



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET REGULATION

MARKET CONDUCT FINAL EXAMINATION REPORT

OF THE

WINDHAVEN INSURANCE COMPANY

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TABLE OF CONTENTS

EXECUTIVE SUMMARY 3

PURPOSE AND SCOPE OF EXAMINATION 3

COMPANY BACKGROUND 4

COMPANY OPERATIONS AND MANAGEMENT 4

COMPLAINT HANDLING 5

POLICYHOLDER SERVICE 6

UNDERWRITING AND RATING 7

CLAIMS 8

MARKETING AND SALES 9

PRODUCER LICENSING 9

APPENDIX A 10

EXECUTIVE SUMMARY

A target market conduct examination of the Windhaven Insurance Company (Windhaven or Company) was performed to determine insurer compliance with the Florida Insurance Code. This examination report includes significant findings of fact, as mentioned in Section 624.3161, F.S. and general information about the insurer and its compliance with applicable provisions of the Florida Insurance Code. The examination findings are compiled at the end of this report in Appendix A. Other items identified during the examination that, due to their nature, are not included within this examination report, will be separately communicated to other regulators and the Company.

PURPOSE AND SCOPE OF EXAMINATION

The Florida Office of Insurance Regulation (Office) conducted a target market conduct examination of the Windhaven Insurance Company (hereinafter referred to as “Windhaven” or “Company”), pursuant to Section 624.3161, Florida Statutes (F.S.). The examination was performed by INS Regulatory Insurance Services, Inc. The scope period of this examination was January 1, 2014, through December 31, 2015. The on-site examination began August 1, 2016, and ended August 5, 2016. Off-site analysis by the examiners concluded December 19, 2016.

The purpose of the examination was to confirm the Company’s compliance with the Florida Insurance Code and reviewed Windhaven’s internal policies and procedures relating to:

- Policy cancellations and rescissions;
- Underwriting;
- Claims-handling (including delays and denials);
- Complaints; and,
- Licensing and appointment of agents.

In reviewing materials for this report, the examiners 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 BACKGROUND

Windhaven Insurance Company is a Florida-domiciled, stock property and casualty insurer authorized to underwrite Private Passenger Auto Liability and Private Passenger Auto Physical Damage lines of insurance in Florida as of March 29, 2006. The Company is a wholly owned subsidiary of Windhaven Managers, Inc. (hereinafter referred to as “WM”), a Florida corporation formed to perform as the managing general agent of the insurer with authority to manage Windhaven’s daily affairs. WM is owned by Windhaven Holdings, Ltd., a Bermuda based holding company with investments in insurance and reinsurance.

Gross Written Premiums in Florida between 2014 and 2016:

Year	Gross Written Premiums
2016	\$ 354,136,452
2015	\$ 275,975,750
2014	\$ 193,314,463

COMPANY OPERATIONS AND MANAGEMENT

The examiners reviewed Windhaven’s company operations and management including controls, safeguards, and procedures for protecting the integrity of computer information; anti-fraud procedures; and third-party contracts and vendors conducting activities on behalf of the Company during the examination period. The examiners also reviewed the Company’s record retention policy and procedures; management structure and licensing; privacy protection of applicants, consumers and policyholders; management of insurance information, written policies, standards, and procedures; and Risk-Focused Financial and Market Conduct Examination reports conducted during the last five years.

Findings: Windhaven Managers, Inc., maintains policy and claim files on a single administrative system used for managing multiple insurers. During the examination, the Company was asked to provide complete data sets of all claims, policies, and complaints issued or received during the examination scope period. Upon receipt and review of the information provided by the Company, the examiners determined the Company included 8,000 policies issued by another insurer comingled in the data sets submitted for review for Windhaven’s examination. Although the Company reviewed the files before presenting the information to the examiners, it failed to detect the inclusion of the erroneous data. The inclusion of these policies invalidated certain examination processes, necessitated additional sampling and analysis in order to validate the findings described in this report, and extended the length of time needed to complete the exam. Additionally, the examiners determined Windhaven erroneously reported information in its required Report of Rescinded Policies filings to the Office. The Company erroneously reported 22 policies as Windhaven rescissions that were in fact rescissions belonging to another insurer.

