

REPORT ON EXAMINATION  
OF THE  
NEW YORK MUTUAL UNDERWRITERS  
AS OF  
DECEMBER 31, 2005

DATE OF REPORT

DECEMBER 7, 2006

EXAMINER

NYANTAKYI AKUOKO



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
ONE COMMERCE PLAZA  
ALBANY, NEW YORK 12257

Elliot Spitzer  
Governor

Eric R. Dinallo  
Acting Superintendent

December 7, 2006

Honorable Eric R. Dinallo  
Acting Superintendent of Insurance  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with instructions contained in Appointment Number 22247 dated August 10, 2004 attached hereto, I have made an examination into the condition and affairs of New York Mutual Underwriters as of December 31, 2005, and submit the following report thereon.

Wherever the designations "the Facility" or "NYMU" appear herein without qualification, they should be understood to indicate New York Mutual Underwriters.

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 NYMU's home office located at 17 British American Boulevard, Latham, New York 12110.

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of Examination	2
2.	Description of Company	2
	A. Management	3
	B. Territory and Plan of Operation	4
	C. Reinsurance	5
	D. Holding Company System	6
	E. Abandoned Property Law	6
	F. Significant Operating Ratios	7
	G. Accounts and Records	7
3.	Financial Statements	9
	A. Balance Sheet	9
	B. Underwriting and Investment Exhibit	9
4.	Losses and loss adjustment expenses	9
5.	Market Conduct Activities	9
6.	Compliance with Prior Report on Examination	10
7.	Summary of Comments and Recommendations	10

## 1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1998. This examination covered the seven-year period from January 1, 1999 through December 31, 2005, and was limited in scope to those balance sheet items considered by this Department to require analysis, verification or description, including: invested assets, inter-company balances, loss and loss adjustment expense reserves and the provision for reinsurance. Transactions occurring subsequent to this period were reviewed, where deemed appropriate by the examiner. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis.

This report on examination is confined to comments on those matters, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

## 2. DESCRIPTION OF COMPANY

New York Mutual Underwriters was organized in 1898 as the Five County Cooperative Underwriters Association. The Facility was later re-organized as the Cooperative Fire Underwriters Association of New York with the objective of issuing combination policies. The Facility's policies were issued under the name, New York Cooperative Underwriters, and consisted of two classes of policies: a general policy for all lines other than farm; and a farm policy, covering only farm property.

In 1943, the number of combination policies increased with the issuance of non-assessable policies under the name New York Mutual Underwriters, and inland marine policies under the name Mutual Marine Underwriters.

In July 1956, the New York Cooperative Underwriters discontinued issuing the combination policies. In June 1965, the Cooperative Fire Underwriters Association of New York discontinued its sponsorship of all combination policies.

The New York Mutual Underwriters and the Mutual Marine Underwriters, under separate agreement among its member companies, continued issuing separate combination policies. In 1973, the Mutual Marine Underwriters' combination policies were absorbed into the surviving New York Mutual Underwriters. On October 26, 1976, this Department approved a complete revision of the Facility's Article of Agreement, effective July 1, 1976.

Effective October 31, 1977, Commercial Mutual Insurance Company withdrew its membership from the Facility. The remaining two members (Security Mutual Insurance Company and Sterling Insurance Company) through an assumption agreement, assumed the liabilities of Commercial Mutual Insurance Company under all combination policies in effect as of October 31, 1997.

As of December 31, 2005, the member companies of the Facility were comprised of Security Mutual Insurance Company and Sterling Insurance Company.

A. Management

The management of the Facility consists of an executive committee and a general manager. The executive committee is responsible for the general supervision and control of the business of the Facility. The general manager is the chief administrative officer of the Facility responsible for the direction of all work subject to the control of the executive committee. The general manager also serves as secretary of the executive committee and maintains a record of all its proceedings.

