

REPORT ON EXAMINATION

OF

AVIVA INSURANCE COMPANY OF CANADA (UNITED STATES BRANCH)

AS OF

DECEMBER 31, 2014

DATE OF REPORT

NOVEMBER 6, 2015

EXAMINER

LAMIN JAMMEH

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Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Acting Superintendent

February 13, 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 31268 dated January 16, 2015, attached hereto, I have made an examination into the condition and affairs of Aviva Insurance Company of Canada, United States Branch as of December 31, 2014, and submit the following report thereon.

Wherever the designation “the Branch” appears herein without qualification, it should be understood to indicate Aviva Insurance Company of Canada, United States Branch.

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 Branch’s home office located at 2206 Eglinton Avenue East, Scarborough, Ontario, Canada, CAN M1L 4S8.

1. SCOPE OF EXAMINATION

The Department has performed an examination of the Branch, a single-state insurer. The previous examination was conducted as of December 31, 2009. This examination covered the five- year period from January 1, 2010 through December 31, 2014. 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 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 New York laws, statutory accounting principles, and annual statement instructions.

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

- Company history
- Management and control
- Territory and plan of operation
- Holding company description
- Reinsurance
- Loss review and analysis
- Financial statement presentation
- 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 that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

2. DESCRIPTION OF BRANCH

The Branch was licensed in the State of New York on December 31, 1978 as the United States Branch of Simcoe and Erie General Insurance Company, an insurer incorporated under the laws of the province of Ontario, Canada on February 26, 1959.

The Branch operated as a reinsurer only until 1985, when it discontinued underwriting and commenced the run off of its reinsurance operations. In June 1990, the Branch began writing surety business on a direct basis. The Branch discontinued writing business in 2000.

On February 21, 1996, the Branch changed its name to GAN General Insurance Company, U.S. Branch (“GAN General”). On December 30, 1999, GAN General was purchased by CGU Insurance Company of Canada (“CGU”) and amalgamated into that Company. On March 23, 2000, the Branch changed its name to CGU Insurance Company of Canada, U.S. Branch.

Effective May 5, 2003, CGU Insurance Company of Canada changed its name to Aviva Insurance Company of Canada and the Branch adopted its current title.

A. Corporate Governance

For the period under examination, the Branch was managed by Aviva Insurance Company of Canada (the “Home Office”), located in Ontario, Canada, with Mr. Kenneth G. Ottenbreit as its United States manager.

Pursuant to the Branch’s charter and by-laws, management of the Branch is vested in a board of directors consisting of not less than nine nor more than twenty-one members. At December 31, 2014, the board of directors was comprised of the following ten members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
James S. Barton Sorrento, British Columbia	Retired
Jean M. Fraser Toronto, Ontario	Retired

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
David H. Laidley Westmount, Quebec	Chairman Emeritus Deloitte & Touche
M. Theresa McLeod Toronto, Ontario	Retired
David F.S. Rogers Hayling Island, UK	Chief Accounting Officer Aviva plc
C. Wesley M. Scott Toronto, Ontario	Retired
Michael M. Shaw Calgary, Alberta	Retired
Gregory D. Somerville Toronto, Ontario	President and Chief Executive Officer Aviva Canada Inc.
Maurice E. Tulloch London, England	Chief Executive Officer Aviva plc
Louise Vaillancourt Montreal, Quebec	President LV Conseils Institutionnels Inc.

As of December 31, 2014, the principal officers of the Branch were as follows:

<u>Name</u>	<u>Title</u>
Gregory D. Somerville	Chief Executive Officer
Sharon M. Ludlow	President
James B. Falle	Executive Vice President, Chief Financial Officer and Treasurer
Patrick Beaulieu	Senior Vice President and Chief Actuary

Pursuant to the provisions of Section 1315 of the New York Insurance Law, an alien insurer is required to maintain in the United States, trusteed 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 August 14, 1978, the Branch designated Citibank, N.A. as its United States trustee. The deed provides that legal title to the trusteed assets shall be vested in the trustee and authorizes the trustee to sell or collect any security or property and to invest or reinvest the proceeds thereof upon written direction of the manager.

