

REPORT ON EXAMINATION

OF THE

NEW YORK MUTUAL UNDERWRITERS

AS OF

DECEMBER 31, 2010

DATE OF REPORT

AUGUST 11, 2011

EXAMINER

SHEIK H. MOHAMED

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

August 11, 2011

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 30701 dated April 5, 2011, attached hereto, I have made an examination into the condition and affairs of New York Mutual Underwriters as of December 31, 2010, and submit the following report thereon.

Wherever the designation "NYMU" appear herein without qualification, it should be understood to indicate New York Mutual Underwriters.

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

Wherever the term "member companies" appears herein without qualification, it should be understood to mean Security Mutual Insurance Company and Sterling Insurance Company.

The examination was conducted at NYMU's home office located at 17 British American Boulevard, Latham, New York 12110.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 2005. This examination covered the five-year period from January 1, 2006 through December 31, 2010, and was limited in scope to those balance sheet items considered by this Department to require analysis, verification or description, including: invested assets, inter-company balances, loss and loss adjustment expense reserves and the provision for reinsurance. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis.

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

2. DESCRIPTION OF COMPANY

New York Mutual Underwriters was organized in 1898 as the Five County Cooperative Underwriters Association. NYMU was later re-organized as the Cooperative Fire Underwriters Association of New York with the objective of issuing combination policies. NYMU's policies were issued under the name, New York Cooperative Underwriters, and consisted of two classes of policies: a general policy for all lines other than farm; and a farm policy, covering only farm property.

In 1943, the number of combination policies increased with the issuance of non-assessable policies under the name New York Mutual Underwriters, and inland marine policies under the name Mutual Marine Underwriters.

In July 1956, the New York Cooperative Underwriters discontinued issuing the combination policies. In June 1965, the Cooperative Fire Underwriters Association of New York discontinued its sponsorship of all combination policies.

New York Mutual Underwriters and Mutual Marine Underwriters, under separate agreements among their respective participating companies, continued issuing separate combination policies. In 1973, Mutual Marine Underwriters' combination policies were absorbed into the surviving New York Mutual Underwriters.

Effective October 31, 1997, Commercial Mutual Insurance Company withdrew its membership from NYMU. The remaining two members (Security Mutual Insurance Company and Sterling Insurance Company) through an assumption agreement, assumed the liabilities of Commercial Mutual Insurance Company under all combination policies in effect as of October 31, 1997.

As of December 31, 2010, the member companies of NYMU were comprised of Security Mutual Insurance Company and Sterling Insurance Company.

A. Management

The management of NYMU consists of an executive committee and a general manager. The executive committee is responsible for the general supervision and control of the business of NYMU. The general manager is the chief administrative officer of NYMU responsible for the direction of all work subject to the control of the executive committee. The general manager also serves as secretary of the executive committee and maintains a record of all its proceedings.

At December 31, 2010, the individuals serving as members of the executive committee were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Stephen A. Harris Cobleskill, NY	President, Sterling Insurance Company
Thomas R. Ruane Ithaca, NY	President, Security Mutual Insurance Company

The minutes of all meetings of the executive committee held during the examination period were reviewed. The attendance of the members at these meetings during the examination period was adequate.

As of December 31, 2010, the General Manager of NYMU was John N. Masselli, Jr.

B. Territory and Plan of Operation

NYMU is an unincorporated joint underwriting facility that writes policies on behalf of the member companies.

As of December 31, 2010, the member companies were 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 damage
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
12	Collision
13	Personal injury liability
14	Property damage liability
15*	Workers' compensation and employers' liability*
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine (inland marine only)

*As of December 31, 2010, only Security Mutual Insurance Company was licensed to write Paragraph 15 (Workers' compensation and employers' liability).

NYMU's predominant lines of business are fire and commercial multiple peril. NYMU writes direct business through independent agencies, who are appointed by either one or both of the member companies. NYMU issues only one year policies, predominantly on an annual and installment premium basis.

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

<u>Calendar Year</u>	<u>Direct Premiums Written (000's)</u>
2006	\$9,778
2007	\$8,765
2008	\$8,083
2009	\$7,868
2010	\$7,558

C. Reinsurance

NYMU had no assumed reinsurance premiums written as of December 31, 2010.