Company Response: The Company agreed with the findings responding: “Windhaven Underwriters, LLC served as the Managing General Agent for another insurance company during part of the examination scope period. As such, that company's policy and claim files were maintained in the same administrative system, managed by the same management

staff and processed by the same employees with the same processes and procedures as the Windhaven Insurance Company policy files. Information provided to the examiners to draw their samples were taken from the system based upon the requested transaction type and the audit time period. [Information] provided to the examiners to draw their samples [was] taken from the system based upon the requested transaction type and the audit time period. Verbal instructions to retrieve the data were provided to the analyst based upon the examiner's requests. The results of the various data retrievals were reviewed by management for reasonableness. These errors were caused by a technical issue that has now been corrected. No new business is being written by Windhaven Underwriters, LLC for the company [identified] with the erroneous information.” Additionally, the Company indicated that the Company’s systems provide for segregation, retention and reporting of insurance information, and that the misclassification was due to human error.

Recommendation: The Company’s management should confirm the execution of policies and procedures that result in appropriate and accurate segregation, retention, and reporting of insurance information.

COMPLAINT HANDLING

The examiners requested to review the Company’s complaint register and complaint handling procedures. The Company provided five lists of complaints collected by various departments reflecting a total of 884 complaints received during the examination scope period. The Company was unable to provide complaint handling procedures as requested.

The examiners also obtained and reviewed a sample of 113 complaints submitted by consumers to the DFS for compliance with the Florida Insurance Code.

Findings: The examiners identified eight instances in which the Company’s responses to DFS stated the specific complaints were already resolved, did not provide a complete explanation, or the requested documentation.

The examiners identified two violations in which the Company failed to respond to DFS within 20 days after receipt of a written request for information, as required by Section 624.307(10)(b), F.S.

Company Response: In response to the request to provide complaint handling procedures, the Company stated: “Prior to 2014 all DFS complaints and responses were retained via hard copy. During the 2014-2015 examination period Underwriting maintained complete hard copy records of all DFS underwriting (non-claims) complaints and responses. In 2014, Claims maintained soft copy records of all responses related to claim complaints and in 2015 it maintained complete soft copy records of the claims complaints and responses.... Complaints when received are directed to the appropriate departments. All complaints are responded to with corresponding management oversight.” The Company also indicated it had and adhered to undocumented processes.

The Company disagreed its responses to DFS complaints were incomplete, and responded: “In all instances the responses that were provided addressed the issues and allegations raised in the complaint and the complaints were closed by DFS with no further inquiries.”

The Company agreed with the two violations in which it failed to respond to DFS within 20 days after receipt of a written request for information.

Recommendation: The Company was unable to demonstrate that formal complaint handling procedures or processes are in place. Executive management does not have access to accurate or detailed information about complaints received, the sources of such complaints, or complaint trends. The Company does not have written routing instructions to forward complaints to the appropriate and responsible department. It is recommended the Company adopt policies and procedures that improve complaint handling processes, including the use of a central registry for tracking complaints and responses. It is recommended that Company responses to DFS include all information requested regardless if complaints have already been resolved. Due to the volume of complaints the Company receives, it is recommended executive management actively monitor complaints data and implement necessary processes to resolve them.

Subsequent Event: The Company reported it has implemented, centralized, and documented complaint handling processes since December 2016.

POLICYHOLDER SERVICE

The examiners requested a complete list of Private Passenger Automobile (PPA) policies *cancelled at insured request* during the examination scope period. The Company provided a list of 26,754 policies cancelled at insured request. The examiners also requested a complete list of PPA policies where *cancellation was initiated by the Company* during the examination scope period. The Company provided a list of 75,179 policies with cancellations initiated by the Company.

A random sample of 119 cancellations which generated premium refunds was selected. Of the 119 cancellations, 60 were cancelled at insured request and 59 were cancellations initiated by the Company. All of the cancellations were reviewed to determine the Company's compliance with its internal cancellation and refund policies and the Florida Insurance Code.

Findings: The examiners identified eight violations in which the Company failed to issue unearned premium refunds owed to insureds within 30 days of receiving the insured's request or the cancellation effective date. In addition, the Company failed to include statutorily required interest owed to insureds after failing to issue refunds within the applicable time period, in violation of Sections 627.7283(1), and 627.7283(3), F.S.

