

REPORT ON EXAMINATION

OF

NEW YORK PROPERTY INSURANCE UNDERWRITING ASSOCIATION

AS OF

DECEMBER 31, 2017

DATE OF REPORT

JUNE 14, 2019

EXAMINER

KEVIN MCNAMEE

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Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

September 10, 2020

Honorable Linda A. Lacewell
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 31811 dated August 28, 2018 attached hereto, I have made an examination into the condition and affairs of New York Property Insurance Underwriting Association as of December 31, 2017 and submit the following report thereon.

Wherever the designation “the Association” appears herein without qualification, it should be understood to indicate New York Property Insurance Underwriting Association.

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 Company’s home office located at 100 William Street, New York, New York 10038.

1. SCOPE OF EXAMINATION

The Department has performed an examination of the New York Property Insurance Underwriting Association, a single-state insurer. The previous examination was conducted as of December 31, 2012. This examination covered the five-year period from January 1, 2013 through December 31, 2017. Transactions occurring subsequent to this period were reviewed when 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 Association by obtaining information about the Association including corporate governance, identifying and assessing inherent risks within the Association 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:

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

A review was also made to ascertain what action was taken by the Association with regard to the recommendation 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 ASSOCIATION

The New York Property Insurance Underwriting Association was organized in 1968 pursuant to the laws of the State of New York. The Association was created to provide basic property insurance (fire, extended coverage, vandalism and malicious mischief, loss of rents and business interruption) to those consumers who were unable to obtain such coverage in the voluntary market.

All licensed companies, except assessment co-operatives, are required to join and accept participation on the basis of their respective shares of direct fire and extended coverage premiums written in this state, including the fire and extended coverage components of homeowners' and commercial multiple peril package policies, as computed by the Superintendent. In addition, all licensed insurers shall be and remain a member of the Association as a condition of its authority to continue to transact fire and extended coverage insurance in this State.

Rating procedures are subject to approval by the Superintendent. Pursuant to statute in effect prior to August 1, 1979, the rates in effect were based on the Association's own losses and loss expense experience. On August 1, 1979, the statute was amended so that the rates would be no greater than the specified percentages of those recommended for the voluntary market by the principal rating organization, deemed by the Department to be the Insurance Services Office ("I.S.O."). A maximum surcharge of 20% to 40% is applied to the various categories ranging from owner-occupied dwellings to apartment buildings with more than eight dwelling units.

During August of 1979, the law was amended to provide that the Association annually estimate its deficit from operations. If the Superintendent approves such estimates, the Association shall be credited with income earned from the New York Property/Casualty Insurance Security Fund. The credit shall be an amount determined by the Superintendent, which in any given year shall not exceed the income earned on the fund or the sum of \$15 million dollars, whichever is less. If a deficit still exists, members may be assessed up to one percent of net direct premiums written for the last calendar year, or the Association may be granted appropriate rate increases in the respective rate classes. If the assets of the Association exceed its liabilities on or after November 30 in any given year, the Association will be required to reimburse the New York Property/Casualty Insurance Security Fund for amounts equal to any amount paid from such fund to the Association. Such reimbursement, however, is subject to the provisions of Article 76 and Section 5405 of the New York Insurance Law.

Coastal Market Assistance Program

The Coastal Market Assistance Program (“C-MAP”) is a mechanism that was created by the Department to assist homeowners living in New York State’s coastal areas to acquire insurance coverage. This program commenced operations on March 18, 1996. C-MAP represents a group of insurers who have agreed to give special underwriting consideration to homeowners who are unable to obtain insurance through the voluntary market.

The program is administered by the Association with the assistance of the Professional Insurance Agents of New York State (“PIANY”), and Independent Insurance Agents Association of New York (“IIAANY”). C-MAP operations are also overseen by a C-MAP steering committee. The committee is comprised of representatives from the Association, PIANY, IIAANY, participating C-MAP insurers, and the Superintendent or designee.

