

REPORT ON EXAMINATION

OF

MBIA INSURANCE CORPORATION

AS OF

DECEMBER 31, 2019

DATE OF REPORT

APRIL 30, 2021

EXAMINER

KEVIN MCNAMEE

## TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Company	2
	A. Corporate governance	4
	B. Territory and plan of operation	5
	C. Reinsurance ceded	6
	D. Holding company system	6
3.	Financial statements	10
	A. Balance sheet	10
	B. Statement of income	12
	C. Capital and surplus	13
4.	Losses and loss adjustment expenses	14
5.	Subsequent events	15
6.	Compliance with prior report on examination	15
7.	Summary of comments and recommendations	15



## Department of Financial Services

**ANDREW M. CUOMO**  
Governor

**LINDA A. LACEWELL**  
Superintendent

April 30, 2021

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 32027 dated January 3, 2020, attached hereto, I have made an examination into the condition and affairs of MBIA Insurance Corporation as of December 31, 2019, and submit the following report thereon.

Wherever the designation “the Company” or “MBIA Corp.” appears herein without qualification, it should be understood to indicate MBIA Insurance Corporation.

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 remotely due to the Governor’s Executive Order of New York State on PAUSE regarding the COVID-19 pandemic.

## 1. SCOPE OF EXAMINATION

The Department has performed an examination of the Company, a multi-state insurer. The previous examination was conducted as of December 31, 2015. This examination covered the four-year period from January 1, 2016 through December 31, 2019. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner. The examination of the Company was performed concurrently with the examination of National Public Finance Guarantee Corporation (“National”).

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook, which requires that we plan and perform the examination to evaluate the financial condition and identify current and prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company 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
- Reinsurance
- Holding company description
- Financial statement presentation
- Loss review and analysis
- Significant subsequent events
- Summary of recommendations

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

## 2. DESCRIPTION OF COMPANY

MBIA Insurance Corporation (“MBIA Corp.”) was incorporated as the National Bonding and Accident Insurance Company under the laws of the state of New York on March 23, 1967. On December

10, 1982, the MBL Corporation, a wholly-owned subsidiary of the Mutual Benefit Life Insurance Company, purchased all of the outstanding capital stock of National Bonding and Accident Insurance Company. In December 1986, the Company was sold to MBIA Inc., and adopted the name of Municipal Bond Investors Assurance Corporation. In April 1995, the Company changed its name to its current title.

In 2004, MBIA UK Insurance Limited (“MBIA UK”), a wholly-owned subsidiary of MBIA Corp. incorporated in the United Kingdom, was established to write financial guarantee insurance in the European Economic Area and other select regions outside the U.S. It is authorized by the Prudential Regulation Authority (“PRA”) and is regulated by the Financial Conduct Authority and by the PRA in the United Kingdom. During 2013, MBIA UK was placed in a run-off status. Effective January 10, 2017, the Company sold MBIA UK to Assured Guaranty Corp., a Maryland domiciled financial guaranty insurance company.

In February 2007, MBIA Mexico, S.A. de C.V. (“MBIA Mexico”), a subsidiary of MBIA Corp., was established to write financial guarantee insurance in Mexico. It is 99.9% owned by MBIA Corp. and 0.1% owned by MBIA Inc., and is subject to the insurance regulation and supervision by the Mexican Ministry of Finance and Public Credit (Secretaria de Hacienda y Credito Publico or “SHCP”) and the Mexican Insurance and Bonds Commission (Comision Nacional de Seguros y Fianzas or “CNSF”).

On February 17, 2009, the Department approved a restructuring (commonly referred to as “Transformation”) of MBIA Corp. by which a separate U.S. public finance financial guaranty insurance company was established using MBIA Insurance Corp. of Illinois. MBIA Insurance Corp. of Illinois was a subsidiary of the Company; it was later re-domesticated to New York and renamed National Public Finance Guarantee Corporation (“National”). Ownership of National was transferred from the Company to a newly established intermediate holding company, National Public Finance Guarantee Holdings, Inc. a Delaware company, which is a subsidiary of MBIA Inc. National was capitalized with approximately \$2.1 billion from funds distributed by the Company to MBIA Inc. as a dividend and return of capital, which MBIA Inc. then contributed to National through National Public Finance Guarantee Holdings, Inc.