Citibank, N.A. is also the custodian of the required securities 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, 2014, the Branch was licensed to write business in New York only. As part of the sale of GAN General to the CGU Insurance Group, the Branch submitted a new plan of operation. This plan included the relocation of the Branch's books of account and claim files to Ontario, Canada. The Department approved the plan on September 22, 2000.

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 & health
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
9	Boiler and machinery
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

The Branch is also authorized to write such workers' compensation insurance as may be incident to coverages contemplated under paragraph 20 and 21 of Section 1113(a) of the New York Insurance Law, including the insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69th Congress as amended; 33USC Section 901 it seq. as amended) to the extent permitted by certified copy of its charter document on file with this Department, provided, however, that the authority conferred by the 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 upon the lines of business for which the Branch is licensed and the Branch's current capital structure, 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 in the amount of \$2,050,000.

During the period under examination, the Branch was in run-off status and did not write or assume business.

C. Reinsurance Ceded

All of the Branch's ceded reinsurance contracts have been in run-off since 1985. As of December 31, 2014, all the reinsurance contracts in run-off did not have any material reinsurance recoverables.

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

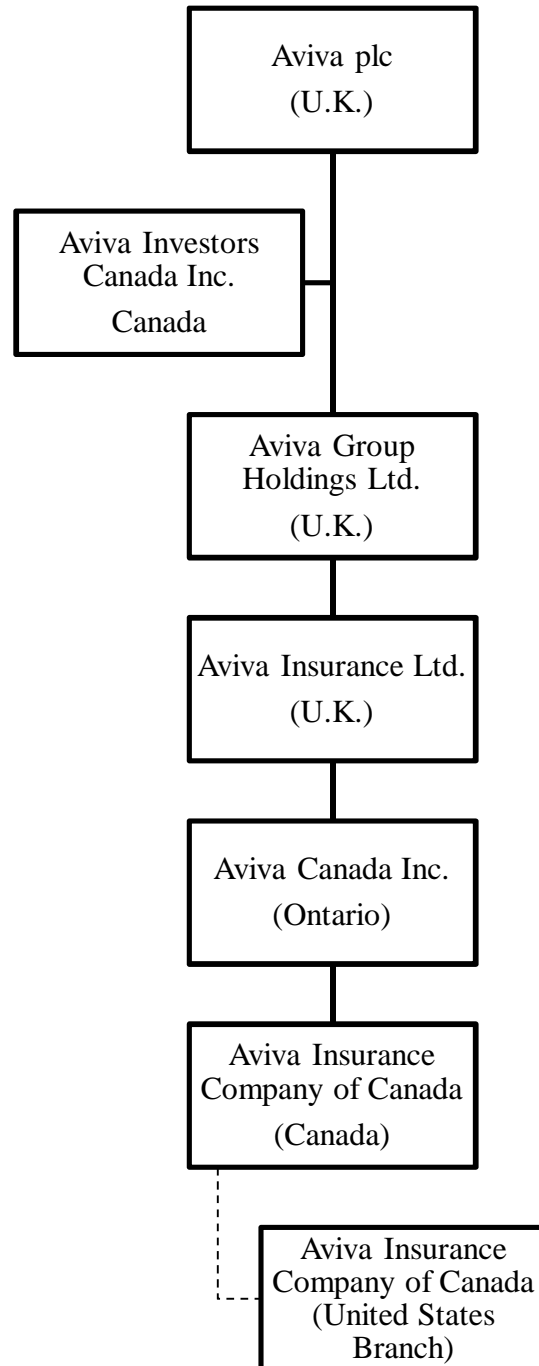
D. Holding Company System

The Branch is a member of a holding company system and is subject to the provisions of Article 15 of the New York Insurance Law. The immediate parent, Aviva Canada Inc., owns 100% of the issued and outstanding stock of Aviva Insurance Company of Canada (the "Home Office"). The ultimate parent is Aviva plc (U.K.).

Pursuant to Section 1502 of the New York Insurance Law, transactions between the Branch and the Home Office are exempted from the filing requirements of Article 15 of the New York Insurance Law.

