

REPORT ON EXAMINATION  
OF THE  
SWISS REINSURANCE AMERICA CORPORATION  
AS OF  
DECEMBER 31, 2000

DATE OF REPORT

MARCH 5, 2004

EXAMINER

MARY MEANEY, CFE

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Company	3
	A. Management	4
	B. Territory and plan of operation	6
	C. Reinsurance	8
	D. Holding company system	11
	E. Significant operating ratios	13
	F. Abandoned Property Law	14
	G. Accounts and records	14
3.	Financial statements	17
	A. Balance sheet	17
	B. Underwriting and investment exhibit	19
4.	Other invested assets	21
5.	Interest, dividends and real estate income due and accrued	22
6.	Contingent commissions and other reinsurance balances	22
7.	Losses and loss adjustment expenses	23
8.	Market conduct activities	24
9.	Subsequent events	24
10.	Compliance with prior report on examination	25
11.	Summary of comments and recommendations	28



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

March 5, 2004

Honorable Gregory V. Serio  
Superintendent of Insurance  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with instructions contained in Appointment No. 21746 dated July 11, 2001, attached hereto, I have made an examination into the condition and affairs of Swiss Reinsurance America Corporation as of December 31, 2000 and submit the following report thereon.

The examination was conducted at the Company's home office located at 175 King Street, Armonk, NY 10504.

Wherever the designations "the Company" or "SRA" or "Swiss Re" appear herein without qualification, they should be understood to indicate Swiss Reinsurance America Corporation.

Whenever the designation "Department" appears here in without qualification, it should be understood to indicate the New York Insurance Department.

## **1. SCOPE OF EXAMINATION**

The previous examination was conducted as of June 30, 1995. The current examination covered the five and a half-year period from July 1, 1995 through December 31, 2000. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2000, a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountants. A review or audit was also made of the following items as called for in the Examiner's Handbook of the National Association of Insurance Commissioners:

- History of the Company
- Management and control
- Corporate records
- Fidelity bonds and other insurance
- Territory and plan of operation
- Market conduct activities
- Growth of Company
- Business in force by states
- Reinsurance
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Company with regard to comments and recommendations contained 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's predecessor, North American Reinsurance Corporation ("NARe"), was incorporated in New York on July 26, 1940, as the North American Casualty and Surety Reinsurance Corporation. It was licensed and commenced business in September of the same year.

NARe was a wholly-owned subsidiary of the United States Branch of the European General Reinsurance Company, Ltd. which was absorbed into Swiss Reinsurance Company of Zurich, Switzerland in May 1951. On December 31, 1956, NARe assumed all the assets and liabilities of its affiliate, North American Fire and Marine Reinsurance Corporation. Swiss Re Holding (North America) Inc. was organized in 1973 to hold stock of the operating companies of the Swiss Reinsurance Company in the United States.

During 1987, NARe organized Western Atlantic Reinsurance Corporation ("WAReCo"), a wholly-owned New Hampshire reinsurer, to exclusively accept business written by the Swiss Re Group through reinsurance intermediaries. This subsidiary was sold to the Company's ultimate parent, the Swiss Reinsurance Company of Zurich, Switzerland, on December 31, 1995.

On May 11, 1995, North American Reinsurance Corporation's name was officially changed to Swiss Reinsurance America Corporation. Simultaneously, its immediate parent also changed its name from Swiss Re Holding (North America) Inc. to Swiss Re America Corporation. This name was later amended to Swiss Re America Holding Corporation.

Based on a board of directors' resolution, the United States Branch of the Swiss Reinsurance Company of Zurich, Switzerland was domesticated under the laws of New York State and all its assets were absorbed and

its liabilities assumed by Swiss Reinsurance America Corporation, effective June 1, 1995. The domestication and the transfer and assumption agreements were approved by the Department.

As of December 31, 2000, the Company's paid up capital of \$6,000,000 consisted of 60,000 shares of common stock with a par value of \$100 per share. All the shares were issued to Swiss Re America Holding Corporation.

A. Management

Pursuant to the charter and by-laws of the Company, corporate powers shall be exercised by a board of directors consisting of not less than thirteen or more than twenty-one members.

The following were the seventeen members of the board of directors as of December 31, 2000:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
David Hedley Atkins Toronto, Canada	Senior Advisor, Lang Michener
Hans Andreas Beerli Greenwich, CT	Chief Executive Officer, Swiss Reinsurance America Corporation
Francis Sedgwick Browne Syosset, NY	Partner, Morgan, Lewis & Bockius
John Richard Coomber Brentwood, England	Member of the Executive Board, Swiss Re Life & Health, Ltd.
Jacques Ernest Dubois Greenwich, CT	Chairman & Chief Executive Officer, Swiss Re Life & Health America Holding Co.
George Lamphier Farr Greenwich, CT	Principal, Muirhead Holdings, LLC

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John Henry Fitzpatrick Zollikon, Switzerland	Chief Financial Officer, Swiss Reinsurance Company
Thomas Henry Fox Northport, MI	Retired Managing Director, JP Morgan & Company, Inc
John Joseph Hendrickson San Francisco, CA	Member of Executive Board, Swiss Re Capital Partners
Walter Bruno Kielholz Zurich, Switzerland	Chief Executive Officer, Swiss Reinsurance Company
William Lloyd Musser, Jr. New York, NY	General Partner, New Frontier Capital, L.P.
Prakash Ambadas Shimpi Florham Park, NJ	Managing Principal (US), Swiss Re New Markets Corporation
Chris Conrad Stroup Wilton, CT	President & Chief Executive Officer, Swiss Re Life and Health America Company
John Charles Sweeney New York, NY	President & Chief Executive Officer, Swiss Re Investors, Inc.
Norman David Thompson Weston, CT	Retired Former Chairman & Chief Executive Officer, Swiss Re America Holding Corporation
Charles Greenough Watson New Canaan, CT	Retired Former Chairman & Chief Executive Officer, Brundage, Story & Rose
Erwin Konrad Zimmermann Rueschlikon, Switzerland	Member of the Executive Board, Swiss Re New Markets

A review of the minutes of the board of directors revealed that board meetings were generally well attended. During the examination period, the board had finance, compensation, and audit sub-committees. In December 1995, the directors delegated to the compensation committee authority to grant incentive compensation to employees. However, no minutes were kept to substantiate any decisions made by the

compensation committee. It is recommended that the Company keep minutes of all committees formed by the board of directors.

A review of the finance committee minutes revealed that the committee was not established specifically for SRA, but for the entire group. There were no discussions pertaining to SRA's financial needs and challenges, and only one officer represented SRA on the committee. During 2001, the name was changed to the investment committee and no representative of SRA was on the committee. It is recommended that an officer of SRA be a member of the investment committee to represent SRA's interests in the management of its investment portfolio.

