

REPORT ON EXAMINATION  
OF THE  
TM CASUALTY INSURANCE COMPANY  
AS OF  
DECEMBER 31, 2000

DATE OF REPORT

SEPTEMBER 6, 2002

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

George E. Pataki  
Governor

Gregory V. Serio  
Superintendent

September 6, 2002

Honorable Gregory V. Serio  
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 21786 dated September 28, 2001, attached hereto, I have made an examination into the condition and affairs of the TM Casualty Insurance Company as of December 31, 2000 and respectfully submit the following report thereon.

The examination was conducted at the Company's home office located at 101 Park Avenue, New York, New York 10178.

Wherever the designations "the Company" or "TM Casualty" appear herein without qualification, they should be understood to indicate the TM Casualty Insurance Company.

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

## 1. SCOPE OF EXAMINATION

The prior examination was conducted upon the organization as of August 5, 1999. This examination covered the period from September 23, 1999 through December 31, 2000 and was limited in its scope to a review or audit of only those balance sheet items considered by this Department to require analysis, verification or description, including: invested assets, inter-company balances, losses and loss adjustment expense reserves and the provision for reinsurance. The examination included a review of income, disbursements and Company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent public accountants. A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of Company
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Company
- Business in force by states
- Reinsurance
- Accounts and records
- Financial statements

Concurrently examined with the Company was the United States Branch of the Tokio Marine and Fire Insurance Company, Ltd. of Tokyo, Japan ("United States Branch"), the Company's immediate parent, and Trans Pacific Insurance Company, an affiliate. Separate reports on examination will be issued for those entities.

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

## 2. **DESCRIPTION OF COMPANY**

The Company was incorporated under the laws of the State of New York on August 13, 1998 and commenced business on September 23, 1999.

All of the issued and outstanding capital stock of the Company, which consists of 15,000 shares of common stock with a par value of \$100 per share, is owned by the United States Branch of the Tokio Marine and Fire Insurance Company, Ltd., entered in the State of New York and thus, an authorized insurer.

TM Casualty is one of the nine companies that comprises the Tokio Marine and Fire Insurance Group. The Company's holding company system is further described in item 2D herein.

### A. **Management**

Pursuant to the Company's charter, management of the Company is vested in a board of directors consisting of not less than thirteen nor more than twenty-one members. The exact number of directors is determined from time to time in accordance with the provisions of the Company's by-laws.

As of December 31, 2000, the members of the board of directors together with their residence and principal business affiliation were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Lisa Cavanaugh New York, NY	Senior Counsel, Tokio Marine Management, Inc.
B. Steven Goldstein New York, NY	Corporate Vice-President, Secretary and General Counsel Tokio Marine Management, Inc.
Jesse Kiefer Stewartsville, NJ	Corporate Vice-President, Tokio Marine Management, Inc.
Yoshifumi Kobayashi New York, NY	Senior Vice-President, Tokio Marine Management, Inc.
John Larisey Thousand Oaks, CA	Vice-President, Tokio Marine Management, Inc.
Toshio Nakamura New York, NY	Senior Vice-President, Tokio Marine Management, Inc.
Morio Ishii New York, NY	Chairman, President & Chief Executive Officer, Tokio Marine Management, Inc.
D. Michael Polizzi Middletown, NJ	Corporate Vice-President, Tokio Marine Management, Inc.
Harvey Sherman Glen Oaks, NY	Senior Vice-President and Chief Actuary, Tokio Marine Management, Inc.
Hirotsugu Umeki New York, NY	Senior Vice-President, Tokio Marine Management, Inc.
Shin-ichi Asami San Gabriel, CA	Executive Vice-President, Tokio Marine Management, Inc.
Wayne Sparks Ridgewood, NJ	Senior Vice-President, Controller and Treasurer, Tokio Marine Management, Inc.
Nobuki Tamesue	Assistant to Chief Executive Officer,

The minutes of all meetings of the stockholders held during the period were reviewed. The Company's charter and by-laws provide that the Company shall hold an annual meeting of the shareholders to elect directors, who shall serve as directors until the next annual meeting and until their successors are elected and qualified. Section 602(b) of the New York Business Corporation Law also requires that a meeting of shareholders be held annually for the election of directors.