The Association is required to provide monthly progress reports to the Superintendent, the Speaker of the Assembly, the Senate Majority Leader and the C-MAP steering committee, showing C-MAP’s application status and dispositions. The Association is required to absorb the expenses of administering the program.

Under the terms of the C-MAP plan of operation, the insurers participating in the program have agreed to write 5,000 homeowners’ policies during the life of the program. The cap was raised to 10,000 homeowners’ policies in 2006. The insurers have also agreed to continue with such business pursuant to Section 3425 of the New York Insurance Law and insure these policies for a full three-year policy period.

A. Corporate Governance

Pursuant to statute and the Association’s Plan of Operation, the business and affairs of the Association are to be governed by a board of thirteen directors, ten of whom are elected annually by cumulative voting by the members of the Association. The remaining three directors are appointed annually by the Superintendent. The appointed directors shall be duly licensed insurance agents or brokers, representatives of a broad segment of the public obtaining insurance through the Association.

Since the inception of the Association, it has been the practice of the membership to elect member companies as directors and then have the elected companies select various individuals to represent the

elected companies at the board of directors meeting. The board meets two or three times during each calendar year.

As of December 31, 2017, the board of directors was comprised of the following 13 members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Jeffrey R. Barrett Edmeston, NY	Senior Vice President, New York Central Mutual Fire Insurance Company
Anthony S. Calafiore Brooklyn, NY	President, Apex Brokerage Company, Inc.
J. Brian Crawford Ballston Spa, NY	Section Manager of Personal Lines Fire Underwriting, State Farm Insurance Company
Kevin J. Curry Mt. Laurel, NJ	Director of Residual Markets, Travelers Companies, Inc.
Robert F. DiUbaldo Jersey City, NJ	Senior Vice President & Counsel, Chub & Son
David A. Fazioli East Greenbush, NY	Senior Vice President, Rose and Kiernan, Inc.
Daniel Guthrie Grandview Heights, OH	Associate Vice President, National Property & Casualty Insurance Co.
Christina J. Lee New York, NY	Deputy General Counsel, American Home Assurance Company
Alice Li Hartford, CT	Personal Lines Product Manager, Hartford Financial Services, Inc.
Patrick C. Moore Beacon, NY	Appointed Member, Antalek & Moore Insurance Agency, LLC
Kevin O'Connor Hauppauge, NY	New York Field Product Manager, Allstate Insurance Company
Jared Stuckey Boston, MA	Director of State Operations, Liberty Mutual Group
Bernard J. Turi New Hartford, NY	Senior Vice President, Utica Mutual Insurance Company

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

“(b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer's files confirming that such member has received and read such report...”

The Association was unable to provide statements signed by all directors confirming that they have received and read the prior report on examination, as required by Section 312(b) of the New York Insurance Law. It is recommended that the Association retain signed statements from each member of its board of directors confirming that each member has received and read the report on examination.

As of December 31, 2017, the principal officers of the Association were as follows:

<u>Name</u>	<u>Title</u>
Dane Austin	President
Anna Granata	Vice President and Chief Information Officer
Robin Pollack	Vice President, Technical Underwriting
Claire DiChiara	Vice President, Corporate Counsel and Compliance Officer

B. Territory and Plan of Operation

In accordance with Section 5402 of the New York Insurance Law, and with the approval of the Superintendent, the Association promulgated a plan of operation. The plan of operation provides for economical, fair and non-discriminatory administration and prompt and efficient provision of fire, extended coverage and vandalism insurance. The plan of operation also provides for the management of the Association, the underwriting standards, and the policy limits of insurance coverage, which shall not exceed \$1.5 million for insurable real property or personal property thereon. The plan of operation requires the Association to report the condition of its operations to its member companies not less frequently than every three months. The Association is also required to maintain and file certain types of reports with the Superintendent as required by Article 54 of the New York Insurance Law.

