

REPORT ON EXAMINATION

OF

FDM PREFERRED INSURANCE COMPANY, INC.

AS OF

DECEMBER 31, 2018

DATE OF REPORT

OCTOBER 25, 2019

EXAMINER

JUSTIN MATHEW

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Department of Financial Services

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Acting Superintendent

September 29, 2021

Honorable Adrienne A. Harris
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 31879 dated March 21, 2019, attached hereto, I have made an examination into the condition and affairs of FDM Preferred Insurance Company, Inc. as of December 31, 2018, and submit the following report thereon.

Wherever the designation “the Company” or “FPI” appears herein without qualification, it should be understood to indicate FDM Preferred Insurance Company, Inc.

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 1 Blue Hill Plaza, Pearl River, NY 10965-3104.

1. SCOPE OF EXAMINATION

The Department has performed a group examination of FDM Preferred Insurance Company, Inc., a single-state insurer. The previous examination was conducted as of December 31, 2014. This examination covered the four-year period from January 1, 2015 through December 31, 2018. The examination of the Company was performed concurrently with the examinations of the following insurers: Fire Districts of New York Mutual Insurance Company, Inc. (“FDM”) and Fire Districts Insurance Company, Inc. (“FDI”). Collectively, the three insurers are referred to as Fire Districts Group (“FDG”). 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, 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, and evaluating 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
- Affiliated group
- Financial statement presentation
- Loss review and analysis
- Summary of recommendations

A review was also made to ascertain what action was taken by the Company with regard to the 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

FPI is a not-for-profit stock company that writes workers' compensation insurance and employer's liability insurance, primarily for volunteer firefighters, in New York State. It was established by FDM as a discounted company for policyholders having experienced better than average loss ratios and exposures to losses. The Company received a determination from the State of New York Department of Taxation and Finance that it is entitled to the exemption provided in Section 1512(a)(1) of the New York State Tax Law.

The Company was incorporated under the laws of the State of New York on December 21, 2007. It became licensed on March 16, 2009 and commenced business on the same date.

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 thirteen members, and in no case, shall there be less than nine members. The board meets four times during each calendar year. As of December 31, 2018, the board of directors was comprised of the following twelve members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Craig P. DeBaun Oceanside, NY	Administrator for Lifeguard Certification, Nassau County, NY
Roberta G. Doremus Tallman, NY	Retired
John J. Egan Selden, NY	District Manager, Selden Fire Department
Michael H. Geoghan Bayport, NY	President, FDM Preferred Insurance Company, Inc. President, Walter P. Geoghan Agency, Inc
Dominick D. Greene Newburgh, NY	Retired
Thomas E. Herlihy, Jr. Tully, NY	Secretary, FDM Preferred Insurance Company, Inc.
John LoScalzo Huntington, NY	Retired

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Frank A. Nocerino North Massapequa, NY	Retired
Lawrence A. Pierce Mendon, NY	Vice President, FDM Preferred Insurance Company, Inc.
Randall J. Rider Tonawanda, NY	Retired
William L. Van Gorder Johnston, NY	Insurance Account Agent, Mang Insurance Agency LLC
Michael L. White Clay, NY	Treasurer, FDM Preferred Insurance Company, Inc. Marketing Agent, McNeil & Company, Inc.

Section 1215 of the New York Insurance Law states, in part:

“The office of a trustee or director of any domestic mutual insurer shall immediately become vacant whenever he fails to attend at least one regular meeting of the board of trustees or directors in any period of eighteen consecutive months, or unless excused by the board, which action shall be entered on the minutes...”

Subsequent to the July 21, 2017 Board of Directors meeting, Mr. Frank Nocerino did not attend any board of directors’ meetings, nor was he excused from attending by the board. On April 25, 2018, Director Larry Pierce was elected Vice President of the Company to replace Mr. Nocerino. Mr. Nocerino remained a board member. Subsequent to the examination period, effective June 25, 2019, President Michael Geoghan removed Mr. Nocerino as director to comply with Section 1215 of the New York Insurance Law. The Company has not appointed a new director since Mr. Nocerino’s removal.

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

“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 examiner requested each board members’ signed statement which indicated that he has received and read the report on examination as of December 31, 2014. The Company failed to provide the examiner all board members’ statements regarding the prior report on examination. It is recommended that the

Company comply with the provisions of Section 312(b) of the New York Insurance Law and ensure that a copy of the report on examination is furnished to each board member and that the requisite board member statement is available for review.

