

REPORT ON EXAMINATION  
OF THE  
MITSUI SUMITOMO INSURANCE COMPANY OF AMERICA  
(Formerly Sumitomo Marine and Fire Insurance Company of America)  
AS OF  
DECEMBER 31, 2007

DATE OF REPORT

OCTOBER 17, 2008

EXAMINER

JIMMIE NEWSOME

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

October 17, 2008

Honorable Eric R. Dinallo  
Superintendent of Insurance  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 22698 dated December 11, 2007, attached hereto, I have made an examination into the condition and affairs of the Mitsui Sumitomo Insurance Company of America as of December 31, 2007 and submit the following report thereon.

Wherever the designations "the Company" or "MSIA" appear herein without qualification, it should be understood to indicate the Mitsui Sumitomo Insurance Company of America.

Wherever the designation "Department" appears herein without qualification, it should be understood to indicate the New York Insurance Department.

The examination was conducted at the Company's main administrative office located at 15 Independence Boulevard, Warren, New Jersey 07059.

## **1. SCOPE OF EXAMINATION**

The Department has performed a single-state examination of Mitsui Sumitomo Insurance Company of America. The previous examination was conducted as of December 31, 2001. This examination covers the six-year period from January 1, 2002, through December 31, 2007. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook, which requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management as well as evaluating the overall financial statement presentation, management’s compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All accounts and activities of the company were considered in accordance with the risk-focused examination process. This examination also included a review and evaluation of the Company’s own control environment assessment and evaluation based upon the Company’s Sarbanes Oxley documentation and testing. The examiners also relied upon audit work performed by the Company’s independent public accountants when appropriate.

This examination report includes a summary of significant findings for the following items as called for in the Financial Condition Examiners Handbook of the NAIC:

- Significant subsequent events
- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Pensions, stock ownership and insurance plans
- Territory and plan of operation
- Growth of Company
- Loss experience
- Reinsurance
- Accounts and records
- Statutory deposits
- Financial statements
- Summary of recommendations

A review was also made to ascertain what action was taken by the Company with regard to comments and recommendations in the prior report on examination.

This report on examination is confined to financial statements and comments on those matters, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

## **2. DESCRIPTION OF COMPANY**

The Company was incorporated under the laws of the State of New York on March 29, 2001 as the Sumitomo Marine and Fire Insurance Company of America and commenced business on September 28, 2001. The Company was organized as the vehicle for the domestication of the United States (“U.S.”) Branch of Sumitomo Marine & Fire Insurance Company, Limited (“U.S. Branch”), pursuant to Article 72 of the New York Insurance Law. The domestication was a reorganization of the U.S. Branch whereby the Company succeeded to all business assets and assumed all liabilities of the U.S. Branch. The Company adopted its current name, Mitsui Sumitomo Insurance Company of America on July 1, 2003.

Sumitomo Marine & Fire Insurance Company, Limited was formed in 1944 under the sponsorship of Sumitomo Financial Group through the amalgamation of The Osaka Marine and Fire Insurance Company and The Sumitomo Marine & Fire Insurance Company, Limited (known prior to 1940 as Fuso Marine and Fire Insurance Company, Limited), which were founded in 1893 and 1917, respectively, under the laws of Japan. A branch office of Sumitomo Marine & Fire Insurance Company, Limited was maintained in the United States from 1920 until World War II. The Branch was re-established under the laws of New York on January 1, 1971 and began business on the same day.

On October 1, 2001, Sumitomo Marine & Fire Insurance Company, Limited and Mitsui Marine and Fire Insurance Company, Ltd. merged and became the Mitsui Sumitomo Insurance Company, Limited, which is the Company’s ultimate parent.

Effective January 1, 2002, Sumitomo Marine & Fire Insurance Company of America became a wholly-owned subsidiary of Mitsui Sumitomo Insurance Group Holdings (U.S.A.), Inc. (“MSIGH”). MSIGH is a wholly-owned subsidiary of Mitsui Sumitomo Insurance Company, Limited and was established on January 1, 2002. Prior to January 1, 2002, the Company was a wholly-owned subsidiary of Mitsui Sumitomo Insurance Company, Limited.

As of December 31, 2007, the Company maintained statutory deposits, totaling \$6,279,158, pursuant to Section 1320 of the New York Insurance Law.

