

REPORT ON EXAMINATION

OF

XL INSURANCE COMPANY OF NEW YORK, INC.

AS OF

DECEMBER 31, 2015

DATE OF REPORT

MARCH 29, 2017

EXAMINER

MARY MEANEY, A.F.E

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

March 29, 2017

Honorable Maria T. Vullo
Superintendent
New York State Department of Financial Services
New York, New York 10004

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 31430 dated February 17, 2016, attached hereto, I have made an examination into the condition and affairs of XL Insurance Company of New York, Inc. as of December 31, 2015, and submit the following report thereon.

Wherever the designations “the Company” or “XLNY” appear herein without qualification, they should be understood to indicate XL Insurance Company of New York, Inc.

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 Company’s office located at 100 Washington Boulevard, Stamford, CT 06902.

1. SCOPE OF EXAMINATION

The Department has performed a coordinated group 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. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

New York is the lead state of the XL America Group. This examination was performed concurrently with the examinations of the following insurers:

XL Reinsurance America Inc. (“XLRA”) – New York
Greenwich Insurance Company (“GIC”) - Delaware
Indian Harbor Insurance Company (“IHIC”) - Delaware
XL Specialty Insurance Company (“XL Specialty”) - Delaware
XL Insurance America, Inc. (“XLIA”) - Delaware
XL Select Insurance Company (“XL Select”) - Delaware

Delaware also participated in this examination.

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 current and prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company 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 New York laws, statutory accounting principles, and annual statement instructions.

This examination report includes but is not limited to the following:

- Company history
- Management and control
- Territory and plan of operation
- Holding company review
- Reinsurance
- Loss review and analysis
- Financial statement presentation
- Significant subsequent events
- Summary of recommendations

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 that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

2. DESCRIPTION OF COMPANY

The Company was incorporated under the laws of New York State on September 23, 1994 as the Great Lakes American Reinsurance Company, and was licensed to transact business on October 1, 1994. At the time of its incorporation, the Company was a member of the Munich Reinsurance Group and a wholly-owned subsidiary of the Great Lakes Reinsurance Company.

On July 15, 1997, the Company was acquired by Folksamerica Holding Company and Folksamerica Reinsurance Company (“FRC”). Effective August 25, 1997, the name of the Company was changed to Folksamerica General Insurance Company.

On March 5, 1998, the Company was acquired as a shell by XL Capital Ltd., a Cayman Islands domiciled company now known as XLIT Ltd. (“XL Capital”). On May 7, 1998, the Company’s name was changed to X.L. Insurance Company of America, Inc. and its current title was adopted on April 9, 1999.

On June 18, 1999, XL Capital acquired NAC Re Corporation (“NAC Re”) in a pooling of interest stock transaction. Subsequent to this acquisition, a reorganization plan was submitted to the Department. As part of this restructuring, NAC Re acquired 100% of the common stock of the Company. Effective July 1, 1999, the Company became a participant in an intercompany reinsurance pooling agreement with various affiliated companies, with XLRA functioning as the pool leader. The Company was subsequently acquired by XLRA in September 1999. In June 2003, the outstanding shares of the Company were contributed by XLRA to GIC, and then by GIC to XLIA.

On July 1, 2010, XL Group plc, a newly formed Irish public limited company (“XL Group”) and XL Capital completed a re-domestication transaction in which all of the ordinary shares of XL Capital were exchanged for all of the ordinary shares of XL Group. As a result, XL Capital became a

wholly-owned subsidiary of XL Group, the ultimate parent of the Company. In addition, on July 1, 2010, XL Capital changed its name to XL Group Ltd., and in November 2011, changed its name to XLIT Ltd.

On May 1, 2015, XL Group acquired the Catlin Group Ltd (“Catlin”) for \$4.1 billion. Prior to the acquisition, Catlin was a publically traded company headquartered in Bermuda. The group wrote property, casualty and specialty insurance and reinsurance coverage on a worldwide basis. The acquisition has substantially increased XL Group’s global networks and business platforms, particularly at Lloyd’s where Catlin has the largest underwriting syndicate. The XL Group has been rebranded as “XL Catlin”. On September 28, 2015, XL Group effected an internal reorganization to align the newly acquired insurance operations of Catlin with XL Group’s existing operations. As a result of the reorganization, Catlin, LLC (a Delaware Corporation) is now a wholly-owned subsidiary of X.L. America, Inc. Catlin, LLC includes three regulated insurance entities: Catlin Specialty Insurance Company, a Delaware company; Catlin Indemnity Company, also a Delaware company; and Catlin Insurance Company, Inc., a Texas company.

