

**REPORT ON EXAMINATION**  
**OF THE**  
**NEW YORK COMPENSATION INSURANCE**  
**RATING BOARD**  
**AS OF**  
**DECEMBER 31, 2015**

**DATE OF REPORT:**

**DECEMBER 15, 2016**

**EXAMINER:**

**SONG HEE HONG**

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

December 15, 2016

Honorable Maria T. Vullo  
Superintendent  
One State Street  
New York, NY 10004

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment No. 31477, dated May 31, 2016, attached hereto, I have conducted an examination into the condition and affairs of the New York Compensation Insurance Rating Board, located at 733 3<sup>rd</sup> Avenue, New York, New York, 10017 and respectfully submit the following report thereon.

Whenever the term "Rating Board", "the Board" or "NYCIRB" appears in this report without qualification, it should be understood to refer to the New York Compensation Insurance Rating Board.

Whenever the term "Department" appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

## **SCOPE OF EXAMINATION**

Pursuant to §309(b)(3) of the New York Insurance Law (NYIL), the Superintendent is charged with conducting an examination, at least once in every five years, of every rate service organization which makes or files rates. The Department's previous examination of NYCIRB was conducted as of December 31, 2003. This current examination covers the period of January 1, 2011 through December 31, 2015 unless otherwise noted. The examination was based on the Rating/Statistical Organization section of the Market Regulation Handbook of the National Association of Insurance Commissioners (NAIC) as well as a review of revenue (assessments), expenses and those records deemed necessary to accomplish an analysis of NYCIRB's operations.

### **A. Operation and Management**

#### **1. Description and History**

The New York Compensation Insurance Rating Board (NYCIRB) is a non-profit, unincorporated association of insurance carriers, including the New York State Insurance Fund. With the creation of a compulsory workers' compensation program for New York's employees and employers in 1914, NYCIRB has served as the official licensed rate service organization in the State of New York since the program's inception.

As the sole licensed New York State rate service organization, NYCIRB has more than 100 years of experience in understanding the New York workers' compensation industry.

#### **2. Objectives of the Board**

The objectives stated by the Board are as follows:

- to establish, maintain and administer advisory manuals of loss costs, rules, classifications, and rating plans, to develop policy and other forms, and to make filings thereof with the regulatory authority;
- to collect, compile and analyze statistical and other data as directed by the Department, or as otherwise permitted by law, and to act as the licensed statistical provider for the insurance regulatory authority at their request and designation and as may be necessary or desirable to accomplish the objects of the Board;
- to inspect and classify risks rated by NYCIRB and to make test audits of the books and records thereof;

- to help bring about reduction in the number and severity of occupational accidents and diseases by devising rating systems which encourage such reduction;
- to furnish, upon request to any insured affected by a classification or advisory loss cost made by the Board, all pertinent information as to such classification and advisory loss cost, and to provide reasonable means whereby any person aggrieved by the application of a classification or rating system filed by NYCIRB be heard;
- to cooperate with state and with other public authorities and with other appropriate organizations and insurers in the development and application of loss costs and rating plans and in the development of policy and other forms which include workers compensation insurance;
- to foster, advance, advocate and monitor the use by its members of the advisory loss costs, manuals and rating plans, policy provisions and other forms filed by NYCIRB with and approved by the regulatory authority except, to the extent that any such member may, in accordance with applicable provisions of law, obtain the right from the regulatory authority to use deviations from such filings made by the Board;
- to cooperate with public authorities, other persons and organizations in activities intended to achieve the aims and advantages of the workers compensation system;
- to collect, compile and provide workers compensation data and perform other data related services on behalf of government authorities through contractual agreements entered into between NYCIRB and such government authorities;
- to the extent permitted by law or at the direction of the Superintendent of Financial Services, to provide data collection, data compilation and other services to persons or organizations who are not members of the Board and who may operate in jurisdictions other than the State of New York; and
- to do everything necessary or appropriate for the accomplishment of the objects herein set forth.

### **3. Constitution**

The Board was created as a voluntary, non-profit, unincorporated association of insurers. The Constitution of the Board governs its objectives, authority, organization and procedures.

The Constitution was originally adopted on May 20, 1914 and has been amended several times. The most recent amendment was made as of January 26, 2012. There were several additions and modifications (underlined and italics) including the following:

## **ARTICLE VI, MEMBERS AND SUBSCRIBERS**

6. There shall be a class of affiliation with CIRB designated as "Subscribers." Subscribers shall enjoy certain rights to CIRB's products and services as determined by the Board of Governors, but shall not otherwise be entitled to the benefits of membership under this Constitution. The Board of Governors shall adopt rules governing subscribership and the benefits and conditions relating thereto, including rules relating to subscribership agreements, fees, and rights to CIRB's products and services.

## **ARTICLES VIII, COMMITTEES**

1. Representation on Committees. At the annual meeting of CIRB held in the year 2012, the class of mutual company and reciprocal insurer members and the class of capital stock company members, meeting separately, shall each elect three members to serve as a Nominating Committee, which shall have the duty at the annual meeting of CIRB held in the year 2013 of nominating members for election to the Board of Governors, Actuarial Committee and Underwriting Committee. At the annual meeting of CIRB held in the year 2013 and thereafter, all private insurer members shall together, and without regard to class elect six members to serve as a Nominating Committee which shall have the duty at the next succeeding annual meeting of CIRB of nominating members for election to the Board of Governors, Actuarial Committee and Underwriting Committee.

2. Board of Governors. Election of Private Insurer Members of Board of Governors. At the annual meeting of CIRB held in the year 2012, the class of mutual company and reciprocal insurer members and the class of capital stock company members, meeting separately, shall each elect one member of the Board of Governors to serve for two years. Thereafter, at each annual meeting of CIRB, all private insurer members shall together, and without regard to class, elect members to the Board of Governors to serve for two years to replace those members with expiring terms.

