

REPORT ON EXAMINATION

OF THE

UNITED STATES BRANCH OF THE

NISSAY DOWA GENERAL INSURANCE COMPANY, LTD.

AS OF

DECEMBER 31, 2008

DATE OF REPORT

MAY 7, 2009

EXAMINER

QILIN

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

May 7, 2009

Honorable Eric R. Dinallo  
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 30284 dated January 28, 2009 attached hereto, I have made an examination into the condition and affairs of the United States Branch of the Nissay Dowa General Insurance Company, Ltd. as of December 31, 2008, and submit the following report thereon.

Wherever the designation "the Branch" appears herein without qualification, it should be understood to indicate the United States Branch of the Nissay Dowa General Insurance Company, Ltd. In addition, wherever the designation "Home Office" appears herein without qualification, it should be understood to indicate the Nissay Dowa General Insurance Company, Ltd. of Tokyo, Japan.

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 Branch's home office located at 521 Fifth Avenue, 5<sup>th</sup> Floor, New York, New York, 10175.

## **1. SCOPE OF EXAMINATION**

The Department has performed a single-state examination of the United States (“U.S.”) Branch of the Nissay Dowa General Insurance Company, Ltd. The previous examination was conducted as of December 31, 2001. This examination covered the period from January 1, 2002 through December 31, 2008. 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 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.

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

- Significant subsequent events
- Branch history
- Corporate records
- Management and control
- 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, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

## **2. DESCRIPTION OF BRANCH**

The Nissay Dowa General Insurance Company, Ltd. of Tokyo, Japan established its Branch under the laws of the State of New York in order to write property and casualty insurance and reinsurance in the United States. The Branch was licensed and commenced business operation on July 1, 1990.

Effective April 1, 2001, the Branch's parent, formerly Dowa Fire and Marine Insurance Company, Ltd. merged with Nissay General Insurance Company, Ltd., a subsidiary of Nippon Life Insurance Company of Japan. The surviving company was renamed Nissay Dowa General Insurance Company, Ltd.

### **A. Management**

DeVito Consulting Inc. is the current Manager and Attorney-in-Fact of the Branch and administers the affairs of the Branch under a management agreement. Prior to April 4, 2006, the U.S. Manager and Attorney-in-Fact was Shield Management, Inc., an indirect wholly-owned subsidiary of Royal & Sun Alliance USA.

At December 31, 2008, the board of directors was comprised of the following three members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Joseph J. DeVito Guttenberg, NJ	Managing Director, Navigant Consulting, Inc
Susan DeVito Guttenberg, NJ	Director, Navigant Consulting, Inc
Hideshi Kimbara Mamaroneck, NY	Chief Representative, Nissay Dowa General Insurance Company, Ltd. Tokyo, Japan

Because of the change of the management, only the minutes of the board of directors' meetings held during the period under the management of DeVito Consulting Inc. was obtained and reviewed. A review of the minutes indicated that the meetings were generally well attended and each board member has an acceptable record of attendance.

As of December 31, 2008, the principal officers of the Branch were as follows:

<u>Name</u>	<u>Title</u>
Joseph J. DeVito	President
Hideshi Kimbara	Treasurer
Nobuo Shima	Secretary

Pursuant to the provision of Section 1315 of the New York Insurance Law, an alien insurer is required to maintain in the United States trustee 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 10, 2008, the Branch designated Mitsubishi UFJ Trust and Banking Corporation (U.S.A) as its United States trustee. The deed of trust is approved by the Department.

Mitsubishi UFJ Trust and Banking Corporation (U.S.A) is also the custodian of the securities required on deposit with the Superintendent pursuant to Section 1314 of the New York Insurance Law.

B. Territory and Plan of Operation

As of December 31, 2008, the Branch was licensed to write business in New York only. The Branch did not write direct insurance business, but only assumed business from member companies of the Royal & Sun Alliance Insurance Group during the examination period. Effective November 1, 2003, the Royal & Sun Alliance Insurance Group ceased writing new and/or renewal business on behalf of the Branch. Currently, the Branch is still running off the book of the business.

The following schedule shows the net premiums written for the period under examination:

<u>Calendar Year</u>	<u>Net Premiums Written</u>
2002	\$1,225,004
2003	1,653,893
2004	(137,675)
2005	63,416
2006	0
2007	0
2008	<u>0</u>
Total	<u>\$2,804,638</u>

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>
3	Accident and 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

In addition, the Branch is licensed to transact such workers' compensation insurance as may be incident to coverages 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 901et. seq. as amended), to the extent permitted by the certified copy of its charter documents on file with the Department, provided, however, that the authority conferred by this license shall be limited to the

writing of contracts issued for delivery in the United States, insuring risks of policyholders within the United States.