The senior officers of the Company at December 31, 2000 were:

<u>Name</u>	<u>Title</u>
Hans Andreas Beerli	Chief Executive Officer
James Philip Slattery	Chief Operating Officer & Deputy Chief Executive Officer
Willy Hersberger	Executive Vice President
Deirdre Healy Littlefield	Executive Vice President
Henry Clay Bassett, Jr.	Senior Vice President
Gregory Hall Berg	Senior Vice President
Urs Markus Nussbaum	Senior Vice President
Paul Anthony LiCausi	Chief Financial Officer
William Henderson Belvin	Chief Reserving Actuary
Gary Steven Patrik	Chief Actuary
Patrick Joseph O'Brien	Corporate Secretary
Steven Elliot Weingarten	Treasurer
Christopher Thomas McNulty	Assistant Controller

B. Territory and Plan of Operation

The Company operates primarily as a reinsurer and is authorized to transact the kinds of business as specified in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

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

The Company is also authorized to write workers' compensation insurance as may be incidental to coverages contemplated under paragraphs 20 and 21 of Section 1113, including coverages described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 congress as amended; 33 USC Section 901 et seq. as amended). The Company is also authorized to write the kinds of insurance and reinsurance as specified in Section 4102(c) of the New York Insurance Law. In addition, the Company is also authorized to write reinsurance of every kind or description.

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, Swiss Reinsurance America Corporation is required to maintain a minimum surplus to policyholders in the amount of \$35,000,000.

In addition to New York, the Company is authorized to transact business in the District of Columbia and Puerto Rico and all states of the United States except Wyoming.

C. Reinsurance

Assumed Reinsurance

The Company is a professional reinsurer, providing primarily non-proportional reinsurance coverage to property and casualty insurers.

The examiner selected a statistical sample of 76 assumed reinsurance agreements from the contracts in force at December 31, 2000 for review. Of the 76 contracts sampled, 45 were treaty contracts. Of these, two contract files contained only a cover note, two contracts were not signed, 15 contracts were signed nine months after the inception date of the contract, and one contract was terminated in 1987 but the status in the Company's computer system was not updated to reflect the cancellation.

It is recommended that the Company obtain executed copies of each agreement within nine months from the effective date of the contract. A similar comment was made in the prior report. It is also recommended that the Company update its computer system to reflect the current contract status.

The Schedule F data as contained in the Company's annual statement filed for the 2000 year appear to accurately reflect its material reinsurance transactions.

Ceded Reinsurance

The examiner reviewed all ceded reinsurance contracts in effect as of the examination date. Eight of these contracts could not be located by the Company; therefore the examiner could not verify that these contracts contained the required standard clauses, including the insolvency clause, meeting the requirements of Section 1308 of the New York Insurance Law. It is recommended that the Company maintain better control of its reinsurance agreements.

The review also disclosed that six reinsurance agreements did not contain signature pages and ten contracts were not signed within nine months from the inception date of the contract. According to the NAIC Accounting Practices and Procedures Manual, Chapter 22, if a contract is not finalized, reduced to written form and signed within nine months, the arrangement is presumed to be retroactive and must be accounted for as retroactive. Therefore, these twenty-four contracts should have been classified as retroactive contracts. It is recommended that the Company comply with Chapter 22 of the NAIC Accounting Practices and Procedures Manual and classify all reinsurance contracts not signed within nine months as retroactive contracts. It is also recommended that the Company make a greater effort to formalize its ceded contracts in a timely manner.

The major retrocessions the Company had in effect as of December 31, 2000 were as follows:

<u>Type of Contract</u>	<u>Coverage</u>
Aggregate Accident Year Stop Loss 100 % unauthorized	\$165,000,000 attaching after combined ratio exceeds 107%
<u>Property</u>	
Catastrophe excess of loss one layer – Earthquake 100 % unauthorized	90% of \$1,300,000,000 in excess of \$75,000,000
Catastrophe excess of loss two layers – Windstorm 100 % unauthorized	90% of \$75,000,000 in excess of \$25,000,000 90% of \$1,325,000,000 in excess of \$75,000,000

All major retrocessions are effected within the Swiss Re Group. A review of the correspondence between the Company and the Department indicated that although reinsurance agreements between the Company and its affiliates were submitted to the Department for review, such submissions were not always on a timely basis. It is recommended that the Company comply with the time frames set forth in Section 1505 of the New York Insurance Law. The same comment was contained in the prior report on examination.

The majority of ceded reinsurance agreements are part of a fronting arrangement with North American Specialty (“NAS”) and North American Capacity Insurance Companies (“NAC”). NAS and NAC are both affiliates of SRA that front business written by managing general underwriters (“MGU”) which is then ceded to SRA. As part of its retrocession program, the Company then retrocedes this business to affiliated companies of the MGU producing the business. This is done in order to limit the amount of retrocessionaires NAS and NAC have. NAS adjusts the fees it charges to cover the costs associated with ceding the business to SRA.

The Company utilizes letters of credit, trust agreements, and credit permissible under Section 125.4 of Department 20 in order to reflect credit for cessions unauthorized reinsurers. Relative to the trust agreements, the Company was unable to produce for examination review one of the trust agreements for which it was named beneficiary. Thus, the examiners were unable to verify if this agreement complied with the provisions of Department Regulation 114. It is recommended that the Company maintain executed copies of all trust agreements and retain them as long as they are in force.

Relative to the credit taken by the Company under the provisions of Part 125.4(e) of Department Regulation 20, it was noted that the Company did not maintain all of the documentation required under the regulation to support the reinsurance credit taken. Specifically, it was noted that the Company failed to maintain documentation:

“... that the ceding insurer has limited maximum amount of liability for loss, with respect to any one risk ceded to any one assuming insurer, to ten percent of the assuming insurer’s policyholder’s surplus and has limited the aggregate premium cession to any assuming insurer to twenty percent of the assuming insurer’s policyholder’s surplus”.

It is recommended that the Company fully comply with all provisions of Department Regulation 20 when taking credit for cessions to unauthorized reinsurers, including the requirement that credit claimed for reinsurance recoverable is to be supported by proper and appropriate records.

D. Holding Company System

The Company is wholly-owned by Swiss Re America Holding Corporation, a Delaware company. A review determined that the Company made the required annual filings, as registrant, pursuant to Article 15 of the New York Insurance Law and Department Regulation 52.

The Company, at December 31, 2000, owned 100% of the following companies:

Company

North American Specialty Insurance Company  
North American Capacity Insurance Company  
North American Elite Insurance Company

An organization chart which details members of the system as of December 31, 2000 is shown on attached Exhibit A.

Service Agreements

The Company is party to several service and expense agreements with its parent and affiliates, including a tax allocation agreement and an investment advisory agreement. A description of latter two agreements is set forth further herein.

