



# **THE STATE OF FLORIDA**

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

**MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**THE LINCOLN NATIONAL LIFE INSURANCE COMPANY**

**December 2, 2014**

**NAIC COMPANY CODE: 65676**

**NAIC GROUP CODE: 20**

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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.

### TABLE OF TOTAL VIOLATIONS

<b>Statute/Rule</b>	<b>Description</b>	<b>Files Reviewed</b>	<b>Number of Violations</b>
627.410(1)	Use of unapproved application form- "Inquiry application"	n/a	n/a
627.410(1)	Use of unapproved Foreign Travel or Residence Supplement form – withdrawn and issued other than applied application samples	462	5
627.410(1)	Use of an unapproved group enrollment form – completeness sample	126	1

### PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of The Lincoln National 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 4, 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 July 3, 1939. 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**

The Company's life insurance applications request citizenship and country of birth information. None of the Florida approved applications contain a travel question, however, the Company provided an "Inquiry Application" form that had not been filed and approved. This Inquiry Application asks if the proposed insured contemplates residence or travel outside of the United States or Canada for more than 30 days within the next year. A "yes" response requires the completion of a Foreign Travel or Residence Questionnaire.

1) **In 1 instance, the Company used an application form used in Florida that had not been filed and approved, as required by Section 627.410(1), Florida Statutes.**

a) **COMPANY RESPONSE:** The Company disagreed with the violation, stating the form was not a formal application. The Company stated it does not use the form for underwriting purposes, nor does it become part of the policy. The Company acknowledged the use of the form could be misconstrued and has removed the Inquiry Application from its forms tool. It has also notified Florida agents and agencies to no longer use the forms.

b) **CORRECTIVE ACTION:** None needed as the Company has discontinued use of the form.

The Company's Avocation and Sport supplement includes questions asking in what countries certain activities takes place, the answer to which would imply travel if the activity takes place outside the US.

### **UNDERWRITING MANUAL REVIEW**

For individual life, the Company utilized the Lincoln Financial Group Underwriting Manual, and Swiss Re Underwriting Manual, as well as specific manuals for its MoneyGuard policies, and for its WorkSite universal life policies. The Swiss Re manual includes restrictions for travel and residency, however, the Company's underwriting guide contains a section on foreign travel that specifically states the Company does not ask or take any action on foreign travel in Florida. It also states that Florida defines foreign residence as travel outside the US for more than 180 days.

The Company has a separate Foreign National Guidelines document that defines and addresses the eligibility of foreign nationals for coverage, including a list of approved countries.

### **FILE REVIEW**

The Company provided data files showing it received 7,687 applications for life insurance during the scope period. The Company discovered an error in the first data file it had provided with 5,610 applications, which required them to provide a supplemental list of 2,077 applications. Since samples had already been selected and reviewed from the first listing, samples were also selected from the supplemental listing.

The Company had reported it had received 5,971 applications on its 2013 Freedom to Travel survey, 1,716 less applications than reported during the examination.

1) **The Company failed to report all applications received in 2013 in its Freedom to Travel Survey.**

a) **COMPANY RESPONSE:** The Company stated several reasons for the difference, with the main one being the exclusion of 1,128 group certificates on the FTT survey.

- b) CORRECTIVE ACTION:** The Company should accurately report all applications received 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 141 declined applications. The files reviewed consisted of 55 applications where the proposed insured was born in a foreign country and a random sample of 86 from the remaining population of declined applications. In addition, the Company provided an attestation that group policies listed as declined were actually waivers by the employees.

There were no foreign travel or national origin violations.

### **Withdrawn, Incomplete, Postponed and Pending Applications:**

The examiners reviewed 299 applications that were withdrawn, incomplete, postponed, or pending. The files reviewed consisted of 134 applications where the proposed insured was born in a foreign country and a random sample of 165 from the population of non-foreign born proposed insureds.

There were no travel or national origin violations.

