



# **THE STATE OF FLORIDA**

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

**MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**MIDLAND NATIONAL LIFE INSURANCE COMPANY**

**December 30, 2014**

**NAIC COMPANY CODE: 66044**

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## TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	1
PURPOSE AND SCOPE OF EXAMINATION .....	1
COMPANY OPERATIONS.....	2
LIFE APPLICATION REVIEW .....	2
LIFE POLICY REVIEW .....	5
REINSURANCE AGREEMENTS REVIEW.....	5
ANTI-FRAUD PLAN REVIEW .....	6
EXAMINATION FINAL REPORT SUBMISSION .....	6

## 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 include specific reason for the denial in declination letters	227	227

## PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of Midland 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 March 24, 2014 and ended September 5, 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 policy application files to determine if an application was denied, issued in a manner other than applied for, or canceled solely on the individual's past or future lawful foreign travel experiences, or on the applicant's national origin.
- Administrative and underwriting files for issued policies to determine if the policy was terminated, canceled or rescinded, 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

Midland National Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on August 29, 1961. The Company is authorized to offer Life, Variable Life, Group Life & Annuity, Variable Annuity, Credit Life, Credit Disability, and Accident & Health coverage in the State of Florida.

During the exam period, the Company marketed and sold universal life, variable universal life, whole life, and term life insurance products in Florida through independent agents. Its Corporate Markets division contracts with independent agents to market life insurance products to the management teams or owners of banks and credit unions.

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	\$34,732,211

## LIFE APPLICATION REVIEW

### APPLICATION FORMS REVIEW

The Company's life insurance applications capture the proposed insured's state or country of birth. Travel questions ask if the proposed insured has traveled or will travel to Afghanistan or Iraq in the past or next 12 months, and if the applicant has or intends to reside outside the US for more than 180 days in the past or the next 12 months. Business owned applications ask if the proposed insured intends to travel outside the US or Canada within the next two years. Proposed insureds who do not hold a permanent visa or answer yes to the travel or residency questions must complete the Foreign Resident and Travel Questionnaire, which includes a question asking if the proposed insured plans to travel to his/her native country within the next two years. The questionnaire is also used to confirm US residency and if the proposed insured has a visa that meets with the Company's underwriting guidelines.

## UNDERWRITING MANUAL REVIEW

The Company primarily uses the Swiss Re Life Guide underwriting manual, which specifically addresses travel and the underwriting of immigrants and temporary US resident, as well as having ratings for countries and specific areas within the countries.

The Company also has a Life Underwriting Requirements Guide, which is provided to agents, that addresses US residency requirements and foreign travel. The guide states that “proposed insureds must be a US citizen or have permanent resident status for at least 2 years.” For travel, the guide states “no travel to countries or areas that are politically unstable or underdeveloped.” The guide also requires the completion of the Foreign Travel and Residence Questionnaire to clarify foreign citizenship, naturalized citizenship, or when foreign travel or residency is noted on the application within the last twelve months.

**RECOMMENDATION:** The Company should modify the Life Underwriting Requirements Guide to include a note that travel restrictions vary by state, or more specifically, do not apply to Florida applications.

## UNDERWRITING FILE REVIEW

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.

The Company’s underwriting process is to consider all applications applied for at a standard rate unless noted by the agent.

The Company provided a listing of 3,048 applications for life insurance coverage. This number was 146 more than the number of applications reported on the 2013 Freedom to Travel survey.

- 1) **The Company failed to report all applications received in 2013 in its 2013 Freedom to Travel Survey.**
  - a) **COMPANY RESPONSE:** The Company stated it failed to report the applications from one of its administration systems, and also had run the examination query using the application date rather than the date the company received the application.
  - b) **CORRECTIVE ACTION:** The Company should accurately include and report applications in future Freedom to Travel survey responses.
- 2) **The Company’s responded “no” to Question 3 on its 2013 Freedom to Travel Survey, which asks if it uses life applications that include a question related to future foreign travel. There were also inconsistencies in the Company’s answers to Questions 2 and 3 on the 2012 and 2013 surveys.**

- a) **COMPANY RESPONSE:** The Company stated Questions 2 and 3 were answered incorrectly on the 2013 Survey.
- b) **CORRECTIVE ACTION:** The Company should file correct answers in future Freedom to Travel surveys.