Subsequent to this examination, during 2016, the lead company of the XL Group re-domesticated from Ireland to Bermuda. The current lead company is named XL Group Ltd.

A. Corporate Governance

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 twenty one members. The board meets four times during each calendar year. As of December 31, 2015, the board of directors was comprised of the following eight members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Steven P. Agosta Rye, NY	Senior Vice President, General Counsel & Secretary, XL Reinsurance America Inc.
David D. Brooks Avon, CT	Senior Vice President, XL Insurance Company of New York, Inc.
James M. DiVirgilio Unionville, CT	Senior Vice President, XL Insurance Company of New York, Inc.
Donna M. Nadeau Green Brook, NJ	Executive Vice President, XL Insurance Company of New York, Inc.

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
James M. Norris Avon, CT	Senior Vice President, XL Insurance Company of New York, Inc.
Robert M. Shine Morristown, NJ	Executive Vice President, XL Insurance Company of New York, Inc.
Joseph A. Tocco Commack, NY	President, Chairman & Chief Executive Officer, XL Insurance Company of New York, Inc.
Todd D. Zimmerman Chester Springs, PA	Senior Vice President, XL Insurance Company of New York, Inc.

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member has an acceptable record of attendance.

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

<u>Name</u>	<u>Title</u>
David D. Brooks	Senior Vice President
Gabriel G. Carino, III	Vice President & Treasurer
James M. DiVirgilio	Senior Vice President
Ursula M. Kerrigan	Senior Vice President & General Counsel
Donna M. Nadeau	Executive Vice President
James M. Norris	Senior Vice President
Toni A. Perkins	Vice President & Secretary
Robert M. Shine	Executive Vice President
Joseph A. Tocco	President, Chairman & Chief Executive Officer
Andrew R. Will	Vice President & Controller
Todd D. Zimmerman	Senior Vice President & Vice Chairman

B. Territory and Plan of Operation

As of December 31, 2015, the Company was licensed to write business in all states and the District of Columbia, except in the State of Florida, where it was a qualified or accredited reinsurer.

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 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
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 and inland marine
21	Marine protection and indemnity
22	Residual value
24	Credit unemployment
26	Gap
27	Prize indemnification
28	Service contract reimbursement
29	Legal services
30	Involuntary unemployment
31	Salary protection

The Company was also licensed to write special risks pursuant to Article 63 of the New York Insurance Law and is authorized, pursuant to Section 4102(c)(i) and (ii) of the New York Insurance Law, to reinsure risks of every kind or description and insure property or risks of every kind or description located or resident outside of the United States, its territories and possessions. 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, the Company is required to maintain a minimum surplus to policyholders in the amount of \$35,000,000.

During the period of the examination, the Company did not write any direct business. All business reflected in the financial statements is related to the business assumed as part of its participation on an inter-company pooling agreement with several affiliated companies. This agreement is fully described in the Reinsurance section of this report.

The following schedule shows premiums assumed by the Company according to its pooling participating percentage:

<u>Calendar Year</u>	<u>Assumed Premiums (from Pool)</u>
2011	\$ 34,489,543
2012	\$ 38,824,135
2013	\$ 39,931,910
2014	\$ 38,002,582
2015	\$ 39,814,054

C. Reinsurance Ceded

Pooling Agreement

The Company participates in an inter-company pooling agreement with various affiliated companies, with XLRA functioning as pool leader. The original pooling agreement, dated July 1, 1999, has been amended and revised on numerous occasions.

Under the terms of the agreement, 100% of all pool member's gross premiums, losses, insurance expenses and other related underwriting activity of the pool members are ceded to XLRA, the pool leader, except for primary financial guaranty business. XLRA then purchases external reinsurance on behalf of itself and its pool members for business that was written by the pool members and XLRA. After placement of the external reinsurance, XLRA then reinsures 50% of the pool members business (75% for business written prior to January 1, 2008) to XL Insurance (Bermuda) Ltd. The remaining business is then redistributed among the pool members in accordance with their respective pool participation percentage.

