



# **THE STATE OF FLORIDA**

## **OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS**

### **MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**UNITED INSURANCE COMPANY OF AMERICA**

**AS OF**

**December 19, 2013**

**NAIC COMPANY CODE: 69930**

**NAIC GROUP CODE: 0215**

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## EXECUTIVE SUMMARY

A comprehensive market conduct examination of United Insurance Company of America was performed to determine compliance with Florida Statutes and the Florida Administrative Code.

The following represent general findings, however, specific details are found in each section of the report and are separated by examination type.

<b><u>TABLE OF TOTAL VIOLATIONS</u></b>			
<b>Statute</b>	<b>Description</b>	<b>Files Reviewed</b>	<b>Number of Violations</b>
626.989(6)	Failure to report agent premium misappropriations to the Division of Insurance Fraud. (Producer Licensing)	20	5
626.511	Failure to notify the Division of Agent and Agency Services of the reasons for terminating an agent for cause. (Producer Licensing)	20	1
627.482(1)	Failure to pay interest on cash surrender requests when payment was not made within 30 days of receipt. (Cancellations)	159	1
627.318	Failure to maintain records. (Rescissions)	79	8
626.9541(1)(i)3c	Failure to timely acknowledge claims. (Life)	43	8
626.9541(1)(i)3c	Failure to act promptly with respect to claims. (Life)	43	3
627.318	Failure to maintain claim records. (Life)	43	3
626.9541(1)(i)3e	Failure to timely investigate claims. (Life)	43	2
626.9541(1)(i)3c	Failure to promptly notify the insured with a claim update letter. (Life)	43	1
627.4615	Failure to pay the correct amount of interest. (Life)	43	3
627.6131	Failure to timely acknowledge claims. (A&H)	73	24
627.6131	Failure to pay, deny, or contest claims within the required timeframes. (A&H)	73	3
627.6131	Failure to provide notice of denied or contested claims. (A&H)	73	6

## PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a comprehensive examination of United Insurance Company of America (Company) pursuant to Section 624.3161, Florida Statutes. The examination was performed by Examination Resources, LLC. The scope period of the examination was January 1, 2007, through December 31, 2012. The onsite examination began September 23, 2013, and ended December 19, 2013. The examination continued offsite and concluded on March 13, 2014.

The purpose of the examination was to review the Company's compliance in the areas of:

- **Operations and Management** - (Internal Audits, Controls of Computer Information, Anti-Fraud Initiatives, Disaster Recovery, Outsource of Management Services, Records Retention, Certificate of Authority, Privacy Requirements, Board of Directors Minutes). Sections 624.318, 624.33, 624.401, 624.402, 624.406, 624.603, 626.112, 626.88, 626.8805, 626.8814, 626.8817, 626.882, 626.883, 626.884, 626.886, 626.9651, 626.9891, 627.318, and 817.5681, Florida Statutes; and Rule 69O-128, Florida Administrative Code.
- **Complaints** – Section 626.9541(1)(j), Florida Statutes.
- **Marketing and Sales** - Rules 69O-150(2), and 69O-191.063, Florida Administrative Code.
- **Producer Licensing** – (Appointments and Terminations). Sections 626.112, 626.461, 626.471, and 626.511, Florida Statutes.
- **Policyholder Services** – (Premiums, Billing, and Cancellations). Rule 69O-191.042, Florida Administrative Code.
- **Underwriting and Rating** – (Rating Practices, Mandated Disclosures, Forms Filing, Cancellations, Declinations, Rescissions, Prescription Drug Tier Changes). Sections 627.4091, 627.410, 627.421, 627.6699, and 627.674, Florida Statutes.
- **Claims Handling** – (Claim Acknowledgments, Timely Investigations, and Timely Payment of Claims). Sections 626.9541, 627.419, 627.4615, and 627.6131, Florida Statutes.