Based on the lines of business for which the Branch is licensed and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Branch is required to maintain a minimum surplus to policyholders and trusted surplus in the amount of \$4,400,000.

C. Reinsurance

The Branch only assumed facultative property and casualty reinsurance from member companies of the Royal & Sun Alliance Insurance Group (collectively, "R&SA") during the examination period. Such business was written by R&SA for the U.S. operations of the home office's Japanese insureds. Effective November 1, 2003, R&SA ceased writing new and/or renewal business on behalf of the Branch. The Branch continues to assume business written by R&SA prior to November 1, 2003. The Branch utilizes reinsurance accounting as defined in NAIC Accounting Practices and Procedures Statements of Statutory Accounting Principles ("SSAP") No. 62 for all of its assumed reinsurance business.

The Branch has not ceded any reinsurance agreements during the examination period.

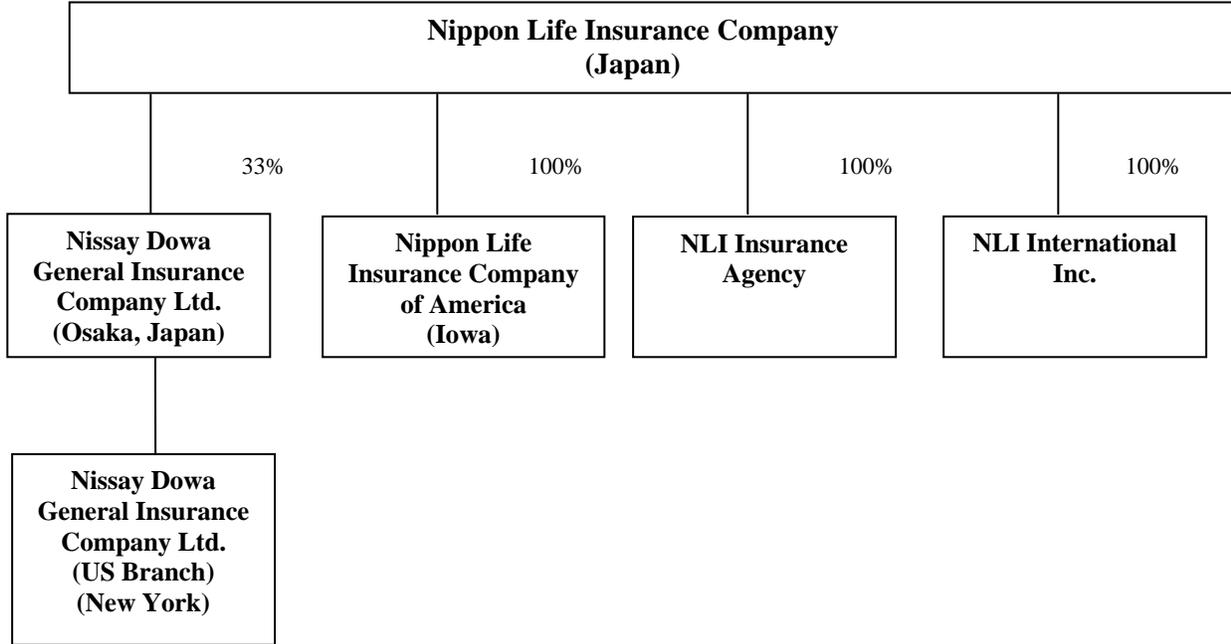
Examination review of the Schedule F data reported by the Branch in its filed annual statement was found to accurately reflect its reinsurance transactions.

D. Holding Company System

The examined Company is the United States Branch of Nissay Dowa Insurance Company, Ltd. Of Tokyo, Japan, which is 33% owned by Nippon Life Insurance Company, organized under the laws of Japan. Section 1502 of the New York Insurance Law provides for an exemption for the transactions between the Branch and its Home Office. However, this exemption does not apply to transactions involving the Branch and entities affiliated with the Home Office.

