REPORT ON EXAMINATION

OF THE

STATE INSURANCE FUND WORKERS' COMPENSATION FUND

AS OF

DECEMBER 31, 2009

DATE OF REPORT	DECEMBER 15, 2010
EXAMINER	MOSES EGBON

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

December 3, 2010

Honorable James Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 30398 dated November 15, 2009 attached hereto, I have made an examination into the condition and affairs of the State Insurance Fund Workers' Compensation Insurance Fund as of December 31, 2009, and submit the following report thereon.

Wherever the designation "WC Fund" appears herein without qualification, it should be understood to indicate the State Insurance Fund Workers' Compensation Fund. The State Insurance Fund, for purposes of this report, refers to the New York State agency, which includes the operations of the Workers' Compensation Fund, which is the subject of this examination report, and the Disability Benefits Fund.

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

The examination was conducted at the New York City office of the State Insurance Fund located at 199 Church Street, New York, New York, 10007.

1. SCOPE OF EXAMINATION

The Department has performed an examination of the WC Fund. The previous examination was conducted as of December 31, 2003. This examination covered the six-year period from January 1, 2004 through December 31, 2009. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

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

All financially significant accounts and activities of the WC Fund were considered in accordance with the risk-focused examination process. This examination also included a review and evaluation of the WC Fund's own control environment assessment. The examiners also relied upon audit work performed by the WC Fund's independent public accountants when appropriate.

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

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

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

The examination of the WC Fund was performed concurrently with the examinations of the State Insurance Fund Disability Benefits Fund and the Aggregate Trust Fund. The Aggregate Trust Fund is another fund administered by the State Insurance Fund. The purpose of the Aggregate Trust Fund is to assure and oversee the regular payment of benefits on adjudicated death cases and certain permanent disability cases.

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 THE WORKERS' COMPENSATION FUND

The State Insurance Fund ("the Fund") was created in 1914, pursuant to the provisions of Article 6, Section 76 of the New York Workers' Compensation Law ("NYWCL"). Its primary purpose was to provide workers' compensation insurance for employers in the State of New York. The Fund is comprised of two separate funds; the Workers' Compensation Fund ("WC Fund") and the Disability Benefits Fund ("DB Fund"). The WC Fund insures employers against occupational injury and disease suffered by their employees; the DB Fund insures against disabling off-the-job sickness or injury sustained by employees. The DB Fund was created in 1950 by amendment to Section 76 of the NYWCL.

The Fund is required to maintain separate records and file separate financial statements for the WC Fund and the DB Fund. This report is confined to the operations of the WC Fund. A separate report on examination was prepared for the DB Fund.

A. Management

Pursuant to Article 6, Section 77 of the NYWCL, the Fund shall be administered by a Board of Commissioners consisting of ten members. The New York State Labor Commissioner is a member by virtue of the office, with the other members being appointed by the Governor with the consent of the State Senate. The commissioners are appointed for terms of three years each and they must be policyholders insured by the State Insurance Fund. It is noted that as of the examination date, the Board of Commissioners had only eight members; therefore, there were two vacancies.

In 2007, Section 77 of the NYWCL was amended to increase the number of members from eight to ten, with one of the new commissioners to be appointed by the Governor upon the recommendation of the New York State AFL-CIO, and the other new commissioner to be appointed upon the recommendation of the Business Council of the State of New York.

The board meets every month, with the exception of August, during each calendar year. At December 31, 2009, the board of directors consisted of the following eight members:

Name and Residence	Principal Business Affiliation
Robert H. Hurlbut (Chairman) Honeoye Falls, NY	President, Hurlbut Trust
Denis M. Hughes New York, NY	President, New York AFL-CIO
H. Sidney Holmes III Springfield Garden, NY	Corporate Partner, Winston & Strawn LLP
Raymond Wayne LeChase Rochester, NY	Chairman and Managing Partner, LeChase Construction
Charles L. Loiodice Woodbury, NY	President and Chief Executive Officer, Paris Maintenance, Inc.
David E. Ourlicht Rye, NY	Senior Vice President of Marketing & Sales, Amalgamated Bank
Colleen Gardner (ex-officio) Albany, NY	Commissioner, State Department of Labor
Kenneth R. Theobalds New Rochelle, NY	Vice President of Government Affairs, Entergy Nuclear Northeast

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended.