The examiners identified seven violations in which Windhaven failed to issue unearned premium refunds owed to insureds within 15 days of the Company initiating cancellation of the policies. In addition, the Company failed to include statutorily required interest owed to insureds after failing to issue refunds within the applicable time period, in violation of Sections 627.7283(2), and 627.7283(3), F.S.

Company Response: The Company agreed with the violations.

Recommendation: It is recommended the Company implement procedures to ensure refunds of unearned premiums are paid within the required timeframes and pay statutory interest, when applicable.

UNDERWRITING AND RATING

Windhaven's underwriting process involves reviewing submitted applications for required signatures, motor vehicle records (MVR's) for prior accidents and moving violations, and ensuring drivers' licenses are active and valid. The Company also reviews documents submitted for applicable discounts, acceptable applicant occupations, and acceptable vehicle use prior to accepting the risk and issuing a policy.

In 2014, the Company reported that it began to order A-PLUS ¹Loss Experience Reports as part of its underwriting risk review. However, the Company indicated the A-PLUS data is limited in that it only comes from other insurers that participate in the A-PLUS program and reports losses previously reported by the applicant or anyone who might have lived at the insured's current address.

During the pre-examination meeting, the Company was asked if it uses other services or technology to verify occupants or other household members at the time of application to ensure accurate underwriting of the risk. The Company responded it did not. When asked how Windhaven would learn of other occupants or household members at the time of sale, the Company indicated it relies on the information provided by the consumer on the application.

The Company provided a list of 5,510 PPA *rescinded policies* during the examination scope period. A random sample consisting of 119 rescinded policies was reviewed to determine compliance with the Company's internal rescission policies and the Florida Insurance Code.

Findings: In one instance, the Company denied a claim and rescinded a policy in error. An insurer cancelling a policy after 60 days may only do so in instances of nonpayment of premium, material misrepresentation, or relevant suspension of registration or driver license. None of these reasons were applicable to the canceled policy, in violation of Sections 627.728(2), F.S.

Company Response: The Company agreed with the violation, reinstated the policy, and made payment to the claimant.

While reviewing the 119 rescinded policies, the examiners also reviewed the Company's use of forms to determine compliance with the Florida Insurance Code. The examiners determined that Windhaven had failed to file a form with the Office for approval prior to using it.

Findings: The Company was unable to demonstrate that processes are in place to ensure that forms are filed and approved with the Office prior to use. The Company used an unfiled and unapproved form, in violation of Section 627.410(1), F.S.

Company Response: While the Company disputed it was in violation with Section 627.410(1), F.S., it indicated a process has been built to ensure the use of approved forms.

¹ <http://www.verisk.com/> How does it work?

When a person or business submits an insurance application to an A-PLUS participating insurer, the underwriter — or an authorized insurance agent — can request a search of the A-PLUS database. The request includes brief information about the applicant and the vehicle or vehicles. The A-PLUS system then searches the database for previous claims filed by that person or business — or claims filed by other individuals or businesses on the same vehicle or vehicles. The system summarizes the search results and returns a report to the underwriter or agent.

Recommendation: It is recommended the Company review its policy forms to ensure they are filed and approved for use by the Office. The Company should implement procedures that ensure proper and improved oversight of vendors if contracted to fulfill these responsibilities.

The Office notes that during the course of the on-site examination, the Company filed with the Office and received approval for a form, which corrected the Company's improper use of an unapproved form.

The Company provided a list of 9,735 PPA *cancelled or nonrenewed policies* due to underwriting reasons during the examination scope period. A random sample of 119 policies was reviewed to determine the Company's compliance with internal cancellation and nonrenewal policies and the Florida Insurance Code.

No violations were noted.

CLAIMS

During the review of Windhaven's claims process, the Company stated upon receipt of a claim, a FICO or credit based insurance score and an Accurint[®] report, a widely accepted research tool that provides possible relative, address, and vehicle information, are ordered. Later during the exam, the Company reported that it orders an ISO Claimsearch match after a claim is reported. ISO Claimsearch is a database containing more than 1 billion claims and returns information about other claims filed by the same individual, either as a claimant or insured. The system searches for matches such as name, address, social security number, vehicle identification number, drivers' license number, or other parties to the loss.