The Association's business is acquired via brokers and direct writings. The insureds must attest to the fact that they have looked elsewhere in the market for coverage and they were unable to obtain coverage on properties located in the State of New York.

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

<u>Year</u>	<u>Direct Premiums Written</u>
2013	\$36,996,460
2014	\$35,488,459
2015	\$35,490,097
2016	\$34,706,074
2017	\$33,254,167

C. Reinsurance Ceded

The Association has structured its ceded reinsurance program as follows:

<u>Type of Treaty</u>	<u>Cession</u>
<u>Catastrophe Excess of Loss</u> 1 st Layer <u>Section A – Aggregate Excess of Loss</u>	100 % of \$50,000,000 excess of \$75,000,000 of ultimate net loss for all business classified by the Association as Property. In addition, Extra Contractual Obligations and Excess of Policy Limits are covered up to 90% of the ultimate net loss. Losses from Terrorism are covered for Personal Lines and Commercial Lines with Total Insured Values less than \$5,000,000, excluding Nuclear, Chemical, Biological and Radioactive.
<u>Section B – Ex-Named Storm Coverage/Fire Only</u>	100 % of \$28,000,000 excess of \$2,000,000 of ultimate net loss per occurrence.
2 nd Layer	100 % of \$115,000,000 excess of \$125,000,000 of ultimate net loss for all business classified by the Association as Property. In addition, Extra Contractual Obligations and Excess of Policy Limits are covered up to 95% of the ultimate net loss. Losses from Terrorism are covered for Personal Lines and Commercial Lines with Total Insured Values less than \$5,000,000, excluding Nuclear, Chemical, Biological and Radioactive.

The catastrophe excess of loss ceded reinsurance agreement in effect as of the examination date was reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law. Most of the reinsurers under this agreement

are authorized reinsurers. There have been no claims for the examination period and no credit for unauthorized reinsurance has been taken.

Management has represented that the ceded reinsurance agreement transfers both underwriting and timing risk as set forth in the NAIC Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles (“SSAP”) No. 62R. Representations were supported by an attestation from the Association's President and Financial Reporting Manager pursuant to the NAIC Annual Statement Instructions. Additionally, examination review indicated that the Association was not a party to any finite reinsurance agreements. The reinsurance agreement was accounted for utilizing reinsurance accounting as set forth in SSAP No. 62R.

D. Significant Ratios

The Association’s operating ratios, computed as of December 31, 2017, are as follows:

<u>Operating Ratios</u>	<u>Result</u>
Net premiums written to member's equity	313%
Adjusted liabilities to liquid assets	83%
Premiums in the course of collection to member's equity	15%

The ratio of net premiums written to members’ equity falls slightly outside the benchmark range of 300% as set forth in the Insurance Regulatory Information System of the NAIC.

Underwriting Ratios

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

	<u>Amounts</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$115,519,868	79.30%
Other underwriting expenses incurred	49,975,537	34.31
Net underwriting gain (loss)	<u>(19,822,998)</u>	<u>(13.61)</u>
Premiums earned	<u>\$145,672,407</u>	<u>100.00%</u>

E. Accounts and Records

A review of the Association's filings with the Department revealed that annual financial statements have not been filed during the examination period, as required by Section 5408(a) of New York Insurance Law.

Section 5408(a) of New York Insurance Law states as follows:

(a) The association shall annually file a statement in the office of the superintendent on or before the first day of March. Such statement shall be in a form approved by and contain information required by the superintendent with respect to its transactions, condition, operations and affairs during the preceding year.