Capital paid in is \$5,000,000 consisting of 500,000 shares of common stock with a par value of \$10 per share. Gross paid in and contributed surplus is \$154,222,247. Gross paid in and contributed surplus increased by \$128,551,582 during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
2001	Beginning gross paid in and contributed surplus	\$25,670,665
2002	Reclassification from Special Surplus Funds	\$46,090,880
2002	Pre-domestication Final Tax Settlement	886,582
2003	Surplus contribution from Parent, MSIGH	36,574,120
2006	Surplus contribution from Parent, MSIGH	<u>45,000,000</u>
	Total Surplus Contributions	<u>128,551,582</u>
2007	Ending gross paid in and contributed surplus	<u>\$154,222,247</u>

A. Management

Pursuant to the Company's charter and by-laws, as amended, management of the Company is vested in a board of directors, consisting of not less than thirteen nor more than twenty-one members. The board meets four times during each calendar year. At December 31, 2007, the board of directors was comprised of the following seventeen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Michael J. Daly Wyckoff, NJ	Senior Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Leonard S. Dome Roslyn Heights, NY	Retired, Mound, Cotton, Wollan & Greengrass
James P. Donovan Scarsdale, NY	Partner, Wilson Elser Moskowitz Edelman & Dicker LLP
Joseph L. Farrell Belle Mead, NJ	Senior Vice President, Chief Financial Officer and Co-Treasurer, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Kenneth C. Froewiss Short Hills, NJ	Professor, New York University Stern School of Business
Carlos Fuentes Watchung, NJ	Senior Vice President and Chief Information Officer, Mitsui Sumitomo Marine Management (U.S.A.), Inc.

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Gary R. Garcia Bedminster, NJ	President and Chief Operating Officer, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Masaki Hayakawa Ridgewood, NJ	Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Yoshio Iijima New York, NY	Corporate Auditor, Mitsui Sumitomo Insurance Company, Limited
Tetsuro Kihara New York, NY	Chairman and Chief Executive Officer, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Yoshikazu Koike Tenafly, NJ	Executive Vice President, Secretary and Co-Treasurer, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Robert B. Miller Basking Ridge, NJ	Senior Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Masayuki Nagano Edgewater, NJ	Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Koichi Nagase Torrance, CA	Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Keisuke Otsuka Demarest, NJ	Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Esther D. Stomel Wayne, NJ	Senior Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.
Takeshi Takato Englewood Cliffs, NJ	Vice President, Mitsui Sumitomo Marine Management (U.S.A.), Inc.

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member had an acceptable record of attendance.

As of December 31, 2007 the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Tetsuro Kihara	President and Chief Executive Officer
Gary R. Garcia	Chief Operating Officer
Yoshikazu Koike	Executive Vice President, Secretary and Co-Treasurer
Michael J. Daly	Senior Vice President
Joseph L. Farrell	Senior Vice President, Chief Financial Officer and Co-Treasurer

<u>Name</u>	<u>Title</u>
Carlos Fuentes	Senior Vice President
David R. Leskauskas	Senior Vice President
Robert B. Miller	Senior Vice President
Esther D. Stomel	Senior Vice President
Stephen P. Tasy	Senior Vice President
William A. Vopelius	Senior Vice President
Carl F. Christiansen	Vice President
Susan M. Esposito	Vice President
Cheryl Lowden	Vice President
Catherine Miller	Vice President
Takeshi Takato	Vice President
Eugene J. Wawer	Vice President
William J. Curtis, Jr.	Assistant Secretary

B. Territory and Plan of Operation

As of December 31, 2007, the Company was licensed to write business in all fifty states, the District of Columbia and Puerto Rico. Approximately 60% of the Company's direct writings in 2007 were concentrated in California, New York, Illinois, New Jersey and Texas.

As of December 31, 2007, the Company was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Kind of Insurance</u>
3	Accident and health
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity

The Company is also authorized to transact such workers' compensation insurance as may be incidental to coverages contemplated under paragraphs 20 and 21 of Section 1113 (a) of the New

York Insurance Law, including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69<sup>th</sup> Congress as amended; 33 USC Section 901 et seq. as amended) and as authorized by Section 4102 (c) of the New York Insurance, insurance of every kind or description outside of the United States and reinsurance of every kind or description to the extent permitted by the certified copy of its charter on file with the Department.

Based upon the lines of business for which the Company is licensed, and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$35,000,000.