4. Underwriting Committee. Election of Private Insurer Members of Underwriting Committee. At the annual meeting of CIRB held in the year 2012, the class of mutual company and reciprocal insurer members and the class of capital stock company members, meeting separately, shall each elect two voting members of Underwriting Committee to serve until the next annual meeting of CIRB. Thereafter, at each annual meeting of CIRB, all private insurer members shall together, and without regard to class, elect four members of the Underwriting Committee to serve until the next annual meeting.

9. The Board of Governors shall be considered a “committee” for purposes of this Constitution unless otherwise specified.

In addition to the above changes, the word ‘subscribers’ was deleted and ‘Insurance’ was replaced with ‘Financial Services.’

#### **4. Board of Governors**

According to Article VIII of the Constitution, the Board of Governors consisting of nine voting members including four private insurer members, the State Insurance Fund, and four Public Members comprising one member appointed by each of the Superintendent of Financial Services, the State Workers’ Compensation Board, the American Federation of Labor – Congress of Industrial organizations and the Business Council of New York State Inc. All Public Member (term of two years) appointments to the Board of Governors are subject to the approval of the Superintendent of Financial Services and shall not be employed by, or serve as officers or directors of, insurers authorized to write workers’ compensation insurance in New York, or any parent, subsidiary, or affiliate thereof.

The Board of Governors has overall authority over the Board’s activities including control and supervision over its finances and authority to establish budgets, approve assessments and impose fines on members of NYCIRB.

The Board of Governors has full authority to accept, reject or modify any action by a committee.

The members of the Board of Governors elect a Chair and a Vice Chair. Only insurer members of NYCIRB are eligible to serve as Chair or Vice Chair.

The following are the present Board of Governors and their affiliations or appointed entities:

Elizabeth Heck	Greater NY Mutual Insurance Company
Kelly McLaughlin	Hartford Accident & Indemnity Company
Kayshap C. Saraiya	Ace American Insurance Company
Wade Overgaard	Travelers Indemnity Company
Eric Madoff	The State Insurance Fund
Arthur Wilcox	N.Y.S. AFL-CIO
Lev Ginsburg	N.Y.S. Business Council
Mary Beth Woods	N.Y.S. Department of Financial Services

**5. External Consultant**

The Board has the following external consultants as of 2015:

Air Worldwide	Catastrophe Modeling
Axispoint Inc.	IT–Software
CipherTechs Inc.	IT-Cyber Security
Compensation Data Exchanges, LLC	Data Collection/IT
Data-Flo Plus	Data Collection/IT
Eisner Amper LLP	Independent Auditor
Farragut Systems Inc.	IT-Software/Database Administration
NCCI, Holdings, Inc.	Data Collection
OnPoint consulting	HR consulting
Stroock & Stroock & Lavan	Legal
Tower Watson	Actuarial
Workers Compensation Research Institute	Research

**6. Members and Subscribers**

The Board's 2012 Constitution amendment includes a change of members/subscribers. In 2011, the Board conducted a review of its different classes of carrier membership (members and subscribers) and discovered that the only difference between members and subscribers was that subscribers were not eligible to serve on the Board's committees. Membership fees, data reporting, and other expectations on carriers were identical. Currently, NYCIRB has combined its members and subscribers for a total of 371 members.

**7. Employees of the Board**

The Board has 135 employees including 13 field inspectors and 11 field auditors, and the following are the executive officers of the Board as of December 31, 2015:

President (Until June 30, 2016)	Monte Almer
Current President (as of July 1, 2016)	Jeremy Attie
Sr. Vice President (Chief Actuary)	Ziv Kimmel
Vice President (Operations)	Lucy De Caro
Vice President (Finance & Admin)	Vincent Licause
Vice President (Chief Information Officer)	Mitchell Tenzer



**8. Meetings**

Section 2313(t)(1) states that the governing body shall be comprised of nine voting members and shall have charge of the general activities including control and supervision over its finances and authority to establish budgets, approve assessments and impose fines on members of the organization.

The Board of Governors (BOG) met seven times during each calendar year 2012-2015 and five times in 2011. At December 31, 2015, the BOG was comprised of the following nine voting members:

- Ace American Insurance Company
- Greater New York Mutual Insurance Company
- Hartford Accident & Indemnity Company
- The State Insurance Fund
- The Travelers Indemnity Company
- New York State AFL-CIO
- New York State Business Council
- New York State Department of Financial Services
- New York State Workers Compensation Board

A review of the minutes of the BOG meetings held during the examination period indicated that the meetings were generally well attended and each board member had an acceptable record of attendance. Pursuant to the organization's constitution, a majority of the members of any committee shall constitute a quorum. A majority of the members attended each of the meetings.

The following two tables are a summary of the BOG attendance and the frequency of meetings held for all committees during the examination period 2011-2015.