Section 82 of Article 6 of the NYWCL prescribes that the commissioners shall appoint an executive director, a general attorney and a secretary for terms of nine years each. The executive director shall, subject to the direction of the commissioners, be responsible for the direction and operation of the Fund. As of December 31, 2009, the principal officers of the WC Fund were as follows:

Name	Title
Francine James	Chief Deputy Executive Director
Thomas William Gleason	Deputy Executive Director
Shirley Stark	Deputy Executive Director
Jean Marie Woodard	Deputy Executive Director
Gregory John Allen	General Attorney
Michael James Milano	Assistant Secretary to the Board

In addition, the WC Fund has established an audit committee, which reports to the board of directors and helps the board fulfill its oversight responsibilities with respect to its financial reporting process and system of internal controls.

B. Territory and Plan of Operation

The WC Fund operates only in the State of New York. It currently writes workers' compensation insurance which covers job-related disabilities and includes the cost of medical treatment. It also acts as claims administrator for the State of New York, which since 1981, self-insures its workers' compensation liabilities.

On January 31, 2008, legislation was enacted replacing the previously administered rate system for workers' compensation insurance with a loss cost system. In a loss cost system, the rate service organization only files the portion of the rates related to losses. This system allows the WC Fund to apply its own expense factors.

The New York Workers' Compensation Law provides that the WC Fund's premiums be fixed at the lowest possible rates, consistent with the maintenance of a solvent fund, with reasonable reserves and surplus.

The following schedule shows the direct premiums written by the WC Fund during the examination period:

Year	Direct Premiums Written
2004	$1,501,859,393
2005	$1,593,553,305
2006	$1,702,970,650
2007	$1,719,136,283
2008	$1,355,120,978
2009	$1,309,601,077

C. Reinsurance

The WC Fund is strictly a direct writer and does not assume any business. Additionally, the WC Fund has had no new ceded reinsurance contracts since 2005.

Examination review found that the Schedule F data reported by the WC Fund in its filed annual statement did not accurately reflect its reinsurance transactions. It was noted that the WC Fund erroneously reported discounted reinsurance recoverables on Schedule F, Part 3, as case loss recoverables when they were actually IBNR loss recoverables. It was noted that these recoverables were reported correctly on Schedule P, Part 1.

It is recommended that in the future the WC Fund correctly classify its reinsurance recoverables on Schedule F, Part 3.

The WC Fund incorrectly classified Inter-Ocean Reinsurance Ltd. ("Inter-Ocean"), an unauthorized reinsurer, as authorized on Schedule F-part 3. As a result of the misclassification of Inter-Ocean as an authorized reinsurer, the WC Fund did not complete Schedule F, Part 5 and did not properly calculate its provision for reinsurance. The WC Fund reported total reinsurance recoverables due from Inter-Ocean in the amount of $28,542,000 on Schedule F, Part 3. The WC Fund did have a letter of credit from Inter-Ocean; however, the amount was only $9,223,726.

Part 125.6(b) of Department Regulation 20 provides that "credit taken by a ceding insurer for reinsurance ceded to an unauthorized insurer, which is not an accredited reinsurer, shall not exceed the amounts withheld under a reinsurance treaty with such unauthorized insurer as security for the payment of obligations thereunder…"; therefore, the WC Fund should have reported a liability for provision for reinsurance in the amount of $19,318,274. The amount is not material to the WC Fund's surplus; therefore, no change has been made to the financial statements in this report as a result of this error.

It is recommended that the WC Fund exercise due care in its classification of reinsurers in Schedule F-Part 3 as authorized or unauthorized. It is further recommended that the WC Fund not take credit for reinsurance ceded to unauthorized reinsurers without appropriate collateral in place, pursuant to the provisions of Part 125.6(b) of Department Regulation 20.

D. Significant Operating Ratios

The following ratios have been computed as of December 31, 2009, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	55%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	95%
Premiums in course of collection to surplus as regards policyholders	(0.4)%

All of the above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners. The WC Fund reported a negative balance for premiums in course of collection, which created a negative ratio as indicated above. The reason for the negative balance is discussed in Item 2E (Accounts and Records) of this report.

