

REPORT ON EXAMINATION

OF

NEW YORK MUNICIPAL INSURANCE RECIPROCAL

AS OF

DECEMBER 31, 2015

DATE OF REPORT

JUNE 16, 2017

EXAMINER

TEENA JOSEPH

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## Department of Financial Services

ANDREW M. CUOMO  
Governor

LINDA A. LACEWELL  
Acting Superintendent

February 26, 2019

Honorable Linda A. Lacewell  
Acting Superintendent  
New York State Department of Financial Services  
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 31543 dated October 27, 2016, attached hereto, I have made an examination into the condition and affairs of New York Municipal Insurance Reciprocal as of December 31, 2015, and submit the following report thereon.

Wherever the designations “the Reciprocal” or “NYMIR” appear herein without qualification, they should be understood to indicate New York Municipal Insurance Reciprocal.

Wherever the designations “WRM” or “the Manager” appear herein without qualification, they should be understood to refer to Wright Risk Management Company, Inc., Manager for the New York Municipal Insurance Reciprocal.

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 offices of Brown and Brown Inc., the Company that acquired the Reciprocal’s manager (WRM), located at 333 Earle Ovington Boulevard, Uniondale, New York 11553.

## 1. SCOPE OF EXAMINATION

The Department has performed a single state examination of New York Municipal Insurance Reciprocal. The previous examination was conducted as of December 31, 2011. This examination covered the four-year period from January 1, 2012 through December 31, 2015. 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 current and prospective risks of the Reciprocal by obtaining information about the Reciprocal including corporate governance, identifying and assessing inherent risks within the Reciprocal 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 when applicable to domestic state regulations.

All financially significant accounts and activities of the Reciprocal were considered in accordance with the risk-focused examination process. This examination also included a review and evaluation of the Reciprocal’s internal control environment. The examiners also relied upon audit work performed by the Reciprocal’s independent public accountants where deemed appropriate.

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

- Reciprocal history
- Management and control
- Territory and plan of operation
- Reinsurance
- Loss review and analysis
- Financial statement presentation
- Summary of recommendations

A review was also made to ascertain what action was taken by the Reciprocal 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 RECIPROCAL

The New York Municipal Insurance Reciprocal is a reciprocal insurer, as defined in Section 107(a)(37) of the New York Insurance Law, and was organized pursuant to the provisions of Article 61 of the New York Insurance Law. As promulgated by Section 6102(b) of the New York Insurance Law, the Superintendent approved the declaration creating a municipal reciprocal on August 31, 1993. The Reciprocal was licensed on August 31, 1993 and commenced business on September 1, 1993.

NYMIR is comprised of a group of insureds referred to as “subscribers,” who agree to insure each other’s risk. The Reciprocal was organized to provide a market source for property and casualty insurance for New York State counties, towns, villages, cities, or district corporations organized and existing under the finance law of the State of New York. The Reciprocal’s policyholders engage in the business of inter-insurance on the reciprocal plan, through an attorney-in-fact. The policyholders share proportionately in all losses, expenses, and profits of the Reciprocal, based on the percentage that their premium represents to the total written premiums of the Reciprocal. The New York State Local Government Services Foundation, Inc. serves as the attorney-in-fact for NYMIR. The New York State Local Government Services Foundation, Inc. (“NYSLGF”) retained Wright Risk Management Company, LLC (“WRM”) as Manager through a management agreement. In 2014, Brown and Brown, Inc. a Florida based national insurance broker, acquired WRM. NYMIR is owned and operated by its member municipalities and is exempt from federal and state income taxes pursuant to Section 115 of the Internal Revenue Code.

Effective January 1, 2009, pursuant to Section 6109(a)(3) of the New York Insurance Law and a plan approved by the board of governors, the Reciprocal changed its method of accumulating its subscriber’s operating reserve. The new method of accumulating the operating reserve required new members to contribute 10% of premium as their initial capitalization payable over the first five-years of membership. Previously, members were required to contribute 40% of premium as their initial capitalization. This plan was initially approved by the Department for a three-year period from 2009 through 2011. In December 2012, the Department approved to extend this plan for a fourth year to allow the board of governors to complete the return of paid-in capital to the Reciprocal’s long-term subscribers.

In February 2013, the Department approved the Reciprocal's request to return to subscribers, over a two-year period (2013 – 2014), the interest accumulated on the paid-in capital accounts, which the Reciprocal had returned to members during the previous four years (2009 – 2012).