It was noted that the Company had several balances due to or from affiliated parties which emanated from the Company either receiving services from or providing services to another member of the holding company system on a regular or systematic basis. The Company did not have any formal, written service agreements in place for these arrangements. This appears to be a violation of Section 1505(d)(3) of the New York Insurance Law, which provides that:

“d) The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period:

... (3) rendering of services on a regular systematic basis;...”

It is recommended that the Company reduce all agreements with affiliates to writing in order to disclose the nature of the intercompany transactions and to support the reasonableness of the charges between the parties.

During the course of this examination, it noted that the Company was unable to provide supporting documentation for some of the affiliated transactions selected for review. Section 1505(b) of the New York Insurance Law states:

“The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties”.

It is recommended that the Company comply with the above section of the law and keep supporting documentation for transactions between affiliates.

#### Tax Allocation Agreement

The Company participates in a tax allocation agreement with its immediate parent, Swiss Re America Holding Corporation (“Swiss Re Holding”), and twenty-two of its affiliates. A revised agreement was approved by the Department on November 3, 1998. However examination review indicated that all exhibits to this agreement were not signed. It is recommended that all exhibits to the tax allocation agreement be signed.

In conjunction with the tax allocation agreement, an escrow agreement was also established as required under New York Department’s Circular Letter No. 33 (1979). However, the escrow account established by

Swiss Re Holding is a joint escrow with the other affiliates participating in the tax allocation agreement. According to Section 4(c) of the company's tax agreement a separate escrow account for each participant must be maintained. It is recommended that the Company comply with its tax allocation agreement and maintain separate escrow accounts for each company participating in the agreement.

Upon review, it was determined that the agreement is in compliance with the minimum guidelines set forth in the Department's Circular Letter No. 33 (1979).

#### Investment Advisory Agreement

The Company is a party to an investment advisory agreement with its affiliate, Swiss Re Investors, Inc. ("SRI"). This agreement was approved by the Department on November 22, 2000. A review of SRA's investments was performed by the Capital Markets Bureau of this Department as part of this examination. The review indicated that the SRA's current investment guidelines authorize the purchase of derivatives in an amount not to exceed 15% of its admitted assets.

It is recommended that the guidelines be updated to reflect the Department's derivative use plan requirements that purchases not exceed 3% of admitted assets.

#### E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2000, based upon the results of this examination:

Net premiums written in 2000 to Surplus as regards policyholders	1.30 to 1
Liabilities to liquid assets (cash and invested assets less investment in affiliates)	86%
Premiums in course of collection to Surplus as regards policyholders	13%

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 five and a half-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Loss and loss adjustment expenses incurred	\$3,941,495,130	76.3%
Other underwriting expenses incurred	2,093,951,716	40.6
Net underwriting gain (loss)	<u>(872,749,342)</u>	<u>(16.9)</u>
Premiums earned	<u>\$ 5,162,697,504</u>	<u>100.0%</u>

F. Abandoned Property Law

Section 1316 of the New York State Abandoned Property Law requires certain unclaimed insurance proceeds to be reported to the State of New York by April 1<sup>st</sup> of each year. A review of the Company's records revealed that although it did not have any monies to remit, it did make the appropriate filings for all years during the examination period. However, the Company did not retain copies of the filing for the year 1995.

It is recommended that the Company retain copies of all abandoned property filings until the examination report for those years has been filed.

G. Accounts and Records

Money Market Fund

At December 31, 2000, SRA reported an investment in the Swiss Re Money Market Fund ("Fund") totaling \$967,449,599. This investment represented SRA's share of the total fund value of \$1,789,057,105, which was held in the Group's name. The Company's investment in the Fund represented 16% of its admitted

assets at December 31, 2000. This appears to be a violation of Section 1409(a) of the New York Insurance Law, which limits an insurer's investment in any one institution to 10% of its admitted assets.

Shortly after year-end the Company had divested its share of the Fund to less than 10% of admitted assets.

#### Stock Certificates

SRA owns securities which are not held by a custodian or by SRA. They are held by the Company's investment manager in the manager's offices. It is recommended that all securities not held by the Company in its vault be held by a bank or trust company under a custodial agreement.

#### Bank Reconciliations

A review of investments revealed that in several instances the Company did not prepare bank reconciliations or maintain copies of reviewed reconciliations that it had performed. It is recommended that the Company prepare and review bank reconciliations in a timely manner.

#### Custodial Agreement

Examination review of the custodial agreements which the Company had in place as of the examination date indicated that such agreements were missing several provisions and guidelines deemed by the Department to be indicative of good business practices and a sound internal control environment. It is recommended that the Company revise these agreements to include the suggested provisions. The same recommendation was made in the prior report on examination.

The Company appears to be in the process of obtaining custodial agreements that will comply with the required provisions and guidelines as required by the Department.

### Documentation for runoff companies

The Company did not maintain adequate supporting documentation for premium and loss balances due from a number of cedants in runoff or liquidation. It is recommended that the Company endeavor to obtain this documentation on a quarterly basis in order to reflect current information in its financial statements.

### Annual Statement

Many of the amounts in the write-ins accounts for assets and liabilities were misclassified. Since most of these items should have been classified under different names but still write-ins, no examination reclassification will be done.

Annual statement instructions require that all loaned securities use the symbol "LS" next to that security on Schedule D. The Company failed to do this.

Examination review indication several errors in Schedule E, the cash schedule of the annual statement. These errors were immaterial and no examination change was made.

It is recommended that the Company ensure that items are properly classified in accordance with the annual statement instructions.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as determined by this examination as of December 31, 2000 and as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Non-Ledger Assets</u>	<u>Not-Admitted Assets</u>	<u>Net Admitted Assets</u>	<u>Net Admitted Assets</u>	<u>Surplus Increase (Decrease)</u>
Bonds	\$4,330,858,193		\$ 702,624	\$4,330,155,569	\$4,330,155,569	\$
Preferred stocks						
Common stocks	453,408,289	\$207,396,316		660,804,605	660,804,605	
Cash and short term investments	50,238,343			50,238,343	50,238,343	
Other invested assets	33,788,952		3,100,000	30,688,952	7,688,952	23,000,000
Receivable for securities	7,817,271			7,817,271	7,817,271	
Premiums, agents' balances in course of collection	141,501,259		11,993,214	129,508,045	129,508,045	
Premiums, agents' balances and installments booked but deferred and not yet due	284,870,729		6,706	284,864,023	284,864,023	
Funds held by or deposited with reinsured companies	169,764,355			169,764,355	169,764,355	
Reinsurance recoverable on paid losses	58,624,548			58,624,548	58,624,548	
Federal income tax recoverable		26,153,507		26,153,507	26,153,507	
EDP equipment	6,127,335		6,127,335			
Interest, dividends and real estate income due and accrued		52,296,682		52,296,682	50,945,457	1,351,225
Receivable from parent, subsidiaries and affiliates	18,193,231			18,193,231	18,193,231	
Foreign exchange adjustment	382,121	1,124,925		1,507,046	1,507,046	
Contingent commissions and other reinsurance balances	<u>32,405</u>			<u>32,405</u>	<u>184,383,630</u>	<u>(184,351,225)</u>
Total assets	<u>\$5,555,607,031</u>	<u>\$286,971,430</u>	<u>\$21,929,879</u>	<u>\$5,820,648,582</u>	<u>\$5,980,648,582</u>	<u>\$(160,000,000)</u>