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

The following is an abridged chart of the holding company system at December 31, 2014:



At December 31, 2014, the Branch was party to the following agreement with other members of its holding company system:

Investment Management Agreement

Effective March 14, 2014, the Company entered into an investment management agreement with Aviva Investors Canada, Inc., a corporation incorporated under the laws of the province of Ontario, Canada. Pursuant to the agreement, Aviva Investors Canada, Inc. is appointed as the investment adviser to manage, invest and reinvest the Branch's investment portfolio.

E. Significant Ratios

The Branch's operating ratios, computed as of December 31, 2014, 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*	N/A
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	38%
Two-year overall operating*	N/A

* These ratios, as well as underwriting ratios, were not calculated because the Branch is in a run-off status; therefore, the ratios would not be meaningful.

The Branch's reported risk based capital score ("RBC") was 1,437.1% at December 31, 2014. The RBC is a measure of the minimum amount of capital appropriate for a reporting entity to support its overall business operations in consideration of its size and risk profile. An RBC of 200 or below can result in regulatory action.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2014 as reported by the Branch:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$14,998,619	\$0	\$14,998,619
Cash, cash equivalents and short-term investments	266,442		266,442
Investment income due and accrued	79,944		79,944
Amounts recoverable from reinsurers	<u>910,934</u>	<u>0</u>	<u>910,934</u>
Total assets	<u>\$16,255,939</u>	<u>\$0</u>	<u>\$16,255,939</u>
<u>Liabilities, Surplus and Other Funds</u>			
Losses and loss adjustment expenses			\$ 4,089,273
Reinsurance payable on paid losses and loss adjustment expenses			1,369,205
Other expenses (excluding taxes, licenses and fees)			41,940
Funds held by company under reinsurance treaties			202,886
Provision for reinsurance			<u>135,400</u>
Total liabilities			\$ 5,838,704
<u>Surplus and Other Funds</u>			
Statutory deposits		\$ 250,000	
Unassigned funds (surplus)		<u>10,167,235</u>	
Surplus as regards policyholders			<u>10,417,235</u>
Total liabilities, surplus and other funds			<u>\$16,255,939</u>

Note: The Branch has not been audited by the Internal Revenue Service since it became licensed in this state. 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. Statement of Income

The net income for the examination period as reported by the Branch was \$1,072,610 as detailed below:

Underwriting Income

Premiums earned		\$ 1,071
Deductions:		
Losses and loss adjustment expenses incurred	\$ 232,737	
Other underwriting expenses incurred	<u>292,624</u>	
Total underwriting deductions		<u>525,361</u>
Net underwriting gain or (loss)		\$(524,290)

Investment Income

Net investment income earned	<u>\$1,555,645</u>	
Net investment gain or (loss)		1,555,645

Other Income

Aggregate write-ins for miscellaneous income	<u>\$ 3,794</u>	
Total other income		<u>3,794</u>
Net income before federal and foreign income taxes		\$1,035,149
Federal and foreign income taxes incurred		<u>(37,461)</u>
Net income		<u>\$1,072,610</u>

C. Capital and Surplus

Surplus as regards policyholders increased \$1,844,868 during the five-year examination period January 1, 2010 through December 31, 2014 as reported by the Branch, detailed as follows:

Surplus as regards policyholders per report on examination as of December 31, 2009				\$8,572,367
	<u>Surplus</u> <u>Increase</u>	<u>Surplus</u> <u>Decrease</u>		
Net income	\$1,072,610			
Change in provision for reinsurance	99,602			
Net remittances from or (to) home office	<u>672,656</u>	\$0		
Net increase (decrease) in surplus	<u>\$1,844,868</u>	<u>\$0</u>	<u>1,844,868</u>	
Surplus as regards policyholders per report on examination as of December 31, 2014				<u>\$10,417,235</u>

D. Trusted Surplus Statement

The following statement shows the trusted surplus as reported by the Branch as of December 31, 2014:

Assets

Securities deposited with state insurance departments for the protection of all policyholders and creditors within the United States:

New York	\$900,136	
Cash	<u>5,636</u>	
Total		\$ 905,772

Vested in and held by United States Trustee for the protection of all of the Branch's policyholders and creditors within the United States:

Bonds	\$14,098,483	
Cash	181,284	
Accrued investment income *	<u>48,248</u>	
Total		<u>14,328,015</u>

Total gross trusted assets \$15,233,787

Liabilities

Liabilities \$5,838,704

Deductions from liabilities:

Reinsurance recoverable on paid losses and loss adjustment expenses:

 Authorized companies \$910,934

Total deductions 910,934

Net liabilities (per Section 1312) \$ 4,927,770

Trusted surplus (per Section 1312) * \$10,337,712

Total liabilities and trusted surplus \$15,265,482

* Pursuant to Section 1312 of the New York Insurance Law, the examiner determined the Branch's trusted surplus to be \$10,306,017. A variance of \$31,695 was determined between the Branch's reported trusted surplus of \$10,337,712 and the examination's amount noted. The Branch indicated that the variance was due to the incorrect accrued investment income of \$48,248 reported by the Branch in the Trusted Surplus Statement. The correct amount should have been \$79,944, which is the accrued investment income reported in the Branch's filed 2014 annual statement.

E. Accounts and Records

The prior report on examination included a recommendation that the Branch resolve "the remaining discrepancies between itself and the ceding companies to determine if it has any unreported liabilities for assumed reinsurance balances payable".

A review to determine compliance indicates that some of the discrepancies were determined to be timing differences and others were determined to have resulted from the ceding companies incorrectly coding the recoverables as due from the Branch rather than from Aviva Canada. The Branch is still following up with the cedants regarding the remaining discrepancies to resolve the inconsistency of the NAIC and FEIN numbers. Some of the cedants have not responded to the Branch's requests.

It is again recommended that the Branch resolve the remaining discrepancies between itself and the ceding companies to determine if it has any unreported liabilities for its assumed reinsurance balances payable.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$4,089,273 is the same as reported by the Branch as of December 31, 2014. The examination analysis of the Loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and statutory accounting principles, including the NAIC Accounting Practices & Procedures Manual, Statement of Statutory Accounting Principle No. 55 ("SSAP No. 55").

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Holding Company</u>	
i. It was recommended in the future that the Branch file its annual holding company registration statements in a timely manner pursuant to the provisions of Part 80-1.4 of Department Regulation 52.	8
The Branch has complied with this recommendation.	
B. <u>Accounts and Records</u>	
i. It was recommended that the Branch maintain fully executed ceded reinsurance contracts of all active reinsurance contracts.	11
The Branch has partially complied with this recommendation. The Branch obtained copies from its largest reinsurer, Swiss Re. The Branch is still unable to obtain copies of the agreements with smaller reinsurers after its best effort. The missing contracts date back to 1982.	
ii. It was recommended that the Branch resolve the remaining discrepancies between itself and the ceding companies to determine if it has any unreported liabilities for assumed reinsurance balances payable.	11
The Branch has not complied with this recommendation. A similar recommendation is made in this report.	
C. <u>Losses and Loss Adjustment Expenses</u>	
i. It was recommended that the actuarial report comply with Paragraph 7 of the Actuarial Opinion section of the NAIC instructions.	17
The Company has complied with this recommendation.	
ii. It was recommended that the technical discussions in the actuarial report include sufficient documentation and disclosure for another actuary practicing in the same field to evaluate the analysis.	17
The Company has complied with this recommendation.	

6. SUMMARY OF COMMENTS AND RECOMMENDATIONSITEMPAGE NO.Account and Records

A.

- i. It is again recommended that the Branch resolve the remaining discrepancies between itself and the ceding companies to determine if it has any unreported liabilities for its assumed reinsurance balances payable.

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Respectfully submitted,

_____/S/
Lamin Jammeh
Senior Insurance Examiner

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

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

_____/S/
Lamin Jammeh

Subscribed and sworn to before me

this _____ day of _____, 2019.

APPOINTMENT NO. 31268

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, **BENJAMIN M. LAWSKY**, 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:

Lamin Jammeh

as a proper person to examine the affairs of the

Aviva Insurance Company of Canada (US Branch)

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

COMPANY


with such other information as he 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 16th day of January, 2015

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



Rolf Kaumann
Deputy Chief Examiner