A review of the minutes of the meetings of the board of directors for the examination period covered by this examination indicated that the board held one annual board meeting. The board of directors adopted five written consents in lieu of regular meetings.

As of December 31, 2000, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Morio Ishii	President
B. Steven Goldstein	Secretary
Wayne Francis Sparks	Treasurer

(i) Management Agreement

The management agreement between the Company and Tokio Marine Management, Inc. (“TMM”), an affiliate of the Company, has been in effect since August 13, 1998. Under this agreement, the Company has appointed Tokio Marine Management as its manager for the transaction of the business of insurance on the behalf of the Company, inclusive of underwriting, claims handling and other related functions. In accordance with the agreement, the manager also agrees to comply with guidelines and instructions established by the Company’s board of directors. In addition, the agreement states that the Company is the ultimate owner of all accounts and has the veto power over all decisions made by TMM.

The agreement also generally provides that the manager shall deliver a monthly account current setting forth the totals of all transactions undertaken on behalf of the Company. The agreement may be varied by an exchange of letters signed by the respective parties, and may be terminated with at least sixty days written notice to the other party or by mutual agreement.

(ii) Conflict of Interest Questionnaires

The Company’s conflict of interest questionnaires for the examination period were reviewed. It was noted that new officers and directors did not complete the conflict of interest questionnaires in the year in which they were appointed.

Subsequent to the examination period the Company initiated procedures wherein all new officers and directors completed conflict of interest questionnaires upon their appointment. No conflicts of interest were noted.

B. Territory and Plan of Operation

The Company is authorized to transact business in New York and New Jersey.

As of December 31, 2000, the Company was authorized to transact the kinds of insurance as defined in the following numbered paragraph of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Kind of Insurance</u>
15	Workers' compensation and Employers' liability

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 TM Casualty Insurance Company, is required to maintain a minimum surplus to policyholders in the amount \$600,000. However, based upon its current capital structure, the Company is required to maintain a minimum surplus to policyholders of \$1,500,000.

As of December 31, 2000, the Company had not written any insurance policies. However, during the year 2001 the Company wrote \$188,888, in direct premiums.

C. Reinsurance

The Schedule F data as contained in the Company's annual statements filed for the years within the examination period were found to accurately reflect its reinsurance transactions.

The examiner reviewed all ceded reinsurance contracts effected during the examination period. All of these contracts contained the required standard clauses, including insolvency clauses meeting the requirements of Section 1308 of the New York Insurance Law.

As of the examination date, the Company was reinsured by its authorized parent, the United States Branch of the Tokio Marine and Fire Insurance Company, Ltd., of Tokyo, Japan (“U.S. Branch”) under the following quota share agreement and working excess of loss treaty for its workers’ compensation business:

Type of Contract

Limits and Retention

Quota Share

100% Authorized

95% quota share of the net liability under policies, contracts and binders of insurance of reinsurance.

In addition to the above, the Company had the following excess of loss treaties which cover both the Company and its parent, the U.S. Branch:

Type of Contract

Limits and Retention

First Excess of Loss Casualty

100% unauthorized

\$3,000,000 excess of \$3,000,000 ultimate net loss each loss occurrence, claims made or losses discovered, subject to a maximum annual aggregate of \$12,000,000. This treaty also provides coverage for losses occurring, claims made or losses discovered during the period 12/31/85 to 12/31/88. For the period ended 12/31/85 to 12/31/87: \$2,850,000 excess of \$2,000,000. For the period ended 12/31/87 to 12/31/88: \$3,000,000 excess of \$2,000,000.

For all periods as respect to Workers’ Compensation: \$1,000,000 excess of \$5,000,000.

Second Excess of Loss Casualty  
100% unauthorized

\$6,000,000 excess of \$6,000,000 ultimate net loss each loss occurrence, claims made or loss discovered, subject to a maximum annual aggregate of \$24,000,000.  
This treaty also provides coverage for losses occurring, claims made or losses discovered during the period 12/31/85 to 12/31/88.  
For the period ended 12/31/85 to 12/31/86: \$7,000,000 excess of \$5,000,000.  
For the period ended 12/31/86 to 12/31/87: \$6,650,000 excess of \$5,000,000.  
For the period ended 12/31/87 to 12/31/88: \$7,000,000 excess of \$5,000,000.

