

REPORT ON EXAMINATION

OF

EXECUTIVE INSURANCE COMPANY

AS OF

DECEMBER 31, 2015

DATE OF REPORT

OCTOBER 5, 2016

EXAMINER

MY-NGHI IRENE TRAN, AFE

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1	Scope of examination	2
2.	Description of Company	2
	A. Management	3
	B. Territory and plan of operation	4
	C. Reinsurance	5
	D. Holding company system	5
	E. Significant operating ratios	6
	F. Accounts and records	7
3.	Financial statements	8
	A. Balance sheet	8
	B. Statement of income	9
	C. Capital and surplus account	9
4.	Losses and loss adjustment expenses	10
5.	Compliance with prior report on examination	10
6.	Summary of comments and recommendations	11



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

October 5, 2016

Honorable Maria T. Vullo  
Superintendent of Financial Services  
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York State Insurance Law, and in compliance with the instructions contained in Appointment Number 31508 dated August 8, 2016, attached hereto, I have made an examination into the condition and affairs of Executive Insurance Company as of December 31, 2015, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate Executive Insurance Company.

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

The examination was conducted at the New York State Department of Financial Services office located at One State Street, New York, NY 10004.

## **1. SCOPE OF EXAMINATION**

The Department has performed an individual examination of the Company, a multi-state insurer. The previous examination was conducted as of December 31, 2010. This examination covered the five-year period from January 1, 2011 through December 31, 2015, and was limited in scope to those balance sheet items considered by this Department to require analysis, verification or description, including: investments, cash, receivable and other expenses. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

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 the target areas investigated pursuant to the limited scope examination instructions, financial statements and comments on those matters that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

## **2. DESCRIPTION OF COMPANY**

Executive Insurance Company was incorporated under the laws of the State of New York on June 15, 1972, as the French Union Insurance and Reinsurance Company of New York, to be a successor to the United States Branch of the French Union Insurance and Reinsurance Company, Paris, France (“the Branch”). The Branch entered the United States through the State of New York on September 15, 1934. It became licensed and domesticated in New York State effective September 30, 1972. In March 1973, the Company changed its name to Executive Insurance Company.

On October 10, 1975, the Superintendent of New York State placed the Company in rehabilitation. This process ended on January 23, 1976.

On June 28, 1977, E.I.C. Enterprises, Ltd, a Florida State licensed insurance company acquired the Company as a wholly owned subsidiary. Effective February 28, 2009, the Company ceased writing business.

Capital paid in is \$1,000,000 consisting of 10,000 shares of \$100 par value per share common stock. Gross paid in and contributed surplus is \$2,770,361. The capital structure has remained unchanged since the Department’s prior examination as of December 31, 2010.

A. Management

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of not less than seven nor more than thirteen members. The board meets annually during each calendar year. At December 31, 2015, the board of directors was comprised of the following twelve members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Michael Armienti New York, NY	Attorney, Armienti, DeBellis, Guglielmo & Rhoden, LLP
Renan Asuncion Plainview, NY	Secretary and Treasurer, Executive Insurance Company
Steven Carroll Brooklyn, NY	Consultant, New York Life Insurance Company
Marcia Clark Tai Tam, Hong Kong	Director, Asia Sourcing Consultant
Jonathan M. Field Marlton, NJ	Attorney, Mintzer, Sarowitz, Zeris, Ledva & Meyers
Dennis A. Herman New York, NY	Chief Executive Officer, American Federal Group, Ltd.
Gregg J. Kligler Pompano Beach, FL	Vice President, Executive Insurance Company
Michelle Kligler Deerfield Beach, FL	Retired
Sean Racin Kligler Carmel, IN	Student
Richard I. Kligler Tai Tam, Hong Kong	President and Chairman of the Board, Executive Insurance Company
Donald P. Marry Gansevoort, NY	Retired
Carl S. Young Aventura, FL	Retired

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended with the exception of Michael Armienti who attended less than 40% of the meetings for which he was eligible to attend.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the insurer. It is essential that board members attend meetings consistently and set forth their views on relevant matters so that the board may reach appropriate decisions. Individuals who fail to attend at least one-half of the regular meetings do not fulfill such criteria. It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

As of December 31, 2015, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Richard I. Kligler	President and Chairman of the Board
Renan Asuncion	Secretary and Treasurer
Gregg J. Kligler	Vice President

#### B. Territory and Plan of Operation

As of December 31, 2015, the Company was licensed to write business in New York State and Texas.

