



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

**OM FINANCIAL LIFE INSURANCE COMPANY
AS OF**

MARCH 4, 2010

NAIC COMPANY CODE: 63274

NAIC GROUP CODE: 2598

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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 OM Financial 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.

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) | Company denied or placed limitations upon an individual based solely on the individual's past lawful foreign travel or future lawful travel plans | 21,678 | 9 |

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of OM Financial 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 January 11, 2010 and ended March 4, 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 based solely on the individual's past lawful foreign travel 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 solely 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 lawful 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.

This Final Report is based upon information from the examiner's draft report, 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

OM Financial Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on July 5, 1960. The Company provides Variable Annuities, Credit Disability, Life, Credit Life, Group Life and Annuities, Variable, and Accident and Health insurance coverage in the State of Florida.

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 | 60,759,977 |
| 2008 | 56,879,709 |
| 2009 | 47,116,406 |

LIFE APPLICATION REVIEW

I. FILE REVIEW

The examiners reviewed information contained in the Company's individual life underwriting files, including 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 did use applications that contained travel related questions (older applications) and used travel questionnaires.

The Company received 21,446 applications for life insurance coverage during the scope period.

Declined Applications:

The examiners reviewed 5,404 declined applications. There were eight violations found.

1. **In nine instances the Company declined an application based solely on past or future lawful foreign travel plans in violation of Section 626.9541(1)(dd), Florida Statutes.**

In one instance an application was denied due to travel outside of the U.S. to Haiti. Underwriting information in the Company's file indicate that decline was based on travel to Haiti.

In one instance an application was denied due to ties to Haiti. Underwriting information in the Company's file indicates that decline was based on Haiti being a "warning zone" country.

In one instance Underwriting notes state; *"applicant plans to apply in 2010 for citizenship, has been in the US 2.5 yrs and plans to stay indefinitely. The applicant returns to Pakistan every 5 years. Decline due to app info (returns to Pakistan every 5 years) Agree with Pakistan on travel warning list"*.

In one instance Underwriting notes state; *"Citizenship in process now, PI (proposed insured) has been here since 1995. PI plans to return to visit Philippines in 4 yrs for a week or two. Because he's intending to visit the Philippines in the future, will have to decline, travel warning country"*.

In one instance Underwriting notes state; *"perm resident with green card, been in U.S. 15 years, plans on staying indefinitely. PI (proposed insured) plans on visiting home country (Haiti) in 08/2008 for 2 weeks. Visits home once a year. Decline for HC (Home Certain) plan with future travel to Haiti on travel warning list."*

In one instance Underwriting notes state; *"The PI (proposed insured) is a legal resident of the U.S. from Columbia. Applicant has been here for 9 years. Applicant travels to Columbia 5 times a year to visit family for 2 weeks at a time. Columbia is on a travel warning list and denied due to foreign travel to Columbia-info on application"*.

In two instances the same proposed insured, under separate applications, was declined. Underwriting notes state; *"The PI (proposed insured) is a U.S citizen born in Haiti. Applicant admits travel to Haiti to visit family and admits wanting to travel to Jerusalem for a 1 week vacation"*. The company declined stating both Haiti and Israel are on travel warning lists.

In one instance the proposed insured, was born in Haiti and has been in the United States since June 1, 2004. He obtained a permanent resident status (Green Card) on February 25, 2007. He intends to visit Haiti for one week every two years and return to the United States. The travel information was gleaned from a Citizenship Questionnaire that was included as part of the Application File. The underwriter stated *"Declined due to future travel on application."*

- 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:** The Company agreed with all nine of the above findings stating; *"The underwriter handled the application/file incorrectly."*

Policy Issued With Limitations or Policy Benefit Change:

The examiners reviewed 10,263 policies issued with limitations or with policy benefit changes. There was one violation found.

- 1. **In one instance the Company placed limitations on an application based solely on past or future lawful foreign travel plans in violation of Section 626.9541(1)(dd), Florida Statutes.** The proposed insured was born in Nigeria and has been in the U.S. for 30 years. Applicant is a permanent resident, married to a U.S. citizen and was applying for citizenship himself in 2009. A Citizenship/Travel/Residency questionnaire was included and the applicant admits to travel back to Nigeria every five to ten years for a one week vacation. The Company approved and issued the policy for the applied for amount of \$100,000 but it states to "approve at standard, non-tobacco rates, not preferred due to foreign travel."
- 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:** The Company agreed with this finding stating; *"The underwriter handled the application/file incorrectly"*.

Canceled Policies:

The examiners reviewed 5,778 canceled policies. There were no violations found.

II. 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 was 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 foreign travel plans or the applicant's place of birth.

No reinsurance agreements contain any provision placing any limitations due to past and/or future foreign travel or the applicant's place of birth.

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.