

REPORT ON EXAMINATION

OF

SAMSUNG FIRE & MARINE INSURANCE CO., LTD. (U.S. BRANCH)

AS OF

DECEMBER 31, 2010

DATE OF REPORT

JUNE 1, 2012

EXAMINER

BERNARD LOTT

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

June 1, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
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 30751 dated August 23, 2011, attached hereto, I have made an examination into the condition and affairs of Samsung Fire & Marine Insurance Co., Ltd. (U.S. Branch) as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Branch” appears herein without qualification, it should be understood to indicate Samsung Fire & Marine Insurance Co., Ltd. (U.S. Branch).

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

Wherever the term “Home Office” appears herein without qualification, it should be understood to mean the Samsung Fire & Marine Insurance Co., Ltd. of Seoul, South Korea.

The examination was conducted at the offices of the Branch’s United States Manager, Genamerica Management Corporation, located at 7 World Trade Center, 250 Greenwich Street, New York, New York 10007.

## 1. SCOPE OF EXAMINATION

The Department has performed an examination of the Branch, a multi-state insurer. The previous examination was conducted as of December 31, 2005. This examination covered the five-year period from January 1, 2006 through December 31, 2010. 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 (“Handbook”), which requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Branch by obtaining information about the Branch including corporate governance, identifying and assessing inherent risks within the Branch 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 Branch were considered in accordance with the risk-focused examination process. The examiners also relied upon audit work performed by the Branch’s independent public accountants when appropriate. It should be noted that during 2010, the Branch changed its U.S. Manager, resulting in significant changes in the control environment. Subsequent to the period covered by the examination, effective January 1, 2012, the Branch made another change to its U.S. Manager (See Subsequent events Item 5).

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

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

A review was also made to ascertain what action was taken by the Branch 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 that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

## **2. DESCRIPTION OF BRANCH**

The Branch was established under New York laws on April 1, 1990 as the United States Branch of Ankuk Fire & Marine Insurance Co., Ltd., a property and casualty insurer incorporated under the laws of the Republic of Korea on May 15, 1956. On December 6, 1993, Ankuk Fire & Marine Insurance Co., Ltd. changed its name to Samsung Fire and Marine Insurance Co., Ltd., and the Branch also officially changed its name to its current name, Samsung Fire & Marine Insurance Co., Ltd. (U.S. Branch) on January 4, 1994.

Pursuant to Section 1312 of the New York Insurance Law, the Branch keeps in trust for the exclusive benefit of its policyholders and creditors, funds sufficient to cover liabilities and statutory deposit requirements. The Branch's funds, which are trustee, are subject to withdrawal only with the consent of the Department. As of December 31, 2010, these assets along with deposits with state insurance departments for the protection of all policyholders amounted to \$58,737,516. The Branch's minimum surplus requirement is \$3,700,000. The Branch had \$29,489,437 in trustee surplus as of December 31, 2010.

### **A. Management**

As a United States branch of an alien insurer licensed in this state, the Branch is required to conduct its business through a United States Manager. Chubb Multinational Manager Inc. was appointed under a power of attorney agreement dated September 18, 1989, to act as true and lawful attorney-in-fact, agent and United States Manager for the operation of the Branch. Effective May 31, 2010, that relationship was terminated. Effective June 1, 2010, the Branch engaged Genamerica Management Corporation ("Genamerica") in the capacity as its new United States Manager.

The Branch has no directors or principal officers. The managing directors of Genamerica formed the Samsung Administrative Sub-Committee ("Sub-Committee") to oversee the affairs of the Branch. As of December 31, 2010, the Sub-Committee was comprised of the following members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John Martini Glen Head, NY	President and Chief Executive Officer, Generali US Branch
Jose Menendez Closter, NJ	Executive Vice President and Chief Operating Officer, Generali US Branch
Mauricio Caneda Westbury, NY	Senior Vice President and Chief Information Officer, Generali US Branch

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended by both the prior manager and the Sub-Committee. The Sub-Committee was formed in November 2010 and met once (March 17, 2011 – for the fourth quarter 2010) during the seven month period that Genamerica was manager in 2010.