The following schedule shows the direct premiums written by the Company both in New York and in total for the period under examination:

DIRECT PREMIUMS WRITTEN

<u>Calendar Year</u>	<u>New York State</u>	<u>Total Premiums Written</u>	<u>Premiums Written in New York as a Percentage of Total Premiums Written</u>
2002	\$ 7,413,768	\$ 78,534,368	9.44%
2003	\$23,877,332	\$184,865,872	12.92%
2004	\$28,299,230	\$209,046,508	13.54%
2005	\$21,172,525	\$217,823,450	9.72%
2006	\$21,536,564	\$201,135,687	10.71%
2007	\$25,159,183	\$189,173,871	13.30%

The Company specializes in writing medium to large commercial and institutional accounts related to the U.S. business interests of its parent's Japanese clients. The Company provides insurance to approximately 83% of its parent's clients who do business in the United States. This business accounts for 79% of the Company's gross written premium and 88% on a net basis. The top lines of business are commercial multiple peril, workers' compensation, other liability, ocean marine and aircraft. Through its affiliated companies the Company also offers risk management services consisting of loss control, claims administration and rehabilitation services, along with personal illness insurance services. Business is produced through a managing general agent and approximately one hundred and fifty five independent agents and brokers located throughout the United States.

### C. Reinsurance

Assumed reinsurance accounted for 28% of the Company's gross premium written at December 31, 2007. MSI Re Management, Inc., an affiliated company acted as a general advisor and agent of the Company's assumed reinsurance business and provided these services exclusively for the Company until March 31, 2007, at which time the entity was dissolved. The Company's assumed reinsurance business has decreased since the last examination. The Company's assumed reinsurance program consists mainly of property, casualty and multi-line coverage assumed on a quota share and excess of loss basis pursuant to the terms of facultative and treaty agreements with both authorized and unauthorized cedants.

In addition to the business assumed above, the Company also participates in mandated pools. The States in which the Company writes business require that the insurer participate in state pools based upon the percentage of premiums written for the prior year. The Company's participation in various mandated pools is reflected in its assumed reinsurance activity. The Company utilizes reinsurance accounting as defined in NAIC Accounting Practices and Accounting Manual, Statements of Statutory Accounting Principles ("SSAP") No. 62 for all of its assumed reinsurance business.

On January 1, 2001, Mitsui Sumitomo Insurance USA Inc. ("MSU"), an affiliate of the Company, entered into a retroactive quota share agreement with Great American Insurance Company ("GAI"), whereby MSU assumed 100% of the outstanding loss and loss adjustment expense reserves related to the Japanese Division of GAI. Pursuant to the agreement, MSU received \$122,069,000, which was equal to the loss and loss adjustment expense reserves assumed; since the consideration received was equal to the reserves assumed, there was no initial gain or loss on this contract at inception. Through December 31, 2007, losses reimbursed totaled \$103,916,876 and the remaining reserves outstanding were \$35,979,133. The Company assumes 90% of the above amounts pursuant to the pooling agreement with MSU, as described further herein. At December 31, 2007, the Company reported a liability under the caption "Retroactive reinsurance reserve – assumed" in the amount of \$32,381,221, representing 90% of the remaining outstanding reserves. The agreement was accounted for by the Company as retroactive reinsurance pursuant to the provisions of SSAP No. 62 and SSAP No. 75.

#### Reinsurance Pooling Agreement

Effective January 1, 2003, Mitsui Sumitomo Insurance Company of America (the "Pool Leader") and Mitsui Sumitomo Insurance USA Inc. (the "Pool Member") entered into a reinsurance

pooling agreement by which premiums and losses net of reinsurance as well as liabilities and non-invested assets of each participant are pooled by means of mutual reinsurance on a fixed percentage basis, as follows:

<u>Pool Participants</u>	<u>Percentage</u>
Mitsui Sumitomo Insurance Company of America	90%
Mitsui Sumitomo Insurance USA Inc.	10%

The agreement was submitted to and non-disapproved by this Department pursuant to the provisions of Section 1505(d) of the New York Insurance Law. Under the terms of the agreement, the Company acting as the Pool Leader assumes from the Pool Member 100% of their premiums and losses and in turn retrocedes to the Pool Member its participating pooled percentage of premiums and losses. Other liabilities and non-invested assets are allocated to each company based on their pooled percentage share. The following items are excluded from the agreement: federal taxes, interest and dividend income, shareholder dividends and provision for reinsurance.

To initiate the pooling agreement, there was a January 1, 2003 portfolio transfer of liabilities and non-invested assets to reflect the respective pool percentage shares. There was no gain or loss to surplus as a result of this transaction.

#### Ceded Reinsurance

The Company has structured its ceded reinsurance program to limit its maximum exposure to any one risk as follows:

<u>Type of Treaty</u>	<u>Cession</u>
<u>Property Per Risk</u>	
First Excess of Loss	\$3,000,000 excess of \$2,000,000 any one risk,
97.50% Authorized	each loss. Occurrence limit: \$6,000,000;
2.50% Unauthorized	annual limit: \$12,000,000.
Second Excess of Loss	\$5,000,000 excess of \$5,000,000 any one risk,
97.50% Authorized	each loss. Occurrence limit: \$10,000,000;
2.50% Unauthorized	annual limit: \$20,000,000.
Third Excess of Loss	\$15,000,000 excess of \$10,000,000 any one
95.60% Authorized	risk, each loss. Occurrence limit:
4.40% Unauthorized	\$15,000,000; annual limit: \$45,000,000.
Fourth Excess of Loss	\$25,000,000 excess of \$25,000,000 any one
82.55% Authorized	risk, each loss. Occurrence limit:
17.45% Unauthorized	\$25,000,000; annual limit: \$50,000,000.