In accordance with Section 6102(b)(12) of the New York Insurance Law, NYMIR has selected not to be subject to coverage by the Property/Casualty Insurance Security Fund under Article 76 of the New York Insurance Law. Accordingly, NYMIR issues assessable policies, which provide unlimited contingent several liability for assessment of its subscribers. No assessments have been made since inception.

A. Corporate Governance

Pursuant to the declaration executed by the Superintendent, and Section 6102 of the New York Insurance Law, a board of governors was elected to act on behalf of the subscribers with powers to supervise and control the attorney-in-fact and to control investment of the Reciprocal's assets, along with such powers as may be conferred by the by-laws and the Subscribers' Agreement. The by-laws and Subscribers' Agreement specify that the board of governors shall not be fewer than nine members. The board meets four times during each calendar year. At December 31, 2015, the board of governors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Mitchell Mark Alger Belmont, NY	County Administrator, Allegany County
Donald Lee Barber Jr. Caroline, NY	Supervisor, Town of Caroline
William E. Cherry Cobleskill, NY	County Treasurer, Schoharie County
Gerard Casimir Decusatis Amsterdam, NY	Corporation Counsel, City of Amsterdam
Daniel Depew Wallkill, NY	Supervisor, Town of Wallkill
Patricia Dwyer Pleasantville, NY	Village Administrator, Village of Pleasantville
Sandra Lynn Frankel Brighton, NY	Inter-municipal Cooperation Official, Town of Brighton

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John Russell LaPointe Putnam, NY	Supervisor, Town of Putnam
Dominic Francis Mazza Avon, NY	Livingston County Traffic Safety Board, Livingston County
Margaret Miller Hamilton, NY	Zoning Board of Appeals, Village of Hamilton
Michael Quill Auburn, NY	Mayor, City of Auburn
Jon Raymond Stead Johnstown, NY	Administrative Officer, Fulton County
Timothy Patrick Whitesell Binghamton, NY	Supervisor, Town of Binghamton

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

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

<u>Name</u>	<u>Title</u>
Patricia Dwyer	President
Gerard C. Decusatis	Secretary
Timothy P. Whitesell	Treasurer
William E. Cherry	Vice President

#### Conflict of Interest Policy

The Reciprocal has a conflict of interest policy in place for its governors and key employees. However, the board of governors did not complete nor sign conflict of interest statements for three out of the four years under examination. An effective conflict of interest policy is important to provide a safeguard for the activities and the assets of the Reciprocal by requiring individuals to disclose any interest in outside activities where a conflict or perceived conflict may arise.

It is recommended that the Reciprocal implement the necessary procedures to ensure that all board members and key employees sign and complete conflict of interest statements on an annual basis and retain such statements in its files.

It is further recommended that the completed and signed conflict of interest statements be provided to the Reciprocal's board of governors during its meetings, and that the review of such statements be reflected in the meeting minutes.

### By-Laws

NYMIR amended article VI, section 3 of its by-laws with regards to the voting rule without the approval of the Department.

It is recommended that the Reciprocal ensure that all changes to the by-laws be approved by the Department before it becomes effective.

Article XI, section 2 of the by-laws, requires the code of conduct and conflict of interest policy be reviewed by the board of governors annually. However, the review of the code of conduct and conflict of interest policy shows that the board of governors completed a review only in the years 2012 and 2015.

It is recommended that the board of governors review the conflict of interest policy on an annual basis, as required by the Reciprocal's by-laws, and document the review in its board's minutes.

### Non-compliance with Section 312 of the New York Insurance Law

Section 312 of the New York Insurance Law states, in part:

“The superintendent shall forward to every insurer or other person examined a copy of the report on examination...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 Reciprocal was unable to provide any signed statements by its board of governors confirming that the board members have received and read the prior report on examination.

It is recommended that the Reciprocal comply with Section 312 of the New York Insurance Law and require each board member to sign a statement that he/she has received and read the prior report on examination.



### Attorney-In-Fact Agreement

Pursuant to an agreement dated January 1, 2011, the Reciprocal appointed NYSLGF, a New York not-for-profit corporation, as its Attorney-In-Fact. The agreement replaces a similar agreement with NYSLGF, which was executed in March 1995. Pursuant to the amended Attorney-In-Fact Agreement, NYSLGF shall assist and coordinate with WRM in the marketing of the Reciprocal to New York's general purpose local governments, for which it will receive annual compensation of 2.25% of gross written premium; such fee cover, among other costs, the compensation, benefits and related expenses for the services of the Executive Director.