As of December 31, 2010, the principal officers of Genamerica were as follows:

<u>Name</u>	<u>Title</u>
John Martini	President and Chief Executive Officer
Jose Menendez	Executive Vice President and Chief Operating Officer
Mauricio Caneda	Senior Vice President and Chief Information Officer
Joseph Outumuro	Vice President and Secretary
Salvatore Furnari	Vice President and Controller

Pursuant to the provisions of Section 1315 of the New York Insurance Law, an alien insurer is required to maintain trusteed assets for the security of all its policyholders and creditors within the United States and to appoint a trustee of such assets. Under the terms of a deed of trust dated October 13, 2010, the Branch maintains these assets and designated Deutsche Bank Trust Company Americas as its United States trustee. The deed provides that legal title to the trusteed assets shall be vested in the trustee and its lawfully appointed successors. The trustee is authorized to sell or collect any security or property and to invest and reinvest the proceeds thereof upon the written direction of the United States Manager.

B. Territory and Plan of Operation

As of December 31, 2010, the Branch was licensed to write business in New York and California. Effective January 6, 2010, the Branch's request to amend its license to include Fidelity and Surety and Legal Services was approved by the Department. As of the examination date, the Branch was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

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

The Branch is also empowered to transact such workers' compensation insurance as may be incident to coverage contemplated under paragraphs 20 and 21 of Section 1113(a) of the New York Insurance Law, including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 Cong. as amended; 33 USC Section 901 et seq. as amended). The Branch's authority to write insurance is limited to the writing of contracts issued for delivery in the United States, insuring risks of policyholders within the United States.

Based upon the lines of business for which the Branch is licensed, and pursuant to the requirements of Articles 13 and 41 of the Insurance Law, the Branch is required to maintain a trusteed surplus in the amount of \$3,700,000.

The following schedule shows the direct premiums written by the Branch in New York State compared to its total direct business written for the period under examination:

<u>Calendar Year</u>	<u>New York State</u>	<u>Total Direct Premiums Written</u>	<u>Percentage of Direct Premiums Written in New York State</u>
2006	\$10,040,240	\$10,040,240	100.00%
2007	\$14,925,994	\$14,925,994	100.00%
2008	\$14,830,650	\$14,957,785	99.15%
2009	\$15,515,518	\$15,631,918	99.26%
2010	\$16,655,640	\$16,773,258	99.30%

The major types of business written are commercial multiple peril, workers' compensation, product liability-occurrence, commercial auto liability, and other liability-occurrence.

C. Reinsurance

Assumed

The Branch's assumed reinsurance accounted for approximately 60% of the Branch's gross premium written at December 31, 2010. During the period covered by this examination, the Branch's assumed reinsurance business has increased in excess of 56% since the prior examination. The Branch's assumed reinsurance program consists mainly of multi-line coverage assumed on a quota share and excess of loss basis, pursuant to the terms of facultative and treaty agreements with authorized cedants. The Branch utilizes reinsurance accounting as defined in the NAIC Accounting Practices and Procedures Manual, Statements of Statutory Accounting Principles ("SSAP") No. 62R for all of its assumed reinsurance business.

Ceded

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

Treaty:

Cession:

Casualty Coverage:

Excess of Loss

\$5,000,000 excess of \$1,500,000 each occurrence; limit \$15,000,000 for all losses in the aggregate.

Quota Share

30% quota share, limit of \$1,000,000.

Treaty:Cession:Property Coverage:

Underlying Excess of Loss (Fire and Engineering)

Per Risk: \$1,000,000 excess of \$2,000,000 each loss and/or series of losses.

Per Event: \$5,000,000 excess of \$5,000,000 each loss and or series of losses arising out of one event.

Per Risk Excess of Loss (3 layers)

\$37,000,000 excess of \$3,000,000 each loss, each risk.

Per Event (Catastrophe) Excess of Loss (3 layers)

\$90,000,000 excess of \$10 million each loss and/or series of losses arising out of one event.

Quota Share

50% quota share of \$12,000,000 (non-terrorism).  
50% quota share of \$10,000,000 (terrorism).

Cargo Coverage:

Cargo Excess of Loss (3 layers)

\$8,500,000 excess of \$1,500,000 any one loss or occurrence and/or series of losses and/or occurrences arising out of any one event.