<u>Type of Treaty</u>	<u>Cession</u>
Fifth Excess of Loss 79.40% Authorized 20.60% Unauthorized	\$25,000,000 excess of \$50,000,000 any one risk, each loss. Occurrence limit: \$25,000,000; annual limit: \$50,000,000.
First Surplus 100% Authorized	2 times the Company's gross retention, not to exceed \$26,000,000 any one risk. Limit \$30,000,000 per occurrence in respect of losses arising from natural perils.
Second Surplus 100% Authorized	2 times the Company's gross retention, not to exceed \$54,000,000 any one risk. Limit \$54,000,000 per occurrence in respect of losses arising from natural perils.
Third Surplus 100% Authorized	2 times the Company's gross retention, not to exceed \$45,000,000 any one risk. Limit \$45,000,000 per occurrence in respect of losses arising from natural perils.
<u>Property Catastrophe</u>	
First Excess of Loss 100% Authorized	\$6,000,000 excess of \$4,000,000 each loss occurrence.
Second Excess of Loss 100% Authorized	\$10,000,000 excess of \$10,000,000 each loss occurrence.
Third Excess of Loss 100% Authorized	\$10,000,000 excess of \$20,000,000 each loss occurrence.
Obligatory Facultative Pro Rata Treaty (all lines) 100% Authorized	Up to 100% quota share of loss up to \$160,000,000 per occurrence.
<u>Casualty Per Risk</u>	
First Excess of Loss 100% Authorized	\$3,000,000 excess of \$3,000,000 each loss occurrence.
Second Excess of Loss 85.00% Authorized 15.00% Unauthorized	\$5,000,000 excess of \$6,000,000 each loss occurrence.
Third Excess of Loss (workers' compensation only) 65.00% Authorized 35.00% Unauthorized	\$10,000,000 excess of \$11,000,000 each loss occurrence.
Commercial Umbrella & Excess Liability Excess of Loss 100% Authorized	\$10,000,000 excess of \$5,000,000 each loss occurrence (Hazard Classes 1 and 2). \$20,000,000 excess of \$5,000,000 each loss occurrence (Hazard Classes 3, 4 and 5)

<u>Type of Treaty</u>	<u>Cession</u>
Marine Cargo Obligatory Quota Share 100% Authorized	75% quota share of marine losses up to \$16,000,000 per occurrence.
Aviation Quota Share 100% Authorized	90% of the ultimate net loss for policies written through the global aviation pool.
Terrorism Aggregate Excess of Loss 80.00% Authorized 20.00% Unauthorized	\$35,000,000 excess of \$20,000,000 each risk, each occurrence.
Boiler & Machinery Quota Share 100% Authorized	100% quota share of loss up to \$75,000,000 for any one accident.

#### Reinsurance Agreements with Affiliates

Reinsurance agreements with affiliates were reviewed for compliance with Article 15 of the New York Insurance Law. It was noted that all affiliated reinsurance agreements were filed with the Department pursuant to the provisions of Section 1505(d)(2) of the New York Insurance Law.

#### Adverse Loss Development Retrocession Contract

Effective October 1, 2006, the Company and its affiliate, Mitsui Sumitomo Insurance USA Inc., (collectively referred to as “the reinsureds”) entered into an Adverse Loss Development Retrocession Contract with an unauthorized, unaffiliated reinsurer, whereby the reinsurer assumed 100% of the ultimate net losses and allocated loss adjustment expenses paid by the reinsureds on or after the effective date and arising from certain subject business previously written by the reinsureds. Pursuant to the agreement, the Company transferred initial reserves in the amount of \$27,360,000 (representing the Company’s 90% share of \$30,400,000), for which it paid an initial consideration of \$27,360,000; since the consideration paid was equal to the reserves transferred, there was no initial gain on this contract at inception. The agreement provides coverage up to a combined aggregate limit of \$60,000,000 for both reinsureds; as of the examination date, there is \$29,600,000 of coverage remaining for adverse development on a combined basis based on the outstanding reserves as determined by this examination. The Company reported a contra-liability in the amount of \$25,730,965 related to this agreement as of the examination date. The agreement was accounted for by the Company as retroactive reinsurance pursuant to the provisions of SSAP’s 62 and 75.