It is recommended that the Association comply with Section 5408(a) of New York Insurance Law and file an annual financial statement with the Department. It is noted that the Association complied with Section 5408(a) of the New York Insurance Law regarding the 2018 financial statement.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and members' equity as of December 31, 2017 as reported by the Association:

Assets

Bonds	\$37,386,924
Cash, cash equivalents and short-term investments	6,954,246
Investment income due and accrued	192,084
Uncollected premiums and agents' balances in the course of collection	1,347,377
Electronic data processing equipment and software	200,000
Securities receivable	702
Other receivables	<u>7,289</u>
Total assets	<u>\$46,088,622</u>

Liabilities and Members' Equity

Liabilities

Losses and loss adjustment expenses	\$ 8,321,987
Unearned premiums	14,766,225
Advance premium	1,026,989
Return premium payable	135,115
Ceded reinsurance premiums payable (net of ceding commissions)	1,741,870
Deferred rent	604,682
Accrued pension and postretirement benefit expense	9,223,029
Other liabilities	<u>1,189,095</u>
Total liabilities	\$37,008,992
Members' equity	<u>9,079,630</u>
Total liabilities and members' equity	<u>\$46,088,622</u>

Note: There were no audits conducted by the Internal Revenue Service during the examination period. The examiner is unaware of any potential exposure of the Association to any tax assessment and no liability has been established herein relative to such contingency.

B. Statement of Income

The net loss for the examination period as reported by the Association was \$15,985,047 as detailed below:

Underwriting Income

Premiums earned		\$145,672,407
Deductions:		
Losses and loss adjustment expenses incurred	\$115,519,868	
Other underwriting expenses incurred	<u>49,975,537</u>	
Total underwriting deductions		<u>165,495,405</u>
Net underwriting gain (loss)		\$(19,822,998)

Investment Income

Net investment income earned	\$ 3,441,291	
Net realized capital gains (losses)	<u>130,153</u>	
Net investment gain (loss)		\$ 3,571,444
Other income		<u>266,507</u>
Net income (loss)		<u>\$(15,985,047)</u>

C. Members' Equity

Members' equity increased \$8,389,364 during the five-year examination period January 1, 2013 through December 31, 2017, as reported by the Association, detailed as follows:

Member's equity, as reported by the Association, as of December 31, 2012			\$ 690,266
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Members' Equity</u>	<u>Members' Equity</u>	
Net loss		\$15,985,047	
Change in non-admitted assets	\$ 1,503,335		
Change in unrecognized pension and other postretirement benefit plan items		2,244,375	
Correction of error	123,809		
Assessment to members - Policy year closeout	54,673,772		
Distribution to members - Policy year closeout		26,798,814	
Change in accounting principle	<u>0</u>	<u>2,883,316</u>	
Total gains and losses	\$56,300,916	\$47,911,552	
Net increase in Member's equity			<u>8,389,364</u>
Member's equity as reported by the Association as of December 31, 2017			<u>\$9,079,630</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 \$8,321,987 is the same as reported by the Association as of December 31, 2017. 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 SSAP No. 55.

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained one recommendation as follows (page number refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. It was recommended that the Association ensure that all future contracts with its independent CPA include all of the required provisions in Department Regulation 118.</p> <p>The Association has complied with this recommendation.</p>	9

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Corporate Governance</u></p> <p>It is recommended that the Association retain signed statements from each member of its board of directors confirming that each member has received and read the report on examination in accordance with Section 312(b) of the New York Insurance Law.</p>	6
<p>B. <u>Accounts and Records</u></p> <p>It is recommended that the Association comply with Section 5408(a) of New York Insurance Law and file an annual financial statement with the Department. It is noted that the Association complied with Section 5408(a) of the New York Insurance Law regarding the 2018 financial statement.</p>	9

Respectfully submitted,

_____/S/_____
Kevin McNamee
Associate Insurance Examiner

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

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

_____/S/_____
Kevin McNamee

Subscribed and sworn to before me
this _____ day of _____, 2020.

APPOINTMENT NO. 31811

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:

Kevin McNamee

as a proper person to examine the affairs of the
New York Property Insurance Underwriters Association
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 28th day of August, 2018

MARIA T. VULLO
Superintendent of Financial Services



By:

Joan P. Riddell

Joan Riddell
Deputy Bureau Chief