Marine Cargo and Hull Combined Excess of Loss

\$10,000,000 excess of \$10,000,000 any one loss and/or series of losses arising out of one event.

Cargo Quota Share

50% quota share of \$15,000,000 any one conveyance and/or location.

Terrorism (Property and Cargo):

Excess of Loss

\$8,000,000 excess of \$2,000,000 each risk and/or series of losses arising out of one event.

It is the Branch's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. A letter of credit obtained by the Branch to take credit for cessions to an unauthorized reinsurer was reviewed for compliance with Department Regulations 133. No exceptions were noted.

All ceded reinsurance agreements in effect as of the examination date were reviewed and the following was noted:

1. The following ceded reinsurance agreements did not contain an acceptable insolvency clause pursuant to Section 1308(a)(2) of the New York Insurance Law and paragraph 8 of SSAP 62R:
  - Fire and Engineering Event Excess of Loss

- Fire and Engineering Risk Excess of Loss
- Property and Cargo Terrorism
- Fire and Engineering Event Excess of Loss Underlying

It is recommended that the Branch include an insolvency clause that conforms with the provisions in Section 1308(a)(2) of the New York Insurance Law in all of its reinsurance agreements.

2. The following ceded reinsurance agreements were obtained through a reinsurance intermediary; however, they did not contain an intermediary clause or they contained an intermediary clause that was not in compliance with Part 125.6(1) of Department Regulation 20:

- Fire and Engineering Event Excess of Loss
- Fire and Engineering Risk Excess of Loss
- Marine Hull and Cargo Account Event Excess of Loss
- Marine Cargo Account Event Excess of Loss.

It is recommended that the Branch include an intermediary clause that conforms with the provisions of Part 125.6 of Department Regulation 20 in all of its reinsurance agreements that were obtained through a reinsurance intermediary.

Examination review of the Schedule F data reported by the Branch in its filed annual statement was found to materially reflect its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62R. Representations were supported by appropriate risk transfer analyses and an attestation from the U.S. Manager's chief executive officer pursuant to the NAIC Annual Statement Instructions. Additionally, examination review indicated that the Branch was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraphs 26 and 27 of SSAP No. 62R.

#### D. Holding Company System

Pursuant to Section 1502(a) of the New York Insurance Law, authorized insurers, including alien insurers transacting business in this state through United States branches, or their subsidiaries are not deemed to be holding companies within the meaning of Article 15 of the New York Insurance Law, and accordingly are exempt from its provisions. However, pursuant to Department Circular Letter 2010-10 (which replaced Department Circular Letter 2009-16, which in turn replaced Department Circular Letter 2001-17), every domestic insurer that is exempt from Article 15 of the New York Insurance Law is required to furnish the superintendent with copies of the insurance holding company system annual registration statement ("NAIC Form B") filed in another state by the

insurer. If the insurer is not required to file NAIC Form B in another state, then the insurer should file the information contained in the filing with the Department within 120 days following the close of its fiscal year.

The Branch filed its 2010 and subsequent NAIC Form B's with the Department in a timely manner.

The Home Office is a property and casualty insurer incorporated under the laws of the Republic of Korea and one of several independent, publicly traded companies that bear the "Samsung" name. The following is a listing of some of the more significant such companies:

Finance

Samsung Fire & Marine Insurance Co., Ltd.  
 Samsung Life Insurance Co., Ltd.  
 Samsung Card Co., Ltd.  
 Samsung Securities Co., Ltd.  
 Samsung Asset Management  
 Samsung Venture Investment Corporation

Chemicals

Samsung Total Petrochemicals Co., Ltd.  
 Samsung Petrochemical Co., Ltd.  
 Samsung Fine Chemicals Co., Ltd.  
 Samsung BP Chemicals Co., Ltd.

Other Samsung Companies

Samsung Corporation  
 Cheil Industries Inc.  
 The Shilla Hotels & Resorts  
 S1 Corporation  
 Samsung Medical Center  
 Samsung Advanced Institute of Technology  
 Samsung Welfare Foundation

Electronics

Samsung Electronics Co., Ltd.  
 Samsung SDI Co., Ltd.  
 Samsung Electro-Mechanics Co., Ltd.  
 Samsung Corning Co., Ltd.  
 Samsung Corning Precision Glass Co., Ltd.  
 Samsung SDS Co., Ltd.  
 Samsung Networks Inc.