<u>Liabilities</u>	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase (Decrease)</u>
Losses and loss adjustment expenses	\$3,101,828,801	\$ 3,077,223,801	\$ (24,605,000)
Reinsurance payable on paid losses and loss adjustment expenses	40,453,342	40,453,342	
Other expenses	21,217,332	21,217,332	
Unearned premiums	610,280,999	610,280,999	
Funds held by Company under reinsurance treaties	368,350,758	368,350,758	
Amounts withheld or retained by company for account of others	14,317,205	14,317,205	
Provision for reinsurance	45,673,360	45,673,360	
Excess of statutory reserves over statement reserves	1,223,418	1,223,418	
Payable to parent, subsidiaries & affiliates	1,178,698	1,178,698	
Other reserves and loss portfolio transfer assumed	2,226,306	2,226,306	
Liability for deposit accounting, loss portfolio transfer - ceded, & other	175,872,540	175,872,540	
Accounts payable - miscellaneous	<u>85,586,567</u>	<u>85,586,567</u>	_____
Total liabilities	<u>\$ 4,468,209,326</u>	<u>\$ 4,443,604,326</u>	<u>\$ (24,605,000)</u>
 <u>Policyholders' Surplus</u>			
Special surplus funds	\$463,000	\$463,000	
Capital paid up	6,000,000	6,000,000	
Gross paid in and contributed surplus	1,473,357,873	1,473,357,873	
Unassigned funds	472,636,716	657,241,716	\$184,605,000
Treasury stock	<u>(600,018,333)</u>	<u>(600,018,333)</u>	_____
Surplus as regards policyholders	<u>\$1,352,439,256</u>	<u>\$1,537,044,256</u>	<u>\$184,605,000</u>
Total liabilities and surplus	<u>\$5,820,648,582</u>	<u>\$5,980,648,582</u>	

NOTE: The Internal Revenue Service has not audited the Company's tax returns covering tax years 1995 through 2000. 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 & Investment Exhibit

Surplus as regards policyholders increased \$561,425,033 during the five and a half-year period, July 1, 1995 through December 31, 2000, detailed as follows:

	<u>Statement of Income</u>	
<u>Underwriting Income</u>		
Premiums earned		\$5,162,697,454
Deductions:		
Losses and loss adjustment expenses incurred	\$3,941,495,130	
Other underwriting expenses incurred	<u>2,093,951,716</u>	
Total underwriting deductions		<u>6,035,446,846</u>
Net underwriting loss		\$ (872,749,392)
<u>Investment Income</u>		
Net investment income earned	\$912,618,199	
Net realized capital gains	<u>1,252,888,322</u>	
Net investment gain		2,165,506,521
<u>Other Income</u>		
Net gain (loss) in agents' balances	\$ (12,061,409)	
Miscellaneous income (loss)	<u>(24,958,876)</u>	
Total other income (loss)		<u>(37,020,285)</u>
Net income before dividends to policyholders and federal and foreign income taxes		\$1,255,736,844
Federal and foreign income taxes incurred		<u>327,752,972</u>
Net income		<u>\$ 927,983,872</u>



#### 4. OTHER INVESTED ASSETS

The examination admitted asset of \$30,688,952 is \$23,000,000 more than the \$7,688,952 reported by the Company as of December 31, 2000. The difference represents a loan made to Stockwood Re, an affiliate, and is a reclassification from the write-in asset account "Contingent commissions and other reinsurance balances". It is recommended that all loans be classified as "Other invested assets" in future annual statement filings.

The loan to Stockwood Re was made in two parts as follows:

<u>Date of Loan</u>	<u>Amount</u>
February 2, 1999	\$15,000,000
March 31, 2000	<u>8,000,000</u>
Total Loan	<u>\$23,000,000</u>

According to Section 1411(a) of the New York Insurance Law, the Company's board of directors should have approved this loan. However, only the \$15,000,000 was approved by the board. It is recommended that the Company comply with Section 1411(a) of the New York Insurance Law and have all loan amounts authorized or approved by its board of directors. A similar recommendation was made in the prior report on examination.

## 5. INTEREST, DIVIDENDS, AND REAL ESTATE INCOME DUE AND ACCRUED

The examination admitted asset of \$52,296,682 is \$1,351,225 more than the \$50,945,457 reported by the Company as of December 31, 2000. This is a reclassification from the asset account, “Contingent commissions and other reinsurance balances”. The \$1,351,225 represents interest receivable on the loan to Stockwood Re (see Section 4 of this report). It is recommended that interest due and accrued on loans be classified as “Interest, dividends, and real estate income due and accrued” in future annual statement filings.

## 6. CONTINGENT COMMISSIONS AND OTHER REINSURANCE BALANCES

The examination admitted asset of \$32,405 is \$184,351,225 less than the \$184,383,630 reported by the Company as of December 31, 2000. The difference is due to the reclassification of various amounts as follows:

<u>Account Reclassified To</u>	<u>Amount</u>
Other invested assets	\$23,000,000
Interest income due and accrued	1,351,225
Losses	<u>160,000,000</u>
Total	<u>\$184,351,225</u>

The first two reclassifications have been previously discussed in items 4 and 5 herein. The remaining reclassification of \$160,000,000 represents unpaid losses that had been ceded to the Company’s parent under the terms of a stop loss reinsurance agreement. This item is discussed further in item 7 herein, “Losses”. It is recommended that the Company only classify as contingent commissions those amounts which actually represent such and are called for in the reinsurance agreement.

## 7. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability of \$3,101,828,801 is \$24,605,000 more than the \$3,077,223,801 reported by the Company as of December 31, 2000.

The examination change is comprised of the following items:

Examination increase to loss reserves, excluding asbestos loss reserves	\$145,104,000
Increase to asbestos loss reserves	60,598,000
Increase to discount for medical malpractice losses	(21,097,000)
Reclassification of ceded losses outstanding reported as contingent commissions	<u>(160,000,000)</u>
Total	<u>\$24,605,000</u>

The examination increase of \$145,104,000 is the result of the Department's analysis of the Company's loss and loss adjustment expense reserves, exclusive of asbestos and environmental reserves. The 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 statements.

Additionally, the Company's carried reserves for asbestos losses were determined to be deficient by \$60,598,000. The Department's actuaries estimated that the ultimate cost for asbestos liabilities will increase by 10%. A comprehensive study done for the Company by an independent actuarial firm, as of June 30, 1999, estimated that the Company's carried reserves for asbestos were between the actuarial firm's low and mid-point estimates. The Department's 10% increase makes the Company's ultimate asbestos losses lower than the independent actuary's mid-point estimate. No change has been made to the Company's estimate for environmental losses.