It is the Company’s policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. Letters of credit and trust accounts obtained by the Company to take credit for cessions to

unauthorized reinsurers were reviewed and found to be in compliance with Department Regulations 133 and 114, respectively.

All ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

Examination review of the Schedule F data reported by the Company in its filed annual statement was found to accurately reflect its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's chief executive officer pursuant to Department Circular Letter No. 8 (2005). Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements, except as previously noted, were accounted for utilizing reinsurance accounting as set forth in paragraphs 25 and 26 of SSAP No. 62.

During the period covered by this examination, the Company commuted various reinsurance agreements where it is was a ceding or assuming reinsurer. These commutations had an immaterial effect on surplus.

#### D. Holding Company System

As of December 31, 2007, Mitsui Sumitomo Insurance Company, Limited ("MSIJ") is the ultimate parent in the holding company system. No person beneficially owns more than 10% of the presently issued and outstanding shares of MSIJ. The immediate parent is MSIG Holdings (Americas), Inc. ("MSIGH").

On October 1, 2001, The Sumitomo Marine & Fire Insurance Company, Limited and Mitsui Marine and Fire Insurance Company, Ltd. merged in Japan with Mitsui Marine and Fire Insurance Company, Ltd. being the surviving entity. Upon the merger, Mitsui Marine and Fire Insurance Company, Ltd. changed its name to Mitsui Sumitomo Insurance Company, Limited ("MSIJ").

Effective January 1, 2002, Mitsui Sumitomo Insurance Company of America (then known as Sumitomo Marine & Fire Insurance Company of America) became a wholly-owned subsidiary of Mitsui Sumitomo Insurance Group Holdings (U.S.A.), Inc. ("MSIGH"). MSIGH is a wholly-owned

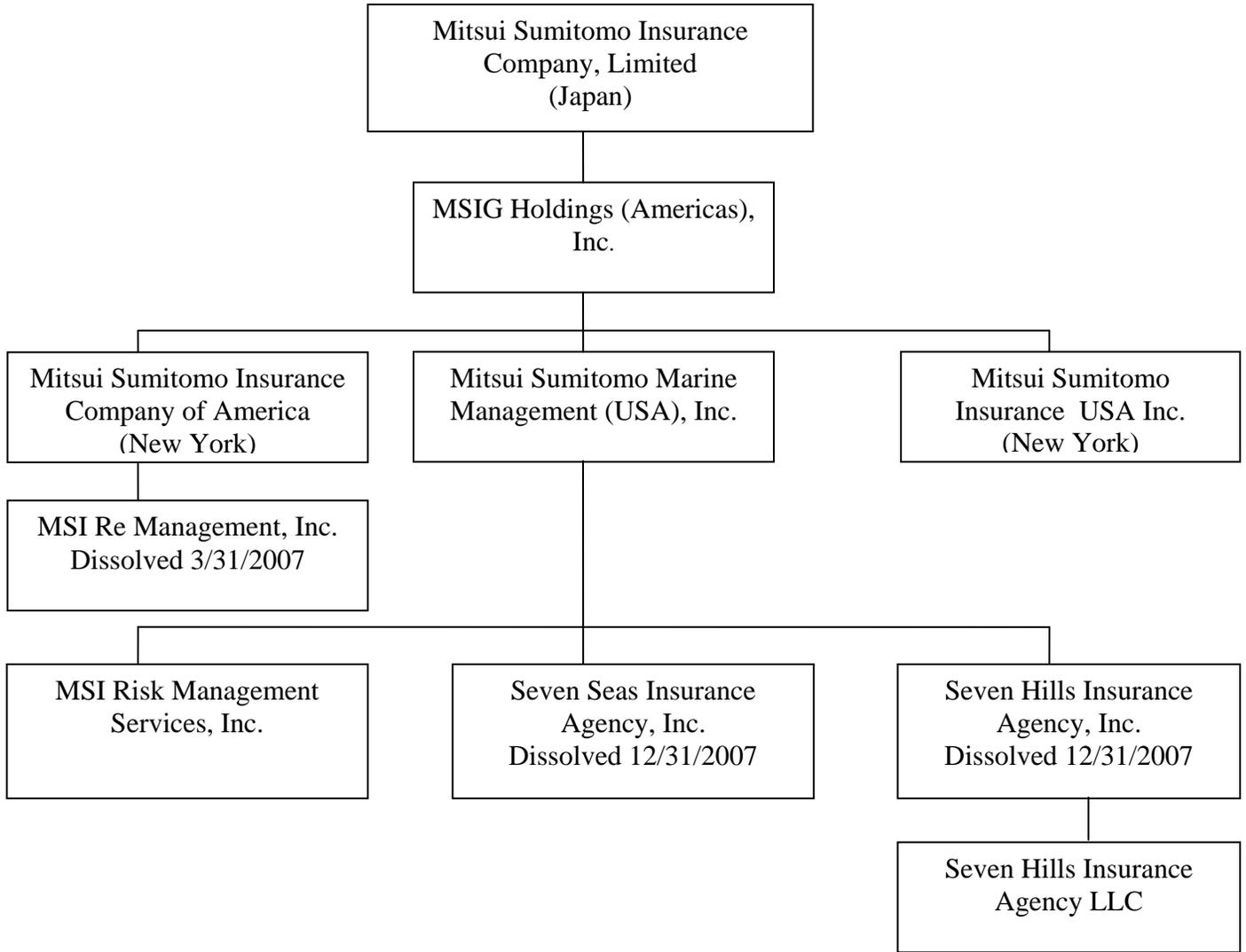
subsidiary of Mitsui Sumitomo Insurance Company, Limited (“MSIJ”) and was incorporated under the laws of Delaware, U.S.A. on December 12, 2001. Prior to January 1, 2002, the Company was a wholly-owned subsidiary of MSIJ. On March 27, 2006, Mitsui Sumitomo Insurance Group Holdings (U.S.A.), Inc. changed its name to MSIG Holdings (Americas), Inc.