**NEW YORK COMPENSATION INSURANCE RATING BOARD  
SCHEDULE OF ATTENDANCE FOR GOVERNING COMMITTEE**

**X = Present    A= Absent    - = Not on Committee**

<b>Governors</b>	<b>12/15/15</b>	<b>9/25/15</b>	<b>7/13/15</b>	<b>5/11/15</b>	<b>3/24/15</b>	<b>1/29/15</b>	<b>1/27/15</b>	<b>12/18/14</b>	<b>12/16/14</b>	<b>9/23/14</b>	<b>7/14/14</b>	<b>5/13/14</b>	<b>3/20/14</b>	<b>1/30/14</b>	<b>12/11/13</b>	<b>9/26/13</b>	<b>7/12/13</b>
ACE American Ins Co	X	X	X	X	X	X	A	A	X	X	X	X	X	X	-	-	-
Greater NY Mutual Ins Co	X	X	X	X	X	X	-	-	-	-	-	-	-	-	-	-	-
Hartford Accident & Ind.	X	X	X	X	X	X	-	-	-	-	-	-	-	-	-	-	-
The State Ins Fund	X	X	X	X	X	X	A	X	X	X	X	X	X	X	X	X	X
Travelers Indemnity Co	X	X	X	X	X	X	X	X	X	X	X	X	X	X	-	-	-
NY State AFL- CIO	X	X	X	X	X	X	X	X	X	X	X	X	X	X	A	X	X
NY Business Council	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	A	X
Dept. of Financial Service	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NYS Workers Comp	X	X	X	X	X	A	A	X	A	X	X	X	X	X	X	A	X
American Home Ass Ins Co	-	-	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X
Utica Mutual Ins Co	-	-	-	-	-	-	X	X	X	X	X	X	X	A	X	X	X
Liberty Mutual Ins Co	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	X	X
Paramount Ins Co	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	X	X
<b>Others</b>																	
NYCIRB	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Stroock& Stroock & Lavan	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Towers Watson	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-
NYS Workers Comp Board	-	-	-	-	-	X	X	-	-	-	-	-	-	-	-	X	-
Special Funds Committee	-	-	-	-	-	-	-	-	X	-	-	-	-	-	X	-	-
Dept. of Financial Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hartford Accident & Ind.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Greater NY Mutual Ins Co	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

**NEW YORK COMPENSATION INSURANCE RATING BOARD  
SCHEDULE OF ATTENDANCE FOR GOVERNING COMMITTEE**

**X = Present    A= Absent    - = Not on Committee**

<b>Governors</b>	<b>5/9/13</b>	<b>3/14/13</b>	<b>3/8/13</b>	<b>1/31/13</b>	<b>12/13/12</b>	<b>9/20/12</b>	<b>7/26/12</b>	<b>7/18/12</b>	<b>5/8/12</b>	<b>3/26/12</b>	<b>1/26/12</b>	<b>12/13/11</b>	<b>9/22/11</b>	<b>5/12/11</b>	<b>3/10/11</b>	<b>1/27/11</b>
ACE American Ins Co	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Greater NY Mutual Ins Co	-	-	-	-	X	X	A	X	X	X	X	X	X	X	X	X
Hartford Accident & Ind.	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X
The State Ins Fund	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Travelers Indemnity Co	-	-	-	-	-	-	-	-	-	-	-	X	X	X	X	X
NY State AFL- CIO	X	X	X	X	A	X	A	X	X	X	X	X	X	X	X	X
NY Business Council	X	X	X	X	X	X	X	X	X	X	A	X	X	X	X	X
Dept. of Financial Service	X	X	X	X	X	X	X	X	X	X	A	A	A	X	X	X
NYS Workers Comp	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
American Home Ass Ins Co	X	X	X	X	-	-	-	-	-	-	-	-	-	-	-	-
Utica Mutual Ins Co	X	X	X	-	-	-	-	-	-	-	-	-	-	-	-	-
Liberty Mutual Ins Co	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Paramount Ins Co	X	X	A	X	A	X	X	X	X	X	X	-	-	-	-	-
<b>Others</b>																
NYCIRB	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Stroock& Stroock & Lavan	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Towers Watson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NYS Workers Comp Board	-	-	X	-	X	-	-	-	-	-	-	-	-	-	-	-
Special Funds Committee	-	-	-	-	X	-	-	-	X	X	-	-	-	-	-	-
Dept. of Financial Service	-	-	-	-	-	-	-	-	-	-	X	X	X	-	-	-
Hartford Accident & Ind.	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-
Greater NY Mutual Ins Co	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-

**FREQUENCY OF MEETINGS HELD**

<b>Meetings</b>	<b>Committees</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
1	Annual BOG/Nominating	1	1	1	1	1
2	Board of Governors	7	7	7	7	5
3	Underwriting	2	3	2	2	2
4	Medical & Claims	-	-	-	1	1
5	Actuarial	4	3	3	3	3
6	Audit	2	1	-	-	-
7	Administration	1	1	1	1	1
8	Fraud	1	1	1	1	-

Section 2313(t)(3) states that the organization shall have an Underwriting and a Medical & Claims committee. The underwriting committee shall have the same allocation of voting members as the governing body of the rate service organization governing body. The Company's constitution also states that the Underwriting Committee shall be comprised of nine voting members.

The review of the Underwriting committee minutes indicated there were 7 to 8 voting members that attended each of the meetings during the examination period. The required nine voting members were not selected for the committee during the examination period because the NYS Business Council delayed its appointment of the ninth member until 2016. However, the attendance met the quorum pursuant to the constitution.

During the examination period, the Medical & Claims committee held one meeting only in each of two years (2011 and 2012). No meetings were held for the most recent three years. Since the Medical & Claims Committee is required by the New York Insurance Law, it is recommended that the Committee reconvene by meeting at least once annually.

The following table is a summary of the attendance of the Underwriting and Medical & Claims Committees.

