



TARGETED MARKET CONDUCT REPORT ON EXAMINATION

OF THE

FIRST UNUM LIFE INSURANCE COMPANY

AS OF DECEMBER 31, 2021

EXAMINER:

TARN KHERA

DATE OF REPORT:

JULY 29, 2022

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	3
3. Description of Company	4
A. History	4
B. Territory and plan of operation	5
4. Market conduct activities	6
A. Advertising and sales activities	6
B. Underwriting and policy forms	7
C. Option to opt-out	8
5. Summary and conclusions	9

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

September 1, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32428, dated July 21, 2022, and annexed hereto, an examination has been made into the condition and affairs of First Unum Life Insurance Company, hereinafter referred to as “the Company”. The Company’s home office is located at 1225 Franklin Avenue, Suite 250, Garden City, NY 11530. The Company’s administrative office is located at 2211 Congress Street, Portland, ME 04122. The examination was conducted remotely because of the COVID-19 pandemic.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The material findings and violations contained in this report are summarized below.

- The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide preliminary information to the applicant at or prior to the time the application is taken. (See item 4A-1 of this report.)
- The Company violated Section 51.6(a)(3) of 11 NYCRR 51 (Insurance Regulation 60) by failing to maintain signed and completed copies of the “Definition of Replacement” forms. (See item 4A-2 of this report.)
- The Company violated Section 51.6(e) of 11 NYCRR 51 (Insurance Regulation 60) by failing to furnish to the Superintendent changes to its procedures within 30 days of such change. (See item 4A-3 of this report.)
- The Company violated Section 243.2(b)(1) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a copy of the preliminary information for each life insurance policy for six calendar years after the date the policy is no longer in force or until the filing of the date of the report on examination in which the record was subject to review, whichever is longer. (See item 4B of this report.)
- The Company violated Section 243.2(b)(1)(iv) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain all records necessary for reconstructing the solicitation, rating, and underwriting of the policy. (See item 4B of this report.)
- The Company violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain lapse notices for six calendar years from its creation or until after the filing of a report on examination. (See item 4B of this report.)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2019, to December 31, 2021.

The examination comprised a review of the Company's electronic application process and related market conduct activities.

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of the State of New York on October 15, 1959, under the name Hamilton Life Insurance Company of New York (“Hamilton Life”). The Company was licensed and commenced business on January 22, 1960. Initial resources of \$400,000, consisting of common capital stock, were provided through the sale of 4,000 shares of common stock (with a par value of \$100 each) for \$100 per share.

In March 1968, due to surplus problems, the New York State Supreme Court allowed the Department to take over Hamilton Life and attempt to rehabilitate it. This action was taken as a result of a special report made by the Department which indicated that Hamilton Life was insolvent.

In May 1970, an agreement for the recapitalization of Hamilton Life was executed. The agreement—among the Superintendent of Insurance, as the court appointed rehabilitator; Union Mutual Life Insurance Company; Union Mutual Corporation; and the Life Insurance Guaranty Corporation—provided for Union Mutual Corporation to contribute \$1,000,000 in cash and \$575,000 in securities to Hamilton Life in return for shares of new Hamilton Life stock. One million dollars, consisting of 1,000,000 shares of common stock (with a par value of \$1), was allocated to Hamilton Life’s capital account and \$578,519 was allocated to surplus. This transaction was completed on September 30, 1970, and Hamilton Life’s name was changed to Unionmutual Stock Life Insurance Company of New York.

In November 1986, Union Mutual Life Insurance Company demutualized and changed its name to Unum Life Insurance Company (“Unum Life”), Union Mutual Corporation changed its name to Unum Holding Company, and Unionmutual Stock Life Insurance Company of New York adopted its present name. At the same time, a new corporation, the Unum Corporation, which owns 100% of Unum Life, was formed.

On July 25, 1990, the Department approved the acquisition of First Commercial Life Insurance Company by the Unum Corporation from Continental Corporation. On July 31, 1990, First Commercial Life Insurance Company was merged into the Company, with the Company being the surviving entity.

On December 31, 1991, Unum Life merged into Unum Life Insurance Company of America, a Maine life insurer and a subsidiary of Unum Holding Company, with Unum Life Insurance Company of America being the surviving company. On June 30, 1999, Unum Corporation merged into Provident Companies, Inc., with Provident Companies, Inc. being the surviving company and thereupon changing its name to UnumProvident Corporation. On December 22, 2004, Unum Holding Company was merged into UnumProvident Corporation, with UnumProvident Corporation being the surviving entity. In February 2007, UnumProvident Corporation changed its name to Unum Group (“Unum”).

Unum made capital contributions to the Company in 2017 totaling \$89,737,521; in 2018 totaling \$125,000,000; in 2019 totaling \$100,000,000; and in 2020 totaling \$55,000,000. The Company returned capital to Unum in 2021 totaling \$30,800,000.

B. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities, and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is only licensed to transact business in New York. In 2021, 77.3% of life premiums and 87.8% of accident and health premiums were received from New York. Policies are written on a non-participating basis.

The following tables show the percentage of direct premium received, by state, and by major lines of business for the year 2021:

<u>Life Insurance Premiums</u>		<u>Accident and Health Insurance Premiums</u>	
New York	77.3%	New York	87.8%
Ohio	7.9	New Jersey	2.2
New Jersey	3.3	Florida	1.7
Texas	2.1	California	1.0
California	<u>1.4</u>	Texas	<u>0.9</u>
Subtotal	92.0%	Subtotal	93.6%
All others	<u>8.0</u>	All others	<u>6.4</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>

4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's electronic application process for life insurance to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's sales activities, solicitation and the replacement of insurance policies as part of the Company's electronic application process review.