In June 2009, a group of 18 domestic and international financial institutions commenced a legal proceeding (an Article 78 proceeding) challenging the actions of the Department in approving the restructuring of MBIA Corp., the related capitalization of National, and the reinsurance agreement in which MBIA Corp. ceded all of its U.S. public finance exposure to National. In March 2013, the Supreme Court of the State of New York dismissed the Article 78 proceeding, thereby upholding the Department’s decision

to approve the restructuring of MBIA Corp. Two of the financial institution petitioners, Bank of America (“BoA”) and Société Générale (“SocGen”), filed a notice of appeal of the judge’s decision. The same group of financial institutions also sued MBIA Inc., National and MBIA Corp. under New York debtor creditor law alleging that certain of the terms of the transactions constituted fraudulent conveyances and a breach of the implied covenant of good faith and fair dealing under New York law. In May 2013, MBIA Inc., MBIA Corp. and National entered into various settlement agreements with BoA and SocGen. These settlements resolved all litigation related to the restructuring of MBIA Corp.

Since 2008, the Company has not written new business.

A. Corporate Governance

Pursuant to the Company’s charter and by-laws, management of the Company is vested in a board of directors consisting of not less than seven nor more than twenty-five members. The board meets four times during each calendar year. At December 31, 2019, the board of directors was comprised of the following seven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Daniel Avitabile Darien, Connecticut	Managing Director and Chief Risk Officer, MBIA Insurance Corporation
Kristen Calandra Darien, Connecticut	Director, MBIA Insurance Corporation
Gregory Diamond North Salem, New York	Director, MBIA Insurance Corporation
Jonathan Harris New Rochelle, New York	Managing Director, General Counsel and Secretary, MBIA Services Corporation
Anthony McKiernan Ridgefield, Connecticut	Managing Director and Chief Financial Officer, MBIA Inc.
Oliver North Redding, Connecticut	Managing Director and Treasurer, MBIA Inc.
Gary Saunders Rye Brook, New York	Managing Director, MBIA Services Corporation

As of December 31, 2019, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Anthony McKiernan	Chairman and Chief Financial Officer
Daniel Avitabile	Managing Director and Chief Risk Officer
Joseph Schachinger	Controller and Assistant Vice President
Oliver North	Chief Investment Officer, Treasurer and Assistant Vice President
Gary Saunders	General Counsel and Secretary
Gregory Diamond	Director

B. Territory and Plan of Operation

As of December 31, 2019, the Company was licensed to write business in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Northern Mariana Islands. The Company also wrote business in Chile, Mexico, Australia, New Zealand, the United Kingdom, and Spain. The Company is running off its portfolio of business.

As of the examination date, the Company 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>
16(C, D, E and F)	Fidelity and surety
17(A)	Credit
25	Financial guaranty

Based on 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, 41 and 69 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$66,400,000.

The following schedule shows the direct and assumed premiums written by the Company for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>	<u>Assumed Premiums</u>	<u>Total Gross Premiums</u>
2016	\$64,618,434	\$2,771,515	\$67,389,949
2017	\$51,436,886	\$2,602,614	\$54,039,500
2018	\$68,592,071	\$1,533,138	\$70,125,209
2019	\$32,392,172	\$(1,191,490)	\$31,200,682

All premiums represent installment premiums on legacy business. The financial guarantees issued by the Company provide an unconditional and irrevocable guarantee of payment when due of the principal, interest or other amounts owing on insured obligations. The Company's guarantee insured structured finance, asset backed obligations, credit default swaps, privately issued bonds used for the financing of public purpose projects located outside of the U.S., and obligations of sovereign-related and sub-sovereign issuers. The Company also insured certain guaranteed investment agreements ("GICs") and medium-term note liabilities ("MTNs") of affiliates and guarantees of affiliate obligations under certain credit default swaps and other derivative contracts.

During the examination period, the Company has focused on maximizing the collection of recoveries and reducing and mitigating potential losses on its insurance exposures.

C. Reinsurance Ceded

Since 2008, the Company has not renewed any of its existing reinsurance treaties that were then in effect.

MBIA Corp. (as part of the restructuring described in section 2 of this report) entered into a 100% quota share reinsurance agreement with National, effective January 1, 2009. Per the terms of the agreement, MBIA Corp. ceded all of its U.S. public finance exposure to National.

D. Holding Company System

The Company is a wholly-owned subsidiary of MBIA Inc., a publicly traded insurance holding corporation. MBIA Inc. operates within the financial guarantee insurance industry and manages its business within three operating segments:

- U.S. public finance insurance;
- corporate;
- international and structured finance insurance.