Effective December 31, 2007, MSIGH, a Delaware corporation, merged with and into MSI Property (U.S.A.), Inc., a New York corporation. MSI Property (U.S.A.), Inc. was the surviving entity and changed its name to MSIG Holdings (Americas), Inc. Effective that same date, the Company became a wholly-owned subsidiary of MSIG Holdings (Americas), Inc., a New York corporation. Mitsui Sumitomo Insurance Company, Limited owns 100% of MSIG Holdings (Americas), Inc., which owns 100% of Mitsui Sumitomo Insurance Company of America.

Subsequent to the examination date, a new insurance holding company was established in Japan under the name Mitsui Sumitomo Insurance Group Holdings, Inc. (a/k/a Mitsui Sumitomo Kaijo Group Holdings Kabushiki Kaisha) on April 1, 2008. Effective April 1, 2008, Mitsui Sumitomo Insurance Group Holdings, Inc. is the ultimate parent in the holding company system. The intermediate parent is Mitsui Sumitomo Insurance Company, Limited and the immediate parent is MSIG Holdings (Americas), Inc.

A review of the holding company registration statements filed with this Department indicated that such filings were complete and filed in a timely manner pursuant to Article 15 of the New York Insurance Law and Department Regulation 52.

The following is an abridged chart of the holding company system at December 31, 2007:



At December 31, 2007, the Company was party to the following agreements with other members of its holding company system:

1. Management Agreement

Effective January 1, 2002 and amended on April 1, 2006, the Company entered into a management agreement with its affiliate, Mitsui Sumitomo Marine Management (U.S.A.), Inc. (“MSMM”). Under the terms of the agreement, MSMM will provide various management services on behalf of the Company including claims, underwriting, policyholder services, investment, producer management, collection and handling of premiums and other funds, reinsurance, accounting and financial, marketing support and product development and administration, information technology, legal and governmental relations, and human resources. In addition, MSMM agrees to make available to the Company its facilities and equipment (whether leased or owned) as the Company may determine to be reasonably necessary to conduct its business.

The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

2. Tax Allocation Agreement

Effective July 1, 2003, the Company entered into a tax allocation agreement with its immediate parent, MSIG Holdings (Americas), Inc. The agreement was submitted to and non-disapproved by this Department pursuant to the provisions of Section 1505(d) of the New York Insurance Law.

The tax allocation agreement by and between the Company and its immediate parent, MSIG Holdings (Americas), Inc. complies with the guidelines set forth in Department’s Circular Letter No. 33 (1979).