The following affiliates are parties to the pooling agreement (the "Pool Members"), and their respective pool participation percentages are as follows:

<u>Company</u>	<u>Pooling % at December 31, 2015</u>
XL Reinsurance America Inc.	65%
Greenwich Insurance Company	12%
XL Insurance America, Inc.	10%
XL Specialty Insurance Company	6%
XL Insurance Company of New York, Inc.	3%
XL Select Insurance Company	2%
Indian Harbor Insurance Company	2%

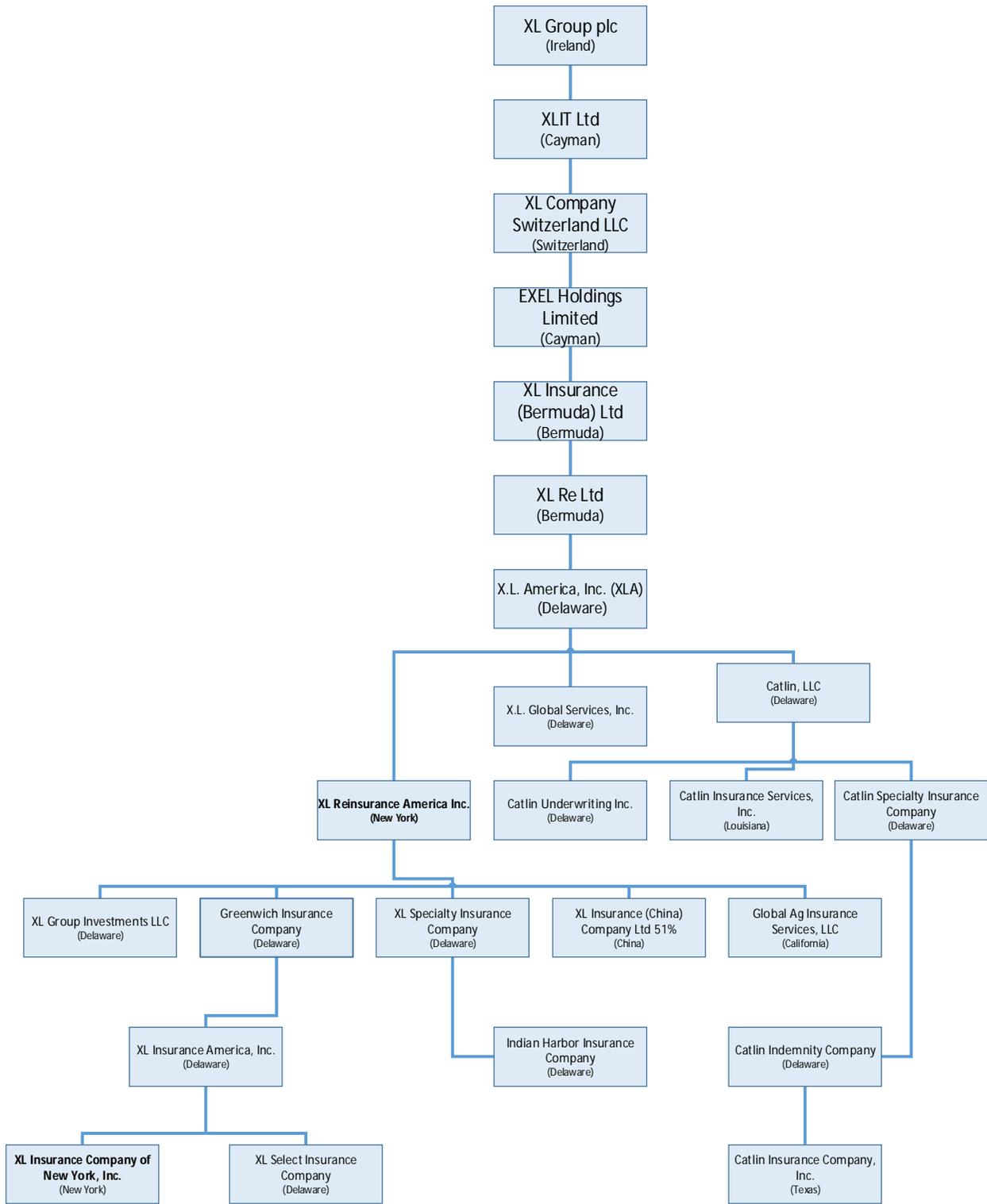
All ceded reinsurance balances related to external ceded reinsurance contracts are recorded in the statutory financial statements of XLRA, and all reinsurers which are parties to the contracts are reported in XLRA's Schedule F of the Annual Statement. Only XLRA has a contractual right of direct recovery from non-affiliate reinsurers per the terms of the reinsurance agreements placed by XLRA on behalf of itself and its pool members. Any Schedule F penalty is shared by the pool members in accordance with their pool participation percentages.