Relative to the discount for medical malpractice losses, the Department's actuaries have determined that the discount reported by at December 31, 2000 was understated by \$21,097,000. This amount has been reflected as a reduction of the captioned liability.

The examination decrease of \$160,000,000 is a reclassification from the asset account, "Contingent commissions and other reinsurance balances". The amount is more properly classified as reinsurance recoverable on unpaid losses, and represents a portion of the Company's unpaid losses recoverable under the stop loss agreement with the Company's parent. Management indicated that the stop loss agreement had a combined ratio trigger. Based on that trigger, the Company allocated the recovery to underwriting expenses and losses outstanding in proportion to the expense ratio and loss ratio before cession. It is the Department's position that the entire cession should have been recorded as a reduction to outstanding losses. Management agreed with the Department's position and reclassified the recoverable in subsequently filed annual statements.

## **8. MARKET CONDUCT ACTIVITIES**

The Company is a professional reinsurer. As such, it does not have direct contact with insureds or claimants.

## **9. SUBSEQUENT EVENTS**

The activity of September 11, 2001 is expected to result in a significant loss to the Company. At December 31, 2002, the Company reported \$796 million in gross losses and \$450 million in ceded losses, resulting in estimated net losses of \$346 million. The ceded losses are primarily reinsured by the Company's parent through a stop loss agreement, and are secured by letters of credit and trust funds.

## 10. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The following recommendations cited in the prior report on examination as of June 30, 1995, are summarized below (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Reinsurance</u>	
i.        A review of the Company's reinsurance program disclosed that certain reinsurance agreements with London market reinsurers did not contain signature pages. It is recommended that the Company make a greater effort to formalize its ceded contracts associated with the London market.	9
The Company has not complied with this recommendation. A similar comment is contained in the current report on examination.	
ii.        A review of the correspondence between the Company and the Department indicated that although reinsurance agreements between the Company and its affiliates were submitted to the Department for review, such submissions were not always on a timely basis. It is recommended that the Company comply with the time frames set forth in Section 1505 of the New York Insurance Law.	9
The Company has not complied with this recommendation. A similar comment is contained in the current report on examination.	
B. <u>Investments</u>	
i.        The Company's investments included assets that were pledged as collateral to certain insurance companies to guarantee payment of losses on business assumed from these companies. These assets were not disclosed as pledged assets in the Company's annual statement. It is recommended that the Company disclose its pledged assets according to annual statement instructions.	13
The Company has complied with this recommendation.	

<u>ITEM</u>	<u>PAGE NO.</u>
<p>ii. The Company's Schedule D - Part 1 of its quarterly statement listed as part of its long term bonds a note a receivable due from one of its affiliates. This note should be classified as other invested assets. It is recommended that the Company properly classify this type of investment in future statements.</p> <p>The Company has complied with this recommendation.</p>	13
<p>iii. The custodian agreement the Company has in place as of the examination date was missing several provisions and guidelines required by the Department. The Company is in the process of obtaining a custodian agreement that will comply with the required provisions and guidelines as required by the Department.</p> <p>The Company has not complied with this recommendation. A similar comment is contained in the current report on examination.</p>	13
<p>C. <u>Cash on Hand and on Deposit</u></p> <p>It is recommended that the Company follow the instructions contained in the NAIC Accounting Practices and Procedures Manual which state that when an insurer has assets and liabilities in foreign currency, the differences between exchange rates resulting in a change in the net asset value should be shown in the captioned item, "Net adjustment in assets and liabilities due to foreign exchange rates", if such difference is a reduction of the net value. If the differences result in an increase, they are recorded as an asset under "Aggregate write-ins for other than invested assets".</p> <p>The Company has complied with this recommendation.</p>	13 – 14
<p>D. <u>Aggregate Write-ins for Other Assets</u></p> <p>i. It is recommended that the Company comply with Section 1411(a) of the New York Insurance Law by requesting approval or authorization to its board of directors before making any loan or investment.</p> <p>The Company has not complied with this recommendation. A similar comment is contained in the current report on examination.</p>	13 - 14
<p>ii. It is recommended that the Company maintain better internal control over the collection of its reinsurance premium balances to prevent the accrual of large overdue balances.</p> <p>The Company has complied with this recommendation.</p>	14

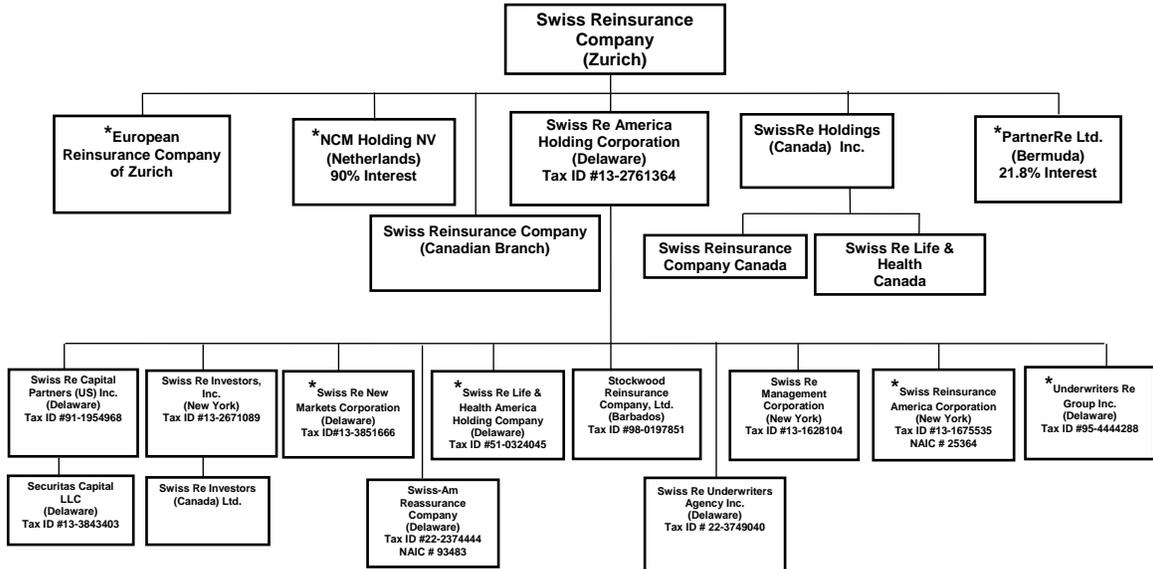
<u>ITEM</u>	<u>PAGE NO.</u>
iii. It is recommended that procedures be established or improved to more timely monitor the performance of its reinsurers or underwriting groups and take immediate action upon knowledge of questionable behavior.  The Company has complied with this recommendation.	15
E. <u>Bonds</u>  It is recommended that the Company report assets pledged to insurance companies to the extent of the liabilities they secure at statement date.  The Company has complied with this recommendation.	20 - 21
F. <u>Premiums, Agents' Balances, and Installments Booked but Deferred and not Yet Due</u>  It is again recommended that the Company obtain a formal signed reinsurance agreement with its foreign affiliate and that it be submitted to the Department for approval pursuant to Article 15 of the New York Insurance Law.  The Company has complied with this recommendation.	22
G. <u>Losses and Loss Adjustment Expenses</u>  It is recommended that the Company aggressively continue seeking reimbursement of its reinsured paid loss balances due from its retrocessionaires.  The Company has complied with this recommendation.	10 - 11