### Management Agreement

Effective July 1, 2013, WRM renewed its 2009 management agreement with NYSLGF until December 31, 2018 whereby WRM agreed to assist NYSLGF in the administration of the Reciprocal, and those activities and operations reserved to the board of governors pursuant to the Subscriber's Agreement and the New York Insurance Laws or Regulations. Pursuant to the terms of the agreement, WRM agrees to provide the following services: bill and collect, for and on behalf of NYMIR, and in the name of the attorney-in-fact, adjust, compromise, and settle all claims and losses under the insurance policies; risk management services; and marketing services. Under the agreement, the fee paid to WRM in any calendar year shall not exceed 18% or be less than 12% of the preceding year-end gross written premium.

### B. Territory and Plan of Operation

The Reciprocal was licensed to write business only in New York State pursuant to Article 61 of the New York Insurance Law, and 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
13	Personal injury liability
14	Property damage liability
16(A)	Fidelity and surety

19	Motor vehicle and aircraft physical damage
20	Marine and inland marine (inland only)
29	Legal services

The Reciprocal is also licensed to do business of special risk insurance pursuant to Article 63 of the New York Insurance Law. Based on the lines of business for which the Reciprocal is licensed and pursuant to the requirements of Articles 13 and 61 of the New York Insurance Law, the Reciprocal is required to maintain a minimum surplus to policyholders in the amount of \$2,700,000.

The Reciprocal provides property and liability insurance coverages to its member municipalities (cities, counties, towns and villages and other local public agencies). The Reciprocal's policies are written on an occurrence basis, with the exception of public officials' liability, which is written on a claims-made basis. Nearly all of the Reciprocal's business is produced either directly or through a network of brokers and/or producers who are compensated with a fee rather than a percentage commission.

The following schedule shows the direct premiums written by the Reciprocal for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>
2012	\$44,647,947
2013	\$51,587,449
2014	\$57,304,025
2015	\$63,823,885

C. Reinsurance

Assumed

As of December 31, 2015, the Reciprocal did not assume any reinsurance business.

Ceded

The Reciprocal has structured its ceded reinsurance program as follows:

Type of CoverageCessionPropertyProperty Excess of Loss Reinsurance

3 layers

100% Placed

100% Authorized

\$200,000,000 excess of \$0 per occurrence for all perils,  
\$250,000 deductible per occurrence.

Property Facultative Excess of LossReinsurance

100% Placed

50% Authorized

\$70,000,000 excess of \$200,000,000 per occurrence limit,  
subject to annual aggregate retention of \$2,000,000 on all  
loss occurrences in excess of an initial deductible of  
\$500,000 per occurrence for all perils in the county of  
Westchester, New York.

CasualtyCasualty Excess of Loss Reinsurance

100% Authorized

Section A

\$400,000 excess of \$600,000 net loss for each and every  
loss per occurrence. Additionally, the reinsurer shall not  
be liable for the first \$500,000 recoverable under the  
contract.

Section B – Clash Coverage

\$1,000,000 excess of \$1,000,000 net loss for each and  
every major loss. Additionally, the reinsurer shall not be  
liable for more than \$1,000,000 per contract year.

Section C – Terrorism Coverage

\$400,000 excess of \$600,000 net loss for each and every  
loss occurrence that is a Certified Acts of Terrorism; with  
an aggregate limit of \$1,000,000 in the aggregate for all  
losses due to Certified Acts of Terrorism per contract year.

Section D – Crime Coverage

\$600,000 excess of \$400,000 net loss each and every loss  
occurrence; with a limit of \$1,400,000 net loss each and  
every loss per subscriber per occurrence.

Section E – Cyber Coverage

\$400,000 excess of \$600,000 net loss each and every loss  
occurrence; with an aggregate limit of \$3,000,000 per  
contract year.

Catastrophe Liability Excess of Loss

100% Authorized

Limit of \$16,000,000 net loss each occurrence in excess  
of \$1,000,000 and/or any applicable underlying insurance  
with respect to each excess catastrophe liability policy  
written, subject to a \$32,000,000 policy general aggregate  
net loss.

Type of CoverageCessionBoiler and MachineryEquipment Breakdown (Boiler and Machinery) Excess of Loss Reinsurance

Limit of \$35,000,000 net loss for any one accident, any one policy excess of \$100,000.