**NYCIRB SCHEDULE OF ATTENDANCE FOR UNDERWRITING AND MEDICAL & CLAIMS COMMITTEE**

<b>Underwriting</b>	<b>Voting(V)</b>	<b>11/4/15</b>	<b>5/6/15</b>	<b>11/6/14</b>	<b>5/5/14</b>	<b>10/29/13</b>	<b>5/7/13</b>	<b>11/8/12</b>	<b>5/3/12</b>	<b>5/3/11</b>	<b>11/1/11</b>
ACE American Insurance Co	V	X	X	-	-	X	X	X	X	X	X
American Home Assurance Ins Co		X	X	X	X	X	X	X	X	X	X
Continental Casualty Company		X	X	X	X	X	X	-	-	-	-
Greater NY Mutual Ins Co	V	X	X	X	X	X	X	X	X	X	X
Hartford Accident & Indemnity		X	X	X	X	X	X	X	X	X	X
Liberty Mutual Ins Co		X	X	X	X	X	X	X	X	X	X
Paramount Ins Co		X	X	X	X	X	X	X	X	X	X
The State Ins Fund	V	X	X	X	X	X	X	X	X	X	X
Travelers Insurance	V	X	X	X	X	X	X	X	X	X	X
Zurich North American Insurance Company	V	X	X	X	X	-	-	X	X	X	X
Utica Mutual Insurance Co		-	-	X	X	X	X	-	X	X	X
NYS AFL- CIO	V	X	X	X	X	X	X	X	X	X	X
NYS Workers Comp	V	X	X	X	X	-	X	X	X	X	X
NYS Dept. of Financial Services	V	X	X	X	X	X	-	-	-	-	-
NY Compensation Insurance Rating Board		X	X	X	X	X	X	X	X	X	X
Stroock & Stroock & Lavan <b>(Others)</b>		X	X	X	X	X	X	X	X	X	X

<b>Medical &amp; Claims</b>		<b>12/6/11</b>	<b>9/5/12</b>		<b>NO MEETINGS 2013 - 2015</b>				
Continental Casualty Company		A	X						
Hartford Accident & Indemnity		X	A						
Liberty Mutual Ins Co		X	X						
State Insurance Fund		X	X						
The Travelers Insurance Co		X	X						
Utica Mutual Insurance Co		A	X						
NYS Workers Comp		X	X						
NY Compensation Insurance Rating Board		X	X						

## **9. Physical Access Control and Security**

The Board's Physical Access Control Policy for the Information Technology Infrastructure and its Disaster Recovery Plan (DRP) were reviewed. NYCIRB has physical access controls in place to secure the computer/communication facilities. The DRP procedures are current, detailed and tested periodically. A review of the DRP indicates that there are adequate procedures in place for business continuity in the event of a disaster.

## **10. Inspection Services**

NYCIRB has a team of inspectors that visit the insureds' premises to determine the accuracy of the classifications assigned by the carrier to the risks insured for rating purposes. When errors are found, the carriers are notified in writing of the required changes and given a copy of NYCIRB's inspection report upon request.

The Board has the following three types of inspections:

- a. Routine Inspection is designed to inspect experience-rated risks once every five years for risks in New York City areas and the counties of Nassau, Suffolk, and Westchester. Experience-rated risks in all other counties are inspected once every three years.
- b. Test Inspections are selected and performed randomly for non-experience rated and merit rated risks.
- c. Expedited Inspections are conducted at the request of NYCIRB Audit Reviewers, NYCIRB Classification analysts, carriers, policyholders, brokers, any legislator, regulator, or policyholder representative to aid in classification determinations or to obtain data for classification studies.

NYCIRB has 13 inspectors and 11 auditors. The Board is using premium amount and available experience to determine rating status (experience-rated vs. non-experience-rated). Random sampling is used to determine which non-experience-rated risks to inspect.

The Examiners reviewed the Board's inspection reports including the letters sent to member insurers notifying them of the outcomes of inspections. If the inspectors found that the classification was incorrectly assigned to the insured, the Board requires the insurer to amend the insured's policy and the correction submitted to the Board within a specified time period. Insurers must send a revised premium billing notice to the insured and the premium is recomputed upon audit.

Based on our examination of the inspection procedures and related reports, the Board complies with its administrative provisions and rules.

## **11. Insurance Policies carried by NYCIRB**

The following insurance policies are carried by the Board for its own protection:

<b>Type of Policy</b>	<b>Company</b>	<b>Expires</b>
Directors & Officers Liability and Employment Practices Liability Coverage	Starr Indemnity & Liability Company	04/11/2016
Privacy & Network Liability Insurance Policy	ACE American Insurance Company	10/01/2016
Workers Compensation & Employers Liability	The State Insurance Fund	02/01/2016
Business Owners Policy (BOP)	The Travelers Indemnity Company	02/05/2016
Commercial Umbrella	The Travelers Indemnity Co	02/05/2016

### **B. Procedures and Statistical Plans**

#### **1. Assessments**

The Board's membership assessments for each carrier are determined as a percentage of the total expenditures of NYCIRB. Each year, NYCIRB determines each member's market share by analyzing information from the special premium data call. Based on this analysis, written premium is converted to standard premium at NYCIRB's loss cost level.

The information submitted by each carrier in response to the data call enables NYCIRB to determine carrier market share for the previous calendar year. Since the submission deadline for the Financial Data Call is on April 1, the Board assessments for the first and second quarter of each year are based upon market share information from two prior years, and the assessments for the third and fourth quarter of each year are based upon the previous year's market share.

From August through September, NYCIRB engages in a "True-up," during which it reconciles the prior year final audit results of operating expenses with the carrier estimated assessments collected.

#### **2. Notification to Members and Subscribers**

NYCIRB routinely files changes to forms, rate factors, loss costs and rating rules/plans contained in its manuals with the Department for approval. Upon approval of any such filing, the Board follows the following procedure to inform its membership:

- a. A bulletin cover page, which describes the DFS approved change and encloses the revised manual pages, is drafted, reviewed and approved by NYCIRB executive staff.
- b. A link to the complete bulletin is posted on NYCIRBS's website in two locations: (1) the website's home page; and (2) the website's bulletin listing page.
- c. The bulletin, the enclosed revised manual pages, and a cover page, which includes a link to the bulletin posted on NYCIRB's website, are sent by e-mail to all members.