## **11. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

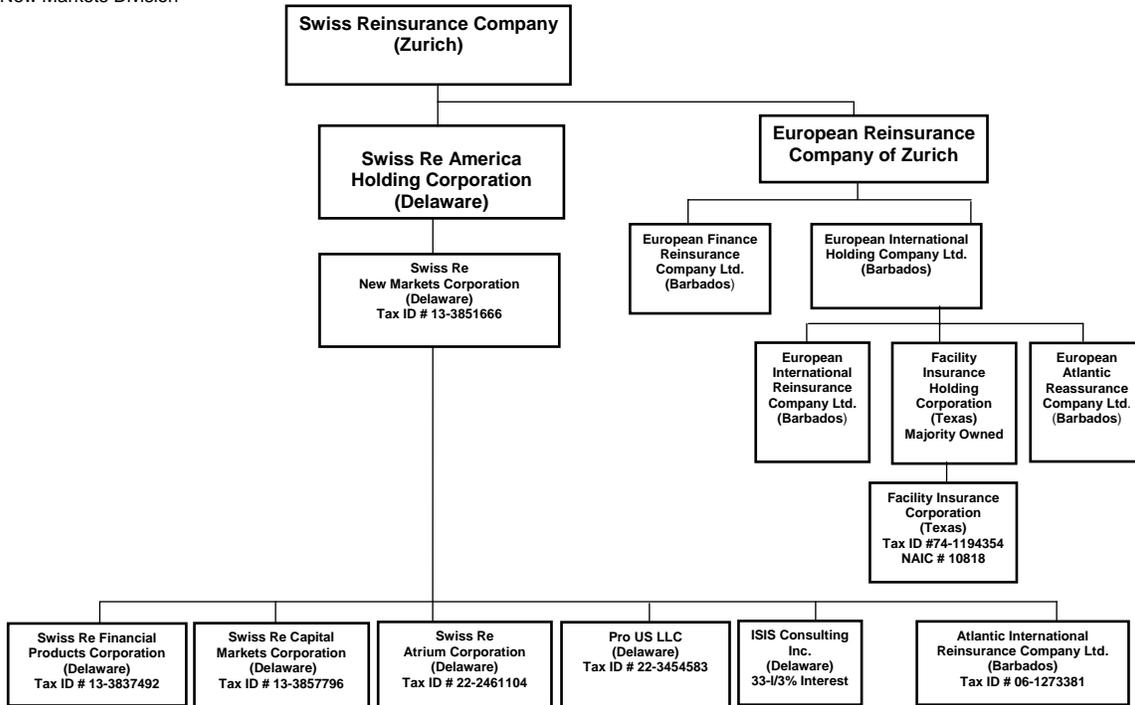
<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It is recommended that the Company keep minutes of all committees formed by the board of directors.	6
ii. It is recommended that an officer of SRA be a member of the investment committee to represent SRA's interests in the management of its investment portfolio.	6
B. <u>Reinsurance</u>	
i. It is recommended that the Company obtain executed copies of each agreement by nine months from the effective date of the contract.	8
ii. It is also recommended that the Company update its computer system to reflect the current contract status.	8
iii. It is recommended that the Company maintain better control of its reinsurance agreements.	8
iv. It is recommended that the Company comply with Chapter 22 of the NAIC Accounting Practices and Procedures Manual and classify all reinsurance contracts not signed within nine months as retroactive contracts.	9
v. It is also recommended that the Company make a greater effort to formalize its ceded reinsurance contracts in a timely manner.	9
vi. A review of the correspondence between the Company and the Department indicated that although reinsurance agreements between the Company and its affiliates were submitted to the Department for review, such submissions were not always on a timely basis. It is recommended that the Company comply with the time frames set forth in Section 1505 of the New York Insurance Law.	9

<u>ITEM</u>	<u>PAGE NO.</u>
vii. It is recommended that the Company maintain executed copies of all trust agreements and retain them as long as they are in force.	10
viii. It is recommended that the Company fully comply with all provisions of Department Regulation 20 when taking credit for cessions to unauthorized reinsurers, including the requirement that credit claimed for reinsurance recoverable is to be supported by proper and appropriate records.	10
C. <u>Holding Company System</u>	
i. It is recommended that the Company reduce all agreements with affiliates to writing in order to disclose the nature of the intercompany transactions and to support the reasonableness of the charges between the parties.	12
ii. It is recommended that the Company comply with the above section of the law and keep supporting documentation for transactions between affiliates.	12
iii. It is recommended that all exhibits to the tax allocation agreement be signed.	12
iv. It is recommended that the Company comply with its tax allocation agreement and maintain separate escrow accounts for each company participating in the agreement.	13
v. It is recommended that the Company's investment guidelines be updated to reflect the New York State derivative use plan requirements that purchases not exceed 3% of admitted assets.	13
D. <u>Abandoned Property Law</u>	
It is recommended that the Company retain copies of all abandoned property filings until the examination report for those years has been filed.	14
E. <u>Accounts and Records</u>	
i. It is recommended that all securities not held by the Company in its vault be held by a bank or trust company under a custodial agreement.	15
ii. It is recommended that the Company prepare and review bank reconciliations in a timely manner.	15