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

<u>Paragraph</u>	<u>Line of Business</u>
3	Accident & health
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
12	Collision
13	Personal injury liability
14	Property damage liability
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity

Based on 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 State Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$1,200,000.

Before the Company ceased writing business in early 2009, the Company wrote comprehensive and collision automobile insurance in Florida and New York under agency agreements.

C. Reinsurance

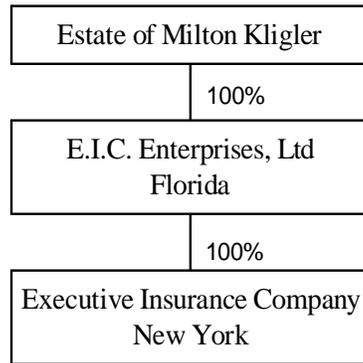
As of December 31, 2015, Executive Insurance Company did not have a reinsurance program in place.

D. Holding Company System

The Company is a wholly-owned subsidiary of E.I.C. Enterprises, Ltd. The estate of Milton Kligler is the sole stockholder of all outstanding common shares of E.I.C. Enterprises, Ltd.

A review of the Holding Company Registration Statements filed with this Department indicated that such filings were complete but were not filed timely. Pursuant to Part 80-1.4 of New York Regulation 52, all controlled insurers are required to file an annual holding company registration statement (Form HC1) within 120 days following the end of its ultimate holding company's fiscal year. It is recommended that the Company file its annual holding company registration statements in a timely manner pursuant to the provisions of Part 80-1.4 of Department Regulation 52.

The following is a chart of the holding company system at December 31, 2015:



At December 31, 2015, the Company was party to the following agreement with other members of its holding company system:

Tax Allocation Agreement

Beginning January 1, 1980, the Company filed consolidated federal income tax returns with its parent, E.I.C. Enterprises, Ltd, pursuant to a tax allocation agreement.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2015, based upon the results of this examination:

* Net premiums written to surplus as regards policyholders	0%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	3%
* Premiums in course of collection to surplus as regards policyholders	0%

Ratios denoted with asterisks were zeroes because the Company is in runoff and no longer writing premium. The liabilities to liquid assets ratio falls within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

F. Accounts and Records

i Limitation of Investments

A review of the Company's filed 2015 Supplemental Investment Interrogatories indicated that three of the Company's investments exceeded 10% of total admitted assets.

The Company did not comply with Section 1409(a) of the New York State Insurance Law which states in part:

“No domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the Superintendent invested in, or loaned upon, the securities of any one institution.”

The amount involved is immaterial and no examination change is necessary. However, it is recommended that the Company comply with Section 1409(a) of the New York Insurance Law in all future filed annual statements.

ii Custodial Agreements

The Company did not maintain custodial agreements for the Company's investments held by two custodians.

It is recommended that the Company establish formal custodial agreements with all custodians, and that they meet all of the required provisions set forth in the NAIC Financial Condition Examiners' Handbook.