As of December 31, 2018, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Michael H. Geoghan	President
Lawrence A. Pierce	Vice President
Thomas E. Herlihy, Jr.	Secretary
Michael L. White	Treasurer
Matthew P. Vehlies	Executive Vice President & Chief Operating Officer

Conflict of Interest Statements

The Company was unable to provide all Code of Business Conduct and Ethics Disclosure statements signed by directors, officers and key employees for the examination period. It is recommended that the Company require all of its directors, officers and key employees to complete a Code of Business Conduct and Ethics Disclosure statement on an annual basis and ensure that all questionnaires are completed accurately, signed, maintained and available for review.

B. Territory and Plan of Operation

As of December 31, 2018, the Company was licensed to write business in New York only. The license covers workers' compensation and employers' liability insurance as defined in paragraph 15 of Section 1113(a) of the New York Insurance Law, including volunteer firefighters' benefit insurance provided pursuant to the Volunteer Firefighters' Benefit Law.

Based on the line of business for which the Company is licensed and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$600,000.

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>
2015	\$7,378,761	\$1,986,948	\$ 9,365,709
2016	\$7,671,438	\$2,102,122	\$ 9,773,560
2017	\$8,075,343	\$1,939,782	\$10,015,125
2018	\$7,748,863	\$1,772,952	\$ 9,521,815

Effective April 1, 2009, the Company entered into an intercompany pooling agreement with FDM, as lead, and FDI. The three companies agreed to pool all insurance risks and to participate by means of intercompany reinsurances at a fixed percentage basis, with the Company's participation being 10%, and FDM's and FDI's participations being 75% and 15%, respectively. The pooling and participation are for premiums earned and losses incurred on or after April 1, 2009. The agreement was submitted to and approved by the Department pursuant to the provisions of Section 1505(d) of the New York Insurance Law.

C. Reinsurance

The Company has an excess of loss treaty in place with the following coverage: \$19,600,000 in excess of \$400,000. The agreement is comprised of five layers with a different limit within each layer. As of December 31, 2018, reinsurance recoverables of approximately \$17 million and \$5.7 million were attributable to Swiss Reinsurance America Corporation and Maiden Reinsurance North America, Inc., respectively. Additionally, the reinsurance recoverables from both of these authorized reinsurers represent more than 25% of the Company's surplus to policyholders. The Company has a trust agreement with Maiden Re whereby the reinsurer deposits funds into the trust to cover outstanding case reserves, unpaid balances and IBNR. The trust agreement is for the benefit of all companies in the Fire Districts Group. As of December 31, 2018, the market value of the trust was \$24,341,604.

The 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.

Examination review found that the Schedule F data reported by the Company in its filed annual statement accurately reflected its reinsurance transactions. Additionally, 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 appropriate risk transfer analyses and an attestation from the Company's Chief Executive Officer and Chief Financial Officer pursuant to the NAIC Annual Statement

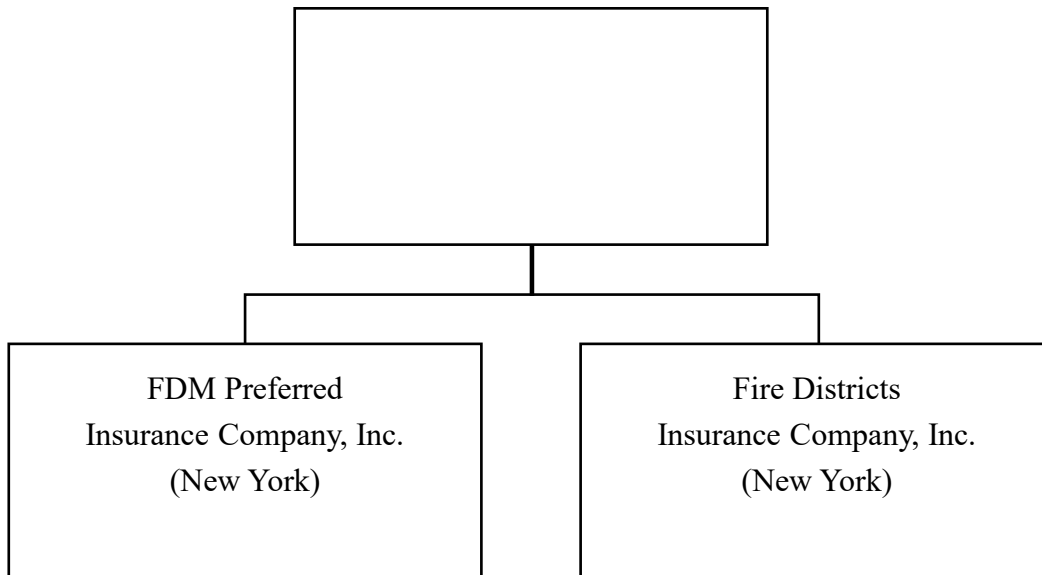
Instructions. Additionally, the examination review indicated that the Company was not a party to any finite reinsurance agreements. The reinsurance agreement was accounted for utilizing reinsurance accounting as set forth in SSAP No. 62R.