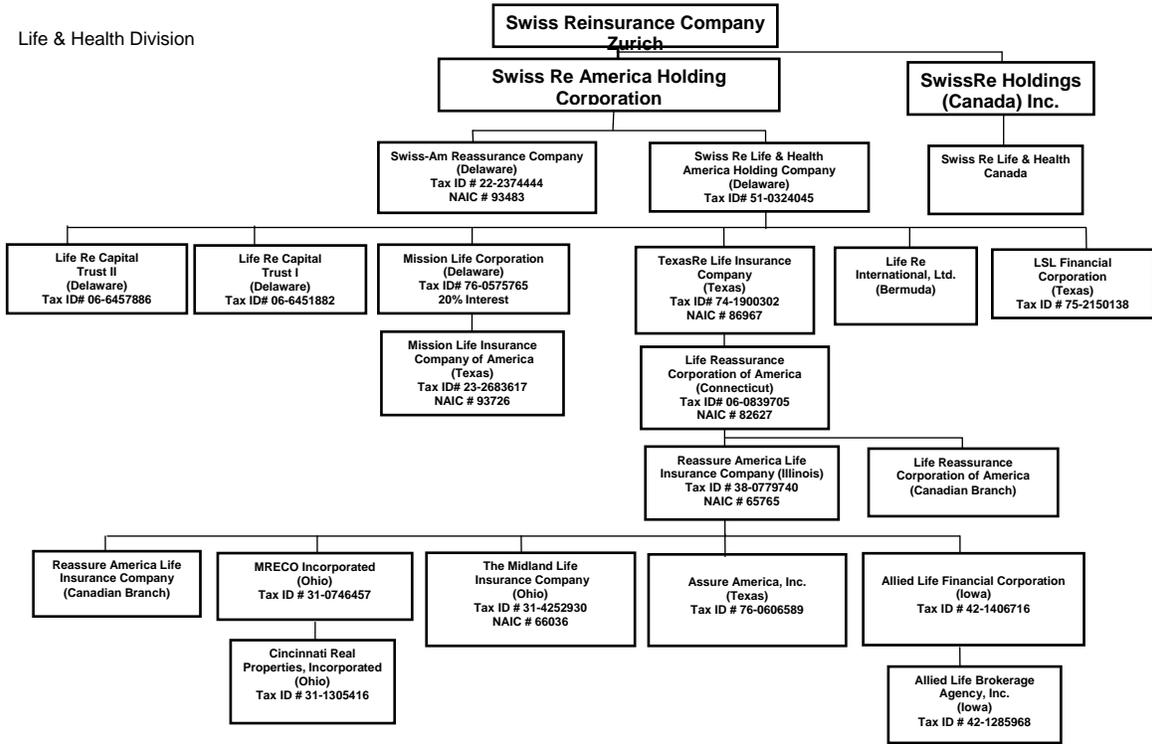
<u>ITEM</u>	<u>PAGE NO.</u>
iii. It is recommended that the Company revise its custodial agreements to include the provisions and guidelines required by the Department.	15
iv. It is recommended that the Company endeavor to obtain support quarterly for premium and loss balances from cedents in runoff and liquidation in order to reflect current information in its financial statements.	16
v. It is recommended that the Company ensure that items are properly classified in accordance with the annual statement instructions.	16
 F. <u>Other Invested Assets</u>	
i. It is recommended that loans be classified as other invested assets and not as “Contingent commissions and other reinsurance balances” in future annual statement filings.	21
ii. It is recommended that the Company comply with Section 1411(a) of the New York Insurance Law and have all loan amounts authorized or approved by its board of directors.	21
 G. <u>Interest, Dividends and Real Estate Income Due and Accrued.</u>	
It is recommended that interest due and accrued on loans be classified as such and not as contingent commissions in future annual statement filings.	22
 H. <u>Contingent Commissions and Other Reinsurance Balances</u>	
It is recommended that the Company only classify as “Contingent commissions and other reinsurance balances” those amounts which actually represent such and are called for in the reinsurance agreement.	22



