



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

PENN MUTUAL LIFE INSURANCE COMPANY

AS OF

January 7, 2011

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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 Penn Mutual Life Insurance Company was performed to determine compliance with Section 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
626.9891 F.S. and Rule 69D-2, FAC.	The Company did not fully implement an Anti-Fraud Program in accordance with the filed Special Investigative Unit Description or Insurer Anti-Fraud Plan with the Division of Insurance Fraud, as required by Rule 69D-2, FAC.	N/A	1

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of Penn Mutual Life Insurance Company (Company or PML) 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, 2010. The examination began December 12, 2010 and ended January 7, 2011.

The purpose of this examination was to review compliance with Sections 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 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

Penn Mutual Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on September 15, 1894. The Company provides life, group life and annuities, accident and health, and variable life 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	25,953,744
2008	23,649,940
2009	32,784,092

LIFE APPLICATION REVIEW

I. FILE REVIEW

The examiners reviewed information contained in the Company's individual 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 did not use applications that contained travel related questions and did use travel questionnaires.

The Company received 1,662 applications for life insurance coverage during the scope period.

Declined Applications:

The examiners reviewed 88 declined applications. There were no violations were found.

Policies Issued With Limitations:

The examiners reviewed all 740 policies that were issued with limitations, issued other than applied for or not issued in the best rating tier in which the applicant qualified for, were subject to the review. There were no violations found.

Policy Benefit Change:

All policy benefit changes that required an underwriting review were subject to the review. There were 34 policy benefit changes during the scope period subject for review. All were reviewed. There were no violations found.

Canceled Policies:

The examiners reviewed all 431 cancelled policies. They included any policies cancelled for underwriting reasons or applications that were withdrawn, incomplete or not taken. There were no violations found.

II. COMPLETENESS TEST

A sample of 79 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.

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 not fully implemented its Anti-Fraud Plan as required by Section 626.9891, Florida Statutes and Rule 69D-2.003, Florida Administrative Code.

There was 1 violation found.

1. In 1 instance the Company failed to fully implement its Anti-Fraud Plan in violation of Section 626.9891, Florida Statutes and Rule 69D-2.003, Florida Administrative Code.

The examiner noted that the Anti Fraud Plan does not reference any specific duties and responsibilities of the Special Investigative Unit (SIU) Manager with respect to anti-fraud efforts. The Company was not able to provide examples of work product for any of the employees listed in its organizational chart, nor did they provide specific duties and responsibilities relating to anti-fraud efforts. The examiner determined that the Company's Anti Fraud Plan did not contain specific criteria that the SIU has established and implemented to detect potential fraudulent activity relating to all types of insurance offered by the insurer. The only reference with respect to detection of potential fraud activity is that the Internal Audit Department "assist business unit management the development and implementation of monitoring procedures to further enhance the detection of fraudulent activity (including "common front end" system for all transactions processed along with flags for certain transactions." The examiner did request the Company to provide a copy of the Internal Audit Department's "monitoring procedures" by which the Company responded that there are no "monitoring procedures" in place.

With respect to investigation criteria, the Company did provide the examiner with a high level Process for Identifying Possible Investigations at the Company Level. The examiner requested from the Company that it provide the means by which suspected fraudulent activities are reported to the SIU. The Company was unable to provide such means or any specific written investigative guidelines used by SIU to investigate fraudulent activities.

The only information provided by the Company with respect to training of all personnel of the SIU relating to the detection and investigation of fraudulent acts was that the SIU Manager is a member of the Association of Certified Fraud Examiners and that he is studying for the Certified Fraud Examiner designation. He has also attained the designation of Certified Anti-Money Laundering Specialist (CAMS). No further information as to course descriptions, course manuals or training dates attended was provided the examiner. The Company did, however, provide a document which consists of Anti Laundering Courses completed by new hires of the Company in 2009. No further information was made available to the examiner.

- 1a. **Corrective Action:** The Company should establish procedures to ensure full implementation of the Company's Anti-Fraud Plan and that implementation fully complies with the requirements of Section 626.9891, Florida Statutes and Rule 69D-2.001-005, Florida Administrative Code.
- 1b. **Company Response:** While we do not believe that finding to be totally accurate, we are indicating herein our agreement with the finding. PML does have a Fraud plan supported by a Fraud Investigative Unit. We believe that this has worked in that we have not underreported any fraud cases. However, we agree that the function could be much more robust. Consequently, PML plans to design, implement and execute a much enhanced, robust fraud detection program by June 30, 2011. A cross-functional team has been formed chaired by the Chief Compliance Officer. This new function will be housed within PML's Compliance Department.

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.