100% Authorized

Since the last report on examination, the Reciprocal changed its reinsurance program as follows: it increased the annual aggregate retention from \$1,000,000 to \$2,000,000 for its property facultative excess of loss treaty; it added one new coverage, cyber insurance coverage, to its casualty excess of loss treaty; and it increased the limit on the excess layer from \$30,000,000 to \$35,000,000 in its equipment breakdown excess of loss treaty.

All significant ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

It is the Reciprocal's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. The examiner did not review these letters of credit for compliance with Department Regulation No. 133 since the amounts held under these letters of credit were not material.

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 Reciprocal's Chief Executive Officer and Chief Financial Officer pursuant to the NAIC Annual Statement Instructions. Additionally, the examination review indicated that the Reciprocal was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in SSAP No. 62R.

#### D. Significant Ratios

The Reciprocal'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.

<u>Operating Ratios</u>	<u>Result</u>
Net premiums written to surplus as regards policyholders	88%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	65%
Two-year overall operating	99%

### Underwriting Ratios

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

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$105,739,325	67.01%
Other underwriting expenses incurred	52,434,744	33.23
Net underwriting loss	<u>384,202)</u>	<u>(0.24)</u>
Premiums earned	<u>\$157,789,867</u>	<u>100.00%</u>

The Reciprocal's reported risk based capital score ("RBC") was 556% at 12/31/15. 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.

## E. Accounts and Records

### 1. Audit Committee

Pursuant to Part 89.2(c) of Department Regulation 118, the Reciprocal designated an audit committee. The finance committee acts as the audit committee. The audit committee members have changed since the last examination. The Reciprocal did not notify the Department of the change in the membership of the committee within the timeframe required by Part 89.12(e) of Department Regulation 118, which states:

"The Company shall submit written notification to the superintendent of the selection of its audit committee within 30 days of the effective date of this Part and within 30 days of any change in membership of the audit committee. The notice shall include a description of the reason for the change."

It is recommended that the Reciprocal provide written notification to the superintendent within 30 days of any change in audit committee membership pursuant to Part 89.12(e) of Department Regulation 118.

2. CPA Engagement Letter

The Reciprocal's CPA engagement letter did not comply with the required provision of Part 89.11 of Department Regulation with regards to the retention of the CPA workpapers, which states:

“Every company shall require that the CPA retain the audit work papers and communications for six calendar years from the date of the audit report or until the filing of the report on examination covering the period of the audit, whichever is longer as required by Part 243 of this Title (Regulation 152).”

It is recommended that the Reciprocal require its CPA firm to amend the engagement letter to comply with Section 89.11 of Department Regulation 118. Subsequent to the examination date, and prior to the completion of the examination field work, the engagement letter for the 2016 audit was amended to comply with Section 89.11 of Regulation 118.

3. Custodian Agreement

The Reciprocal answered affirmatively to question No. 28 of the general interrogatory of the annual statement regarding the Custodial or Safekeeping agreement's provisions of the NAIC Financial Examiners Handbook. However, the Reciprocal's custodial agreement did not contain all the protective covenants set forth in the NAIC Financial Examiners Handbook.

It is recommended that the Reciprocal amend its custodial agreement to incorporate all the protective covenants stated in the NAIC Financial Examiners Handbook. Subsequent to the examination date, and prior to the completion of examination field work, the Reciprocal complied with this recommendation.

4. Non-compliance with Section 1411(a) of the New York Insurance Law

Section 1411(a) of the New York Insurance Law states:

“No domestic insurer shall make any loan or investment...unless authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investment or loan. The committee's minutes shall be recorded and a report submitted to the board of directors at its next meeting.”

A review of the board of governors' meetings indicated that the Reciprocal's investments were discussed; however, there is no indication that the board of governors were provided with a listing of the Reciprocal's investment transactions for review and approval.

It is recommended that the Reciprocal provide the members of the board of governors, or a committee thereof, with a listing of the Reciprocal's investment transactions and have the minutes reflect that the members have reviewed and approved the Reciprocal's investment transactions pursuant to Section 1411(a) of the New York Insurance Law. Additionally, a copy of the listing of the Reciprocal's investment transactions should be included as an addendum to the minutes of the meetings.

5. Contract with Hannon & Associates

The Reciprocal contracts with Hannon & Associates for investigation of cases involving suspected fraud activity. Hannon & Associates is responsible for reporting fraudulent insurance acts to the Department's Insurance Frauds Bureau on behalf of the Reciprocal. The Reciprocal does not have a written contract with Hannon & Associates to ensure that all the terms of the Reciprocal's agreement are documented.