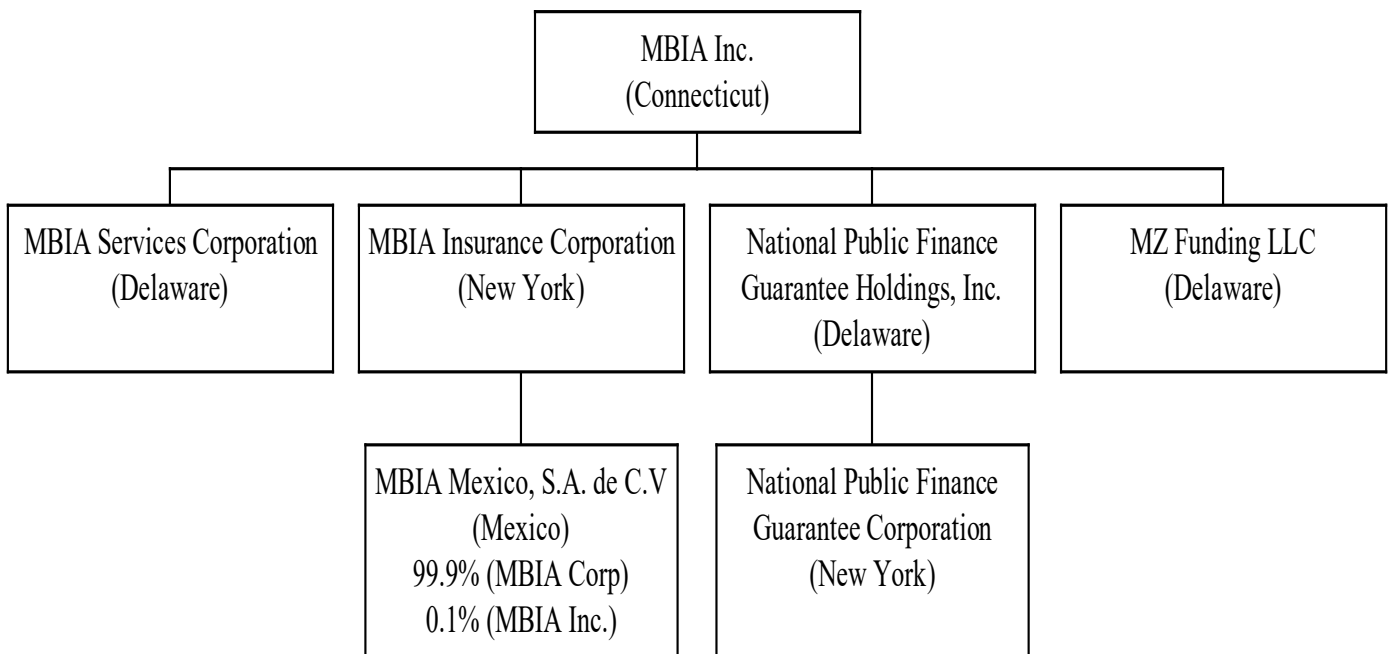
MBIA Inc.'s public finance insurance portfolio is managed through National; its corporate segment is managed through MBIA Inc. and several of its subsidiaries, including its service company, MBIA Services Corporation; its international and structured finance insurance business is primarily managed



through MBIA Corp. and subsidiary MBIA Mexico. MBIA Inc.'s operating subsidiaries are running off their portfolios.

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, 2019:



## Holding Company Agreements

At December 31, 2019, the Company was party to the following agreements with other members of its holding company system:

### Master Services Agreement with MBIA Services Corporation (“MSC”)

MSC (formerly known as Optinuity Alliance Resources Corporation), created in the first quarter of 2010, provides support services such as management, legal, accounting, treasury, and information technology for all business written or reinsured and all other authorized activities of MBIA Corp.

### Tax Allocation Agreement

The Company is party to a tax allocation agreement with members of its holding company system effective January 1, 1987. The agreement was amended and restated effective September 8, 2011 to change the method of calculating each domestic insurer’s tax liability to the method permitted by paragraph 3(a) of Department Circular Letter 33 (1979).

### Reinsurance and Net Worth Maintenance Agreement with MBIA Mexico

The Company maintains a reinsurance and net worth maintenance agreement with MBIA Mexico, amended and restated effective September 14, 2007. Pursuant to the terms of the agreements, the Company agrees to assume from MBIA Mexico 100% of its net liability on financial guaranty business and will cause MBIA Mexico to maintain at least \$10 million in capital. In 2019, the Company contributed \$517,000 pursuant to the maintenance agreement.

### MZ Funding LLC – Refinanced Facility

In July of 2019, MBIA Corp. consummated a financing facility (“Refinanced Facility”) between MZ Funding LLC (“MZ Funding”) and certain purchasers, pursuant to which the purchasers or their affiliates agreed to refinance the outstanding insured senior notes of MZ Funding (originally issued in January 2017), and MBIA Inc. received amended subordinated notes issued by MZ Funding with an aggregate principal amount of \$54 million. MBIA Corp. issued new financial guarantee insurance policies insuring the Refinanced Facility.