Machinery

Samsung Heavy Industries Co., Ltd.  
 Samsung Techwin Co., Ltd.

Samsung Engineering Co., Ltd.  
 Samsung Everland Inc.  
 Cheil Communications Inc.  
 Samsung Lions  
 Samsung Economic Research Institute  
 Samsung Foundation of Culture

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2010, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	.30:1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	38.0%
Premiums in course of collection to surplus as regards policyholders	7.9%

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

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$ 31,869,309	45.17%
Other underwriting expenses incurred	21,762,935	30.85
Net underwriting gain	<u>16,920,607</u>	<u>23.98</u>
Premiums earned	\$ <u>70,552,851</u>	<u>100.00%</u>

F. Accounts and Records

Actuarial Report

The Department's actuarial unit's analysis of loss and loss adjustment expense reserves included a review of the Branch's actuarial report underlying its "Statement of Opinion" as of December 31, 2010. The review found the report to contain insufficient explanations regarding data reconciliation, inaccurate calculations of loss development factors and "summary exhibits" that did not tie to the conclusions of each business segment exhibit. It is recommended that the Branch take due care to accurately complete its actuarial report.

G. Risk Management and Internal Controls

Information Technology Review

The Department's Information Technology Unit conducted a review to assess risks related to the Branch's Information Technology ("IT") controls. Based on the review of documentation provided and interviews of the Branch's representatives, examiners were not able to assess risk related to the Branch's IT controls. The primary reason was the lack of supporting documentations from the Branch's service provider (previous manager), Chubb Multinational Manager Inc. It is recommended that the Branch obtain SAS70 Type II Reports (SSAE 16 report) on the effectiveness of the systems outsourced by the service provider.

Internal control

During interviews with the U.S. Manager it was revealed that the U.S. Manager had not performed any audits of the third party administrators during the period covered by this examination. It is recommended that the Branch's U.S. Manager conduct periodic audits of the services performed by the Branch's third party administrators.

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2010, as determined by this examination and as reported by the Branch:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$86,928,972	\$ 0	\$86,928,972
Cash, cash equivalents and short-term investments	9,440,302	0	9,440,302
Receivables for securities	611	0	611
Investment income due and accrued	563,456	0	563,456
Uncollected premiums and agents' balances in the course of collection	5,718,173	292,409	5,425,764
Deferred premiums, agents' balances and installments booked but deferred and not yet due	3,828,167	0	3,828,167
Amounts recoverable from reinsurers	2,096,623	0	2,096,623
Current federal and foreign income tax recoverable and interest thereon	10,733	0	10,733
Net deferred tax asset	2,236,881	861,044	1,375,837
Electronic data processing equipment and software	382,916	380,706	2,210
Furniture and equipment, including health care delivery assets	117,888	117,888	0
Leasehold Improvements	581,872	581,872	0
Items paid not processed	<u>566,004</u>	<u>566,004</u>	<u>0</u>
Total assets	<u>\$112,472,598</u>	<u>\$2,799,923</u>	<u>\$109,672,675</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and Loss Adjustment Expenses		\$ 21,045,825
Reinsurance payable on paid losses and loss adjustment expenses		1,608,889
Commissions payable, contingent commissions and other similar charges		200,000
Other expenses (excluding taxes, licenses and fees)		24,906
Taxes, licenses and fees (excluding federal and foreign income taxes)		215,530
Unearned premiums		9,454,077
Ceded reinsurance premiums payable (net of ceding commissions)		3,834,375
Amounts withheld or retained by company for account of others		837,075
Provision for reinsurance		2,654,183
Payable for securities		529,177
Aggregate write-ins for liabilities		<u>246,282</u>
Total liabilities		\$ 40,650,319

Surplus and Other Funds

Aggregate write-ins for special surplus funds	\$ 258,712	
Aggregate write-ins for other than special surplus funds	1,925,000	
Unassigned funds (surplus)	<u>66,838,643</u>	
Surplus as regards policyholders		<u>69,022,355</u>
Total liabilities, surplus and other funds		<u>\$109,672,674</u>