1. Section 3209(b)(1)(A) of the New York Insurance Law states, in part:

“(b)(1) No policy of life insurance shall be delivered or issued for delivery in this state after the applicable effective date, as set forth in subsection (n) of this section, unless the prospective purchaser has been provided with the following:
(A) a copy of the most recent buyer's guide and the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken . . .”

The examiner's review of a sample of 73 declined and a sample of 75 issued life insurance policies revealed that in all 148 policies (100%), the Company did not provide the preliminary information to the applicants.

The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide preliminary information to the applicant at or prior to the time the application is taken.

2. Section 51.6(a)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“Each insurer shall: . . .
(3) Maintain signed and completed copies of the ‘Definition of Replacement’ in accordance with Part 243 of this Title (Regulation 152).”

The examiner's review of the samples of 73 declined and 75 issued policies revealed that the Company did not maintain in its files the Definition of Replacement form for 57 declined policies (78.08%) and 44 issued policies (58.67%).

The Company violated Section 51.6(a)(3) of 11 NYCRR 51 (Insurance Regulation 60) by failing to maintain signed and completed copies of the “Definition of Replacement” forms.

3. Section 51.6(e) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“(e) Both the insurer that issued the life insurance policy or annuity contract that is being replaced and the insurer replacing the life insurance policy or annuity contract shall establish and implement procedures to ensure compliance with the requirements of this Part. These procedures shall include a requirement that all material be dated upon receipt. Such insurers shall also designate a principal officer specifically responsible for the monitoring and enforcement of these procedures. All insurers covered under this Part shall furnish the superintendent with these procedures and the name and title of the designated principal officer by the effective date of this Part. Any changes in these procedures or the designated principal officer shall be furnished to the superintendent within 30 days of such change.”

The examiner’s review of the samples of 73 declined and 75 issued policies revealed that in 14 declined policies (19.17%) and 31 issued policies (41.33%), the Company permitted the use of electronic signatures on the Definition of Replacement forms without submitting revised procedures pertaining to the use of electronic signatures to the Superintendent within thirty days of such change.

The Company violated Section 51.6(e) of 11 NYCRR 51 (Insurance Regulation 60) by failing to furnish to the Superintendent changes to its procedures within 30 days of such change.

The examiner recommends that the Company furnish to the Superintendent changes to its procedures within 30 days of such change.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms as part of the Company’s electronic application process review.

Section 243.2(b) of 11 NYCRR 243 (Insurance Regulation 152) states, in part:

“Except as otherwise required by law or regulation, an insurer shall maintain:
(1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer . . .

A policy record shall include . . .

(iv) Other information necessary for reconstructing the solicitation, rating, and underwriting of the contract or policy . . .

(8) Any other record for six calendar years from its creation or until after the filing of a report on examination.”

The examiner’s review of the samples of 73 declined and 75 issued policies revealed that in all 148 policies (100%), the Company did not maintain a copy of the preliminary information.

The Company violated Section 243.2(b)(1) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a copy of the preliminary information for each life insurance policy for six calendar years after the date the policy is no longer in force or until the filing of the date of the report on examination in which the record was subject to review, whichever is longer.

The examiner’s review of the samples of 73 declined and 75 issued policies revealed that in 11 declined policies (15.07%) and in 9 issued policies (12.00%), the Company did not maintain a copy of the application for each policy.

The Company violated Section 243.2(b)(1)(iv) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain all records necessary for reconstructing the solicitation, rating, and underwriting of the policy.

The examiner’s review of a sample of 29 lapsed policies revealed that in 2 cases (6.89%), the Company failed to maintain the lapse notices.

The Company violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain lapse notices for six calendar years from its creation or until after the filing of a report on examination.

C. Option to Opt-Out

The examiner verified that the applicants had an opportunity to opt out of the electronic process as required by Section 309 of the New York State Technology Law.

5. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide preliminary information to the applicant at or prior to the time the application is taken.	6
B	The Company violated Section 51.6(a)(3) of 11 NYCRR 51 (Insurance Regulation 60) by failing to maintain signed and completed copies of the "Definition of Replacement" forms.	7
C	The Company violated Section 51.6(e) of 11 NYCRR 51 (Insurance Regulation 60) by failing to furnish to the Superintendent changes to its procedures within 30 days of such change.	7
D	The examiner recommends that the Company furnish to the Superintendent changes to its procedures within 30 days of such change.	7
E	The Company violated Section 243.2(b)(1) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a copy of the preliminary information for each life insurance policy for six calendar years after the date the policy is no longer in force or until the filing of the date of the report on examination in which the record was subject to review, whichever is longer.	8
F	The Company violated Section 243.2(b)(1)(iv) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain all records necessary for reconstructing the solicitation, rating, and underwriting of the policy.	8
G	The Company violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain lapse notices for six calendar years from its creation or until after the filing of a report on examination.	8

Respectfully submitted,

Tarn Khera

Tarn Khera
Senior Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

Tarn Khera, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

Tarn Khera

Tarn Khera

Subscribed and sworn to before me

this 28th day of September, 2022

Audrey Hall

AUDREY HALL
Notary Public, State of New York
No. 01HA8274900
Qualified in Kings County
Commission Expires January 28, 2025

Respectfully submitted,

/s/

Christine Mavour
Associate Insurance Examiner

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

Christine Mavour, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

/s/

Christine Mavour

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 32428

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, ADRIENNE A. HARRIS, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

TARN KHERA

as a proper person to examine the affairs of the

FIRST UNUM LIFE INSURANCE COMPANY

and to make a report to me in writing of the condition of said

COMPANY

with such other information as he shall deem requisite.

*In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York*

this 21st day of July, 2022

*ADRIENNE A. HARRIS
Superintendent of Financial Services*

By: Mark McLeod

*MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU*