### MBIA Advances Agreement

The MBIA Advances Agreement permits National to make advances to MBIA Inc. and other MBIA group companies that are party to the agreement at a rate per annum equal to LIBOR plus 0.25%. The

agreement also permits other affiliates to make advances to National or MBIA Corp. at a rate per annum equal to LIBOR minus 0.10%. Advances by National cannot exceed 3% of its net admitted assets as of the last quarter end. As of the examination date, there were no amounts drawn under this agreement.

#### Sub-lease Agreement with National

In May 2014, MBIA Corp. entered into a sub-lease agreement with National to sublease space from National at the home office located in Purchase, New York. Per the terms of the sub-lease agreement, MBIA Corp. pays rent equal to its proportionate share of the fixed annual rent, additional rent, and tenant improvement costs specified in the prime lease held by National.

All agreements subject to Article 15 of the New York Insurance Law were submitted to the Department.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2019, as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 81,022,290	\$0	\$ 81,022,290
Common stocks (stocks)	9,462,131	0	9,462,131
Cash, cash equivalents and short-term investments	125,540,612	0	125,540,612
Investment income due and accrued	888,994	0	888,994
Uncollected premiums and agents' balances in the course of collection	38,829	36,561	2,268
Amounts recoverable from reinsurers	45,052	3,616	41,436
Electronic data processing equipment and software	62,296	0	62,296
Furniture and equipment, including health care delivery assets	23,920	23,920	0
Receivables from parent, subsidiaries and affiliates	1,012	0	1,012
Other assets	4,672	29	4,643
Prepaid expenses	114,903	114,903	0
Premium tax receivable	<u>144,836</u>	<u>0</u>	<u>144,836</u>
Total assets	<u>\$217,349,547</u>	<u>\$179,029</u>	<u>\$217,170,518</u>

Liabilities

Losses and loss adjustment expenses	\$(668,863,289)
Other expenses (excluding taxes, licenses and fees)	921,949
Borrowed money and interest thereon	306,745,690
Unearned premiums	93,383,533
Ceded reinsurance premiums payable (net of ceding commissions)	1,003,915
Amounts withheld or retained by company for account of others	1
Payable to parent, subsidiaries and affiliates	7,702,110
Contingency reserve	193,808,980
Other liabilities	<u>13,107</u>
Total liabilities	\$(65,284,004)*

Surplus and other funds

Common capital stock	\$ 15,000,269
Preferred capital stock	2,759,080
Surplus notes	952,655,000
Gross paid in and contributed surplus	1,055,941,259
Unassigned funds (surplus)	<u>(1,743,901,086)</u>
Surplus as regards policyholders	<u>\$282,454,522</u>
Total liabilities, surplus and other funds	<u>\$217,170,518*</u>

*\*Rounding difference of \$1*

Note: The Internal Revenue Service has not conducted an audit of the Company's consolidated Federal Income Tax return for the period under examination. The examiner is unaware of any potential exposure of the Company 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 Company was \$221,878,555, as detailed below:

Underwriting Income

Premiums earned		\$ 299,166,891
Deductions:		
Losses and loss adjustment expenses incurred	\$514,562,387	
Other underwriting expenses incurred	<u>19,188,876</u>	
Total underwriting deductions		<u>533,751,263</u>
Net underwriting gain or (loss)		\$(234,584,372)

Investment Income

Net investment income earned	\$(132,246,295)	
Net realized capital gain	<u>158,425,838</u>	
Net investment gain or (loss)		26,179,543

Other Income

Foreign Exchange	(20,771,150)	
Miscellaneous expense	(2,624,356)	
Debt issuance costs	(24,217,196)	
Litigation settlement	<u>34,176,275</u>	
Total other income		<u>(13,436,427)</u>
Net income before federal and foreign income taxes		\$(221,841,256)
Federal and foreign income taxes incurred		<u>37,299</u>
Net loss		<u>\$(221,878,555)</u>

C. Capital and Surplus

Surplus as regards policyholders decreased \$326,639,296 during the four-year examination period January 1, 2016 through December 31, 2019, as reported by the Company, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2015				\$609,093,818
		<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net loss			\$221,878,555	
Net unrealized capital gains or (losses)			316,812,320	
Change in net unrealized foreign exchange capital gain (loss)	\$ 3,647,647			
Change in nonadmitted assets	113,966,392			
Capital changes paid in			273,148,920	
Surplus adjustments paid in	273,148,920			
Change in contingency reserve	82,657,692			
Correction of error	<u>11,779,848</u>		<u>0</u>	
Net decrease in surplus	\$485,200,499		\$811,839,795	<u>(326,639,296)</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2019				<u>\$282,454,522</u>