**1) In 2 instances, the files contained a Foreign Travel or Residence Supplement that had not been filed and approved in Florida, as required by Section 627.410(1), Florida Statutes. The supplement includes questions on both travel and country of residence, the latter information applicable to determining eligibility under the Company's foreign national underwriting program.**

**a) COMPANY RESPONSE:** The Company disagreed with the violation, stating the form is available for agent use in states where it is appropriate. The Company has instructed its underwriters to not ask or take any action on foreign travel information for Florida contracts and proposed insureds. It reported the form is being removed from the forms tool that can be accessed by Florida agents, and an article will be published in its internal agent news publication instructing producers in Florida not to send in a Foreign Travel or Residence Supplement.

**b) CORRECTIVE ACTION:** None required as the Company has removed the form from use in Florida.

## **Applications Issued Other Than Applied**

The examiners reviewed 163 applications that were issued other than applied. The files reviewed consisted of 92 applications where the proposed insured was born in a foreign country and a random sample of 71 from the population of non-foreign born proposed insureds.

There were no travel or national origin violations.

**1) In 3 instances, the files contained a Foreign Travel or Residence Supplement that had not been filed and approved in Florida, as required by Section 627.410(1), Florida Statutes. The supplement includes questions on both travel and country of residence, the latter information applicable to determining eligibility under the Company's foreign national underwriting program.**

**a) COMPANY RESPONSE:** The Company disagreed with the violation, stating the form is available for agent use in states where it is appropriate. The Company has instructed its underwriters to not ask or take any action on foreign travel information for Florida contracts and proposed insureds. It reported the form is being removed from the forms tool that can be accessed by Florida agents, and an article will be published in its internal agent news publication instructing producers in Florida not to send in a Foreign Travel or Residence Supplement.

**b) CORRECTIVE ACTION:** None required as the Company has removed the form from use in Florida.

## **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 5,887 policies that had benefit changes during the scope, 2,061 of which were identified as requiring, or possibly requiring, underwriting. A random sample of 114 of for 2,061 with potential underwriting were reviewed.

There were no foreign travel or national origin violations.

### **Policy Terminations and Cancellations**

The Company provided a data file of 4,145 policies that were terminated for any reason during the scope, 3 of which were identified as terminated by the Company. Two were canceled and one policy was rescinded. These files were reviewed.

There were no foreign travel or national origin violations.

## 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 12,975 files. A random sample of 126 was selected to determine if the applications and policies appeared on the appropriate listing. Life applications were also reviewed to confirm that there were no foreign travel or national origin violations.

There were no exceptions, or no foreign travel or national origin violations noted.

**1) In 1 instance, the Company used a group enrollment form that had not been filed and approved in Florida, as required by Section 627.410(1), Florida Statutes.**

**a) COMPANY RESPONSE:** The Company disagreed with the violation, stating the enrollment form is not an application, does not include underwriting questions, and is not made a part of any policy or group certificate. In addition, the form is a customized enrollment form for the specific group and Florida statutes do not require forms of a unique character used at the request of the policyholder to be filed pursuant to the referenced statute.

**b) CORRECTIVE ACTION:** The Company should use group enrollment forms that have been filed and approved in Florida.

## REINSURANCE AGREEMENTS REVIEW

The Company's reinsurance agreements in place during the scope of the examination were reviewed to verify if 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 10 reinsurance agreements with 6 reinsurers for individual policies and 2 agreements with 2 reinsurers for group reinsurance.

None of the agreements contain a provision that places a restriction on travel or national origin for US residents. Agreements for term life policy reinsurance contain a provision stating US citizens living abroad will be eligible in accordance with the Company's foreign national guidelines; agreements for permanent life policy reinsurance contain a provision stating foreign nationals are eligible in accordance with the Company's foreign national guidelines.

## ANTI-FRAUD PLAN REVIEW

The Company has submitted a description of its SIU in form DFS-L1-1689 as required by Rule 69D-2.003, Florida Administrative Code.

**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.