The following is a chart of the holding company system at December 31, 2008:

**Organizational Chart**



At December 31, 2008, the Branch was party to the following agreements with other members of its holding company system:

1. Sublease Agreement

Effective September 13<sup>th</sup>, 2002, the Branch entered into a sublease agreement with Nippon Life Insurance Company of America (“Nippon Life”) to sublease the office space located at 521 Fifth Avenue, 5<sup>th</sup> Floor, New York, NY. The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

2. Shared Office Service Agreement

Effective September 13<sup>th</sup>, 2002, the Branch also entered into a shared office service agreement with Nippon Life whereby Nippon Life provides certain shared office services in the normal course of doing business at its leased premises located at 521 Fifth Avenue, New York, NY. The shared office services consist of the following: office cleaning, telephone maintenance, using server, kitchen facilities and reception staff and providing technical support for the computer system. The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

Because the Branch’s leased space and services are shared by representatives of the Home Office, a letter in possession of the Branch dated September 16, 2002, states that the Home Office will reimburse the Branch for two thirds of the costs and expenses under the sublease and service agreement.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2008, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	0%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	1%
Premiums in course of collection to surplus as regards policyholders	0%

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 seven-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$1,842,991	58.87%
Other underwriting expenses incurred	2,203,149	70.38
Net underwriting loss	<u>(915,557)</u>	<u>(29.25)</u>
Premiums earned	<u>\$3,130,583</u>	<u>100.00%</u>

F. Accounts and Records

i. Certified Public Accountant Workpaper Retention Period

The Branch provided an engagement letter and a qualification letter submitted by the independent certified public accountant (“CPA”) during the course of the examination. However, the letters indicate that the CPA’s workpapers will be retained for no longer than seven years, which does not meet the requirements set forth in the Department Regulations 118 and 152. Regulation 118 requires that audit workpapers and communications must be retained by the CPA for the period specified in Part 243.2(b)(7) and (c) of the Department Regulation 152 which is six years from its creation or until after the filing of the report on examination in which the records are subject to review, whichever is longer.

It is recommended that the Branch ensure that the engagement letter and other correspondences between the Branch and the CPA specify the proper record retention period to comply with the Department Regulations 118 and 152.

ii Failure to Read Prior Examination Report

The Branch could not provide copies of statements signed by the board of directors confirming they have received and read the prior report on examination.

Section 312(b) of the New York Insurance Law requires:

“(b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer’s files confirming that such member has received and read such report. The superintendent may require that a copy of the report shall also be furnished by such insurer to the supervising insurance official of each state in the United States in which such insurer is authorized to do an insurance business.”

It is recommended that the Branch comply with Section 312(b) of the New York Insurance Law by furnishing each member of the board of director a copy of the report on examination and retaining a statement from each board member that he or she has received and read such report.

iii. Custodial Agreement

The custodial agreement between the Mitsubishi UFJ Trust & Banking Corporation (U.S.A) and the Branch was found to be lacking certain provisions as set forth in the NAIC Financial Condition Examiners' Handbook, Section 3(III)(H).

It is recommended that the Branch's custodial agreement be amended to include the required provisions set forth in the NAIC Financial Condition Examiners' Handbook, Section 3(III)(H).

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2008 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	\$ 8,249,473	\$ 0	\$ 8,249,473
Cash, cash equivalents and short-term investments	10,221,093	0	10,221,093
Investment income due and accrued	101,818	0	101,818
Current federal and foreign income tax recoverable and interest thereon	85,983	0	85,983
Net deferred tax asset	<u>14,625</u>	<u>11,893</u>	<u>2,732</u>
Total assets	<u>\$18,672,992</u>	<u>\$11,893</u>	<u>\$18,661,099</u>
 <u>Liabilities, Surplus and Other Funds</u>			
<u>Liabilities</u>			
Losses			\$ 179,882
Reinsurance payable on paid losses and loss adjustment expenses			772
Other expenses (excluding taxes, licenses and fees)			<u>4,800</u>
Total liabilities			\$ 185,454
 <u>Surplus and Other Funds</u>			
Statutory deposit		\$1,000,000	
Unassigned funds (surplus)		<u>17,475,645</u>	
Surplus as regards policyholders			<u>18,475,645</u>
Total liabilities, surplus and other funds			<u>\$18,661,099</u>

NOTE: The Internal Revenue Service had not audited the Branch for the years under 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 \$2,139,560 during the seven-year examination period January 1, 2002 through December 31, 2008, detailed as follows:

Underwriting Income

Premiums earned		\$3,130,583
Deductions:		
Losses incurred	\$1,619,179	
Loss adjustment expenses incurred	223,812	
Other underwriting expenses incurred	<u>2,203,149</u>	
Total underwriting deductions		<u>4,046,140</u>
Net underwriting gain or (loss)		\$(915,557)

Investment Income

Net investment income earned	\$3,992,372	
Net realized capital gain	<u>(8,828)</u>	
Net investment gain or (loss)		3,983,544

Other Income

Net gain or (loss) from agents' or premium balances charged off	<u>\$ (3,146)</u>	
Total other income		<u>(3,146)</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$3,064,841
Dividends to policyholders		<u>0</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$3,064,841
Federal and foreign income taxes incurred		<u>928,013</u>
Net income		<u>\$2,136,828</u>

### C. Capital and Surplus Accounts

Surplus as regards policyholders per report on examination as of December 31, 2001			\$16,336,085
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$2,136,827		
Change in net deferred income tax		\$132,185	
Change in nonadmitted assets	82,551		
Cumulative effect of changes in accounting principles	<u>52,367</u>	<u>0</u>	
Total gains and losses	<u>\$2,271,745</u>	<u>\$132,185</u>	
Net increase (decrease) in surplus			<u>2,139,560</u>
Surplus as regards policyholders per report on examination as of December 31, 2008			<u>\$18,475,645</u>

### D. Trusted Surplus Statement

The following statement shows the trusted surplus statement 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 state insurance department for the protection of all policyholders and creditors within the United States:			
State of New York		<u>\$1,513,781</u>	
Total general deposits			\$1,513,781
Vested in and held by the United States Trustee for the protection of all of the Branch's policyholders and creditors within the United States:			
Bonds		6,735,692	
Accrued investment income		<u>90,196</u>	
Total vested in and held by United States Trustee			<u>6,825,888</u>
Total assets			<u>\$8,339,669</u>
<u>Liabilities</u>			
Total liabilities and reserves as determined by this examination		<u>\$ 185,455</u>	
Total adjusted liabilities			\$ 185,455
Trustee surplus			<u>8,154,214</u>
Total adjusted liabilities and trusted surplus			<u>\$8,339,669</u>

#### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$179,882 is the same as reported by the Branch as of December 31, 2008. 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. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It is recommended that the board of directors specifically identify the Company or Branch for which investment transactions are being approved.	4
The Branch has complied with this recommendation.	
ii. It is further recommended that the board of directors comply with Section 1411 (a) of the New York Insurance Law and approve all investments made by the Branch.	4
The Branch has complied with this recommendation.	
B. <u>Abandoned Property Law</u>	
It is recommended the Branch comply with Section 1316 of the New York Abandoned Property Law and file the appropriate reports.	9
The Branch has complied with this recommendation.	
C. <u>Accounts and Records</u>	
i. <u>Domestic Custody Agreement</u>	
It is recommended the Branch revise custodial agreement to include the safeguards and provisions outlined in the NAIC Financial Condition Examiners' Handbook, Part 1, Section IV-H.	10
The Branch has not complied with this recommendation. A similar comment is made in this report.	

<u>ITEM</u>	<u>PAGE NO.</u>
ii. <u>Outstanding Checks</u>	
It is recommended that the Branch properly report outstanding checks as a reduction of cash in all future statements filed with this Department.	10
The Branch has complied with this recommendation.	

**6.     SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
i.     It is recommended that the Branch ensure that the engagement letter and other correspondences between the Branch and the CPA specify the proper record retention period to comply with the Department Regulations 118 and 152.	9
ii.    It is recommended that the Branch comply with Section 312(b) of the New York Insurance Law by furnishing each member of the board of director a copy of the report on examination and retaining statements from each board member that he or she has received and read such report.	10
iii.   It is recommended that the Branch's custodial agreement be amended to include the required provisions set forth in the NAIC Financial Condition Examiners' Handbook, Section 3 (III) (H).	10

Respectfully submitted,

\_\_\_\_\_  
/s/  
Qi Lin  
Senior Insurance Examiner

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

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

\_\_\_\_\_  
/s/  
Qi Lin

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Appointment No. 30284

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

I, Eric R. Dinallo, *Superintendent of Insurance of the State of New York*,  
*pursuant to the provisions of the Insurance Law, do hereby appoint:*

**Qi Lin**

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

**NISSAY DOWA GENERAL INSURANCE COMPANY, LIMITED  
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 28th day of January, 2009*



*Eric Dinallo*

ERIC R. DINALLO

*Superintendent of Insurance*