In reviewing materials for this report, the examiners relied on records provided by the Company and additional research conducted by the Office. Procedures and conduct of the examination were in accordance with the *Market Regulation Handbook* produced by the National Association of Insurance Commissioners (NAIC). Sample sizes were determined using the Acceptance Samples Table of the *Handbook* or by Audit Command Language (ACL) software. ACL determined the parameter of the sample sizes with a Confidence Level of 95%, an Upper Error Limit of 5%, and an Expected Error Rate of 2% in accordance with the *Handbook*.

## **COMPANY OPERATIONS**

United Insurance Company of America, Inc. is a foreign Life and Health insurer licensed to conduct business in the State of Florida on October 9, 1952. The Company is an affiliate of the Kemper Corporation providing Life, Annuities, and Accident and Health coverage in the State of Florida.

Total Direct Premiums Written in Florida was as follows:

Year	Total Written Premiums In Florida (Per Schedule T of the Annual Statement)
2007	\$24,760,226
2008	\$22,934,217
2009	\$22,323,819
2010	\$22,119,583
2011	\$22,249,165
2012	\$22,073,141

The Company is headquartered and processes claims in its St. Louis, Missouri offices. The Company primarily offers basic protection products with modest face amounts that are distributed by its employee agents. Agents collect monthly premiums and record premium and loan payments in customer premium receipt books. The premium receipt books are maintained by the customer. Agents also log all payments received into a handheld computer, which is uploaded to the Company's system. Agents are required to convert cash payments into money orders prior to submitting funds to the Company and the funds received must correspond to the amounts recorded in the handheld computer. Agents also provide additional service when visiting customers' homes.

## **OPERATIONS & MANAGEMENT**

### **I. Internal Audits**

The Company was requested to provide internal audit procedures and reports issued during the scope period for review. The Company has internal audit procedures in place to identify problematic areas and make recommendations for corrective action. The Company responds to problematic issues by making recommendations. Assigned personnel are responsible for responding to the recommendations.

No violations were noted.

### **II. Controls of Computer Information**

The Company was requested to provide its Information Security Policy for review. The policy includes internal and external procedures to ensure the security of electronic data. The Company's computer systems are password protected. Strict procedures for password use, sharing, protection, constraints and storage are in place. Employees are instructed to follow

security precautions. The Company's IT governance and IT general control (ITGC) environment are defined by roles and responsibilities.

Management performs audits of ITGCs using an automated tool, ICON, to ensure compliance with annual audit control reviews required by the Sarbanes-Oxley Act of 2002 (SOX) and other stakeholders (non-SOX). Annual audit control reviews are performed by internal and external auditors. The ICON database contains a list of controls, control procedures, and a hierarchy of responsible parties if a primary reviewer is not available. E-mails are triggered by a scheduler that notifies responsible parties when a review is due and the system allows reviewers to complete a form linked to the control.

No violations were noted.

### **III. Internal Audit & Compliance**

The Company was requested to provide ITGC review reports that annually test SOX and non-SOX controls for review. The Company took corrective action when ITGC review reports indicated the presence of IT internal controls deficiencies.

No violations were noted.

### **IV. Information Security Program**

The Company's Information Security Program was reviewed. The Company has a written information security program that includes administrative, technical, and physical safeguards for the protection of customer information.

No violations were noted.

### **V. Change Management Controls**

The Company's system controls for claims payments were reviewed. The timeliness of claims payments is enforced through the ADM Workflow application and payments are calculated automatically in the Life Claims system. Change controls ensure the payment calculation algorithm is not altered. Claims payments follow claims rules unless they are amended in the system which reduces the possibility of intentional or inadvertent system changes by multiple levels of management without authorization. The change controls also provide an audit trail and system changes are reviewed using ICON.

No violations were noted.

### **VI. Anti-Fraud Plan**

The Company was requested to provide its anti-fraud plan for review. The Company utilizes a third party vendor to act as its Special Investigations Unit (SIU).

No violations were noted.