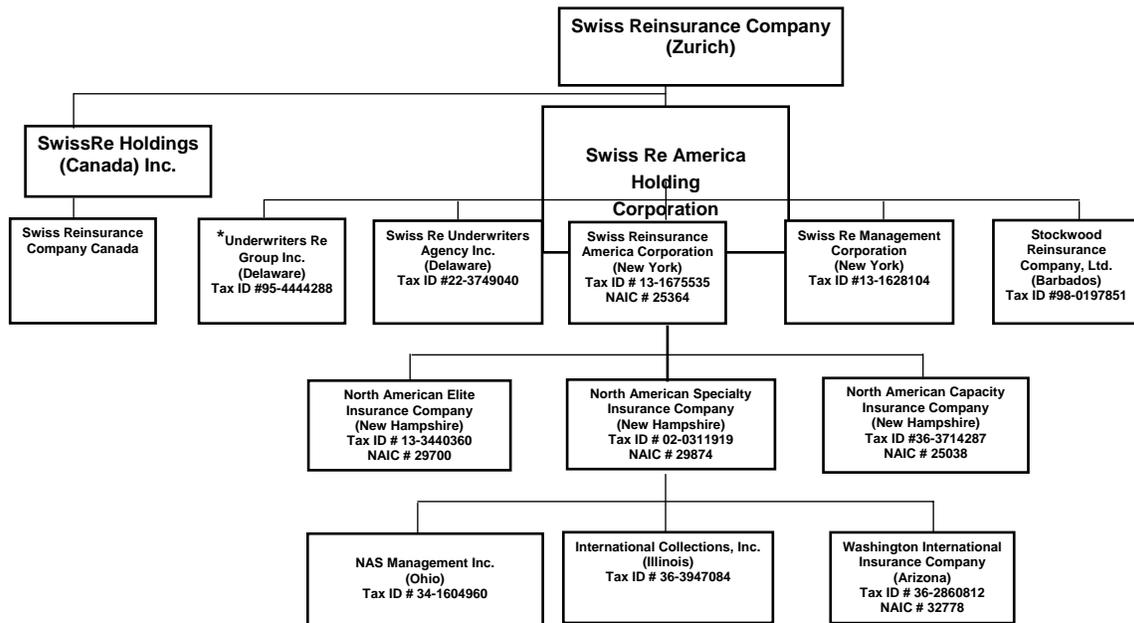
New Markets Division



Life & Health Division

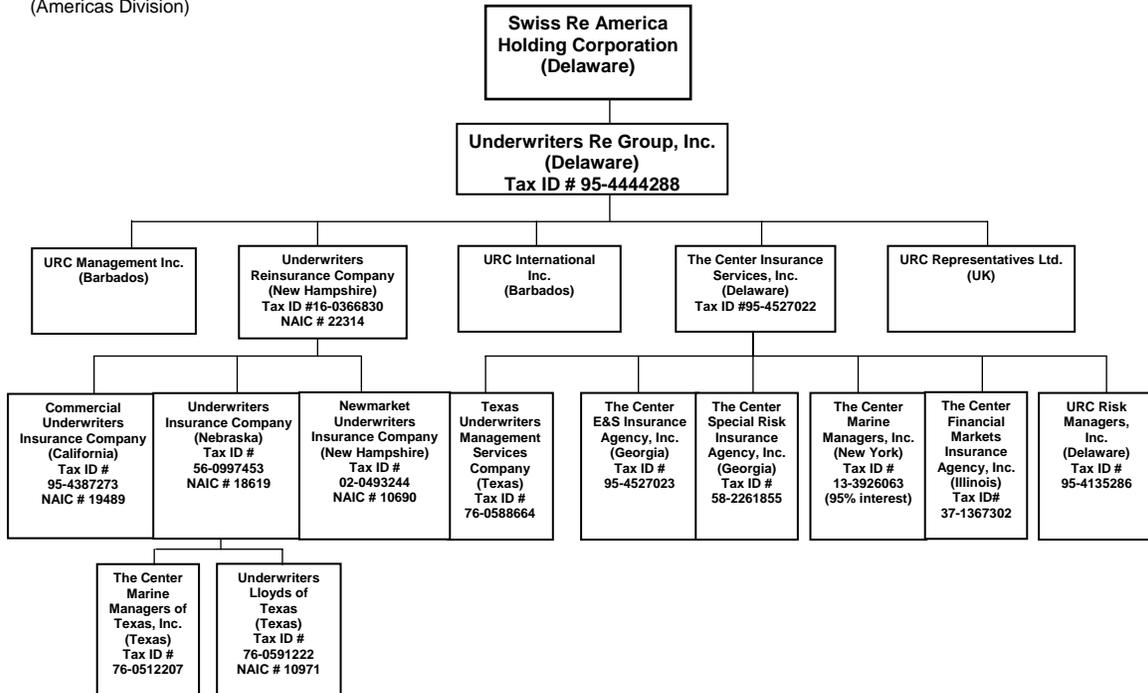


Americas Division

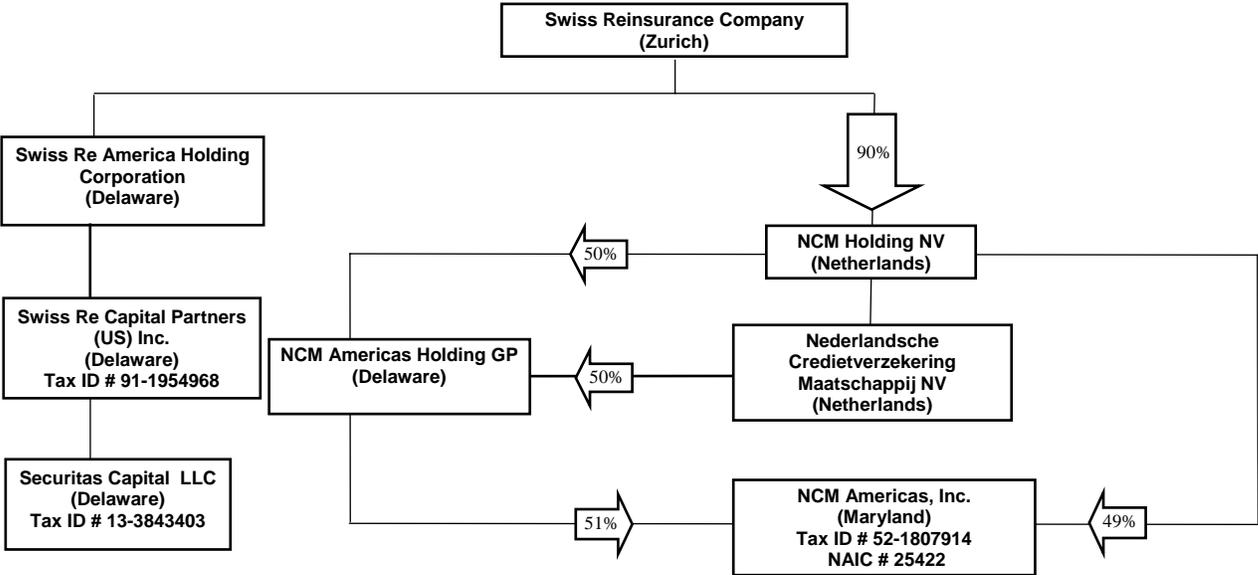


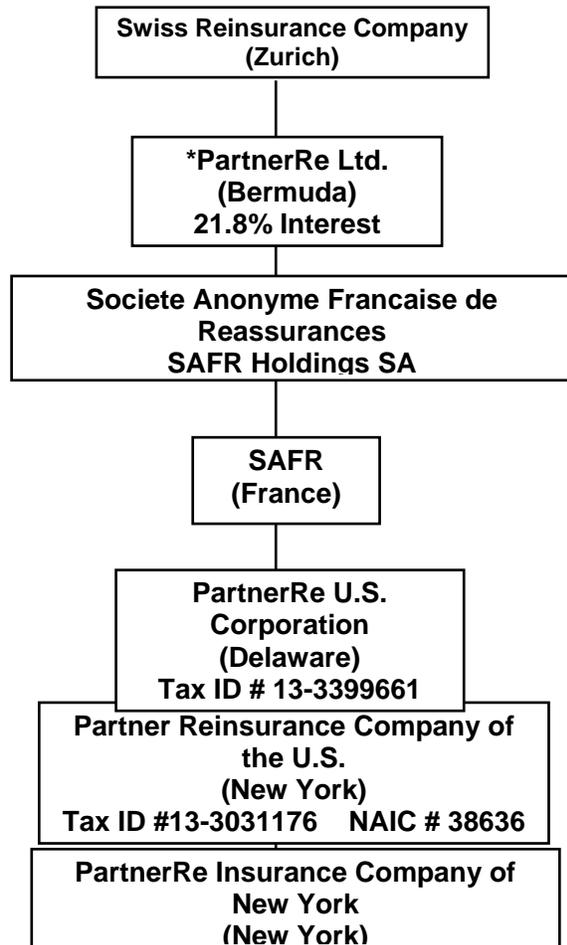
\* See attached chart for subsidiaries

Underwriters Re Group  
(Americas Division)



Capital Partners Division





**\*Outside of Swiss Re Group Profit Centers**

Respectfully submitted,

\_\_\_\_\_  
/S/  
Mary Meaney, CFE  
Principal Insurance Examiner

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

MARY MEANEY, being duly sworn, deposes and says that the foregoing report submitted by her is true to the best of her knowledge and belief.

\_\_\_\_\_  
/S/  
Mary Meaney

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

Appointment No. 21746

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Mary Meaney**

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

**SWISS REINSURANCE AMERICA CORPORATION**

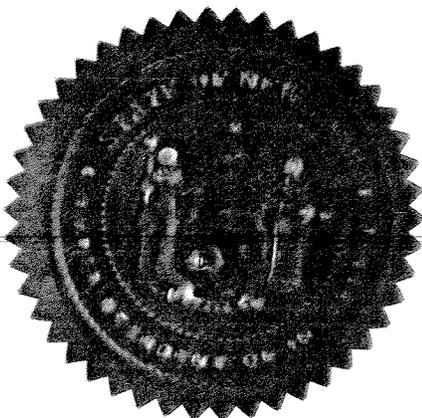
*and to make a report to me in writing of the condition of the said*

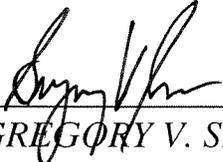
**Corporation**

*with such other information as she 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 July, 2001*



  
\_\_\_\_\_  
GREGORY V. SERIO  
Superintendent of Insurance