NOTE:The Internal Revenue Service has not conducted any audits of the Branch's Federal Income Tax returns for the years covered by this examination. The examiner is unaware of any potential exposure of the Branch to any tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$43,222,607 during the five-year examination period of January 1, 2006 through December 31, 2010, detailed as follows:

Underwriting Income

Premiums earned		\$70,552,851
Deductions:		
Losses and loss adjustment expenses incurred	\$31,869,309	
Other underwriting expenses incurred	<u>21,762,935</u>	
Total underwriting deductions		<u>53,632,244</u>
Net underwriting gain or (loss)		\$16,920,607

Investment Income

Net investment income earned	\$11,632,091	
Net realized capital gain	<u>1,795,848</u>	
Net investment gain or (loss)		13,427,939

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ <u>(753)</u>	
Total other income		<u>(753)</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$30,347,793
Federal and foreign income taxes incurred		<u>10,298,439</u>
Net income		<u>\$20,049,354</u>

Capital and Surplus

Surplus as regards policyholders per report on examination as of December 31, 2005			\$25,799,748
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$20,049,354		
Net unrealized capital gains or (losses)	52,405		
Change in net deferred income tax	1,996,949		
Change in nonadmitted assets		\$1,929,566	
Change in provision for reinsurance		2,510,183	
Cumulative effect of changes in accounting principles	101,438	0	
Net remittances from or (to) home office	25,000,000	0	
Aggregate write-ins for gains and losses in surplus	<u>462,210</u>	<u>0</u>	
Total gains and losses	<u>\$47,662,356</u>	<u>\$4,439,749</u>	
Net increase (decrease) in surplus			<u>43,222,607</u>
Surplus as regards policyholders per report on examination as of December 31, 2010			<u>\$69,022,355</u>

C. Trusteed Surplus Statement

The following statement shows the trustee surplus of the Branch calculated in accordance with Section 1312 of the New York Insurance Law and as determined by this examination:

Assets

Securities deposited with the Department of Financial Services for the protection of all policyholders and creditors within the United States:

New York	\$ <u>2,038,745</u>	
Total general deposits		\$ 2,038,745

Vested in and held by United States Trustee:

Cash	\$ 1,936,435	
Bonds	53,491,745	
Accrued investment income	<u>1,270,591</u>	

Total vested in and held by United States Trustee		<u>56,698,771</u>
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Total assets		\$ <u>58,737,516</u>
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Liabilities

Total liabilities and reserves as determined by this examination		\$ 40,650,319
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Additions to liabilities:

Ceded reinsurance premium payables (p3 line 12)	\$ <u>3,834,375</u>	
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Total additions		\$ <u>3,834,375</u>
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Total		\$ 44,484,694
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Deduction from liabilities:

Authorized companies	\$ 644,000	
Unauthorized companies	1,452,000	
Special State Deposits – California	3,845,263	
Accrued interest on special state deposits	42,421	
Agents balances and uncollected premiums	<u>9,252,931</u>	

Total deductions		<u>15,236,615</u>
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Total adjusted liabilities		\$ 29,248,079
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Trusteed surplus		<u>29,489,437</u>
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Total adjusted liabilities and trustee surplus		\$ <u>58,737,516</u>
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#### **4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$21,045,825 is the same as reported by the Branch as of December 31, 2010. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Branch's internal records and in its filed annual statements.

#### **5. SUBSEQUENT EVENTS**

Effective January 1, 2012, the Branch terminated its relationship with Genamerica Management Corporation as its United States Manager and appointed Samsung Fire & Marine Management Corporation ("SFMMC"), as the new manager. Formed in June 2011, SFMMC is a wholly-owned subsidiary of the Home Office.