At December 31, 2005, the individuals serving as members of the executive committee were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Stephen A. Harris Cobleskill, NY	President, Sterling Insurance Company
Thomas R. Ruane Ithaca, NY	President, Security Mutual Insurance Company

The minutes of all meetings of the Executive Committee held during the examination period were reviewed. The attendance of the members at these meetings during the examination period was adequate.

As of December 31, 2005, the General Manager of the Facility was as follows:

<u>Name</u>	<u>Title</u>
Wilfred W. Wege	General Manager

B. Territory and Plan of Operation

As of December 31, 2005, the Facility was authorized to write business in New York only.

As of the examination date, the Facility 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 ("NYIL"):

<u>Paragraph</u>	<u>Line of Business</u>
4	Fire
5	Miscellaneous property damage
6	Water damage
7	Burglary and theft
8	Glass
12	Collision

<u>Paragraph</u>	<u>Line of Business</u>
13	Personal injury liability
14	Property damage liability
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine (inland marine only)

The Facility's predominant lines of business are fire and commercial multiple peril. NYMU writes direct through independent agencies, who are either appointed by one of the member companies or both. The Facility issues only one year policies, predominantly on annual and installment premium basis.

The following schedule shows the direct premiums written by NYMU both in total and in New York for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums Written(000's)</u>
1999	\$6,082
2000	6,013
2001	6,686
2002	8,225
2003	9,495
2004	10,220
2005	10,030

### C. Reinsurance

The Facility had no assumed reinsurance premiums written as of December 31, 2005.

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

<u>Type of treaty</u>	<u>Cession</u>
Property Excess of Loss	\$800,000 excess of \$200,000 ultimate loss each risk, not exceeding \$1,6000,000
Casualty Excess of Loss	\$800,000 excess of \$200,000 ultimate net loss occurrence.

Casualty Clash	\$1,000,000 excess of \$1,000,000 ultimate net loss per occurrence.
Basket (Combined property and casualty loss-same occurrence)	\$200,000 excess of \$200,000 each common occurrence.

Since the previous examination, the NYMU's retention has increased from \$150,000 to \$200,000 on both property and casualty businesses.

D. Holding Company System

As of December 31, 2005, the Facility was not a member of any holding company system.

E. Abandoned Property Law

Section 1316 of the New York State Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed abandoned property. Such abandoned property shall be reported to the comptroller on or before the first day of April each year. Such filing is required of all insurers regardless of whether or not they have any abandoned property to report. For the seven-year examination period, the Company filed abandoned property reports to comply with the law.



F. Significant Operating Ratios

The Facility is not an insurance company. Its financial information is incorporated in the examination report of the member companies; therefore, this report does not contain operating ratios.

G. Accounts and Records

i. Financial records

The accounting records maintained by NYMU depart from conventional accounting practices; there are no account numbers assigned to general ledger accounts. The format of quarterly and annual financial reports filed with the Department does not facilitate proper verification of the Facility's financial records as well as that of the member companies. During the course of the examination, the Facility was in the process of converting to an accounting system that will facilitate proper verification of its accounting records. Nevertheless, it is recommended that NYMU prepare its financial records in a manner that will provide for proper verification of not only its financial statements, but also the financial statements of the member companies.

ii. Uncollected Premiums

The examination review of the premiums receivable records indicated that NYMU understated the non-admitted portion. An examination review of the premium receivable, using the Facility's payment plan, indicated that some premiums receivables, including those subject to annual and installment payments, were over ninety days past due. Therefore, it is recommended

that NYMU maintain an aging report of its premium receivable in order to accurately report and non-admit those premiums that are over 90 days past due.

iii. Reconciliation of general ledger

The examination review of commissions payable, contingent commissions payable and premiums receivable accounts indicated that NYMU has not been reconciling supplementary ledger reports to the general ledger. The general ledger balances of the said accounts were not adjusted to at the year end, thus accounts were either overstated or understated. It is recommended that the Facility properly reconcile supplementary ledgers to the general ledger at the end of each financial period to provide for proper accounting, proper audit trail and proper verification of its financial reports.