It is recommended that the Reciprocal put in place a written contract with Hannon & Associates, which documents the terms and conditions of the agreement, fees for the services as well as the services provided. The contract should also include the procedure to report fraudulent insurance acts to the Department's Criminal Investigations Unit pursuant to Part 86.5 of Department Regulation 95.

6. Approval of Reinsurance Program

The board of governors or its committee thereof did not approve the Reciprocal's reinsurance program.

It is recommended, as a best control practice, that the board of governors approve the reinsurance program and document the approval in the board of governors' meeting minutes.

7. Authorization Status of Reinsurers

The Reciprocal reported Ironshore Specialty Insurance Company as an authorized reinsurer in its Schedule F – Part 3 of the 2015 annual statement. However, it is an unauthorized reinsurer.

It is recommended that the Reciprocal exercise greater care in the preparation of Schedule F – Part 3 of the annual statement by ensuring that the reinsurers are accurately categorized as authorized, unauthorized or certified.



### 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 Reciprocal:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$102,363,337	\$ 0	\$102,363,337
Common stocks (stocks)	25,238,374		25,238,374
Cash, cash equivalents and short-term investments	1,647,904		1,647,904
Investment income due and accrued	371,188		371,188
Uncollected premiums and agents' balances in the course of collection	7,063,059		7,063,059
Amounts recoverable from reinsurers	2,996,105		2,996,105
Fees	12,834		12,834
Recoverables	<u>96,551</u>	<u>0</u>	<u>96,551</u>
Total assets	<u>\$139,789,352</u>	<u>\$ 0</u>	<u>\$139,789,352</u>

#### Liabilities, Surplus and Other Funds

##### Liabilities

Losses and loss adjustment expenses	\$ 67,338,593
Other expenses (excluding taxes, licenses and fees)	763,964
Unearned premiums	17,038,242
Ceded reinsurance premiums payable (net of ceding commissions)	(1,198,959)
Remittances and items not allocated	3,099
Subscriber operating reserve	100,000
Losses payable	<u>80,821</u>
Total liabilities	\$ 84,125,760

##### Surplus and Other Funds

Gross paid in and contributed surplus	\$ 4,714,078
Unassigned funds (surplus)	<u>50,949,514</u>
Surplus as regards policyholders	\$ <u>55,663,592</u>
Total liabilities, surplus and other funds	<u>\$139,789,352</u>

Note: The Reciprocal is exempt from federal, state and local income taxes.

B. Statement of Income

The net income for the examination period as reported by the Reciprocal was \$6,821,607 as detailed below:

Underwriting Income

Premiums earned		\$157,789,867
Deductions:		
Losses and loss adjustment expenses incurred	\$105,739,325	
Other underwriting expenses incurred	<u>52,434,744</u>	
Total underwriting deductions		<u>158,174,069</u>
Net underwriting gain or (loss)		\$ (384,202)

Investment Income

Net investment income earned	\$ 6,218,069	
Net realized capital gain	<u>1,170,460</u>	
Net investment gain or (loss)		7,388,529

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ 100	
Aggregate write-ins for miscellaneous income	<u>(182,820)</u>	
Total other income or (loss)		<u>(182,720)</u>
Net income		\$ <u>6,821,607</u>

C. Capital and Surplus

Surplus as regards policyholders increased \$1,802,052 during the four-year examination period January 1, 2012 through December 31, 2015 as reported by the Reciprocal, detailed as follows:

Surplus as regards policyholders per Reciprocal as of December 31, 2011			\$53,861,540
	<u>Gain in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$6,821,607	\$ 0	
Net unrealized capital gains or (losses)		428,965	
Change in provision for reinsurance	116,254		
Surplus adjustments paid in Capitalization interest returned	<u>0</u>	<u>3,141,962</u>	
Total gains and losses	\$6,937,861	\$5,135,809	
Net increase (decrease) in surplus			<u>1,802,052</u>
Surplus as regards policyholders per Reciprocal as of December 31, 2015			<u>\$55,663,592</u>

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

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$67,338,593 is the same as reported by the Reciprocal 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.