D. Holding Company System

As of December 31, 2015, the Company was a member of the XL Group of companies. The Company is a wholly-owned subsidiary of XLIA, a property and casualty insurance company domiciled in Delaware, which is ultimately controlled by XL Group plc.

A review of the Holding Company Registration Statements filed with this Department indicated that such filings were complete and were filed in a timely manner pursuant to Article 15 of the New York Insurance Law and Department Regulation 52.

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



Note: XL Group, plc re-domesticated to Bermuda in 2016 and changed its name to XL Group Ltd.

On December 17, 2014, the Company entered into a series of transactions involving the exchange of assets with an affiliate. The fair market value of the assets received was \$56,586,126. This transaction was approved by the Department on December 5, 2014.

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

Expense Allocation Agreements

The Company is a party to two expense allocation agreements with affiliates. The main agreement is the Sixth Amended and Restated General Services Agreement and is effective May 1, 2015. It is between X.L. Global Services, Inc. (“XLGS”) as service provider, and XLA, with various insurance and non-insurance affiliates, including XLNY, and other pool companies. Per the agreement, XLGS is to provide various information technology services, human resource services and miscellaneous services. The Company paid \$8,014,132 to XLGS under this agreement in 2015.

The second expense sharing agreement with affiliates in place at the exam date is the Seventh Amended and Restated General Services Agreement, effective May 1, 2015. This agreement is between XLA as the provider, and various insurance and non-insurance affiliates, including XLNY. No expenses were paid through this agreement in 2015. The above agreements were submitted to the Department as required by Section 1505 of the New York Insurance Law.

Investment Management Agreement

This Agreement is between XL Group Investments Ltd. (“XLGIL”) and XLNY. Under the terms of the Agreement, XLGIL provides investment management, financial advisory and related administrative services to XLNY. XLGIL has the authority, subject to the terms of the Agreement, to act on behalf of XLNY in all such matters, including the power to retain and terminate investment managers, agents and subcontractors pursuant to an agreement substantially in the form of the master investment management agreement appended to this Agreement. This Agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law and was amended four times with the most recent amendment effective as of January 1, 2013, and was non-disapproved on March 12, 2013.

Ninth Amended Tax Sharing and Payment Agreement

This Agreement, with an effective date of May 1, 2015, is between XLA and XLNY and other pool

participants, and various insurance and non-insurance affiliates. The agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law and non-disapproved on July 10, 2015.

E. Significant Ratios

The Company's operating ratios, computed as of December 31, 2015, fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners as follows:

Net premiums written to surplus as regards policyholders	52%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	72%
Two-year overall operating	95%

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	\$ 132,965,395	70.56%
Other underwriting expenses incurred	66,957,938	35.53
Net underwriting loss	<u>(11,488,478)</u>	<u>(6.10)</u>
Premiums earned	\$ <u>188,434,855</u>	<u>100.00%</u>

The Company's risk based capital score (RBC) was 551% at December 31, 2015. The RBC is a measure of the minimum amount of capital appropriate for a reporting entity to support its overall business operations in consideration of its size and risk profile. An RBC of 200 or below can result in regulatory action.

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	\$173,387,137	\$ 0	\$173,387,137
Cash, cash equivalents and short-term investments	8,574,524	0	8,574,524
Receivables for securities	10,445,766	0	10,445,766
Investment income due and accrued	751,265	0	751,265
Uncollected premiums and agents' balances in the course of collection	11,483,807	1,881,654	9,602,153
Deferred premiums, agents' balances and installments booked but deferred and not yet due	3,976,787	0	3,976,787
Accrued retrospective premiums	989,505	2,984	986,521
Other amounts receivable under reinsurance contracts	130,612	0	130,612
Current federal and foreign income tax recoverable and interest thereon	526,733	0	526,733
Net deferred tax asset	6,123,389	1,076,592	5,046,797
Guaranty funds receivable or on deposit	20,746	0	20,746
Receivables from parent, subsidiaries and affiliates	5,196,970	102,151	5,094,819
Receivable from Federal Crop Insurance Corporation	1,955,803	0	1,955,803
Deductible recoverable	<u>329,498</u>	<u>220,433</u>	<u>109,065</u>
Total assets	<u>\$223,892,542</u>	<u>\$3,283,814</u>	<u>\$220,608,728</u>