### 3. **Statistical Plan**

The following is the statistical filing made by NYCIRB during 2011-2015:

<b>Filing Submission Date</b>	<b>Rate/Rule</b>	<b>Description</b>	<b>Approval Date</b>	<b>Effective Date</b>
03/01/2013	Rule	Schedule Rating Plan	Disapproved	N/A
08/21/2012	Rate	Revised Stat Plan	Lack of Co Action	N/A
10/26/2012	Rate	Revised Stat Plan	12/04/2012	01/01/2013
05/20/2014	Rule	Schedule Rating Plan	12/22/2014	01/01/2015
12/09/2014	Rule	Pension Table Update	12/30/2014	01/01/2015

A copy of the latest (2013 Edition) NYCIRB Statistical Plan was also received for our review.



#### 4. Rating Procedures

NYCIRB's rating filing submissions during 2011-2015 are as follows:

<b>Rate/Rule/Form</b>	<b>Description</b>	<b>Effective Date</b>	<b>SERFF Filing No.</b>
Rate	Loss Cost Filing	Rejected	NYCS-127168657
Rate	Loss Cost Filing	10/01/2011	NYCS-127170111
Rate/Rule	ELPPFs	10/01/2011	NYCS-127173670
Rate/Rule	USL & H	10/01/2011	NYCS-127182120
Rate/Rule	Retro Expected Loss Ranges	01/01/2012	NYCS-127789948
Rate/Rule	NYWC Revised Hazard Group Assignments	10/01/2012	NYCS-127840661
Rate	ELPPFs	10/01/2012	NYCS-128234331
Rate	Loss Cost Filing	Disapproved	NYCS-128361735
Rate	Revised Stat Plan	01/01/2013	NYCS-128746198
Rate	ELPPFs	01/01/2013	NYCS-128777258
Rate/Rule	Experience Rating Split Point	10/01/2013	NYCS-128955820
Rate	Loss Cost Filing	10/01/2013	NYCS-129028009
Rate	ELPPFs	04/01/2014	NYCS-129126681
Rate/Rule	Loss Cost Filing	01/01/2014	NYCS-129242080
Rate/Rule	Experience Rating Split Point	Disapproved	NYCS-129462340
Rate	Revised Class Ratemaking Methodology	Disapproved	NYCS-128536270
Rate	Loss Cost Filing	Disapproved	NYCS-128361735
Rule	EXR Editorial Changes	01/01/2015	NYCS-129713494
Rule	Pension Table Update	01/01/2015	NYCS-129837656
Rate	Terrorism Loss Cost	Withdrawn	NYCS-129880175
Rate/Rule	Experience Rating Split Point	10/01/2015	NYCS-129975489
Rate	Class Rate Making Methodology	10/01/2015	NYCS-130046680
Rate	ELPPFs	10/01/2015	NYCS-130063391
Rate	Loss Cost Filing	10/01/2015	NYCS-130074826

**5. Rate/Loss Cost Manual**

The Board submitted the following to the Department:

- New York Experience Rating Plan Manual for Workers Compensation (2006 Edition)
- New York Statistical Plan (2013 Edition)
- New York Workers' Compensation and Employers' Liability Manual (2008 Edition)
- Retrospective Rating Plan (2010 Edition)

**6. Filing**

Following is a list of current forms that were approved during the audit period:

<b>Form Description</b>	<b>Approved Date</b>	<b>NY Filing No.</b>
Revised Policy Form & Endorsement	02/2/2011	R2011000273
Non-appropriated Fund Instrumentalities Act Cover Endorsement	04/24/2012	R2012000258
CCPAP Updated Ave Hour Wage Table & End	07/16/2013	R2013001731
Notification Endorsement of pending law change to TRIPRA 2007	08/22/2013	R2013002796
Update to Countrywide Policy Forms & Discontinuance of Per Passenger Seat Surcharge	07/29/2014	R2014002358
NY Sole Proprietors – Exclusion WC	02/25/2015	R2015000184

**7. Information Systems and Other Procedures**

Carrier Unit Statistical Reports (USR) files are submitted either through the Compensation Data Exchange (CDX) or directly to the Board via a secure file transfer protocol (SFTP). The files must follow specified formats and layout as defined by the Workers Compensation Insurance Organizations, a voluntary association of statutorily authorized or licensed rating, advisory, or data service organizations that collect workers' compensation insurance information in one or more states. Following submission, NYCIRB staff accepts the file and acknowledges its receipt. The file is then loaded onto "Spectrum", which is a NYCIRB internal operating system used to track, validate, and manage the data. When files are submitted that do not fit the record layout, file size or naming convention, they are rejected.

The data from submitted files that satisfy the required standard is processed through "Spectrum's Edit Engine". The list of edits used to validate the data was provided by the Board. All USRs that pass the edits are updated into the database in tables labeled as "Accepted".

USRs that fail edits are stored in the database tables labeled as “Nascent”. Failed USRs are routed by “Spectrum” to NYCIRB’s Data Quality staff via a Work Queue Management module of Spectrum.

NYCIRB staff will review the failed USRs. Upon review, those requiring carrier correction are forwarded to carriers. These communications include a brief explanation of the errors found. Further, each month, carriers receive a spreadsheet containing a list of all outstanding errors.

Additionally, “Manage USR”, an application on NYCIRB’s website, enables carriers to create Correction Reports and submit them through CDX. The information on this application is updated each night, for USRs that were submitted that day. Carriers can also view all submitted USRs on “Manage USR”, and learn which were accepted and which failed.

For a limited number of error types, failed USRs can be manually accepted without carrier intervention.

The Actuarial Department staff reviews the statistical data prior to using it in the derivation of class loss costs. Several data reports are run and are used to identify anomalies. If a data anomaly is detected, the carrier is contacted and is asked to either correct the data, if warranted, or provide an explanation.