## **VII. Disaster Recovery Plan**

The Company was requested to provide its disaster recovery plan for review. The disaster recovery plan includes business continuity procedures during natural disasters and other adverse events. The recovery plans are current, specific, and include detailed instructions. The plan includes moving important records off-site and addresses computer back-ups to facilitate continuity of business.

No violations were noted.

## **VIII. Outsourcing of Management Services**

The Company was requested to provide outsourcing contracts for review. The Company contracts external management services with two vendors. The contracts stipulate privacy requirements and responsibility for information record keeping.

No violations were noted.

## **IX. Records Retention Procedures**

The Company was requested to provide its records retention procedures for review.

The following Finding was noted:

- A. The Company did not maintain records of agent training materials used during the full scope period of the exam. A review of the Company's record retention schedule determined the retention period for training materials (in years) is "discard when obsolete." The retention event is determined when "content in material is no longer valid or accurate."
1. **Corrective Action:** The Company should adopt procedures to ensure records relating to the subject of examinations are available for review by the Office or its examiners.
2. **Company Response:** The Company agreed to modify its records retention schedule so that the retention period for agent training materials is sufficient to ensure that materials are available during any relevant period under review.

## **X. Policyholder Privacy Procedures**

The Company was requested to provide policyholder privacy procedures, notices of privacy practices, and privacy notices for review. The Company's privacy procedures, compliance policies, and standards of conduct detail the safeguarding of personal information. Consumers are provided with annual privacy notices via agents servicing the accounts.

No violations were noted.

## **COMPLAINT HANDLING**

The Company was requested to provide complaint handling procedures for review. A random sample of 35 complaints from a universe of 102 complaints received by the Division of Consumer Services was reviewed. A random sample of 49 complaints from a universe of 235 complaints filed directly with the Company was also reviewed.

One consumer complaint received by both the Company and the Division of Consumer Services in July 2009, requested the Company to investigate policy loans issued from the cash values of three whole life insurance policies in 2005 and 2006. Two of the three loans were used to pay monthly premiums owed and the third policy loan was made payable directly to the consumer. The consumer requested credit for the loan and annually compounded interest amounts as she did not authorize any one to obtain the loans and the signatures on each of the three loan request forms did not match the consumer's signature.

The Company confirmed that from 2005-2010, its policyholder service department's procedure was to confirm that the policy owner's name was the same as the person requesting the loan. As the name on the request form matched the consumer's name as the policy owner, the Company issued the loans as requested. After the consumer alleged she did not request the premium loans, the Company requested proof that the premiums were paid to the agent. As the consumer did not provide proof of payment, the Company did not credit the consumer's policies for the loan and interest amounts as requested.

Beginning in 2010, the Company's policyholder service department changed its premium loan procedure and began comparing policy owner signatures on the application for insurance against the policy owner's signature shown on loan request forms. If the signatures appear not to match, the Company requests a current signature sample from the owner prior to processing premium loan requests. The Company's policy loan procedure has policy owners submit forgery affidavits if policy loans are issued within two years of the owner's notification of alleged forgery. As the consumer's policy loan was requested and issued in 2005, and the complaint was made in 2009, the Company did not process a forgery affidavit.

No violations were noted.

## **MARKETING & SALES**

The Company was requested to provide advertising materials used during the scope period for review. A review of 19 pieces of advertising materials was conducted.

No violations were noted.

## **PRODUCER LICENSING**

The Company was requested to provide its procedures for producer licensing, appointments, and terminations for review.

## **I. Appointments**

Verification of producer licenses and appointments was conducted using a random sample of 116 issued life policies and 115 issued health policies out of a universe of 52,781 issued policies during the scope period.

No violations were noted.

## **II. Terminations**

Verification of producer terminations was conducted using a random sample of 20 agent terminations out of a universe of 485 agent terminations executed during the scope period; five of which were terminations for cause.

