

REPORT ON EXAMINATION

OF THE

FARMERS TOWN MUTUAL INSURANCE COMPANY OF CLINTON

AS OF

DECEMBER 31, 2008

DATE OF REPORT

NOVEMBER 19, 2009

EXAMINER

NYANTAKYI AKUOKO

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
ONE COMMERCE PLAZA  
ALBANY, NEW YORK 12257

November 19, 2009

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 30368 dated August 6, 2009 attached hereto, I have made an examination into the condition and affairs of the Farmers Town Mutual Insurance Company of Clinton as of December 31, 2008, and submit the following report thereon.

Wherever the designations “the Company” or “FTMICC” appear herein without qualification, they should be understood to indicate the Farmers Town Mutual Insurance Company of Clinton.

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

The examination was conducted at the Company’s home office located at 1933 Salt Point Turnpike, Salt Point, New York 12578.

## **1. SCOPE OF EXAMINATION**

The Department has performed a single-state examination of Farmers Town Mutual Insurance Company of Clinton. The previous examination was conducted as of December 31, 2003. This examination covered the five-year period from January 1, 2004 through December 31, 2008. 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 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 Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All financially significant accounts and activities of the Company were considered in accordance with the risk-focused examination process.

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

- Significant subsequent events
- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Territory and plan of operation
- Growth of Company
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements
- Summary of recommendations

A review was also made to ascertain what action was taken by the Company 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 COMPANY**

The Farmers Town Mutual Insurance Company of Clinton was organized in 1884 for the purpose of transacting business as an assessment cooperative fire insurance corporation in the Town of Clinton, Dutchess County, New York.

On December 10, 1910, a certificate was issued by the Department authorizing the Company to continue the transaction of business in the above named town. Subsequently, the Company's territory was extended to include all the counties of New York State, excluding the counties of New York, Kings, Queens, Bronx and Richmond.

### **A. Management**

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of eleven members. It was noted that prior to the year-end 2008, one director passed away. During the board meeting in January 2009, a director was elected to fill the unexpired term of the deceased director. The board meets four times during each calendar year. At December 31, 2008 the board of directors was comprised of the following ten members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Donald Bowman Clinton Corners, New York	Retired
Charles Carroll Pleasant Valley, New York	Retired teacher & part time farmer
Jay Cross Salt Point, New York	President, FTMICC & Insurance broker, Crossroads Insurance Agency

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Victoria Cross Salt Point, New York	Insurance broker, Crossroads Insurance Agency
Daniel Jones Salt Point, New York	Engineer, New York State Department of Transportation
Clarence Knapp Clinton Corners, New York	Vice President, FTMICC & Farmer
Alice Messerich Clinton Corners, New York	Farmer
Camille Nadel Salt Point, New York	Employee, Dedrick Insurance Agency
Lily Shohan Clinton Corners, New York	Secretary/Treasurer, FTMICC
Sam Simon Poughkeepsie, New York	Retired medical doctor & Farmer

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

As of December 31, 2008, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Jay Cross	President
Clarence Knapp	Vice President
Lily Shohan	Secretary/Treasurer

B. Territory and Plan of Operation

As of December 31, 2008, the Company was licensed as an assessment cooperative insurance company to transact business within all the Counties of the State of New York, excluding the Counties of Bronx, Kings, New York, Queens and Richmond. The Company was licensed to write business in New York only.

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>
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass

Paragraphs 5, 6, 7, and 8 can be written solely in conjunction with fire insurance written under the same policy and covering the same premises. The Company is also licensed to accept and cede reinsurance as provided in Section 6606 of the Insurance Law of the State of New York.

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

<u>Calendar Year</u>	<u>Direct Premiums Written</u>
2004	\$30,448
2005	\$37,699
2006	\$32,075
2007	\$30,581
2008	\$32,504

Based on the lines of business for which the Company is licensed and pursuant to the requirements of Articles 13 and 66 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$100,000.

C. Reinsurance

The Company assumed no reinsurance during the period covered by this examination.

As of December 31, 2008, the Company had the following ceded reinsurance program in place:

Property	100% of \$75,000 each loss, each risk, for the ultimate net loss over and above an initial Ultimate Net Loss of \$15,000 each loss, each risk, subject to a limit of liability to the reinsurer of \$75,000 each loss, each risk and further subject to a limit of liability to the reinsurer of \$225,000 each loss occurrence.
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The Company had the following catastrophe excess of loss reinsurance program in effect at December 31, 2008:

Windstorm	100% of the ultimate net loss over and above an ultimate net loss equal to 10% of the Company's policyholder's surplus. However, no claim shall be made hereunder unless the loss occurrence involves three or more risks.
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All reinsurance contracts in effect throughout the examination period were reinsured by authorized and accredited reinsurers.