## **8. Appeal Procedures**

An insured, or its representative may appeal the issues relating to classification, ownership, premium auditing, and/or other NYCIRB ruling or decisions pertaining to the policies. To be considered for review, a written request for the appeal must be submitted to the Rating Board. Upon receipt of the request for review, the following actions will be taken:

- (1) A staff member will review the request and respond to the insured within 60 days, in writing, acknowledging receipt of the request, granting the insured its request or sustaining its original ruling.
- (2) The insured, if not satisfied with the outcome in (1) above, may then request, in writing, a conference with members of the Rating Board staff. The request must state the nature of the complaint and contain any supporting documents. The appropriate Department Vice President or his or her designated representative, if appropriate, will preside at the conference.

If the dispute is not resolved at the conference, the insured may then appeal to the Underwriting Committee of the Rating Board for a hearing to consider the staff ruling. This appeal must be in writing and must specify the reason(s) for the appeal and the nature of the complaint.

Following receipt of the appeal, the insured will be notified regarding the time and place for the hearing. The appeal will be heard at the next Underwriting Committee meeting for which appropriate time can be dedicated to address this matter. Subsequently, the insured will be advised, in writing, of the Underwriting Committee's decision regarding its complaint.

- (3) If the Underwriting Committee ruling is not satisfactory to the insured, the insured may then request a hearing at the New York State Department of Financial Services to review the pertinent issues and the decision of the Rating Board's Underwriting Committee.
- (4) The New York State Department of Financial Services' decision may be appealed to a higher court, by either the insured or the Rating Board.

## **C. FINANCIAL AND ACCOUNTING**

### **1. Statement of Assets and Liabilities**

NYCIRB advised the Department that the deficit is driven by two factors. First, the amount of the total liability represents the actuarial valuation conducted by a third-party vendor contracted by the Board. Each year's actuarial valuation is influenced by assumptions such as the plan liability discount rate, estimated salary increases and life expectancy, all of which can cause annual fluctuations. Second, the funded portion of the pension liability is impacted each year by investment return on plan assets. Investment returns in some years are better than in others. Accordingly, both the funded and the total liability pension figures fluctuate each year in normal course, and may cause the deficit to increase or decrease.

Moreover, NYCIRB's 2014-2015 Notes to Financial Statement indicates the following:

"In compliance with post retirement actuarial calculation reports and to include the costs of post retirement-related changes into the Board's definition of operating activities in the accompanying statements of activities, 2014 operating cost were increased from the previously stated balance by \$1,805,913 with a corresponding change in non-operating costs. As a result, total operating expenses for 2014 increased from \$20,299,502 to \$22,105,415. There was no change in the total decrease in net assets for 2014 of \$6,183,391, or in the total deficit in unrestricted net assets at December 31, 2014 of \$8,945,203."

The Department also obtained the detailed US GAAP year-end pension disclosure information for the fiscal year of 2015 prepared for NYCIRB by the third-party vendor.

## **2. Internal Audit**

NYCIRB advised that due to the small size of its organization, it does not employ internal auditors and does not perform internal audits. Rather, it engages an external auditor on an annual basis who reports directly to an independent Audit Committee, which is a sub-committee of the Board of Governors. The Audit Committee meets semi-annually and retains independent oversight. Copies of External Audit Reports for the examination period (2011-2015) were received and reviewed. No issue was found from this review.

## **3. Financial Statement**

The books and records of the Board are audited annually by Certified Public Accounting (CPA) firm. The CPA firm reports to the Governing Committee and copies of the report are available to all members and subscribers of the Rating Board for their review.

During the review of NYCIRB's audited financial reports, it was noted that there have been deficits in net assets from 2010 to 2015. It appears that the deficits are mostly due to the liabilities for Accrued Pension Cost and Accrued postretirement health and other benefits. This is reflected in the amounts reported under the Liabilities in the Statement of Financial Position for all five years.

According to the independent auditors' report, the deficit is the result of the adoption of the provisions of the Accounting Standards Codification ("ASC") Topic 715-60-05. This provision applies to the accounting and reporting of defined-benefit plans and other postretirement plans. The independent auditors' report further indicates that, "The Board's management expects that this deficit will be reduced over time through subsequent assessments of insurance companies and that the Board will continue as a going concern."

In addition, the CPA firm issued a modified opinion report to the financial statements for the years ended December 31, 2014 and 2015. The modified opinion reports were expressed due to the Board's accounting treatment of costs of furniture, equipment, leasehold improvements, and expenses made under capital lease obligations in the results of operations in the year of purchase or expenditure. According, to the CPA report this treatment deviates from generally

accepted accounting principles in the United States of America which requires that such costs be capitalized as assets and depreciated over the periods benefited and that the present value of capital lease obligations be included as a liability in the statements of financial position.

In the CPA's opinion, the Board's financial statements present fairly, in all material respects, the position of the Board as of December 31, 2014, and 2015, in accordance with generally accepted accounting principles in the United States of America.