Third Excess of Loss Casualty  
100% unauthorized

\$18,000,000 excess of \$12,000,000 ultimate net loss each loss occurrence, claims made or loss discovered.

This treaty also provides coverage for losses occurring, claims made or losses discovered during the period 12/31/85 to 12/31/88.  
For the period ended 12/31/85 to 12/31/87: \$8,000,000 excess of \$12,000,000.  
For the period ended 12/31/87 to 12/31/88: \$10,000,000 excess of \$12,000,000.

D. Holding Company System

All of the issued and outstanding voting stock of the Company, which consists of 15,000 shares of common stock at \$100 par value per share, is held by the United States Branch of the Tokio Marine and Fire Insurance Company, Ltd., of Tokyo, Japan, an authorized insurer.

TM Casualty is a member of the Tokio Marine and Fire Insurance Group of companies in the United States which consist of, in addition to the Company, the following entities:

Company

Domiciled

<p>The United States Branch of the Tokio Marine and Fire Insurance Company, Ltd., Tokyo, Japan, the Company's parent, and the following subsidiaries of the parent company: Tokio Marine Management, Inc., the United States Manager of the Branch, which in turn, owns TM Claims Service, Inc., AXIA Services Inc.</p>	<p>New York</p>
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and Morita & Co., Inc.  
Trans Pacific Insurance Company  
TM Specialty Insurance Company  
TM Casualty Insurance Company  
Tokio Re Corporation

New York  
Arizona  
New York  
New York

The Department has determined that the United States Branch is exempt from the provisions of Article 15 of the New York Insurance Law. The Company is thus exempt from the requirements imposed upon holding companies pursuant to Section 1502(a)(1) of the New York Insurance Law, since it is a member of the United States Branch holding company system.

E. Accounts and Records

A review of the Company's authorized check signing lists revealed that employees no longer working for TM Casualty still had authority to sign checks. TM Casualty's guidelines require that the check issuance log be retained separately from the blank check stock. The examiners determined that one employee operated the check printing and check signing machines and had access to both the check issuance control log and the blank check stock.

Subsequent to the examination, TM Casualty instituted procedures wherein banks are notified when an employee's check signing authority is revoked. In addition, procedures have been implemented to establish segregation of functions so that the person who operates the check signing and printing machine does not have access to the check issuance control log.

F. Custodial Agreements

The Company's custodial agreements were reviewed and found to lack certain provisions which are deemed by this Department to provide the necessary safeguards and to be representative of good business practices for the content of such agreements. The custodial agreement should provide necessary

safeguards and controls. The protective covenants and provisions referred to are listed below:

1. The bank shall have in force, for its own protection, Bankers' Blanket Bond Insurance of the broadest form available for commercial banks, and will continue to maintain such insurance. There will be 60 days written notice of any material change in the form or amount of such insurance, or termination of this coverage.
2. The bank shall at all times give the securities held hereunder the same care given to its own property of a similar nature.
3. The bank will provide the insurer (at least quarterly) with a list of such securities showing a complete description of each issue, which shall include the number of shares or par value of bonds so held at the end of such quarter.
4. The bank will maintain records sufficient to verify information that the insurer is required to report in Schedule D of the Annual Statement blank of the Insurance Department of the State of New York.
5. The bank will furnish the insurers with appropriate affidavits in the form as may be acceptable to the New York Insurance Department in order for the securities referred to in such affidavits to be recognized as admitted assets of the Company.
6. Access shall be during regular banking hours and specifying those persons who shall be entitled to examine on your premises securities held by you on your premises and your records regarding securities held, but only upon furnishing you with written instructions to that effect from any specified authorized officer.
7. There should be a provision in the agreement what would give the insurer the opportunity to secure the most recent report on the review of the custodian's system of internal controls, pertaining to the custodian record keeping, issued by internal or independent auditors.