Section 1308(e)(1)(A) of the New York Insurance Law states, in part "During any period of twelve consecutive months, without the superintendent's permission: no domestic insurer, except life, shall by any reinsurance agreement or agreements cede an amount of its insurance on which the total gross reinsurance premiums are more than fifty percent of the unearned premiums on the net amount of its insurance in force at the beginning of such period..."

The Department previously granted approval for the Company to cede an amount in excess of the fifty percent limitation prescribed by Section 1308(e)(1)(A) of the New York Insurance Law. However, in each of the five years covered by the examination, the Company failed to submit additional reinsurance treaties that it became a party to for review in accordance with Section 1308(e)(1)(A).

It is recommended that the Company submit all reinsurance contracts and any amendments thereto to the Department for review in accordance with Section 1308(e)(1)(A) of the New York Insurance Law.

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.

The Schedule F - Part 3 reported by the Company in its filed 2008 annual statement was found to be inaccurate. In particular, the Company reported a reinsurance intermediary as a reinsurer instead of the reinsurance companies which were a party to the reinsurance contracts.

It is recommended that the Company comply with the NAIC Annual Statement Instructions by completing Schedule F - Part 3 correctly in all future filings with this Department.

Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in the NAIC Statement of Statutory Accounting Principles (“SSAP”) No. 62. Representations were supported by an attestation from the Company's Executive Officers pursuant to the NAIC Annual Statement Instructions. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraphs 26 and 27 of SSAP No. 62.

D. Holding Company System

The Company was not a member of any holding company system as of December 31, 2008.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2008, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	.02:1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	3%
Premiums in course of collection to surplus as regards policyholders	0%

All of the above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

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>Ratios</u>
Losses and loss adjustment expenses incurred	\$36,114	44.45%
Other underwriting expenses incurred	88,411	108.82%
Net underwriting loss	<u>(43,280)</u>	<u>(53.27)%</u>
Premiums earned	<u>\$81,245</u>	<u>100.00%</u>

F. Accounts and Records

i. Completion of annual statement schedules and exhibits

The NAIC annual statement instructions provide a guide for completion of annual statement schedules and exhibits. Upon examination of the 2008 filed annual statement, the following were found:

- The total compensation and salary reported in the Supplemental Compensation Exhibit for some directors and an officer was either inaccurate or incomplete.
- Underwriting and Investment Exhibit Part 2A was not completed.
- Schedule P Part 1 Summary columns relative to unpaid case and IBNR losses and unpaid case and IBNR loss adjustment expenses were not completed.
- Reinsurance attestation was not completed for 2005, 2006 and 2007.

It is recommended that the Company comply with the NAIC annual statement instructions and fully and accurately complete the annual statement schedules and exhibits.

ii. Misclassification of assets

The NAIC Statement of Statutory Accounting Principles No. 26, paragraph 2 defines bonds to include certificates of deposit (“CD’s”) and commercial paper that have a fixed schedule of payments and a maturity date in excess of one year from the date of acquisition. Examination review of bank confirmations of seven CD’s indicated that each CD had a term in excess of one year from the date of acquisition, but they were reported by the Company as cash in Schedule E - Part 1 of the filed 2008 annual statement.

It is recommended that the Company comply with SSAP No. 26 and report CD’s with terms in excess of one year from the date of acquisition as bonds in Schedule D-Part 1 of the annual statement.

iii. Custodial agreement

As indicated in the NAIC Financial Condition Examiners Handbook, there are specific guidelines that should be followed in the maintenance of a custodial or safekeeping agreement. Upon examination, it was noted that the custodial agreement between the Company and its custodian bank did not contain

several of the provisions and safeguards as set forth in Part 1, Section IV-J of the NAIC Financial Condition Examiners Handbook.

It is recommended that the Company amend its custodial agreement to comply with Part 1, Section IV-J of the NAIC Financial Condition Examiners Handbook.

iv. Compliance with Section 6611 of the New York Insurance Law

Section 6611(a)(1) of the New York Insurance Law (“NYIL”) states “Every co-operative property/casualty insurance company shall keep and maintain books of account and records in such manner as will show fully and truly the condition, affairs and business of such corporation and facilitate the preparation and verification of its annual statements.”

