



# **THE STATE OF FLORIDA**

## **OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS**

**MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**FIDELITY & GUARANTY LIFE INSURANCE COMPANY**

**AS OF**

**AUGUST 7, 2012**

**NAIC COMPANY CODE: 63274**

**NAIC GROUP CODE: 2598**

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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.

A target market conduct examination of Fidelity & Guaranty Life Insurance Company was performed to determine compliance with Section 626.9541(1)(dd) and Rule 69O-125.003, Florida Administrative Code.

The examination included verification of compliance with prior examination recommendations.

No violations were found during the examination.

## **PURPOSE AND SCOPE OF EXAMINATION**

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of Fidelity & Guaranty Life Insurance Company (F & G) formerly known as OM Financial Insurance Company pursuant to Section 624.3161, Florida Statutes. The examination was performed by Examination Resources, LLC. The scope period of this examination was July 1, 2010 through December 31, 2011. The offsite examination began July 16, 2012 and ended August 7, 2012.

The purpose of this examination was to review compliance with Sections 626.9541(1) (dd) and Rule 69O-125.003, Florida Administrative Code. In addition, the examination included verification of compliance with prior examination recommendations.

The examination included the following procedures:

- Review policy applications to determine if applications were denied, issued in a manner other than applied for, had benefit changes or canceled solely on the individual's past lawful foreign travel experiences, or future lawful foreign travel plans, and compliance with Section 626.9541(1)(dd), Florida Statutes and Rule 69O-125.003, Florida Administration Code.

In reviewing materials for this 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**

Fidelity & 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 and Group Life and Annuities, coverage in the State of Florida.

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)
2010	\$39,925,883
2011	\$35,086,046

## LIFE APPLICATION REVIEW

### I. FILE REVIEW

The examiners reviewed information contained in the Company's individual life and group life underwriting files, which could have included but was not limited to the application, field underwriting guidelines, telephone interviews, questionnaires, underwriting notes, correspondence with agents and consumers, medical records, financial information, and the Company's Agent's training materials.

The Company did not use applications that contained travel related questions and did not use travel questionnaires.

The Company received 1,293 applications for life insurance coverage during the scope period.

#### **Declinations:**

The examiners reviewed all 374 applications that were declined by the Company or withdrawn by the insured. There were no violations found.

#### **Policies Issued With Limitations:**

The examiners reviewed 529 policies that were issued with limitations, issued other than applied for or not issued in the best rating tier. Due to discrepancies in the data files, the examiners reviewed all 391 policies issued in the best rating tier. There were no violations found.

#### **Policy Benefit Change:**

The examiners reviewed all 266 benefit changes that required an underwriting review. There were no violations found.

#### **Canceled Policies:**

The examiners reviewed 104 cancelled policies. These included any policies cancelled for underwriting reasons or policies that were not taken. There were no violations found.

## II. COMPLETENESS AND ACCURACY TEST

The purpose of this review was to determine if any policy that was not subject to the review was completely and accurately reported in the data files provided by the Company.

A sample of 84 applications submitted during the scope of the examination were reviewed to verify that declinations, applications issued in a manner other than applied for, benefit changes, and cancellations were included on the respective listings provided by the Company. The review showed five discrepancies in the rating tier field as these policies were shown as Preferred-Non Tobacco when it was actually Preferred-Tobacco. Due to these discrepancies, the total population of policies shown in the best tier was also reviewed as noted.

A sample of 84 cancellations was reviewed to verify that the reason for cancellation was as reported correctly by the Company. No violations were found.

### PRIOR EXAMINATION RECOMMENDATIONS

The prior examination findings included nine violations of Rule 690-125.003, Florida Administrative Code, regarding unfair discrimination based on past and future travel.

The Company provided corrective measures taken to ensure full compliance. The corrective measures included:

- The Company's underwriting vendor was put on notice of the findings. As well, the underwriting vendor was reminded of their contractual requirement to comply with all state and federal regulation regarding life insurance underwriting.
- Training sessions (2) were held with the individual underwriters, underwriting administration, case managers and underwriting vendor management on Rule 690-125.003, Florida Administrative Code, regarding unfair discrimination based on past and future travel.
- The Individual Underwriters were notified to forward any case regardless of state where they were considering adverse action on past and future travel to the Underwriting Team Leader or Chief Underwriter prior to the adverse action.
- The Company doubled the number of Underwriting Audits of FL applications.
- Case Managers who received any adverse action after the underwriters were trained on Rule 690-125.003, Florida Administrative Code, regarding unfair discrimination based on past and future travel, were instructed to watch for future cases involving adverse action based on travel. Case Manager is instructed to forward cases to the Underwriting Team Leader and/or Chief Underwriter before releasing final decisions.

The examiners reviewed the underwriting guidelines and determined that it clearly states not to use an applicant's past or future travel in the underwriting process. Furthermore, the Company has removed travel related questions from its applications.

Based on the results of the examination and action taken by the Company after the prior examination, it appears the corrective measures taken by the Company are working as intended.

No violations were found.

### **EXAMINATION FINAL REPORT SUBMISSION**

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