It is recommended that the agreements between the insurer and the custodian should contain the protective covenants and provisions deemed by this Department to be representative of good business practices for the contents of such agreements.

G. Significant Operating Ratios

The following ratios have been computed as of December 31, 2000, based upon the results of this examination:

*Net premiums written in 2000 to surplus as regards policyholders	N/A
Liabilities to liquid assets (cash and invested assets less investment in affiliates)	4.54%
*Premiums in course of collection to surplus as regards policyholders	N/A

\*The Company did not write any business as of December 31, 2000, thus, these ratios were not applicable.

The above ratios fall within the benchmark ranges as set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

#### H. Abandoned Property Law

Section 1316 of the New York Abandoned Property Law requires insurance companies to report to the Office of the State Comptroller annually on or before April 1, any property that is deemed abandoned and has been unclaimed for a three-year period. This filing is required by all companies regardless of whether they have any abandoned property to report.

It was noted that the Company filed an abandoned property report with the Office of the State Comptroller as required by Section 1316 of the New York Abandoned Property Law for all of the years under examination.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of December 31, 2000. This statement is the same as the balance sheet filed by the Company:

<u>Assets</u>	Ledger <u>Assets</u>	Non-ledger <u>Assets</u>	Not Admitted <u>Assets</u>	Admitted <u>Assets</u>
Bonds	\$ 1,974,597	\$	\$	\$ 1,974,597
Cash & Short-term investments	310,387			310,387
Federal income tax recoverable		38,913		38,913
Interest, dividends and real estate income due and accrued	_____	38,314	_____	38,314
Total assets	<u>\$ 2,284,984</u>	<u>\$ 77,227</u>	<u>\$ 0</u>	<u>\$ 2,362,211</u>

Liabilities

Other expenses		\$ 5,668
Payable to parent, subsidiaries and affiliates		<u>101,461</u>
Total liabilities		\$ 107,129

Surplus

Capital stock	\$ 1,500,000	
Gross paid in and contributed surplus	750,000	
Unassigned funds (surplus)	<u>5,082</u>	
Surplus as regards policyholders		<u>2,255,082</u>
Total liabilities and surplus		<u>\$ 2,362,211</u>

NOTE: The Company has not been audited by the Internal Revenue Service. The examiner is unaware of any potential exposure of the Company of any tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$ 5,082 during the examination period, detailed as follows:

Statement of Income

Underwriting Income

Premiums earned

Deductions:

Losses incurred

Loss adjustment expenses incurred

Other underwriting expenses incurred \$ 130,731

Total underwriting deductions \$ 130,731

Net underwriting loss \$ (130,731)

Investment Income

Net investment income earned \$ 172,443

Net investment gains 172,443

Net income before federal and foreign  
income taxes \$ 41,612

Federal and foreign income taxes incurred 87

Net income \$ 41,525

Capital and Surplus Account

Surplus as regards policyholders per report on organization as of August 15, 1999			\$ 2,213,557
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$41,525	\$	
Unrealized capital gains			
Change in not admitted assets			
Change in provision for reinsurance			
Change in excess of statutory reserve over statement reserve	_____	_____	
Net increase in surplus as regards policyholders	<u>\$41,525</u>	<u>\$-0-</u>	<u>41,525</u>
Surplus as regards policyholders, per report on examination as of December 31, 2000			<u>\$ 2,255,082</u>

**4. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

There were no recommendations in the prior report on organization.

**5. SUMMARY COMMENTS AND RECOMMENDATIONS**

ITEM

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A. Custodial Agreements

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It is recommended that the agreements between the insurer and the custodian should contain the protective covenants and provisions deemed by this Department to be representative of good business practices for the contents of such agreements.





Appointment No. 21786

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Isaac Zamdas**

as proper person to examine into the affairs of the

**TM CASUALTY INSURANCE COMPANY**

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

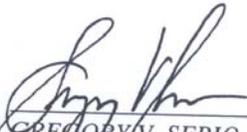
**Company**

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 New York,

this 28th day of September, 2001



  
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GREGORY V. SERIO  
Superintendent of Insurance