**NEW YORK COMPENSATION INSURANCE RATING BOARD  
STATEMENT OF FINANCIAL POSITION  
FOR THE YEAR ENDED DECEMBER 31**

<b><u>ASSETS</u></b>	<b><u>ASSETS</u></b>				
	<b><u>12/31/11</u></b>	<b><u>12/31/12</u></b>	<b><u>12/31/13</u></b>	<b><u>12/31/14</u></b>	<b><u>12/31/15</u></b>
Demand deposits	\$7,352,753	\$6,002,143	\$9,277,312	\$6,963,426	\$10,215,330
Money-market accounts	180,821	181,101	181,334	181,511	\$181,738
Certificates of deposit	600,000	600,067	600,299	600,390	\$600,444
Petty cash fund	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>
Total cash and cash equivalents	8,135,074	6,784,811	10,060,445	7,746,827	\$10,999,012
Member assessments receivable	405,982	122,657	618,821	1,608,068	<u>58,921</u>
Other assets	<u>584,151</u>	<u>754,888</u>	<u>799,282</u>	<u>1,124,165</u>	<u>1,228,503</u>
<b><u>TOTAL ASSETS</u></b>	<b><u>\$9,125,207</u></b>	<b><u>\$7,662,356</u></b>	<b><u>\$11,478,548</u></b>	<b><u>\$10,479,060</u></b>	<b><u>\$12,286,436</u></b>
<b><u>TOTAL LIABILITIES AND NET ASSETS</u></b>					
<b><u>LIABILITIES</u></b>					
Account payable	\$264,396	\$309,301	\$412,495	\$313,970	\$420,334
Accrued salaries	325,854	324,490	376,317	414,517	421,307
Obligation for deferred compensation	577,496	714,106	535,626	624,512	667,391
Accrued pension cost	6,297,746	8,342,890	4,575,638	7,384,495	9,348,808
Accrued postretirement health and other benefits	<u>7,648,358</u>	<u>9,973,206</u>	<u>8,340,104</u>	<u>10,686,589</u>	<u>11,084,413</u>
<b><u>TOTAL LIABILITIES</u></b>	15,113,850	19,663,993	14,240,180	19,424,083	21,942,253
<b><u>DEFICIT IN NET ASSETS</u></b>	(5,988,643)	(12,001,637)	(2,761,632)	(8,945,023)	(9,655,817)

**NEW YORK COMPENSATION INSURANCE RATING BOARD  
STATEMENT OF ACTIVITIES  
FOR THE YEAR ENDED DECEMBER 31**

**Operation of revenue:**

	<u>12/31/11</u>	<u>12/31/12</u>	<u>12/31/13</u>	<u>12/31/14</u>	<u>12/31/15</u>
Provisional assessment	\$14,650,817	\$14,431,612	\$17,006,388	\$17,930,784	\$18,830,517
Membership fees	268,208	279,062	284,313	277,250	278,687
Overdue report fees	119,250	441,550	79,200	242,700	73,250
Other fees	1,037,537	891,077	792,681	982,258	862,016
Interest income	<u>3,159</u>	<u>3,713</u>	<u>2,820</u>	<u>1,958</u>	<u>1,502</u>
<b>Total operating revenue</b>	<b><u>16,078,971</u></b>	<b><u>16,047,014</u></b>	<b><u>18,165,582</u></b>	<b><u>19,434,950</u></b>	<b><u>20,045,972</u></b>

**Operating expenses:**

**Salaries and related items:**

Salaries	\$8,342,422	\$8,567,349	\$8,884,085	\$9,170,910	9,386,094
Employees' group insurance	1,739,429	3,912,411	1,795,298	1,926,221	2,113,709
Payroll taxes	601,668	621,994	695,095	720,695	703,153
Pension plan	619,442	971,929	(601,195)	4,643,898	1,119,674
Employees' savings plan	271,663	293,840	299,787	296,464	301,236
Personnel costs	7,014	70,184	58,335	29,858	172,226
Disability insurance	8,195	13,744	10,959	11,715	14,757
	<u>11,589,833</u>	<u>14,451,447</u>	<u>11,142,364</u>	<u>16,799,761</u>	<u>13,810,849</u>

**Administrative, office and other expenses:**

Professional and consulting	361,457	543,482	540,606	495,281	520,718
Printing and stationery	112,563	94,036	85,336	78,452	90,151
Outside data-processing services	212,290	277,217	276,824	236,683	249,415
Travel	269,327	254,151	297,450	307,456	275,928
Commercial rent tax	14,867	4,798	45,522	102,569	130,800
Postage	39,937	32,929	46,436	30,480	47,453
Dues and subscriptions	133,530	124,055	163,933	140,927	340,134
Insurance	83,865	95,850	84,195	117,454	177,869
Committee travel and related expenses	44,335	34,954	15,752	22,718	18,793
Miscellaneous	91,190	163,902	141,274	121,168	148,159
Bad debt	9,839	3,036	18,091	-	-
	<u>1,373,200</u>	<u>1,628,410</u>	<u>1,715,419</u>	<u>1,653,188</u>	<u>1,999,420</u>



	<u>12/31/11</u>	<u>12/31/12</u>	<u>12/31/13</u>	<u>12/31/14</u>	<u>12/31/15</u>
<b><u>Operating expenses:</u></b>					
<b>Rent, utilities and equipment:</b>					
Office rent and electricity	\$1,268,400	\$2,073,711	\$2,094,536	\$2,103,711	\$2,104,732
Electronic data-processing equipment rental	151,932	128,305	122,962	126,017	111,839
Maintenance and repairs	182,258	185,442	85,428	146,129	161,751
Furniture and fixtures	52,172	65,208	4,287	4,290	5,114
Telephone	25,324	55,690	68,177	72,351	49,610
Project systems	<u>996,993</u>	<u>1,015,469</u>	<u>1,168,686</u>	<u>1,199,968</u>	<u>1,214,092</u>
	<u>2,677,079</u>	<u>3,523,825</u>	<u>3,544,076</u>	<u>3,652,466</u>	<u>3,647,138</u>
Total operating expenses	<u>15,640,112</u>	<u>19,603,682</u>	<u>16,401,859</u>	<u>22,105,415</u>	<u>19,457,407</u>
(Deficit) excess of operating revenue over expenses	438,859	(3,556,668)	1,763,723	(2,670,465)	588,565
<b><u>Other charges:</u></b>					
(Decrease) increase provisional assessment	798,491	(438,859)	3,556,668	(1,763,723)	864,552
Adjustment for members' share or working capital	<u>48,628</u>	<u>68,515</u>	<u>198,159</u>	<u>(160,055)</u>	194,895
Change in unrestricted net assets	1,285,978	(3,927,012)	5,518,550	(4,594,243)	1,648,012
Pension-related changes other than periodic costs	(2,399,292)	(1,976,332)	3,831,105	(3,284,811)	(2,120,405)
Postretirement-related changes other than periodic costs	<u>(109,650)</u>	<u>(109,650)</u>	<u>(109,650)</u>	<u>1,695,663</u>	<u>(238,401)</u>
<b>Change in net assets</b>	(1,222,964)	(6,012,994)	9,240,005	(6,183,391)	(710,794)
Deficit in unrestricted net assets - beginning of year	(4,765,679)	(5,988,643)	(12,001,637)	(2,761,632)	(8,945,023)
<b>Deficit in unrestricted net assets – end of year</b>	<u>(5,988,643)</u>	<u>(12,001,637)</u>	<u>(2,761,632)</u>	<u>(8,945,023)</u>	<u>(9,655,817)</u>