3) **In the Company's 2013 Freedom to Travel response, Question 22 was answered that no applications had been denied or issued in a manner other than applied for where the Florida consumer was born in a foreign country. Review of the underwriting files revealed that 326 applications denied or issued other than applied for involved foreign born applicants.**

- a) **COMPANY RESPONSE:** The Company's response to Question 22 of the 2013 Freedom to Travel was "0" because the information is not programmatically available. The Company's administrative systems do not have the ability to report the place of birth. In one system, a field for the place of birth does not exist, and in a second system, while a field is available, it is not programmed to report a place of birth outside of the United States.
- b) **CORRECTION ACTION:** The Company should accurately record and report the applicant's place of birth in future Freedom to Travel surveys.

### **Declined Applications**

The examiners reviewed 229 declined applications. There were no foreign travel or national origin violations noted; however, the following instances of a violation were noted relating to declination letters.

1) **The Company's declinations letters relating to 227 applications does not provide a specific reason for the denial, which is in violation of Section 627.4091(1), Florida Statutes.**

- a) **COMPANY RESPONSE:** The Company agrees with the findings and stated it has modified its denial letters to include the specific reason for denial.
- b) **CORRECTIVE ACTION:** The Company should utilize denial letters that include the specific reason for its actions to comply with Section 627.4091(1), Florida Statutes.

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

The examiners reviewed 688 applications that were withdrawn, incomplete and not taken by the applicant. Also included in this review were applications coded as pending or postponed. There were no violations noted.

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

The examiners reviewed 955 policies that were identified by the Company as issued other than applied for by applicants. There were no violations noted.

## **Life Applications Completeness Test**

The Company reported a total 1,176 applications issued as applied for by the applicant. A random sample of 113 applications that were coded as issued as applied for, plus an additional 7 policies that were coded as rated at issuance, were reviewed to verify accuracy of the coding. Of the total, 48 files were issued other than applied for by the applicant. Based on this finding, all applications issued at a rate other than the highest rating tiers were reviewed, resulting in an additional 671 files for review. There were no violations noted.

## **LIFE POLICY REVIEW**

The examiners reviewed administrative and underwriting files of policies that had either a benefit change requiring underwriting, or had been terminated, cancelled or rescinded during the scope period.

### **Policy Benefit Change**

The Company reported a population of 82 policy benefit changes during the examination scope period. The examiners reviewed 6 policies with benefit changes that were identified by the Company as having possible underwriting. In addition, the examiners reviewed a random judgmental sample of 10 of the remaining 76 benefit changes to confirm accuracy of coding and to confirm no underwriting was done. There were no violations noted.

### **Terminated, Canceled and Rescinded Policies**

The Company reported a population of 2,737 terminated, canceled or rescinded policies during the examination scope period. The examiners reviewed 331 terminations identified as initiated by the Company. Additionally, a random sample of 114 out of the remaining 2,406 policies that were terminated due to death, lapse, surrender or maturity was reviewed to access the accuracy of coding. There were no violations noted.

## **REINSURANCE AGREEMENTS REVIEW**

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

The reinsurance agreements do not place restrictions with respect to an applicant's national origin or foreign travel. It was noted that most treaties have as an attachment, the Company's Life Underwriting Requirements Guide, which address residency and travel.

- 1) **Treaties provided for one of the reinsurers included a copy of an application form for use in submitting a facultative reinsurance application. The application contains a space to record the proposed insured's birth place. The Company had responded "no" to Freedom to Survey question 21, asking if the Company had reinsurance agreements in place that required the company to report to the reinsurer(s) that the applicant was born in a foreign country.**
  - a) **COMPANY RESPONSE:** The Company stated that it is not required by the reinsurers to identify foreign born applicants. The place of birth is asked on the application and used for identification purpose only.
  - b) **CORRECTIVE ACTION:** The Company should respond affirmatively to question 21 on future Freedom to Travel surveys.

#### 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. The Company has implemented its Anti-Fraud Plan as required by Section 626.9891, Florida Statutes.

- 1) **The Company's internal SIU guidelines state all newly hired employees will have SIU training within 90 days of hire. Review of the new hire dates and SIU training dates revealed some instances in which newly hired personnel during 2013 did not meet the 90 day training requirement. It is recommended that the Company follow its internal guidelines, pursuant to Section 626-9891(7), Florida Statutes, and Rule 69D-2.003(1)(g), Florida Administrative Code.**
  - a) **COMPANY RESPONSE:** The Company agreed with the finding and stated it has implemented additional controls to monitor completion of the anti-fraud training for new hires.
  - b) **CORRECTIVE ACTION:** The Company should adhere to their internal guidelines of training all newly hired employees within 90 days of hire.

#### 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.