

FINANCIAL SERVICES COMMISSION

**OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

TARGET MARKET CONDUCT FINAL EXAMINATION REPORT

OF

FIDELITY AND GUARANTY LIFE INSURANCE COMPANY

AS OF

June 2, 2006

NAIC COMPANY CODE: 63274



TABLE OF CONTENTS

PURPOSE AND SCOPE OF EXAMINATION 1
COMPANY OPERATIONS 1
SUITABILITY DETERMINATION PROCESS REVIEW 2
COMPLAINT ANALYSIS 3
REPORT SUMMARIZATION 3
EXAMINATION FINAL REPORT 4

PURPOSE AND SCOPE OF EXAMINATION

Under authorization of the Financial Services Commission, Office of Insurance Regulation (Office), Market Investigations, pursuant to Section 624.3161, Florida Statutes, a target market conduct examination of Fidelity and Guaranty Life Insurance Company (Company) was performed by Examination Resources, LLC. The scope of this examination was July 1, 2004 through June 30, 2005; however, the complaint review was expanded to March 1, 2006. The examination began May 30, 2006 and ended June 2, 2006.

The purpose of this examination was to verify the Company's compliance with suitability determination requirements in marketing annuities to senior consumers, persons 65 years of age and older, as required by Section 627.4554, Florida Statutes. The examination included the following procedures:

- Verify the documents utilized by the Company or its agents to determine suitability comply with Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.
- Review the Company's system to supervise recommendations to determine its compliance with Section 627.4554(4)(d), Florida Statutes.
- Verify the Company maintains or makes available records of information collected from the senior consumer in compliance with Section 627.4554(6)(a), Florida Statutes.
- Review a sample of 50 files for policies sold to senior consumers during the scope period to verify the Company is complying with the suitability determination process required by Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information 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

Fidelity and Guaranty Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on July 5, 1960. The Company provides life insurance and annuities in the State of Florida.

Total Direct Premiums Written in Florida for annuities was as follows:

Year	Total Written Annuity Premium In Florida (Per Schedule T of the Annual Statement)
2004	\$305,448,919
2005	\$258,187,220

The number of annuities sold by the Company during the period of July 1, 2004 through June 30, 2005 is shown in the following table:

	Number of Fixed Annuities	% of Fixed Annuities	Number of Variable Annuities	% of Variable Annuities	Totals
Senior Consumers	4,419	75%	0	0%	4,419
Other Consumers	1,468	25%	0	0%	1,468
Totals	5,887	100%	0	0%	5,887

SUITABILITY DETERMINATION PROCESS REVIEW

Supervisory System of Annuity Recommendations

The Company maintains written guidelines of procedures and forms to be utilized by agents for making recommendations to senior consumers to purchase or exchange an annuity product.

The Company provided its agents with a Senior Annuity Suitability Acknowledgement (SASA) form. The SASA form was used for obtaining the necessary information for determining whether to make a suitability recommendation, as required by Sections 627.4554(4)(a) and (b), Florida Statutes. The form requires signatures by both the agent and applicant, and was used to certify that a suitability review was either performed or declined by the applicant. Starting in September 2004, the Company began requiring that agents complete and submit the SASA form with each annuity application in Florida from a senior consumer.

The Company internally performs the supervisory review of annuity recommendations made by its agents, and maintains written procedures for this process. Beginning in the first quarter of 2005, the Company began a quarterly random review to verify that the SASA form is being properly completed by agents and reviewed by the Company's designated staff. The auditor completes a checklist for each policy reviewed. The quarterly audit is a review of 100 policies from all of the states with a suitability-related law similar to Florida's, including Florida. The average number of Florida policies reviewed in the quarterly audits for 2005 was 16. The number of Florida policies reviewed in the first quarter 2006 audit was 5. The number of policies reviewed from each state decreased as a result of the increase in the number of states with this type of suitability law. Any trends identified by the auditor are reviewed in more detail and findings are reported in writing to the Company's Compliance Department and senior management.

The Company's supervisory system appears to comply with the requirements of Section 627.4554(4)(d), Florida Statutes.

Policy Review

A sample of 50 files for policies sold to senior consumers during the scope period was reviewed to determine that the Company or its agents were complying with the suitability determination requirements of Section 627.4554(4)(a) and (b), Florida Statutes. The findings are as follows:

Seventeen (17) files for policies sold to senior consumers did not include evidence that the agent had made reasonable efforts to obtain any suitability related information from the senior consumer at the time of the sale as required by Section 627.4554(4)(a) and (b), Florida Statutes.

Corrective Action: The Company should ensure its records provide evidence that a reasonable effort was made to obtain suitability related information from the senior consumer at the time of the sale.

COMPLAINT ANALYSIS

There were 15 complaints requested for review. Department of Financial Services, Division of Consumer Services (DFS), received 12 complaints and 3 were filed directly with the Company. Six (6) complaints related to matters outside the examination scope. The findings are as follows:

The review of the remaining 9 complaints revealed no exceptions.

REPORT SUMMARIZATION

A review was conducted of the Company's supervisory system over annuity suitability recommendations, in addition to a sample of 59 files. Seventeen (17) errors were found. The following represents general findings, however, specific details are found in each section of the report.

Sample Files Reviewed – 59 Files

- Policies – 50 files
- Suitability Related Complaints – 9 files

Findings

- Supervisory System of Annuity Recommendations – No errors – page 2 of the report
- Policy Review – 17 errors – page 3 of the report
 - Failure to provide evidence that a reasonable effort was made to obtain the suitability related information from the senior consumer at the time of the sale

EXAMINATION FINAL REPORT

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.