In addition, Section 6611(a)(4)(A) of the NYIL states, in part, “The books of account shall include a cash book and general ledger together with the necessary supplemental and subsidiary records including a loss register showing all losses of which the corporation has had notice and the disposition or settlement thereof...”

Upon examination, it was determined that the Company set up a loss register in 2004 but it failed to maintain a loss register for the remaining years under examination. Therefore, it is recommended that the Company comply with Sections 6611(a)(1) and 6611(a)(4)(A) of the New York Insurance Law and maintain a loss register that will show all losses of which the Company has had notice and the disposition or settlement thereof. A similar recommendation was included in the prior report.

v. Record keeping and compliance with Regulation 152

Part 243.2(b) of Department Regulation 152 requires the retention of the indicated types of records for a period of six calendar years from its creation or until after the filing of the report on examination or the conclusion of the investigation in which the records are subject to review. In addition, Part 243.2(b)(4) of Department Regulation 152 states that, “...an insurer shall maintain ... A claim file for six calendar years after all elements of the claim are resolved and the file is closed or until after the filing of the report on examination in which the claim file was subject to review, whichever is longer. A claim file shall show clearly the inception, handling and disposition of the claim, including the dates that forms and other documents were received.”

During the course of the examination, the Company failed to provide the following to the examiner:

- Claims files for four reported claims (two each in 2006 and 2008)
- Copies of eight conflict of interest questionnaires (one in 2007, two in 2005, three in 2006 and one each in 2007 and 2008)

It is recommended that the Company fully comply with the record retention requirements of Part 243.2 of Department Regulation 152. A similar recommendation was included in the prior report.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2008 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 99,858	\$ 0	\$ 99,858
Cash, cash equivalents and short-term investments	865,400	0	865,400
Investment income due and accrued	1,481	0	1,481
Uncollected premiums and agents' balances in the course of collection	<u>1,455</u>	<u>1,376</u>	<u>79</u>
Total assets	<u>\$968,194</u>	<u>\$1,376</u>	<u>\$966,818</u>

#### Liabilities, surplus and other funds

Losses and loss adjustment expenses		\$ 2,211
Other expenses (excluding taxes, licenses and fees)		7,473
Taxes, licenses and fees (excluding federal and foreign income taxes)		485
Unearned premiums		18,826
Ceded reinsurance premiums payable (net of ceding commissions)		<u>1,252</u>
Total liabilities		\$30,247
Required surplus	\$100,000	
Unassigned funds (surplus)	<u>836,571</u>	
Surplus as regards policyholders		<u>\$936,571</u>
Total liabilities, surplus and other funds		<u>\$966,818</u>

Note: The Internal Revenue Service ("IRS") has completed its audits of the Company's eligibility for exemption from Federal income tax as of December 31, 2007. No adverse findings were noted according to the audit letter issued by the IRS.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$85,200 during the five-year examination period January 1, 2004 through December 31, 2008, detailed as follows:

Underwriting Income

Premiums earned		\$ 81,245
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Deductions:

Losses and loss adjustment expenses incurred	\$36,114	
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Other underwriting expenses incurred	<u>88,411</u>	
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Total underwriting deductions		<u>124,525</u>
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Net underwriting gain or (loss)		\$(43,280)
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Investment Income

Net investment income earned	<u>\$130,675</u>	
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Net investment gain or (loss)		130,675
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Other Income

Net gain or (loss) from agents' or premium balances charged off	<u>\$ (819)</u>	
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Total other income		<u>(819)</u>
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Net Income		<u>\$ 86,576</u>
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Surplus as regards policyholders per report on examination as of December 31, 2003		\$851,371
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	<u>Gains in</u>	<u>Losses in</u>
	<u>Surplus</u>	<u>Surplus</u>

Net income	\$86,576	
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Change in nonadmitted assets	_____	<u>\$1,376</u>
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Total gains and losses	<u>\$86,576</u>	<u>\$1,376</u>
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Net increase in surplus		<u>85,200</u>
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Surplus as regards policyholders per report on examination as of December 31, 2008		<u>\$936,571</u>
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#### 4. **LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$2,211 is the same as reported by the Company as of December 31, 2008. The examination analysis was based on statistical information contained in the Company's internal records and in its filed annual statements.