#### **D. ACTUARIAL REVIEW**

As part of the examination, an actuarial review was performed on NYCIRB's data handling procedures including rate making, and the classification relativities by a DFS Principal Casualty Actuary. For rate making, NYCIRB has two types of data, financial and unit statistical. The actuarial review comments indicate that NYCIRB reviews the data underlying the annual loss cost revision filing for potential errors and exceptional values effectively, and uses the data appropriately in setting loss costs for each classification. However, the Department has identified two instances where the editing and reasonability checks performed on unit statistical data should be enhanced:

1. Incorporating edits regarding the part-of-body injury codes, which are now used to determine the loss development factor to be applied to the claim; and
2. Strengthening the reasonability checks of changes in the claim frequency of class codes between consecutive policy years by reducing the indemnity claim threshold for identifying claim frequency changes in need of further scrutiny.

In addition, NYCIRB issued a bulletin to its membership on September 28, 2016, and, also advised the Department of potential inaccuracies in its published Excess Loss Pure Premium Factors ("ELPPFs") and Excess Loss and Loss Adjustment Expense Pure Premium Factors ("ELAEPFFs") effective January 1, 2016. The improper derivation of these factors was discovered by NYCIRB staff and involved differences in actuarial judgment, primarily regarding the variance of the loss distributions of permanent partial, temporary, and medical only claims. Upon discovery of these errors, NYCIRB dismissed the two actuaries who were responsible for this project, hired one credentialed actuary, and added a programmer to its Information Technology Department who will work directly with the Actuarial Department. NYCIRB submitted revisions to the ELPPFs and ELAEPFFs in its filing to the Department on November 18, 2016 and the filing (R2106004068) was approved on May 3, 2017. As part of NYCIRB's corrective action plan, NYCIRB has changed its internal processes, in charging the Actuarial Department's two most senior members with the responsibility for verifying that all steps in the actuarial work products are properly performed. In addition, NYCIRB indicated a willingness to retain outside consultants to peer review actuarial work products. While the National Council on Compensation Insurance ("NCCI") did not peer review NYCIRB's work, it did perform a critical step in the promulgation of the updated ELPPFs. This is a promising start in NYCIRB's commitment to involve external actuaries when needed.

### **E. Compliance with Prior Report on Examination**

The 2001 report for the exam period from January 1, 1998 through December 31, 2000 contained a single recommendation. The recommendation made was that the Board advise the Department of insurers delinquent in correcting outstanding rating criticisms in accordance with the provisions of the § 2313 (q) of the NYIL.

NYCIRB provided evidence that criticism reports were being submitted to the Department as recommended and requested. NYCIRB provided a copy of the letter dated February 26, 2004 summarizing the Board's fine program for delinquent insurer responses to Board criticisms and the attached report for the year 2003 that was sent to the Department, as evidence of compliance.

The Board claimed that subsequent to the aforementioned letter the Department advised that NYCIRB may cease providing these reports. In a meeting on April 8, 2016 NYCIRB reminded the Department that it ceased providing copies of the criticism reports but indicated that if the Department requested, NYCIRB would resume submission of the reports. It is recommended that the Board resume submitting annually to the Department the listing of insurers delinquent in correcting outstanding rating criticisms. It is not necessary for the Board to include the fines assessed against the insurers in the report.

### **F. RECOMMENDATIONS**

1. It was noted that the Medical & Claims committee held one meeting in 2011 and 2012, during the examination period. Therefore, it is recommended that the Medical & Claims Committee reconvene its meetings at least on an annual basis. (Page 11)
2. The editing and reasonability checks performed on unit statistical data should be enhanced by:
  - Incorporating edits regarding the part-of-body injury codes, which are now used to determine the loss development factor to be applied to the claim; and
  - Strengthening the reasonability checks of changes in the claim frequency of class codes between consecutive policy years by reducing the indemnity claim threshold for identifying claim frequency changes in need of further scrutiny. (Page 24)
3. It is recommended that the Board resume submitting annually to the Department the listing of insurers delinquent in correcting outstanding rating criticisms. (Page 25)

Respectfully submitted,

\_\_\_\_\_  
Song Hee Hong  
Senior Insurance Examiner

STATE OF NEW YORK )  
                                  ) SS.  
COUNTY OF NEW YORK)

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

\_\_\_\_\_  
Song Hee Hong

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2018

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, Maria T. Vullo, Acting 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:

**Song Hee Hong**

as a proper person to examine the affairs of the

**NEW YORK COMPENSATION INSURANCE RATING BOARD**

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

**BOARD**

with such other information as she 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 31st day of May, 2016

MARIA T. VULLO

Acting Superintendent of Financial Services



By:

*Eileen Fox*

Eileen Fox

Assistant Chief Examiner