the freelook period were added to the life application sample population. The Company reported 18 rescinded policies, which were reviewed. The remainder of the policy terminations were added to the completeness sample population.

### **COMPLETENESS AND ACCURACY TEST**

Life applications, policy benefit changes, and policy terminations not included in any of the reviews above were combined into a population of 46,510 files. A random sample of 116 was selected to determine if the applications and policies appeared on the appropriate listing. Life

applications were also reviewed to confirm there were no foreign travel or national origin violations.

There were no foreign travel or national origin violations.

### **REINSURANCE AGREEMENTS REVIEW**

The Company's reinsurance agreements in place during the scope of the examination were reviewed to verify if any of the agreements place any limitations as a result of the applicants past and/or future foreign travel or the applicant's place of birth.

The Company has 6 reinsurance agreements with 5 reinsurers. One agreement is for facultative submissions only. None of the agreements place restriction on place of birth for permanent residents of the US. Only one contract contains a specific reference to travel, and that is for permanent residents of the US who are traveling or reside abroad for not more than 2 years. The Company does not have a facultative reinsurance application form; it sends the reinsurer the completed application forms and the medical information obtained for underwriting.

### **ANTI-FRAUD PLAN REVIEW**

The purpose of this review was to determine if the Company has filed and/or updated (if staffing changes occurred) with the Division of Insurance Fraud (DIF), a description of the Insurer Anti-fraud Investigative Unit (SIU) or an Insurer Anti-fraud Plan pursuant to Section 626.9891, Florida Statutes and Rule 69D-2.001-005, Florida Administrative Code. In addition, the review included verification that the Company has established and implemented procedures to detect potentially fraudulent activity, reporting all suspected insurance fraud acts directly to the Fraud Division and that staff is being properly trained.

Rule 69D-2.003(1)(a), Florida Administrative Code, requires an insurer to file the names of all personnel assigned to its SIU. Rule 69D-2.005(2), Florida Administrative Code, charges the Office with assuring that an insurer does not fail to implement or follow the provisions of their anti-fraud plan or SIU description. Since the Company is utilizing personnel not listed in its SIU description it is failing to implement or follow the provisions of its SIU description required under Rule 69D-2.003(1)(a). Therefore, it is recommended that the Company timely update its SIU description and anti-fraud plans with the Division of Insurance Fraud when changes are made.

### **EXAMINATION FINAL REPORT SUBMISSION**

The Office hereby issues this report as the Final Report, which is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.