#### 5. **MARKET CONDUCT ACTIVITIES**

In the course of this examination, a review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct investigation, which is the responsibility of the Market Conduct Unit of the Property Bureau of this Department.

The general review was directed at practices of the Company in the following areas:

- A. Sales and advertising
- B. Underwriting
- C. Rating
- D. Cancellations

No problems were encountered in the above areas.

- E. Claims

##### **Regulation 64 Compliance**

The examination review of the Company's claim files revealed the following:

- The Company did not maintain files for four claims so as to enable the examiner to reconstruct the loss events, pursuant to Part 216.11 of Regulation 64.
- The Company failed to keep and maintain in the claim file payment records and proof of loss documents for a claim that was open at year end 2008 and paid in 2009.
- The Company failed to date communications relating to claims that were reported in 2008.

It is recommended that the Company comply with Part 216.11 of Department Regulation 64 and maintain claim files in such a manner as to enable Department examiners to reconstruct all events relating to a claim. A similar recommendation was included in the prior report.

## 6. 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>Accounts and Records</u>	
i. It was recommended that the Company comply with Sections 6611(a)(1) and 6611(a)(4)(A) of the NYIL, henceforth and keep a loss register that will show all losses of which the Company has had notice and the disposition or settlement thereof.	9
The Company has not complied with this recommendation. A similar recommendation is made in this report.	
ii. It was recommended that the Company fully comply with the record retention requirements of Department Regulation 152.	10
The Company has not complied with this recommendation. A similar recommendation is made in this report.	
iii. The board was directed to take appropriate action to ensure that Company records are properly maintained in order that future verification of the annual statement can be facilitated as required by Section 6611(a)(1) of the NYIL.	10
The Company has complied with this recommendation.	
B. <u>Market Conduct Activities</u>	
i. It was recommended that the Company fully and strictly comply with the time requirement provision of Section 216.4 of Regulation 64.	15
The Company has complied with this recommendation.	
ii. It was recommended that the Company comply with Section 216.11 and date stamp all communications relating to a claim as required by this specific section of Regulation 64.	15
The Company has not complied with this recommendation. A similar recommendation is made in this report.	

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Reinsurance</u>	
i. It is recommended that the Company submit all reinsurance contracts and any amendments thereto to the Department for review in accordance with Section 1308(e)(1)(A) of the New York Insurance Law.	6
ii. It is recommended that the Company comply with the NAIC Annual Statement Instructions by completing Schedule F - Part 3 correctly in all future filings with this Department.	6
B. <u>Accounts and records</u>	
i. It is recommended that the Company comply with the NAIC annual statement instructions and fully and accurately complete the annual statement schedules and exhibits.	8
ii. It is recommended that the Company comply with SSAP No. 26 and report CD's with terms in excess of one year from the date of acquisition as bonds in Schedule D-Part 1 of the annual statement.	8
iii. It is recommended that the Company amend its custodial agreement to comply with Part 1, Section IV-J of the NAIC Financial Condition Examiners Handbook.	9
iv. It is recommended that the Company comply with Sections 6611(a)(1) and 6611(a)(4)(A) of the New York Insurance Law, and maintain a loss register that will show all losses of which the Company has had notice and the disposition or settlement thereof. A similar recommendation was included in the prior report.	9
v. It is recommended that the Company fully comply with the retention requirements of Part 243.2 of Department Regulation 152. A similar recommendation was included in the prior report.	10
C. <u>Market Conduct</u>	
It is recommended that the Company comply with Part 216.11 of Department Regulation 64 and maintain claim files in such a manner as to enable Department examiners to reconstruct all events relating to a claim. A similar recommendation was included in the prior report.	13

Respectfully submitted,

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/s/  
Nyantakyi Akuoko  
Senior Insurance Examiner

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

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

\_\_\_\_\_  
/s/  
Nyantakyi Akuoko

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, Kermitt J. Brooks Acting Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

*Nyantakyi Akuoko*

*as proper person to examine into the affairs of the*

**Farmers Town Mutual Insurance Company of Clinton**

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

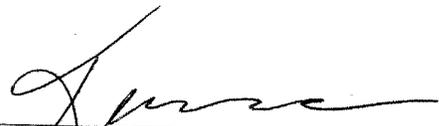
**Company**

*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 6<sup>TH</sup> day of August 2009*



  
Kermitt J. Brooks  
Acting Superintendent of Insurance