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

	Amounts	Ratios
Losses and loss adjustment expenses incurred	$8,450,986,311	91.20%
Other underwriting expenses incurred	1,222,309,736	13.19
Net underwriting loss	(406,394,433)	(4.39)
Premiums earned	$9,266,901,614	100.00%

E. Accounts and Records

i) Custodial Agreement

The examiner noted that the custodial agreement between the WC Fund and JP Morgan Chase lacked the following protective covenant set forth in Section 3-56 of the 2009 NAIC Financial Condition Examiners Handbook ("Handbook"), which states as follows:

> "If the custodial agreement has been terminated or if 100% of the account assets in any one custody account have been withdrawn, the custodian shall provide written notification, within three business days of termination or withdrawal, to the insurer's domiciliary commissioner."

It is recommended that the WC Fund amend its custodial agreement with JP Morgan Chase to include the above protective covenant set forth in Section 3-56 of the 2009 Handbook.

ii) Contract with Certified Public Accountants ("CPA")

The engagement letter between the WC Fund and its Certified Public Accountant is missing the following provisions required by Department Regulation 118, which states in part:

> "Every insurer subject to this Part shall retain an independent Certified Public Accountant (CPA) who agrees by written contract with such insurer to comply with the provisions of section 307(b) of the Insurance Law, this Part and the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants (AICPA). Such contract must specify that:
>
> (a) on or before May 31st, the CPA shall provide an audited financial statement of such insurer and of any subsidiary required by section 307(b)(1) of the Insurance Law together with an opinion on the financial statements of such insurer and any such subsidiary for the prior calendar year and an evaluation of the insurer's and any such subsidiary's accounting procedures and internal control systems as are necessary to the furnishing of the opinion;
>
> (b) any determination by the CPA that the insurer has materially misstated its financial condition as reported to the superintendent or that the insurer does not meet minimum capital or surplus to policyholder requirements set forth in the Insurance Law shall be given by the CPA, in writing, to the superintendent within 15 calendar days following such determination; and
>
> (c) the workpapers and any communications between the CPA and the insurer relating to the audit of the insurer shall be made available for review by the superintendent at the offices of the insurer, at the Insurance Department or at any other reasonable place

> designated by the superintendent. The CPA must retain for review such workpapers and communications in accordance with the provisions of Part 243 of this Title (Regulation 152). More specifically, such workpapers and communications must be retained by the CPA for the period specified in sections 243.2(b)(7) and (c) of this Title. For the purposes of this subdivision, the workpapers and communications shall be deemed to have been created on the date the filing required by section 89.2(a) of this Part was submitted to the superintendent."

It is recommended that the WC Fund include the provisions required by Department Regulation 118 in all future contracts with its CPA firm. It is noted that Department Regulation 118 was revised effective January 1, 2010, and therefore, the WC Fund should comply with the revised Regulation.

iii) Third Party Administrator ("TPA")

The WC Fund uses a TPA to process losses and loss adjustment expenses for six policyholders. The WC Fund had an audit performed to determine if the claims were being processed in accordance with the contract with the TPA. The audit revealed several adverse findings. Therefore, it is recommended that the WC Fund maintain oversight on the TPA on an on-going basis to ensure compliance with the contract, as well as the New York State Insurance and Workers' Compensation Laws.

iv) Securities Lending Agreements

The WC Fund is engaged in a security lending program with JP Morgan Chase Bank and Key Trust Company. The securities lending agreements include guidelines for the investment of cash collateral. Department Circular Letter No. 16 (2010) includes guidelines for investment of cash collateral that represent prudent investment practices designed to reduce the likelihood of an insurer incurring losses when returning cash collateral. It was noted that the investment of cash collateral guidelines included in the securities lending agreements did not contain all the provisions recommended in Department Circular Letter No. 16 (2010). While it is noted that the Circular Letter was issued subsequent to the examination date, it is recommended that the WC Fund review its securities lending agreements and incorporate the provisions recommended in Department Circular Letter No. 16 (2010).

v) Uncollected Premiums and Agents' Balances in Course of Collection

The WC Fund's uncollected premiums totals include a significant number of credit balances that have been netted against positive receivables. A cursory review indicated that some of these credit balances appear to be dated. Offsetting and netting of assets and liabilities are only permitted in accordance with the provisions of Paragraph 2 of NAIC Accounting Practices and Procedures Statement of Statutory Accounting Principles ("SSAP") No. 64, which states in part:

> "Assets and liabilities shall be offset and reported net only when a valid right of setoff exists except as provided for in paragraphs 3 and 4. A right of setoff is a reporting entity's legal right, by contract or otherwise, to discharge all or a portion of the debt owed to another party by applying an amount that the other party owes to the reporting entity against the debt. A valid right of setoff exists only when all the following conditions are met:
>
> a. Each of the two parties owes the other determinable amounts. An amount shall be considered determinable for purposes of this provision when it is reliably estimable by both parties to the agreement;
>
> b. The reporting party has the right to setoff the amount owed with the amount owed by the other party;
>
> c. The reporting party intends to setoff; and
>
> d. The right of setoff is enforceable at law."