iv. Advance Premium

During the course of the examination, it was determined that the Facility received advance premium payments for policies that were effective subsequent to the year end. The amount received was not accounted for as advance premiums in accordance with the requirements of the NAIC Accounting Practices and Procedures Manual (“SSAP”) No. 53 paragraph 13. Therefore, it is recommended that NYMU comply with SSAP No. 53 paragraph 13 and report as advance premiums all cash receipts of premiums for policies which are effective subsequent to the date of the financial period.

v. Regulation 30

An examination review of expense allocation indicated that the allocation of salaries of employees to the major expense groups was not based on time studies or the applicable method put forth in the Department Regulation 30. During the course of the examination, the Facility conducted a two-week study of employees’ time for use in future allocation. Nevertheless, it is

recommended that the Facility comply with the Department Regulation 30 and perform time studies of its employees in a manner prescribed by the said Regulation.

### 3. FINANCIAL STATEMENTS

Note: The financial statements of NYMU are incorporated in the examination reports of the member companies; therefore, this report does not contain information on Balance Sheet or Underwriting and Investment Exhibit.

### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

Note: The financial statements of NYMU are incorporated in the examination reports of the member companies; therefore, this report does not contain information on Losses and Loss Adjustment Expenses.

### 5. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Facility 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 Company in the following areas:

- A. Sales and advertising
- B. Underwriting
- C. Rating

## D. Claims and complaint handling

No unfair practices were encountered.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained no recommendations.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Financial records</u>	7
It is recommended that NYMU maintain financial records in a manner that will provide for proper verification of its financial statements and that of the member companies.	
B. <u>Uncollected premiums</u>	7
It is recommended that NYMU maintain an aging report of its premium receivable in order to accurately report and non-admit those premiums that are over 90 days past due.	
C. <u>Reconciliation of general ledger</u>	8
It is recommended that the Facility properly reconcile supplementary ledgers to the general ledger at the end of each financial period to provide for proper accounting, proper audit trail and proper verification of its financial reports.	
D. <u>Advance Premium</u>	8
It is recommended that NYMU comply with SSAP No. 53 paragraph 13 and report as advance premiums all cash receipts of premiums for policies effective subsequent to the end of the applicable financial period.	
E. <u>Regulation 30</u>	8
It is recommended that NYMU comply with the Department Regulation 30 and perform time studies of its employees in a manner prescribed by the said Regulation.	

Respectfully submitted,

19/

Nyantakyi Akuoko  
Senior Insurance Examiner

STATE OF NEW YORK )

)SS:

)

COUNTY OF ALBANY )

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

13/

Nyantakyi Akuoko

Subscribed and sworn to before me

this 18<sup>TH</sup> day of DECEMBER, 2006.

15/

DIANNE M. BURKE  
Notary Public, State of New York  
Qualified in Albany County  
No. 01BU5076509  
Commission Expires April 21, 2007

Appointment No 22333

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, HOWARD MILLS , Acting Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

**Nyantakyi Akuoko**

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

**New York Mutual Underwriters**

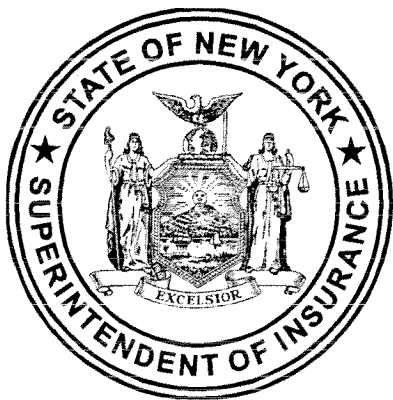
*and to make a report to me in writing of the condition of the said*

**Company**

*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 Albany,*

*this 14th day of February, 2005*



HOWARD MILLS

*Acting Superintendent of Insurance*