NYMU has structured its ceded reinsurance program to limit its maximum exposure to any one risk as follows:

<u>Type of Treaty</u>	<u>Cession</u>
<u>Property Multi-Line Excess of Loss</u> (two layers)	\$750,000 excess of \$250,000 each risk. Limits of liability not to exceed \$450,000 and \$1,200,000 of net loss on all risks in first layer and second layer, respectively.
<u>Property Terrorism Multi-Line Excess of Loss</u> (two layers)	\$750,000 excess of \$250,000 each risk. Limits of liability not to exceed \$450,000 and \$1,200,000 of net loss on all risks in first layer and second layer, respectively.
<u>Other Liability Business Multi-Line Excess of Loss</u> (three layers)	\$1,750,000 excess of \$250,000 each occurrence. Limit of liability not to exceed \$2,000,000 with respect to all net loss arising out of all occurrences taking place during each agreement year, in third layer.
<u>Equipment Breakdown Coverage Quota Share</u>	100% Ceded; not to exceed \$10,000,000 each risk.

Since the previous examination, NYMU's retention has increased from \$200,000 to \$250,000 on both property and liability businesses.

All 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.

D. Holding Company System

As of December 31, 2010, NYMU was not a member of any holding company system.

E. Significant Operating Ratios

NYMU is not an insurance company. Its financial information is incorporated in the examination report of the member companies; therefore, this report does not contain operating ratios.

F. Accounts and Records

i. Financial Records

The accounting records maintained by NYMU depart from conventional accounting practices. During the course of the examination, the examiners tried to reconcile NYMU's general ledger/trial balance items to the related balance sheet items of Sterling Insurance Company and Security Mutual Insurance Company. Several discrepancies were noted and unresolved.

It is recommended that NYMU prepare its financial records in a manner that will provide for proper verification of not only its financial statements, but also the financial statements of the member companies. A similar comment was included in the prior report on examination.

ii. Writing Boiler & Machinery Line of Business Without a License

NYMU reported \$35,132 in written premium for the boiler and machinery line of business as of December 31, 2009. NYMU's member companies were not licensed to write this line of business until 2010. It is recommended NYMU only write business for which the member companies are licensed to write.

3. FINANCIAL STATEMENTS

The financial statements of NYMU are incorporated in the examination reports of the member companies. Therefore, this report does not contain information on Balance Sheet or Underwriting and Investment Exhibit.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The financial statements of NYMU are incorporated in the examination reports of the member companies. Therefore, this report does not contain information on Losses and Loss Adjustment Expenses.

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>
<p>A. <u>Financial Records</u></p> <p>It was recommended that NYMU maintain financial records in a manner that will provide for proper verification of its financial statements and that of the member companies</p> <p>NYMU has not complied with this recommendation. A similar comment is made in this report.</p>	<p>7</p>
<p>B. <u>Uncollected Premiums</u></p> <p>It was recommended that NYMU maintain an aging report of its premium receivable in order to accurately report and non-admit those premiums that are over 90 days past due.</p> <p>NYMU has complied with this recommendation.</p>	<p>7</p>
<p>C. <u>Reconciliation of General Ledger</u></p> <p>It was recommended that NYMU properly reconcile supplementary ledgers to the general ledger at the end of each financial period to provide for proper accounting, proper audit trail and proper verification of its financial reports.</p> <p>NYMU has complied with this recommendation.</p>	<p>8</p>
<p>D. <u>Advance Premium</u></p> <p>It was recommended that NYMU comply with SSAP No. 53 paragraph 13 and report as advance premiums all cash receipts of premiums for policies effective subsequent to the end of the applicable financial period.</p>	<p>8</p>

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NYMU no longer files an Annual Statement, therefore this recommendation no longer applies.

E. Department Regulation 30

It was recommended that NYMU comply with the Department Regulation 30 and perform time studies of its employees in a manner prescribed by the said regulation.

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NYMU has complied with this recommendation.

6. **SUMMARY OF COMMENTS AND RECOMMENDATIONS**

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A. Financial Records

It is recommended that NYMU prepare its financial records in a manner that will provide for proper verification of not only its financial statements, but also the financial statements of the member companies.

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A similar comment was included in the prior report on examination.

B. Writing Boiler & Machinery Line of Business Without a License

It is recommended that NYMU only write business for which the member companies are licensed to write.

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Respectfully submitted,

_____/s/_____
Sheik H. Mohamed, CPCU, CPA
Senior Insurance Examiner

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

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

_____/s/_____
Sheik H. Mohamed

Subscribed and sworn to before me

this _____ day of _____, 2011.

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, James J. Wrynn Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

Sheik Mohamed

as proper person to examine into the affairs of the

NEW YORK MUTUAL UNDERWRITERS

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

Underwriters

with such other information as he shall deem requisite.

*In Witness Whereof, I have hereunto subscribed by the
name and affixed the official Seal of this Department, at
the City of New York,*

this 5th day of April, 2011



James J. Wrynn

JAMES J. WRYNN

Superintendent of Insurance