Further, Paragraph 4 of SSAP 64 states:

> "Netting of assets and liabilities for reporting purposes when no valid right of setoff exists shall be allowed only when provided for by specific statements of statutory accounting principles. An example of such is in the case of real estate investments required to be shown net of encumbrances as provided for in SSAP No. 40—Real Estate Investments."

It is recommended that the WC Fund review the netting of credit balances against its uncollected premiums to determine if the netting is in accordance with SSAP No. 64.

F. Other Significant Information

1. Contingent Receivable from New York State

The WC Fund is reporting an admitted asset in the amount of $1,295,000,000 under the caption "Contingent receivable from New York State." The WC Fund was required to transfer the $1,295,000,000 to the State over the course of several years, as follows:

Year	Amount ($000's omitted)
1982	$ 190,000
1986	325,000
1987	300,000
1989	250,000
1990	230,000
Total	$1,295,000

The statutes require New York State to appropriate $1,295,000,000 annually for the potential repayment of any portion of the aggregate contingent receivable. Such repayment by the State is required only to maintain the solvency of the WC Fund. These statutes specifically direct the contingent receivable to be an admitted asset. The receivable is non-interest bearing.

2. Discounting of Loss and Loss Adjustment Expenses

A tabular discount is used to compute certain case reserves. The reserves for the incurred but not reported ("IBNR") losses and loss adjustment expenses of the WC Fund are discounted to present value using an annual effective interest rate of five percent. The five percent discount is referred to as the non-tabular discount. This accounting practice is mandated by Section 86 of the New York State Workers' Compensation Law. It should be noted that the actual investment yield per the Insurance Regulatory Information System ratios ("IRIS") has not exceeded five percent during the examination period. The IRIS investment yield ratios for each year of the examination period are as follows:

Year	Yield
2004	3.8%
2005	3.4%
2005	3.7%
2007	4.0%
2008	4.3%
2009	4.3%

In 2009, the non-tabular discount reduced the WC Fund's loss reserves by $7,178,344,000 which is significant given the reported surplus of $2,394,953,274. It would have a significant impact on surplus if the non-tabular discount rate used was based on market conditions.

3. Workers Compensation Reform

Comprehensive workers' compensation reform legislation was signed into law in 2007. This legislation, among other things, increased the maximum weekly benefit rate that applies to all types of temporary and permanent disability from $400 to $500 for injuries that occur on or after July 1, 2007, $550 for injuries that occur on or after July 1, 2008 and $600 for injuries that occur on or after July 1, 2009. Beginning July 1, 2010, the maximum weekly rate will be indexed to two-thirds of the New York State "average weekly wage" for the previous calendar year. The legislation also increased the minimum weekly benefit rate from $40 to $100. Similarly the maximum weekly rates for death benefits were increased. As part of the reform, the Department approved an across the board rate decrease of 20.5% effective October 1, 2007.

On January 31, 2008, Chapter 11 of the Laws of 2008 replaced the previously administered rate system for workers compensation with a loss cost system. In a loss cost system, the rate service organization only files the portion of the rates related to losses and each individual insurer must apply its own expense factors.

The aggregate affect of the workers compensation reforms is not quantifiable at this time.

4. Catastrophe Exposure

The WC Fund segregated $540 million of its surplus for its net catastrophe exposure. The WC Fund has significant exposure to losses from terrorism. The Terrorism Risk Insurance Act of 2002 was enacted into federal law and established a temporary federal program, providing a system of shared public and private compensation for insured losses resulting from foreign terrorism. This program was renewed in 2007 as the Terrorism Risk Program Reauthorization Act of 2007 ("TRIPRA"), which will reinsure a significant portion of the WC Fund's exposure in 2010. The WC Fund does not have catastrophe reinsurance outside of TRIPRA. Natural catastrophes and domestic terrorism are not covered by TRIPRA.