The following violations were noted:

### **A. In five (5) instances, the Company failed to report instances of agent premium misappropriations to the Division of Insurance Fraud, in violation of Section 626.989(6), Florida Statutes.**

1. **Corrective Action:** The Company should adopt procedures and provide additional training to staff to ensure all instances of premium misappropriations are referred to the Division of Insurance Fraud.
2. **Company Response:** The Company agreed that it did not send notice of five (5) terminations for cause directly to the Division of Insurance Fraud pursuant to Section 626.989(6), F.S. However, the Company maintains that in four (4) instances it did provide the required notice to the Bureau of Agent and Agency Services, which is located at the same address as the Division of Insurance Fraud. The Company will modify its procedures so that the notices of termination for cause are mailed to both the Bureau of Agent and Agency Services and the Division of Insurance Fraud.

### **B. In one (1) instance, the Company failed to notify the Division of Agent and Agency Services of the reasons for terminating an agent for cause, in violation of Section 626.511, Florida Statutes.**

1. **Corrective Action:** The Company should adopt procedures to ensure the Division of Agent and Agency Services is notified of the reasons for all agent terminations.
2. **Company Response:** The Company agreed it was unable to produce a copy of the notification letter to the Division of Agent and Agency Services but confirmed it has procedures in place to provide proper notice when an agent is terminated for cause.

## **POLICYHOLDER SERVICES**

### **I. Premium Notices**

The Company was requested to provide premium billing procedures for review. Random samples were reviewed in conjunction with the underwriting and rating review of issued life and health policies.

No violations were noted.

### **II. Cancellation Notices**

The Company was requested to provide its procedures for issuing notices of cancellation for review. A random sample of 159 cancellations out of a universe of 65,535 cancellations issued during scope period was reviewed. Of the 159 cancellations reviewed, 136 were initiated by the Company and 23 were requested by the insured.

The following violation was noted:

#### **A. In one (1) instance, the Company failed to include interest on a cash surrender request when payment was not made within 30 days of receipt, in violation of Section 627.482(1), Florida Statutes.**

- 1. Corrective Action:** The Company should adopt procedures to ensure all interest is included when payments are issued after 30 days of receiving the request and issue additional interest payments to the affected claimant.
- 2. Company Response:** The Company agreed that it has insufficient documentation to support its position that interest is not due. The Company does not request a policy from an insured that requests a cash surrender as provided in the referenced statute. As a result, the Company never receives a copy of the policy with the request for cash surrender, which is the statute's trigger for the 30 day interest requirement. Instead of requiring the policy, the Company utilizes the insured's signature to verify the identity of the person submitting the surrender request. The Company uses the day it receives the document used to verify the signature/identity of the insured as the start date for an interest determination. If the surrender amount is not paid within 30 days of receiving the requested identity verification, the Company pays interest.

### **III. Application Declinations**

The Company was requested to provide application declinations for review. A random sample of 115 declined applications out of a universe of 2,688 declined applications during the scope period was reviewed.

No violations were noted.

#### **IV. Rescissions**

The Company was requested to provide policy rescissions for review. A random sample of 79 rescissions out of a universe of 120 rescissions issued during the scope period was reviewed.

The following violations were noted:

##### **A. In eight (8) instances, the Company failed to maintain records of rescission documents, in violation of Section 627.318, Florida Statutes.**

- 1. Corrective Action:** The Company should adopt procedures to ensure all records are maintained.
- 2. Company Response:** The Company agreed that it could not locate the rescission files, but confirmed they were maintained in paper form and susceptible to being misplaced or misfiled. In 2009, the Company implemented an imaging system whereby all claim files and rescinded policy files are scanned and stored electronically. As a result, the Company has already corrected this issue. All records are currently properly maintained in compliance with the statute.

### **UNDERWRITING AND RATING**

#### **I. Life Insurance**

The Company was requested to provide records of life insurance policies for review. A random sample of 116 policies out of a universe of 48,441 policies issued during the scope period was reviewed.

No violations were noted.

