



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

NORTH AMERICAN COMPANY FOR LIFE AND HEALTH INSURANCE

December 30, 2014

NAIC COMPANY CODE: 66974

NAIC GROUP CODE: 0431

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.....	6
ANTI-FRAUD PLAN REVIEW	6
EXAMINATION FINAL REPORT SUBMISSION	7

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.

<u>TABLE OF TOTAL VIOLATIONS</u>			
Statute/Rule	Description	Files Reviewed	Number of Violations
626.9541(1)(dd) 1 & 2, 69O-125.003(2)	Issued a policy with a higher rate based solely on lawful foreign travel	1,211	1
626.9541(1)(dd) 2, 69O-125.003(4)	Issued a policy with a benefit limitation based solely on future lawful foreign travel	1,211	2

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of North American Company for Life and Health Insurance (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 9, 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 terminated 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

North American Company for Life and Health Insurance is a foreign Life and Health insurer licensed to conduct business in the State of Florida on October 4, 1921. The Company is authorized to offer Life, Group Life & 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, 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	\$56,884,301

LIFE APPLICATION REVIEW

APPLICATION FORMS REVIEW

The Company's life insurance applications capture the proposed insured's state or country of birth, and also ask if the proposed insured has traveled or will travel to Afghanistan or Iraq in the past or next 12 months, and if he/she intends to or has resided or intends to reside outside the US for more than 180 in the past or 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.

- 1) **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 an error had been made on the 2013 Survey.
- b) **CORRECTIVE ACTION:** The Company should file correct answers in the Freedom to Travel survey.

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 residents. In addition, the Company has underwriting guidelines provided to agents that address US residency requirements, foreign travel, and permissible visa types.

Proposed insureds must be a US resident, or have permanent resident status, for at least the past 2 years. Foreign nationals must also have the intent to remain in the US permanently. Travel to countries or areas considered hazardous by the company may be excluded.

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 provided a data file of 3,087 applications for life insurance coverage. This number was 131 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 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 include applications from all its administrative systems in its Freedom to Travel survey.
- 2) **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 77 applications denied or issued in a manner 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 available. The Company does not have the ability to report the place of birth from its administration systems as the data is not a required field, therefore it did not have the information available to accurately respond to the question.
- b) **CORRECTIVE 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 341 declined applications. No violations were noted.

Withdrawn, Not Taken, Postponed and Incomplete Applications

The examiners reviewed 903 applications coded as withdrawn, not taken, postponed, incomplete, or has no final transaction. No violations were noted.

Issued Other Than Applied For

The Company's administration systems do not maintain coding to identify if an application is issued other than applied. Therefore, the examiners reviewed 1,211 applications that had been issued at a standard rate.

- 1) **In 1 instance, the Company issued a policy at a standard (higher) rate due to the applicant's past and future lawful travel, in violation of Section 626.954b(1)(dd)1 and 2, Florida Statutes, and Rule 69O-126.003(2), Florida Administrative Code.**
 - a) **COMPANY RESPONSE:** The Company agreed with this finding and stated the underwriting made an error in assessing the risk and should have offered coverage at a super preferred risk.
 - b) **CORRECTIVE ACTION:** The Company should ensure adequate training and controls are established to prevent the underwriting of Florida applications based solely on past or future lawful travel.
- 2) **In 2 instances, the Company issued a policy with an amendment to document foreign travel information that had been discovered during the underwriting process. In both cases, the proposed insured had responded "no" to the questions on the Florida approved application concerning travel to Afghanistan or Iraq, and concerning past or anticipated foreign residency of over 180 days. Documenting the lawful foreign travel information in an amendment potentially limits the policy benefits, violating Section 626.9541(1)(dd) 2, Florida Statutes and Rule 69O-126.003(4), Florida Administrative Code. There is concern for the consumers' understanding of the intent for the**

amendment and the possible use of the amendment during the adjudication of a death claim.

- a) **COMPANY RESPONSE:** The Company stated the amendments were used to confirm information provided to the Company by the agency and that they were not intended to, nor did not, limit the proposed insureds travel.
- b) **CORRECTION ACTION:** The Company should identify all Florida policies issued with a foreign travel related amendment and reissue the policies without the amendment. Additionally, the Company should discontinue the use of amendments that address travel statements that are not relevant to the underwriting of life applications in Florida.

Life Applications Completeness Test

The examiners had requested a random sample of 114 policies coded as “Delivered” from the initial data file provided by the Company. Examiners noted that 40 were issued other than applied for. This finding resulted in the review of 1,211 policies addressed above under Issued Other Than Applied.

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 22 policy benefit changes during the examination scope period. The examiners reviewed 8 policies with benefit changes that were identified by the Company as having possible underwriting or were requested by the policyholder. In addition, the examiners reviewed a random sample of 5 of the remaining 14 benefit changes to confirm accuracy of coding and to confirm no underwriting was done. No violations were noted.

Terminated, Canceled and Rescinded Policies

The Company reported a population of 1,720 terminated, canceled or rescinded policies during the examination scope period. The examiners reviewed 3 policies coded as terminated to confirm there was no underwriting done. A random sample of 113 out of the remaining 1,717 policies that were terminated due to death, lapse, surrender or maturity was reviewed to access the accuracy of coding. No violations were 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 any limitations as a result of the applicants 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 travel abroad. Agreements with seven of the Company's reinsurers specifically state that the Company's foreign travel guidelines are to be included as part of its underwriting guidelines that are attached to the agreement. Agreements with the other two reinsures include select pages from the Company's underwriting guidelines and these do address foreign travel and US residency requirements.

Agreements with one reinsurer include a facultative application with a box to record the state of birth. The Company attested that, to the best its knowledge and belief, the Company's reinsurers do not require the Company to report the place of birth on the facultative reinsurance applications. It further stated the place of birth is used for identification only. Regardless what is reported on the facultative application for state of birth, the Company submits the insurance application to the reinsurer, which includes the proposed insured's place of birth and citizenship status, along with other underwriting documents.

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, with the following exception noted.

- 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 the Company follow its internal training guidelines pursuant to 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.