During the examination period, the Company ceded more than 50% of its written premium. The Company received approval to do so, pursuant to the provisions of Section 1308(e)(1)(A) of the New York Insurance Law.

D. Affiliated Group

The Company is wholly owned by FDM. Because the ultimate controlling party of the affiliated group is an authorized insurer, it is exempt from the requirements of Article 15 of the New York Insurance Law and Department Regulation 52. The Company is subject to the requirements of Article 16 of the New York Insurance Law; however, it received a waiver for the filing requirements of Department Regulation 53, because all affiliates are insurance companies subject to Articles 3 and 16 of the New York Insurance Law.

The following is an unabridged chart of the affiliated group at December 31, 2018:



In addition to the intercompany pooling agreement, the Company was party to the following agreement with other members of its affiliated group as of December 31, 2018:

Service and Cost Allocation Agreement

Effective January 30, 2009, the Company entered into a service and cost allocation agreement with FDM and FDI, whereby FDM agrees to provide personnel services, and makes available its property, equipment and facilities. Pursuant to the agreement, FDI and FPI agree to reimburse FDM in accordance with the requirements of Department Regulation 30. This agreement was filed with the Department pursuant to Article 16 of the New York Insurance Law and was non-disapproved.

E. Significant Ratios

The Company's operating ratios, computed as of December 31, 2018, fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the NAIC.

<u>Operating Ratios</u>	<u>Result</u>
Net premiums written to policyholders' surplus	38%
Adjusted liabilities to liquid assets	62%
Two-year overall operating	57%

Underwriting Ratios

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

	<u>Amount</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$ 4,669,188	59.41%
Other underwriting expenses incurred	1,538,788	19.58%
Net underwriting gain	<u>1,651,685</u>	<u>21.01%</u>
Premiums earned	<u>\$7,859,661</u>	<u>100.00%</u>

The Company's reported risk-based capital ("RBC") score was 1,185.1% at December 31, 2018. The RBC score 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. There were no financial adjustments that impacted the Company's RBC score.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2018, as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 7,839,016	\$0	\$ 7,839,016
Common stocks	1,039,424	0	1,039,424
Cash and cash equivalents	1,656,453	0	1,656,453
Investment income due and accrued	44,330	0	44,330
Uncollected premiums and agents' balances in the course of collection	137,948	0	137,948
Deferred premiums, agents' balances and installments booked but deferred and not yet due	293,356	0	293,356
Amounts recoverable from reinsurers	190,780	0	190,780
Receivables from parent, subsidiaries and affiliates	<u>260,720</u>	<u>0</u>	<u>260,720</u>
Total assets	<u>\$11,462,027</u>	<u>\$0</u>	<u>\$11,462,027</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses	\$ 5,410,016
Reinsurance payable on paid losses and loss adjustment expenses	134,896
Commissions payable, contingent commissions and other similar charges	21,746
Other expenses (excluding taxes, licenses and fees)	21,000
Unearned premiums	487,864
Ceded reinsurance premiums payable (net of ceding commissions)	158,607
Payable to parent, subsidiaries and affiliates	609,166
Workers compensation assessment	<u>3,579</u>
Total liabilities	\$ 6,846,874

Surplus and Other Funds

Common capital stock	\$ 600,000
Gross paid in and contributed surplus	1,170,020
Unassigned funds (surplus)	<u>2,845,133</u>
Surplus as regards policyholders	<u>4,615,153</u>
Total liabilities, surplus and other funds	<u>\$11,462,027</u>

B. Statement of Income

Net income for the four-year examination period, as reported by the Company, was \$2,531,806 as detailed below:

Underwriting Income

Premiums earned		\$7,859,661
Deductions:		
Losses and loss adjustment expenses incurred	\$4,669,188	
Other underwriting expenses incurred	<u>1,538,788</u>	
Total underwriting deductions		<u>6,207,976</u>
Net underwriting gain		\$1,651,685