The catastrophe exposure is discounted at the five percent rate provided for per Section 86 of the New York State Workers' Compensation Law.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2009 as determined by this examination and as reported by the WC Fund:

Assets	Assets	Assets Not Admitted	Net Admitted Assets
Bonds	$10,412,215,722	$ 0	$10,412,215,722
Preferred stocks	20,118,055		20,118,055
Common stocks	1,154,566,708		1,154,566,708
Properties occupied by the company	13,711,216		13,711,216
Cash, cash equivalents and short-term investments	56,455,681		56,455,681
Other invested assets	48,030,574		48,030,574
Receivable for securities	21,093,974		21,093,974
Cash collateral held for security lending	420,889,011		420,889,011
Investment income due and accrued	93,801,232		93,801,232
Furniture and equipment	1,140,347	1,140,347	0
Receivables from parent, subsidiaries and affiliates	25,828,235		25,828,235
Contingent receivable from New York State	1,295,000,000		1,295,000,000
Recoverable under supplemental benefits	2,875,637		2,875,637
Employees travel advances	6,702	6,702	
Prepaid expenses	2,917,659	2,917,659	
Bulk train tickets and VTAW	38,317	21,516	16,801
Uncollected premiums and agents' balances in the course of collection	111,708,375	120,616,611	(8,908,236)
Deferred premiums, agents' balances and installments booked but deferred and not yet due	59,225,687	5,878,796	53,346,891
Amounts recoverable from reinsurers	1,417,798		1,417,798
Electronic data processing equipment and software	9,450,446	1,912,319	7,538,127
Total assets	$13,750,491,376	$132,493,950	$13,617,997,426

Liabilities, Surplus and Other Funds

Liabilities		
Losses and loss adjustment expenses		$8,841,417,000
Other expenses (excluding taxes, licenses and fees)		29,998,786
Taxes, licenses and fees		(1,481,601)
Unearned premiums		337,605,961
Amounts withheld or retained by company for account of others		121,498
Payable for securities		29,043,709
Estimated assessment for special funds		68,409,030
Estimated expense of Workers' Compensation Board		434,532,949
Safety group contingent balances		1,053,502,289
New business suspense		1,859,018
Retrospective rate credits		503,263
Accrued interest payable		22,311
Run-off case reserve		3,106,836
Miscellaneous suspense		3,514,094
Payable for cash collateral held for security lending		420,889,010
Total liabilities		$11,223,044,153
Surplus and Other Funds		
Security fluctuation surplus	$ 400,000,000	
Catastrophe surplus	319,231,438	
Foreign terrorism catastrophe surplus	188,363,382	
Domestic terrorism catastrophe surplus	32,405,180	
Unassigned funds (surplus)	1,454,953,273	
Surplus as regards policyholders		2,394,953,273
Total liabilities, surplus and other funds		$13,617,997,426

NOTE: The WC Fund is exempt from federal income tax.

B. Statement of Income

Underwriting Income		
Premiums earned		$9,266,901,614
Deductions:		
Losses incurred	$7,222,876,221	
Loss adjustment expenses incurred	1,228,110,090	
Other underwriting expenses incurred	1,222,309,736	
Total underwriting deductions		9,673,296,047
Net underwriting gain or (loss)		$ (406,394,433)
Investment Income		
Net investment income earned	$2,937,011,932	
Net realized capital gain	(388,531,483)	
Net investment gain or (loss)		2,548,480,449
Other Income		
Net gain or (loss) from agents' or premium balances charged off	$ (298,340,040)	
Finance and service charges not included in premiums	55,477,806	
Credit balance charged off	17,378,455	
Cost and interest receivable adjustment	9,781,993	
Reimbursable supplemental benefits	(2,764,014)	
Miscellaneous adjustments	745,162	
Estimated assessment of special fund	208,445,264	
Retroactive reinsurance	(2,734,094)	
Interest receivable from NYS	1,055,011	
Total other income		(10,954,457)
Net income before dividends to policyholders		$2,131,131,559
Dividends to policyholders		1,424,287,247
Net income after dividends to policyholders		$ 706,844,312

C. Capital and Surplus Account

Surplus as regards policyholders increased $807,697,511 during the six-year examination period January 1, 2004 through December 31, 2009, detailed as follows:

	Gains in Surplus	Losses in Surplus	
Surplus as regards policyholders per report on examination as of December 31, 2003			$1,587,255,762
Net income	$706,844,312		
Net unrealized capital gains or (losses)	94,363,956		
Change in non-admitted assets	8,263,173		
Miscellaneous	0	$1,773,930	
Total gains and losses	$809,471,441	$1,773,930	
Net increase (decrease) in surplus			$807,697,511
Surplus as regards policyholders per report on examination as of December 31, 2009			$2,394,953,273

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of $8,841,417,000 is the same, as reported by the WC Fund as of December 31, 2009. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the WC Fund’s internal records and in its filed annual statements.