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2007 based upon the results of this examination:

Net premiums written in 2007 to surplus as regards policyholders	.63:1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	73.28%
Premiums in course of collection to surplus as regards policyholders	12.02%

The above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

The underwriting ratios presented below are on an earned/incurred basis and encompass the six-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses incurred	\$492,584,527	54.67%
Loss adjustment expenses incurred	201,720,849	22.39
Other underwriting expenses incurred	288,914,643	32.07
LAD program expenses	66,692	0.01
Net underwriting loss	<u>(82,260,992)</u>	<u>(9.13)</u>
Premiums earned	<u>\$901,025,719</u>	<u>100.00%</u>

#### F. Risk Management and Internal Controls

The Company has adopted an enterprise risk management (“ERM”) framework for proactively addressing and mitigating risks, including prospective business risks. Exhibit M of the NAIC Financial Condition Examiners Handbook was utilized as guidance for assessing corporate governance. Overall, it was determined that the Company’s corporate governance structure is effective. The corporate governance framework sets an appropriate “tone at the top,” supports a proactive approach to operational risk management, and contributes to an effective system of internal control. It was found that the Board and key executives encourage integrity and ethical behavior throughout the Company and senior management promotes a corporate culture that acknowledges, understands, and maintains an effective control environment.

Management has a strong and effective approach to identifying and mitigating risks across the Company, including prospective business risks. The Company deals proactively with its areas of risk and is knowledgeable about mitigation strategies. Management discusses the significant issues and reacts to changes in the environment with a clear commitment to address risk factors and manage the

business accordingly. The Company's overall risk management process is well-defined and takes a proactive approach to identifying, tracking, and dealing with current significant and emerging risk factors.

The Company has an internal audit department ("IAD") which is independent of management and reports directly to the chief executive officer and the board of directors. The IAD assists all levels of management by reviewing and testing financial and operational controls and processes established by management to ensure compliance with laws, regulations, and company policy. Overall, it was determined that the Company's internal audit function is adequate.

### **3. FINANCIAL STATEMENTS**

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2007 as determined by this examination. This statement is the same as the balance sheet filed by the Company.

<u>Assets</u>	<u>Assets</u>	Non-Admitted <u>Assets</u>	Net Admitted <u>Assets</u>
Bonds	\$490,724,204		\$490,724,204
Common stocks	41,593,831		41,593,831
Cash and short-term investments	42,310,893		42,310,893
Investment income due and accrued	7,718,537		7,718,537
Uncollected premiums and agents' balances in course of collection	29,882,018	\$4,154,299	25,727,719
Deferred premiums, agents' balances and installments booked but deferred and not yet due	33,778,152		33,778,152
Accrued retrospective premiums	2,160,000	216,000	1,944,000
Amounts recoverable from reinsurers	4,828,253		4,828,253
Funds held by or deposited with reinsured companies	3,794,671		3,794,671
Current federal and foreign income tax recoverable	120,603		120,603
Net deferred tax asset	19,969,547	9,389,868	10,579,679
Guaranty funds receivable or on deposit	123,737		123,737
Electronic data processing equipment and software	13,023	13,023	0
Furniture and equipment	2,821	2,821	0
Receivable from parent, subsidiaries and affiliates	3,667,638		3,667,638
Amounts receivable under large deductible policies	4,694,180	32,359	4,661,821
Equities and deposits in pools	3,078,655	672,300	2,406,355
Due from Great American	538,966		538,966
Accounts receivable – sundry	60,687		60,687
Goodwill	5,387,606	5,387,606	0
Prepaid expenses	191,671	191,671	0
Security deposits	<u>7,052</u>	<u>7,052</u>	<u>0</u>
Total assets	<u>\$694,646,745</u>	<u>\$20,066,999</u>	<u>\$674,579,746</u>

Liabilities Surplus and Other Funds

<u>Liabilities</u>	<u>Amount</u>
Losses	\$270,511,894
Reinsurance payable on paid losses and loss adjustment expenses	2,015,251
Loss adjustment expenses	88,151,304
Commission payable, contingent commissions and other similar charges	1,535,719
Other expenses (excluding taxes, licenses and fees)	481,943
Taxes, licenses and fees	2,228,295
Current federal and foreign income taxes	619,659
Unearned premiums	58,034,073
Policyholders dividends declared and unpaid	19,611
Ceded reinsurance premiums payable	21,407,441
Funds held by company under reinsurance treaties	478,723
Amounts withheld or retained by company for accounts of others	419,253
Provision for reinsurance	1,133,583
Payable to parent, subsidiaries and affiliates	4,099,003
Retroactive reinsurance reserve – assumed	32,381,221
Retroactive reinsurance reserve – ceded	(25,730,965)
Funds held for large deductible	2,148,817
Claims payable	333,452
Accrued return retrospective premiums	184,411
Accounts payable – sundry	<u>58,268</u>
Total liabilities	\$460,510,956
<u>Surplus and Other Funds</u>	
Common capital stock	\$ 5,000,000
Gross paid-in and contributed surplus	154,222,247
Unassigned funds (surplus)	<u>54,846,543</u>
Surplus as regards policyholders	<u>214,068,790</u>
Total liabilities, surplus and other funds	<u>\$674,579,746</u>