The Company provided a total of 56,494 PPA *paid claims* during the examination scope period. A random sample of 109 paid claims was reviewed to determine the Company's compliance with its internal claims handling procedures and the Florida Insurance Code.

Findings: In one instance, the Company failed to act promptly and took 559 days to settle the claim.

Company Response: The Company responded: "We feel that the claimant was unresponsive and showed a lack of interest the majority of the time the claim was open..." and, "...agree we should have contacted the claimant in a timely manner once the appraisal was approved to extend an offer to settle the claim."

The Company provided a total of 17,350 PPA *denied claims* during the examination scope period. A random sample of 109 denied claims was reviewed to determine the Company's compliance with its internal claims handling procedures and the Florida Insurance Code.

Findings: In seven instances, the Company failed to timely issue rescission notices, delayed sending, or failed to send claim denial letters for policies with denied claims, in violation of Section 626.9541(1)(i)3.e., F.S.

Company Response: The Company disagreed with the violations pertaining to the delayed claim denial letters, responding: "We conducted the investigations, determined the material

misrepresentation and returned the premium in a timely manner.”

The Company agreed with two violations of Section 626.9541(1)(i)3.e., F.S., where claim denial letters were not sent, responding: “We do not dispute the findings...as the statute lays out an objective expectation and timeline.”

Recommendation: It is recommended the Company improve its procedures and act promptly with respect to claims.

The Company provided a total of 46,005 PPA *closed claims without payment* during the examination scope period. A random sample of 109 closed claims without payment was reviewed to determine the Company’s compliance with its internal claims handling practices and the Florida Insurance Code.

No violations were noted in the review of the sample selected.

MARKETING AND SALES

All new business is produced through a network of independent-agent producers and agencies. Company manuals are made available to producers detailing applicant acceptability, underwriting rules, and submission procedures. Communication between the Company and its independent agents is performed primarily via e-mail including rule and rate revision announcements.

The examiners were given agent portal access to review the Windhaven producer web-based applications. Portal options include Quote, Policy Access, Mail/Reports, Forms/Resources, and My Account.

No violations were noted.

PRODUCER LICENSING

The examiners requested a registry of producers appointed to write new business. The Company provided a list of 714 active producers. A random sample consisting of 113 files was reviewed to ascertain the Company’s compliance with its internal agent appointment policies and the Florida Insurance Code.

The Company was asked to provide a registry of agents no longer appointed with the Company. The Company provided a list of 214 producers terminated during the examination scope period. A random sample of 84 files was reviewed to determine the Company’s compliance with its internal agent termination policies and the Florida Insurance Code.

No violations were noted.

APPENDIX A
Table of Violations

Statute/Rule	Description	Files Reviewed	Number of Violations
624.307(10)(b), F.S.	Any person licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint.	113	2
627.7283(1), F.S.	If the insured cancels a policy of motor vehicle insurance, the insurer must mail or electronically transfer the unearned portion of any premium paid within 30 days after the effective date of the policy cancellation or receipt of notice or request for cancellation, whichever is later. This requirement applies to a cancellation initiated by an insured for any reason.	60	8
627.7283(2), F.S.	If an insurer cancels a policy of motor vehicle insurance, the insurer must mail or electronically transfer the unearned premium portion of any premium within 15 days after the effective date of the policy cancellation.	59	7
627.7283(3), F.S.	If the unearned premium is not mailed, electronically transferred, or applied to the unpaid balance of other policies within the applicable period, the insurer must pay to the insured 8 percent interest on the amount due.	119	15
627.728(2), F.S.	No notice of cancellation of a policy shall be effective unless it is based on one or more of the following grounds: (a) Nonpayment of premium. (b) Material misrepresentation or fraud.	119	1
627.410(1), F.S.	A form may not be issued for delivery in this state unless the form has been filed and approved by the Office.	1	1
626.9541(1)(i)3(e), F.S.	Failing to affirm or deny full or partial coverage of claims, and, as to partial coverage, the dollar amount or extent of coverage, or failing to provide a written statement that the claim is being investigated, upon the written request of the insured within 30 days after proof-of-loss statements have been completed.	109	7