#### **II. Accident and Health Insurance**

The Company was requested to provide records of accident and health insurance policies issued during the scope period for review. A random sample of 115 policies out of a universe of 4,341 policies was reviewed.

No violations were noted.

#### **III. Form Filings**

The Company was requested to provide records of all forms used during the scope period for review.

No violations were noted.

## CLAIMS HANDLING

### **I. Life Claims**

The Company was requested to provide life insurance claim files for review. A random sample of 43 paid and denied claims out of a universe of 13,689 paid and 250 denied life claims during the scope period was reviewed.

The following violations were noted:

- A. In eight (8) instances, the Company failed to timely acknowledge receipt of claims, in violation of Section 626.9541(1)(i)3c, Florida Statutes.**
1. **Corrective Action:** The Company should adopt procedures to ensure timely acknowledgement of all life claims.
  2. **Company Response:** The Company agreed with these violations and has implemented procedures to ensure that acknowledgement letters are timely sent. The Life Claims staff manually processes acknowledgement letters and implemented system enhancements to safeguard that claims are acknowledged pursuant to the statute.
- B. In three (3) instances, the Company failed to act promptly with respect to claims, in violation of Section 626.9541(1)(i)3c, Florida Statutes.**
1. **Corrective Action:** The Company should adopt procedures to ensure prompt action with respect to processing, paying, or denying all claims.
  2. **Company Response:** The Company agreed with this violation.
- C. In three (3) instances, the Company failed to maintain claims records, in violation of Section 627.318, Florida Statutes.**
1. **Corrective Action:** The Company should adopt procedures to ensure all records are properly maintained.
  2. **Company Response:** The Company agreed with this violation.
- D. In two (2) instances, the Company failed to timely investigate claims, in violation of Section 626.9541(1)(i)3e, Florida Statutes.**
1. **Corrective Action:** The Company should adopt procedures to ensure the timely investigation of all claims.
  2. **Company Response:** The Company agreed with this violation.
- E. In one (1) instance, the Company failed to promptly notify the insured with a claim update letter, in violation of Section 626.9541(1)(i)3g, Florida Statutes.**

1. **Corrective Action:** The Company should adopt procedures to ensure prompt notifications are sent to all insureds.
2. **Company Response:** The Company agreed with this violation.

**F. In three (3) instances, the Company failed to pay the correct amount of interest, in violation of Section 627.4615, Florida Statutes.**

3. **Corrective Action:** The Company should adopt procedures to ensure accurate calculations of the amount of interest owed and issue additional interest payments to all affected claimants.
4. **Company Response:** The Company agreed with this violation.

**II. Accident and Health Claims**

The Company was requested to provide accident and health claims for review. A random sample of 73 claims out of a universe of 10,113 paid claims and 9,476 denied claims during the scope period was reviewed.

The following violations were noted.

**A. In 24 instances, the Company failed to timely acknowledge receipt of claims, in violation of Section 627.6131, Florida Statutes.**

1. **Corrective Action:** The Company should adopt procedures to ensure all claims are timely acknowledged.
2. **Company Response:** The Company agreed with these violations and has implemented procedures to ensure that acknowledgement letters are timely sent. Acknowledgement letters for health claims are automatically generated electronically in response to claims received. The Company has established procedures to ensure the timely acknowledgement of claims in compliance with the statute.

**B. In three (3) instances, the Company failed to pay, deny, or contest claims within the required timeframes, in violation of Section 627.6131, Florida Statutes.**

1. **Corrective Action:** The Company should adopt procedures to ensure that all claims are paid, denied, or contested within the required timeframes.
2. **Company Response:** The Company agreed with this violation.

**C. In six (6) instances, the Company failed to provide notice of denied or contested claims, in violation of Section 627.6131, Florida Statutes.**

1. **Corrective Action:** The Company should adopt procedures to ensure proper notice of all denied or contested claims.
2. **Company Response:** The Company agreed with this violation.

**EXAMINATION FINAL REPORT SUBMISSION**

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.