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

Capital paid in is \$17,759,349 is comprised of approximately \$15 million of common stock consisting of 67,936 shares of \$220.80 par value per share common stock, and approximately \$2.76 million of preferred stock consisting of 2,759 shares with a par value of \$1,000 par value per share and a liquidation preference of \$100,000 per share. The carrying value of the preferred stock was \$2.76 million as of December 31, 2019. Gross paid in and contributed surplus is \$1,055,941,259. Gross paid in and contributed surplus increased by \$273,148,920 during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
2016	Beginning gross paid in and contributed surplus	\$ 782,792,339
2018	Surplus contribution	<u>273,148,920</u>
2019	Ending gross paid in and contributed surplus	<u>\$1,055,941,259</u>

The increase in surplus is due to a correction of an error of the Company's prior reporting of its Series A non-cumulative perpetual preferred stock and additional paid-in capital. The specified stock should have been reported at par value with the excess reported as gross paid in and contributed surplus.

#### 4. **LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned item of \$(668,863,289) is the same as reported by the Company at December 31, 2019. For a financial guaranty insurer, this loss liability represents the case basis reserves net of salvage that is established for insured transactions. The liability is negative because expected recoveries (salvage) from previously paid claims exceed expected base case losses. 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 Statement of Statutory Accounting Principles No. 60 of the NAIC Accounting Practices and Procedures Manual. The analysis found the case reserves to be adequate.

The Capital Markets Division utilized the assistance of an independent financial advisory firm that specializes in complex assets to review the adequacy of the Company's modeling, assumptions, and surveillance policies and procedures as of December 31, 2019, to determine the Company's adequacy of loss reserves. The firm reviewed all obligors insured by the Company with emphasis on those structured finance obligors and public finance obligors for which the Company has case reserves or deemed the obligor required further scrutiny. The Company's surveillance, modeling, and modeling assumptions were deemed adequate.

Pursuant to Section 6903(a) of the New York Insurance Law, the Company is required to establish and maintain a contingency reserve for the protection of policyholders and claimants against the effect of excessive losses occurring during adverse economic cycles. As of December 31, 2019, the Company reported a contingency reserve of \$193,808,980.

In addition, the Company maintains an unearned premium reserve in accordance with Section 6903(c) of the New York Insurance Law. Unearned premiums represent the portion of premiums which are applicable to the unexpired risk on policies in force. As of December 31, 2019, the Company reported an unearned premium reserve of \$93,383,533.



The Company's estimate of reserves for losses on its exposures is based on certain assumptions. Changes in such assumptions could materially adversely affect such reserve estimates, including those as a result of more adverse macroeconomic conditions, the bankruptcies of issuers of insured bonds, and the amount and timing of any claims. Under certain conditions, many of which are event-driven and outside the control of the Company, these exposures may result in significant increases in claims beyond that assumed in the Company's reserve estimates (that may or may not result in an increase in such loss reserves). In rare cases, these conditions could result in the required reserves exceeding the invested assets.

## **5. SUBSEQUENT EVENTS**

On March 11, 2020, the World Health Organization declared an outbreak of a novel coronavirus ("COVID-19") pandemic. The COVID-19 pandemic has continued to develop throughout 2020, with significant uncertainty remaining regarding the full effect of COVID-19 on the U.S. and global insurance and reinsurance industry. At the time of releasing this report, the examination's review noted that there has been no significant impact to the Company. The Department has been in communication with the Company regarding the impact of COVID-19 on its operations and financial position. The Department continues to monitor the impact of the pandemic on the Company and will take necessary action if a solvency concern arises.

In March 2021, MBIA Corp. entered into an agreement to settle the litigation it filed in 2009 against Credit Suisse Securities (USA) LLC and certain affiliated entities. The settlement followed a post-trial decision by the Court awarding MBIA Corp. approximately \$604 million in damages, and pursuant to the settlement, Credit Suisse has paid MBIA Corp. \$600 million. This amount materially exceeds the amount of recovery recorded in the Company's 2019 Annual Statement. Following the agreement to settle the case, the Court dismissed the action.

## **6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

The prior report on examination contained no recommendations.

## **7. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

This report on examination contains no comments or recommendations.

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 \_\_\_\_\_, 2021.

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, Linda A. Lacewell, 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

**MBIA Insurance Corporation**

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 3rd day of January, 2020

LINDA A. LACEWELL  
Superintendent of Financial Services



By:

*Joan P. Riddell*

Joan Riddell  
Deputy Bureau Chief