It was noted that Note 31 (Discounting of Liabilities for Unpaid Losses or Unpaid Loss Adjustment Expenses) of the Notes to Financial Statements in the WC Fund’s 2009 Annual Statement was not completed in conformity with the NAIC Annual Statement Instructions. More specifically, the Note mentions the discount rate used, but does not mention the amount of non-tabular discount or the amount of the non-tabular discounted liability reported in the annual statement as required by Item B in the instructions. Additionally, it does not include any amounts or comments regarding Item C in the instructions. It is recommended that the WC Fund’s responses to the Notes to Financial Statements be prepared in conformity with the NAIC Annual Statement Instructions.

5. MARKET CONDUCT ACTIVITIES

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

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

A. Underwriting
B. Claims and complaint handling

No problem areas were encountered.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained two recommendations as follows (page numbers refer to the prior report):

ITEM		PAGE NO.
A.	Abandoned Property Law	
	It was recommended that the Fund comply with the provisions of Section 1316 of the New York Abandoned Property Company Law and file the abandoned property reports on a timely basis.	23
	The Fund has complied with this recommendation.	
B.	Custodial Agreement	
	It is recommended that the Fund update its custodial agreement to reflect the name of the current custodian.	23
	The Fund has complied with this recommendation.	

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

ITEM		PAGE NO.
A.	Reinsurance	
i.	It is recommended that in the future the WC Fund correctly classify its reinsurance recoverables on Schedule F, part 3.	6
ii.	It is recommended that the WC Fund exercise due care in its classification of reinsurers in Schedule F-Part 3 as authorized or unauthorized.	7
iii.	It is recommended that the WC Fund comply with Part 125.6(b) of Department Regulation 20 and not take credit for reinsurance ceded to unauthorized reinsurers without appropriate collateral in place.	7
B.	Accounts and Records	
i.	Custodial Agreement	
	It is recommended that the WC Fund amend its custodial agreement with JP Morgan Chase to include the protective covenant suggested by Section 3-56 of the 2009 NAIC Financial Condition Examiners Handbook.	8
ii.	Contract With Certified Public Accountant	
	It is recommended that the WC Fund include the provisions required by Department Regulation 118 in all future contracts with its CPA firm. It is noted that Department Regulation 118 was revised effective January 1, 2010, and therefore, the WC Fund should comply with the revised regulation.	9
iii.	Third Part Administration Service (TPA)	
	It is recommended that the WC Fund maintain oversight on the TPA on an on-going basis to ensure compliance with the contract, as well as the New York State Insurance and Workers' Compensation Laws.	9
iv.	Security Lending Agreements	
	It is recommended that the WC Fund review its securities lending agreements and incorporate the provisions recommended in Department Circular Letter No. 16 (2010).	9

ITEM			PAGE NO.
	v.	Uncollected Premiums and Agents' Balances in Course of Collection	
		It is recommended that the WC Fund review the netting of credit balances against its uncollected premiums to determine if the netting is in accordance with SSAP No. 64.	10
C.		Losses and Loss Adjustment Expenses	
		It is recommended that the WC Fund's responses to the Notes to Financial Statements be prepared in conformity with the NAIC Annual Statement Instructions.	16

Respectfully submitted,

____________/s/____________
Moses Egbon, CFE
Senior Insurance examiner

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

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

____________/s/____________
Moses Egbon

Subscribed and sworn to before me

this__________ day of ____________________, 2011.

Appointment No. 30398

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, James J. Wrynn *Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:*

Moses Egbon

as proper person to examine into the affairs of the

STATE INSURANCE FUND
WORKERS COMPENSATION FUND

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

Fund

with such other information as he shall deem requisite.

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

this 15th *day of* November, *2009*

JAMES J. WRYNN
Superintendent of Insurance