



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

NEW YORK LIFE INSURANCE COMPANY

AS OF

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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 requires a higher level of detail and accountability for Insurer Anti-Fraud Special Investigative Unit (SIU) Description filings and Insurer Anti-Fraud Plan filings.

A target market conduct examination of New York Life Insurance Company was performed to determine compliance with Sections 626.9541(1)(g), 626.9541(1)(x), 626.9541(1)(dd) and Section 626.9891, Florida Statutes and Rules 69O-125.003 and 69D-2, Florida Administrative Code.

Two violations were found during the examination.

The following represent general findings, however, specific details are found in each section of the report.

<u>TABLE OF TOTAL VIOLATIONS</u>			
Statute/Rule	Description	Files Reviewed	Number of Violations
626.9541(1)(dd)	The Company issued a policy with limitations solely on past or future lawful foreign travel plans.	6890	2

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of New York Life 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, 2007 through June 30, 2009. The onsite examination began November 16, 2009 and ended January 07, 2010.

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 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.
- Review policy applications to determine if applications were denied, issued in a manner other than applied for, had benefit changes or canceled based on national origin in compliance with Section 626.9541(1)(g) and (x), Florida Statutes.
- Review 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.
- Review Anti-Fraud Plan to ensure it has been filed and implemented as required by Rule 69D-2 Florida Administrative Code and Section 626.9891, Florida Statutes.

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

New York Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on May 15, 1929. The Company provides Individual Life, Individual Long-Term Care, Individual Annuities, Group Annuities and Group Life. Group Membership Associations are also offered Life, Major Medical, Disability Income, Accidental Death and Dismemberment, Professional Overhead Expense and Hospital Indemnity.

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)
2007	\$235,464,517
2008	\$226,236,791
2009	\$251,019,235

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 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 training materials.

The Company's Individual policy applications contained travel related questions and used travel questionnaires.

The Company received 17,243 applications for life insurance coverage during the scope period.

Declined Applications:

The examiners reviewed 1,752 declined applications. There were no violations found.

Policy Issued With Limitations or Policy Benefit Change:

The examiners reviewed 2,166 policies issued with limitations or with policy benefit changes. There were 2 violations found.

1. **In 2 instances the Company issued a policy with limitations solely on past or future lawful foreign travel plans in violation of Section 626.9541(1)(dd), Florida Statutes.** One policy was issued, with a limit on the amount, due to extensive travel outside of the United States (US). The applicant has been a permanent resident of the US for 11 years. He has traveled extensively to Mexico, the Dominican Republic, Dubai, India, Uganda, Chili, Guatemala, Trinidad and Peru and indicated more travel in the future. E-mails and notes in the Company's file indicate that Reinsurance insisted on limiting the requested \$250,000 insurance amount due to history of extensive travel. Reinsurance stated that based on the extent of the past and future travel they would only reinsure for \$200,000. The policy was written for \$200,000. Another policy was issued, with a lower rating, due to travel outside of the US. The applicant has been a permanent resident alien of the US for 12 years. He stated he travels out of the country 5-6 times a year for 3 weeks to Brazil.
 - 1a) **CORRECTIVE ACTION:** The Company should issue policies in accordance with the requirements of Section 626.9541(1)(dd), Florida Statutes.
 - 1b) **SUMMARY OF COMPANY'S RESPONSE:**
 - a. The underwriting decision made in this case was an error that is inconsistent with New York Life company policy and practice, and have taken appropriate corrective action to avoid a reoccurrence.
 - b. The underwriting decision in this case was an error that is contrary to the Company's usual and customary practices and procedures.

Canceled Policies:

The examiners reviewed 2,740 canceled policies. There were no violations found.

COMPLETENESS AND ACCURACY TEST

A sample of 116 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 cancelations were included on the respective listings provided by the Company. No violations were found.

A sample of 116 of canceled policies which were not selected for detailed review were reviewed to verify that the reason for cancelation was as reported by the Company in the data files. No violations were found.

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 on coverage as a result of an applicant's past lawful foreign travel, future lawful travel plans or the applicant's place of birth.

There were 63 contracts reviewed. Contracts are issued to cover certain types of policies, therefore, there are multiple contracts issued between each reinsurer and the Company. Sixty-two contracts do not have any limitations to insured's past or future travel or place of origin. There are few contracts that do require the insured to be a resident of certain country but those limitations will cover policies issued in those countries.

As the scope is limited to policies issued in Florida the review was limited to any limitations that the contracts have to Florida residents. There was one contract that did place coverage limitation based on the insured's travel plans to certain countries.

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. 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.