

FINANCIAL SERVICES COMMISSION

**OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

MIDLAND NATIONAL LIFE INSURANCE COMPANY

AS OF

JULY 8, 2006

NAIC COMPANY CODE: 66044



TABLE OF CONTENTS

PURPOSE AND SCOPE OF EXAMINATION	1
COMPANY OPERATIONS	1
SUITABILITY DETERMINATION PROCESS REVIEW	2
COMPLAINT ANALYSIS	4
REPORT SUMMARIZATION	4
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 Midland National 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 extended to March 1, 2006. The examination began June 26, 2006 and ended July 8, 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 compliance with Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.
- Review the Company's system to supervise recommendations to determine compliance with Section 627.4554(4)(d), Florida Statutes.
- Verify the Company maintains, or is able to make 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 as 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

Midland National Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on August 8, 1961. The Company provides life insurance and annuities in the State of Florida.

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

Year	Total Written Annuity Premium In Florida (Per Schedule T of the Annual Statement)
2004	\$111,993,057
2005	\$157,499,156

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	1,163	47%	74	47%	1,237
Other Consumers	1,336	53%	85	53%	1,421
Totals	2,499	100%	159	100%	2,658

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 for all fixed annuities and to identify those that are potentially inappropriate.

Standardized disclosure forms are utilized to obtain, review, and consider information regarding the senior consumer's financial situation, long-term objectives, tax bracket, and understanding of the potential surrender penalties associated with purchasing a fixed annuity. Initially in October 2004, as part of its new business procedures, the Company reviewed all answers on the Initial Disclosure Statement to the questions posed to the senior consumer. If the senior consumer's response to the questions required additional information, a Disclosure Supplement form was completed for clarification. In October 2005, the Company began utilizing a Deferred Annuity Suitability Form in an effort to ensure suitability of its annuities. Based on the information provided by the senior consumer and the agent, the Company may decline to write a fixed annuity policy. The number of applications submitted compared to the number that require additional information to satisfy its suitability requirements is tracked and monitored by the Company, as well as the number of applications declined. These procedures are used to ensure suitability of all policies sold and to identify producers that appear to be involved in a greater proportion of these higher potential risk situations than would normally be acceptable. When an agent is flagged for recommending unsuitable products to senior consumers, the circumstances regarding the purchases are presented to a committee of senior management, comprised of Company officers, for their input and action. The Company has restricted the sale of all annuity products with more than 10-year surrender periods to senior consumers under the age of 80, except for a single premium immediate annuity.

The Company has implemented an annual suitability audit program to review new fixed annuity business. The first audit performed incorporated a review of the suitability disclosure statement for a random sample of 100 policy files for new fixed annuity business written in 2004.

Additionally, the Company has implemented the following survey programs that assist in monitoring and screening policies to ensure suitable fixed annuity sales to senior consumers:

- The Company utilizes an independent third party, Life Insurance Marketing Research Association (LIMRA), to survey fixed annuity policyholders and has procedures in place to respond to survey answers that warrant follow-up responses to individual senior consumer or agents.
- The Company has created and implemented a program entitled “Policyholder Satisfaction Survey Program.” The goal of this program is to initiate communication, either verbally or in writing, with new fixed annuity policyholders. Initially, the surveys involved contacting only those fixed annuity policyholders who returned delivery receipts; however, beginning in 2006, the survey was expanded to encompass all new policyholders. The Policyholder Relations Department attempts to contact all new policyholders by telephone on recorded lines. A written survey is sent to all policyholders not reached by telephone. Tracking and reporting are currently conducted on an ad hoc basis, but will become more detailed once the process is automated.

With regard to its sale of variable annuities, the Company delegates to its third party broker-dealers the responsibility to maintain a system of supervision over suitability-related requirements for senior consumers. There are 27 third party broker-dealers for variable annuities with 39 representatives in Florida. The Company utilizes several survey methods to track senior consumer satisfaction of variable annuities, as previously described for fixed annuities. The Company presently relies on monthly trend reports to identify areas of concern.

Policy Review

A sample of 50 policies sold to senior consumers was reviewed during the examination period to determine that the Company, or its agents were in compliance with the suitability determination requirements of Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.

At the beginning of the scope period, the Company utilized disclosure forms for fixed annuities that asked questions regarding the senior consumer’s long-term goals, what portion of their income was in investments and savings, and if the annuity would meet their liquidity needs. Information as to tax bracket or other current insurance products owned was not requested. In October 2004, the disclosure forms were amended to obtain the senior consumer’s tax bracket at the time of application. The Company’s application contains a yes/no question relating to other insurance products owned. On August 28, 2006, the Company distributed a field memorandum to all appointed agents in Florida reminding them of their obligations under Section 627.4554, Florida Statutes.

Nine (9) files for policies sold to senior consumers did not include evidence that the agent had made reasonable efforts to obtain the senior consumer’s tax status at the time of the sale as required by Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.

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

COMPLAINT ANALYSIS

There were 54 complaints requested for review. Twenty-three (23) complaints were filed directly with the Company, 20 complaints were filed with the Florida Department of Financial Services (DFS), and an additional 11 complaints were “service of process” files. All but 3 complaints were outside the examination period. No exceptions were noted with these 3 complaint files.

All complaints filed with DFS were included in the Company’s complaint register.

REPORT SUMMARIZATION

A review was made of the Company’s supervisory system over annuity suitability recommendations, in addition to a sample of 53 files. Nine (9) errors were found. The following represents general findings; however, specific details are found in each section of the report.

Sample Files Reviewed – 53 Files

- Policies – 50 files
- Suitability Related Complaints – 3 files

Findings

- Policy Review – 9 errors – page 4 of the report
 - Failure to provide evidence that a reasonable effort was made to obtain all 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.