During the period covered by this examination, the Branch was licensed to write business in the States of New York and California. Subsequent to the period covered by the examination, as of June 1, 2012, the Branch has obtained licenses to write in thirty-one additional states and the District of Columbia.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
It is recommended that the U.S. Branch's home office comply with the provisions of Section 1411(a) of the New York Insurance Law. It is noted that a similar recommendation was included in the prior report on examination.	4
The Branch's home office has complied with this recommendation.	
B. <u>Territory and Plan of Operation</u>	
It is recommended that the Branch take the steps necessary to conform its licenses outside this state to its New York license.	6
The Branch has complied with this recommendation.	
C. <u>Reinsurance</u>	
i.     It is recommended that the quota share agreement with Chubb & Son, Inc. be amended to include Executive Risk Indemnity Inc. as a participant.	6
The Branch has complied with this recommendation.	
ii.    It is recommended that the Branch amend the agreement to indicate how the cessions to each reinsurer are determined.	7
The Branch has complied with this recommendation.	
iii.   It is recommended that the Branch maintain all documents related to its reinsurance agreements, including any amendments.	8
The Branch has complied with this recommendation.	
iv.    It is recommended that the Branch execute all reinsurance agreements within nine months after commencement and maintain such executed agreements for review.	9
The Branch has complied with this recommendation.	

<u>ITEM</u>	<u>PAGE NO.</u>	
v.	It is recommended that Chubb Multinational Manager, Inc. be listed as the manager in the beneficiary section of the letter of credit because it has the power of attorney to act on behalf of the Branch.	10
	The Branch has complied with this recommendation. During the examination period Genamerica replaced Chubb as manager. Genamerica was listed as beneficiary on the letter of credit.	
vi.	It is recommended that the letter of credit wording be amended to remove the phrase “or such other office as we may advise from time to time” in order to ensure that the letter of credit is only payable at an office of the bank within the United States that is on the NAIC's list of approved banks.	10
	The Branch has complied with this recommendation.	
vii.	It is recommended that the Branch submit its currently effective reinsurance contracts to the Department, as well as any subsequent amendments thereto and any new contracts it becomes a party to, for our review in accordance with Section 1308(e)(1)(B) of the New York Insurance Law. It is noted that the prior report contained a recommendation regarding compliance with Section 1308(e) of the New York Insurance Law.	10
	The Branch has complied with this recommendation.	
viii.	It is recommended that the Branch ensure that its reinsurance contracts containing extra contractual obligations clauses either specifically exclude punitive damages or contain a "savings clause", as coverage for punitive damages is against the public policy of New York State.	11
	The Branch has complied with this recommendation.	
ix.	It is recommended that the Branch comply with Paragraph 8d of SSAP 62 and amend its reinsurance agreements to provide for reports of premiums and losses, and payment of losses, no less frequently than on a quarterly basis, unless there is no activity during the period.	11
	The Branch has complied with this recommendation.	
D.	<u>Accounts and Records</u>	
	It is recommended that the U.S. Branch comply with Department Regulation 118 by entering into future contracts with its independent Certified Public Accountant that contain the requisite provisions.	14
	The Branch has complied with this recommendation.	

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

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A     <u>Reinsurance</u></p> <p>It is recommended that the Branch include an insolvency clause in the listed agreements that include the provisions in Section 1308 of the New York Insurance Law.</p> <p>It is recommended that the Branch include an intermediary clause in the listed agreements that include the provisions of Part 125.6 of Department Regulation 20.</p>	<p>7-8</p> <p>8</p>
<p>B.     <u>Actuarial Report</u></p> <p>It is recommended that the Branch take due care to accurately complete its actuarial report.</p>	<p>10</p>
<p>C.     <u>Information Technology Review</u></p> <p>It is recommended that the Branch obtain SAS70 Type II Reports (SSAE 16 report) on the effectiveness of the systems outsourced by the service provider.</p>	<p>11</p>
<p>D.     <u>Internal Controls</u></p> <p>It is recommended that the U.S. Manager conduct periodic audits of the services performed by the Branch's third party administrators</p>	<p>11</p>

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Bernard Lott  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Bernard Lott

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Appointment No. 30751

STATE OF NEW YORK  
INSURANCE DEPARTMENT

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

Bernard Lott

as proper person to examine into the affairs of the

**SAMSUNG FIRE & MARINE INSURANCE COMPANY, LTD.  
UNITED STATES BRANCH**

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

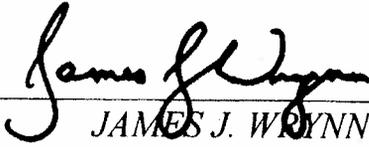
**Branch**

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 23rd day of August, 2011



  
\_\_\_\_\_  
JAMES J. WYNN  
Superintendent of Insurance