NOTE 1: The Internal Revenue Service has completed its audits of the consolidated federal income tax returns filed on behalf of the Company through tax year 2005. All material adjustments, if any, made subsequent to the date of examination and arising from said audits, are reflected in the financial statements included in this report. The Internal Revenue Service has not yet begun to audit federal income tax returns covering tax years 2006 through 2007. The examiner is unaware of any potential exposure of the Company to any tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$87,880,112 during the six-year examination period January 1, 2002, through December 31, 2007 detailed as follows:

Statement of Income

Underwriting Income

Premiums earned		\$901,025,719
Deductions:		
Losses incurred	\$492,584,527	
Loss adjustment expenses incurred	201,720,849	
Other underwriting expenses incurred	288,914,643	
Limited Assignment Distribution Program Expenses	<u>66,692</u>	
Total underwriting deductions		<u>983,286,711</u>
Net underwriting loss		\$(82,260,992)

Investment Income

Net investment income earned	\$118,112,146	
Net realized capital gains	<u>17,690,307</u>	
Net investment gain		135,802,453

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$(775,238)	
Finance and service charges not included in premiums	91,811	
Loss on retroactive reinsurance	(13,138,583)	
Miscellaneous income	<u>(24,403)</u>	
Total other income		<u>(13,846,413)</u>
Net income before dividends, after capital gains tax and before all federal and foreign income taxes		\$39,695,048
Dividends to policyholders		<u>3,654,656</u>
Net income after dividends, after capital gains tax and before all federal and foreign income taxes		\$36,040,392
Federal and foreign income taxes incurred		<u>23,284,327</u>
Net income		<u>\$12,756,065</u>

Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 2001		\$126,188,679
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>
Net income or (loss)	\$12,756,065	
Net unrealized capital gains or (losses)		\$2,962,124
Change in net unrealized foreign exchange capital gain (loss)	3,471	
Change in deferred income tax	15,767,425	
Change in non-admitted assets	5,222,888	
Change in provision for reinsurance	1,636,004	
Cumulative effect of changes in accounting principles	3,095,681	
Surplus paid in	82,460,702	
Dividends to stockholders (cash)	<u>0</u>	<u>30,100,000</u>
Total gains and losses	<u>\$120,942,236</u>	<u>\$33,062,124</u>
Net increase in surplus		<u>87,880,112</u>
Surplus as regards policyholders per report on examination as of December 31, 2007		<u>\$214,068,791</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability of \$358,663,198 is the same as the amount reported by the Company as of the examination date. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statement.

**5. MARKET CONDUCT ACTIVITIES**

In the course of this examination, a review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholder and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct investigation, which is the responsibility of the Market Conduct Unit of the Property Bureau of this Department.

The general review was directed at practices of the Company in the following areas:

- A. Sales
- B. Underwriting
- C. Rating
- D. Claims and complaint handling

No problems were encountered.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained five recommendations as follows (item letters and page numbers refer to that of the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
(i) It is recommended that the Company comply with its charter/by-laws and hold at least one regular meeting during each calendar year.	5
The Company has complied with this recommendation.	
(ii) <u>Conflict of Interest</u>	
It is recommended that the Company exercise due diligence in obtaining and maintaining signed conflict of interest statements from its board of directors, officers and responsible employees.	7
The Company has complied with this recommendation.	
B. <u>Accounts and Records</u>	
(i) <u>SVO Valuation Certificates</u>	
It is recommended that the Company obtain and maintain updated SVO valuation certificates for all of its securities required by the Department on an annual basis.	16
The Company has complied with this recommendation.	
(ii) <u>Custodian Agreement</u>	
It is recommended that the Company amend its custodial agreements to incorporate the necessary safeguards and controls set forth in Part 1(IV)(H) of the NAIC Financial Condition Examiners Handbook.	16
The Company has complied with this recommendation.	

ITEMPAGE NO.C. Abandoned Property Law

It is again recommended that the Company comply with Section 1316 of the New York Abandoned Property Law in filing the required abandoned property reports.

16

The Company has complied with this recommendation.

**7. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

This report does not contain any comments or recommendations.

Respectfully submitted,

\_\_\_\_\_  
Jimmie Newsome  
Associate Insurance Examiner

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

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

\_\_\_\_\_  
Jimmie Newsome

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Jimmie Newsome**

*as proper person to examine into the affairs of the*

**MITSUI SUMITOMO INSURANCE COMPANY OF AMERICA**

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

**Company**

*with such other information as he shall deem requisite.*

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

*this 11th day of December, 2007*



ERIC R. DINALLO

Superintendent of Insurance