Liabilities, Surplus and Other Funds

Losses and loss adjustment expenses	\$ 96,898,676
Reinsurance payable on paid losses and loss adjustment expenses	(249,180)
Commissions payable, contingent commissions and other similar charges	194,301
Other expenses (excluding taxes, licenses and fees)	2,264,769
Taxes, licenses and fees (excluding federal and foreign income taxes)	953,485
Unearned premiums	19,652,021
Advance premium	1,858,795
Funds held by company under reinsurance treaties	223,265
Remittances and items not allocated	(8,838,130)
Provision for reinsurance	1,963,385
Payable to parent, subsidiaries and affiliates	9,806,448
Payable for securities	16,951,230
Miscellaneous liabilities	<u>2,020,923</u>
Total liabilities	<u>\$143,699,988</u>

Surplus and Other Funds

Common capital stock	\$ 6,000,000
Gross paid in and contributed surplus	64,077,441
Unassigned funds (surplus)	<u>6,831,299</u>
Surplus as regards policyholders	<u>76,908,740</u>
Total liabilities, capital and surplus	<u>\$220,608,728</u>

Note: The Internal Revenue Service is currently conducting audits of the Company's consolidated Federal Income Tax returns for tax years 2013 and 2014. The Internal Revenue Service has not yet begun to audit tax returns covering tax year 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 examination period as reported by the Company was \$10,858,073 as detailed below:

Underwriting Income

Premiums earned		\$188,434,855
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Deductions:

Losses and loss adjustment expenses incurred	\$132,965,395	
Other underwriting expenses incurred	66,974,984	
Aggregate write-ins for underwriting deductions	<u>(17,046)</u>	

Total underwriting deductions		<u>199,923,333</u>
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Net underwriting gain or (loss)		(11,488,478)
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Investment Income

Net investment income earned	16,001,347	
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Net realized capital gain	<u>9,057,834</u>	
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Net investment gain or (loss)		25,059,181
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Other Income

Net gain or (loss) from agents' or premium balances charged off	(283,827)	
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Miscellaneous income (loss)	<u>(27,489)</u>	
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Total other income (loss)		<u>(311,316)</u>
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Net income before federal and foreign income taxes		<u>13,259,387</u>
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Federal and foreign income taxes incurred		<u>2,401,312</u>
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Net Income		<u>\$10,858,075</u>
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C. Capital and Surplus

Surplus as regards policyholders decreased \$159,278 during the five year examination period January 1, 2011 through December 31, 2015 as reported by the Company, detailed as follows:

Surplus as regards policyholders per company as of December 31, 2010			\$77,068,018
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$10,858,075	\$ 0	
Net unrealized capital gains or losses	156,650		
Change in net deferred income tax		450,221	
Change in non-admitted assets	1,096,497		
Change in provision for reinsurance	850,815		
Surplus adjustments paid in	168,626		
Dividends to stockholders		12,798,226	
Miscellaneous losses in surplus	<u>0</u>	<u>41,494</u>	
Total gains / losses	\$13,130,663	\$13,289,941	
Net decrease in surplus			<u>(159,278)</u>
Surplus as regards policyholders per company as of December 31, 2015			<u>\$76,908,740</u>

No adjustments were made to surplus as a result of this examination.

As of December 31, 2015, the capital paid in was \$6,000,000 consisting of 400,000 shares of common stock at \$15 par value per share. Gross paid in and contributed surplus was \$64,077,441. Gross paid in and contributed surplus increased by \$168,626 during the examination period as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
2010	Beginning gross paid in and contributed surplus	\$63,908,815
2013	Surplus paid in	\$37,860
2014	Surplus paid in	33,161
2015	Surplus paid in	<u>97,605</u>
	Total surplus contributions	<u>168,626</u>
2015	Ending gross paid in and contributed surplus	<u>\$64,077,441</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$96,898,676 is the same as reported by the Company as of December 31, 2015. The examination analysis of the Loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and statutory accounting principles, including the NAIC Accounting Practices & Procedures Manual, Statement of Statutory Accounting Principle No. 55 (“SSAP No. 55”).

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained no recommendations.

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

This report on examination does not contain any comments or recommendations.

Respectfully submitted,

Mary Meaney, AFE
Principal Insurance Examiner

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

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

Mary Meaney

Subscribed and sworn to before me

this _____ day of _____, 2017.

APPOINTMENT NO. 31430

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, SHIRIN EMAMI, Acting Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Mary Meaney

as a proper person to examine the affairs of the

XL Insurance Company of New York

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 17th day of February, 2016

Shirin Emami

Acting Superintendent of Financial Services

By:



Rolf Kaumann
Deputy Chief Examiner