Investment Income

Net investment income earned	\$ 598,702	
Net realized capital gain	<u>281,419</u>	
Net investment gain		<u>880,121</u>
Net income		<u>\$2,531,806</u>

C. Capital and Surplus

Surplus as regards policyholders increased \$2,925,096 during the examination period January 1, 2015 through December 31, 2018 as reported by the Company, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2014			\$1,690,056
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$2,531,806		
Net unrealized capital losses		106,710	
Surplus adjustments paid-in	<u>500,000</u>	<u>0</u>	
Total gains and losses	\$3,031,806	\$106,710	
Net increase in surplus			<u>2,925,096</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2018			<u>\$4,615,153</u> *

*Rounding adjustment of \$1

At December 31, 2018, capital paid in was \$600,000 consisting of 60,000 shares of \$10 par value per share common stock. Gross paid in and contributed surplus increased by \$500,000 during the examination period due to a capital contribution in 2016 by its parent. Gross paid in and contributed surplus at December 31, 2018 totaled \$1,170,020.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$5,410,016 is the same as reported by the Company as of December 31, 2018. 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 SSAP No. 55.

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Corporate Governance</u>	
i. It was recommended that the board revoke the waivers previously issued, and in the future, as a matter of policy, no longer issue any blanket waivers of the Company's entire Code of Business Conduct and Ethics.	11
The Company has complied with this recommendation.	
ii. It was recommended that the board take various actions to ensure it has the comprehensive knowledge necessary to fully exercise its fiduciary responsibilities to the policyholders of the Company, as follows:	11
1) Require an annual full written disclosure of real, apparent or perceived conflicts of interest from all directors, officers, and employees.	
2) Review sufficiently waivers to provisions of the Code of Business Conduct and Ethics.	
3) If it deems that a conflict of interest exists, the board takes steps to ensure that the conflict does not adversely affect the position of the Company or its policyholders.	
The Company has not complied with item 1 of this recommendation. A similar recommendation is made in this report.	
iii. It was recommended that the Company terminate the administrative rights of person(s) who are employee(s) of the McNeil Agency to the Company's integrated underwriting, claims, and accounting system.	12
The Company has complied with this recommendation.	
iv. It was recommended that the Company comply with Section 2314 of the New York Insurance Law.	14
The Company has complied with this recommendation.	
v. It was recommended that the Company form an Underwriting Committee, whose responsibilities would include, at a minimum, the following:	14

- 1) Review and approve all proposed carrier changes prior to policy issuance;
- 2) Approve all renewals prior to issuance, ensuring that each insured is placed in the proper carrier upon renewal and that underwriting guidelines are properly applied.
- 3) Review and approve new business prior to issuing the policy;
- 4) Review and approve all changes to the Company's Underwriting Manual;
- 5) Approve all prospective/new agencies, prior to the issuance of the contract.

The Company has complied with this recommendation.

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| vi. | It was recommended that the Underwriting Committee include proper documentation of the review process in all underwriting files and policy applications. | 14 |
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The Company has complied with this recommendation.

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| vii. | It was recommended that the Company exclude agents, marketing representatives, or employees of any agency that does business with FDG, from the composition of the Underwriting Committee. | 14 |
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The Company has complied with this recommendation.

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| viii. | It was recommended that the board of directors exercise its fiduciary responsibilities to ensure that management is operating in the best interest of the Company and its policyholders. | 14 |
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The Company has complied with this recommendation.

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Corporate Governance</u>	
i.	It is recommended that the Company comply with the provisions of Section 312(b) of the New York Insurance Law and ensure that a copy of this report on examination is furnished to each board member and that the requisite Board member statement is available for review.	4
ii.	It is recommended that the Company require all of its directors, officers and key employees to complete a Code of Business Conduct and Ethics Disclosure statement on an annual basis and ensure that all questionnaires are completed accurately, signed, maintained and available for review.	5

Respectfully submitted,

_____/S/_____
Justin Mathew
Senior Insurance Examiner

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

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

_____/S/_____
Justin Mathew

Subscribed and sworn to before me

this _____ day of _____, 2021

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, Linda A. Lacewell, Acting 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:

Justin Mathew

as a proper person to examine the affairs of the

FDM Preferred Insurance Company, Inc.

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 21st day of March, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services



By:

Joan P. Riddell

Joan Riddell
Deputy Bureau Chief