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2015 as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$1,200,283		\$1,200,283
Cash, cash equivalents and short-term investments	603,050		603,050
Investment income due and accrued	4,329		4,329
Receivables from parent, subsidiaries and affiliates	77,233	\$77,233	0
Receivable from Pearl Holding Group, Inc.	<u>33,967</u>	<u>0</u>	<u>33,967</u>
Total assets	<u>\$1,918,862</u>	<u>\$77,233</u>	<u>\$1,841,629</u>

#### Liabilities, Surplus and Other Funds

##### Liabilities

Other expenses (excluding taxes, licenses and fees)	\$ 61,244
Amounts withheld or retained by company for account of others	<u>31</u>
Total liabilities	\$ 61,275

##### Surplus and Other Funds

Common capital stock	\$ 1,000,000
Gross paid in and contributed surplus	2,770,361
Unassigned funds (surplus)	<u>(1,990,007)</u>
Surplus as regards policyholders	<u>1,780,354</u>
Total liabilities, surplus and other funds	<u>\$1,841,629</u>

Note: The Internal Revenue Service has not audited tax returns covering tax years 2011 through 2015. 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. Statement of Income

The net income, for the five-year examination period January 1, 2011 through December 31, 2015, was (\$1,611,254), detailed as follows:

Underwriting Income

Deductions:

Losses and loss adjustment expenses incurred	\$ (1,970)
Other underwriting expenses incurred	<u>1,686,515</u>

Total underwriting deductions	<u>1,684,545</u>
-------------------------------	------------------

Net underwriting gain or (loss)	\$(1,684,545)
---------------------------------	---------------

Investment Income

Net investment income earned	\$ 73,291
------------------------------	-----------

Net investment gain or (loss)	<u>73,291</u>
-------------------------------	---------------

Net gain or (loss)	<u>\$(1,611,254)</u>
--------------------	----------------------

C. Capital and Surplus Account

Surplus as regards policyholders decreased \$1,611,254 during the five-year examination period January 1, 2011 through December 31, 2015, detailed as follows:

Surplus as regards policyholders per report on examination as of December 31, 2010		\$3,391,608
--	--	-------------

	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net loss		\$1,611,254	
Net decrease in surplus			<u>(1,611,254)</u>

Surplus as regards policyholders per report on examination as of December 31, 2015		<u>\$1,780,354</u>
--	--	--------------------

#### 4. **LOSSES AND LOSS ADJUSTMENT EXPENSES**

The Company has no liability for losses or loss adjustment expenses at December 31, 2015. The Department approved the Company's exemption from filing the Statement of Actuarial Opinion for all of the examination years.

#### 5. **COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

The prior report on examination contained one recommendation as follows (page number refers to the prior report):

<u>ITEM</u>		<u>PAGE NO.</u>
A	It was recommended that the Company furnish a copy of the report on examination to each member of its board of directors and obtain signed statements from each director confirming that such member has received and read the report, pursuant to the provisions of Section 312(b) of the New York Insurance Law.	11

The Company has complied with this recommendation.

## 6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>PAGE NO.</u>
A	<u>Management</u>	
	It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	4
B	<u>Holding company system</u>	
	It is recommended that the Company file its annual holding company registration statements in a timely manner pursuant to the provisions of Part 80-1.4 of Department Regulation 52.	5
C	<u>Accounts and Records</u>	
i	<u>Limitation of Investments</u>	
	It is recommended that the Company comply with Section 1409(a) of the New York State Insurance Law in all future filed annual statements.	7
ii	<u>Custodial Agreement</u>	
	It is recommended that the Company establish formal custodial agreements with all custodians, and that they meet all of the required provisions set forth in the NAIC Financial Condition Examiners' Handbook.	7

Respectfully submitted,

---

My-Nghi Irene Tran, AFE  
Senior Insurance Examiner

STATE OF NEW YORK     )  
  )ss:  
COUNTY OF NEW YORK    )

My-Nghi Irene Tran, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

---

My-Nghi Irene Tran

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

***APPOINTMENT NO. 31508***

***NEW YORK STATE***

***DEPARTMENT OF FINANCIAL SERVICES***

*I, Maria T. Vullo, 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:*

***Irene MyNghi Tran***

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

***Executive Insurance Company***

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

***COMPANY***

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

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

*this 8th day of August, 2016*

***MARIA T. VULLO***  
*Superintendent of Financial Services*



By:

*Joan P. Riddell*

*Joan Riddell  
Deputy Bureau Chief*