## 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. <u>Conflict of Interest</u>	
It was recommended that the Reciprocal put the necessary procedures in place to ensure that all of its board members and key employees sign completed conflict of interest statements on an annual basis and retain such statements in its files.	6
The Reciprocal has not complied with this recommendation. A similar recommendation is made in this report.	
ii. It was recommended that the completed and signed conflict of interest statements be provided to the Reciprocal's board of governors, and that the review of such statements be acknowledged in the minutes to the board of governors' meetings.	6
The Reciprocal has not complied with this recommendation. A similar recommendation is made in this report.	
B. <u>Accounts and Records</u>	
i. <u>Section 307(b) and Regulation 118 Part 89.8</u>	
It was recommended that the Reciprocal require its CPA firm to amend the engagement letter to acknowledge the notification requirements of Section 307(b)(1) of the New York Insurance Law and Part 89.8 of Department Regulation 118.	12
The Reciprocal has complied with this recommendation.	
ii. <u>Department Regulation 118 Part 89.12</u>	
It was recommended that the Reciprocal provide written notification to the superintendent of its selection of an audit committee and any subsequent changes thereto pursuant to the provisions of Part 89.12(e) of Department Regulation 118.	13
The Reciprocal has not complied with this recommendation. A similar recommendation is made in this report.	

C. Risk Management and Internal Controls

Password Policy

It was recommended that the Manager develop an automated password change system, which would prompt users to change their password at least quarterly, prevent passwords from being reused, and enable the employees to change their passwords themselves, rather than through the IT Manager. 13

The Reciprocal has complied with this recommendation.

## 6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Corporate Governance</u>	
i. It is recommended that the Reciprocal implement the necessary procedures to ensure that all board members and key employees sign and complete conflict of interest statements on an annual basis and retain such statements in its files.	6
ii. It is further recommended that the completed and signed conflict of interest statements be provided to the Reciprocal's board of governors during its meetings, and that the review of such statements be reflected in the meeting minutes.	6
iii. It is recommended that the Reciprocal ensure that all changes to the by-laws be approved by the Department before it becomes effective.	6
iv. It is recommended that the board of governors review the conflict of interest policy on an annual basis, as required by the Reciprocal's by-laws, and document the review in its board's minutes.	6
v. It is recommended that the Reciprocal comply with Section 312 of the NYIL and require each board member to sign a statement that he/she has received and read the prior report on examination.	6
B. <u>Accounts and Records</u>	
i. It is recommended that the Reciprocal provide written notification to the superintendent within 30 days of any change in audit committee membership pursuant to Part 89.12(e) of Department Regulation 118.	12
ii. It is recommended that the Reciprocal require its CPA firm to amend the engagement letter to comply with Section 89.11 of Department Regulation 118. Subsequent to the examination date, and prior to the completion of examination field work, the engagement letter for the 2016 audit was amended to comply with Section 89.11 of Regulation 118.	12
iii. It is recommended that the Reciprocal amend its custodial agreement to incorporate all of the protective covenants stated in the NAIC Financial Examiners Handbook. Subsequent to the examination date, and prior to the completion of examination field work, the Reciprocal complied with this recommendation.	12
iv. It is recommended that the Reciprocal provide the members of the board of governors, or a committee thereof, with a listing of the Reciprocal's investment transactions and have the minutes reflect that the members have reviewed and approved the Reciprocal's investments pursuant to	13

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Section 1411(a) of the New York Insurance Law. Additionally, a copy of the listing of the Reciprocal's investment transactions should be included as an addendum to the minutes of the meetings.

- |      |   |    |
|------|---|----|
| v.   | It is recommended that the Reciprocal put in place a written contract with Hannon & Associates, which documents the terms and conditions of the agreement, fees for the services as well as the services provided. The contract should also include the procedure to report fraudulent insurance acts to the Department's Criminal Investigations Unit pursuant to Part 86.5 of Department Regulation 95. | 13 |
| vi.  | It is recommended, as a best control practice, that the board of governors approve the reinsurance program and document the approval in the board of governors' minutes.  | 13 |
| vii. | It is recommended that the Reciprocal exercise greater care in the preparation of Schedule F – Part 3 of the Annual Statement by ensuring that the reinsurers are accurately categorized as authorized, unauthorized or certified.  | 14 |

Respectfully submitted,

\_\_\_\_\_/S/  
Teena Joseph  
Senior Insurance Examiner

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

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

\_\_\_\_\_/S/  
Teena Joseph

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2019.



APPOINTMENT NO. 31543

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, Maria T. Vullo, 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:

**Teena Joseph**

as a proper person to examine the affairs of the

**New York Municipal Insurance Reciprocal**

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 27th day of October, 2016

MARIA T. VULLO  
Superintendent of Financial Services



By: Joan P. Riddell

Joan Riddell  
Deputy Bureau Chief