

REPORT ON EXAMINATION

OF

STATE INSURANCE FUND DISABILITY BENEFITS FUND

AS OF

DECEMBER 31, 2014

DATE OF REPORT

EXAMINER

JANUARY 20, 2016

RAJENDRA SUNDER

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Department of Financial Services

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Acting Superintendent

November 16, 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 31228 dated January 20, 2015, attached hereto, I have made an examination into the condition and affairs of the State Insurance Fund Disability Benefits Fund as of December 31, 2014, and submit the following report thereon.

Wherever the designation “DB Fund” appears herein without qualification, it should be understood to indicate the State Insurance Fund Disability Benefits Fund. The State Insurance Fund, for purposes of this report, refers to the New York State agency, which administers the operations of the Disability Benefit Fund, which is the subject of this examination report, and the Workers Compensation Fund.

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 New York City office of the State Insurance Fund located at 199 Church Street, New York, NY 10007.

1. SCOPE OF EXAMINATION

The Department has performed an examination of the DB Fund. The previous examination was conducted as of December 31, 2009. This examination covered the five-year period from January 1, 2010 through December 31, 2014. 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 current and prospective risks of the DB Fund by obtaining information about it, such as corporate governance, identifying and assessing inherent risks within the DB Fund 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.

All financially significant accounts and activities of the DB Fund were considered in accordance with the risk-focused examination process. This examination also included a review and evaluation of the DB Fund’s own control environment assessment. The examiners relied upon audit work performed by the DB Fund’s independent public accountants when appropriate.

This examination report includes, but is not limited to, the following:

- DB Fund history
- Management and control
- Territory and plan of operation
- Reinsurance
- Financial statement presentation
- Loss review and analysis
- Accounts and records
- Summary of recommendations

A review was also made to ascertain what action was taken by the DB Fund with regard to comments and recommendations contained in the prior report on examination.

The examination of the DB Fund was performed concurrently with the examinations of the State Insurance Fund Workers’ Compensation Fund and the Aggregate Trust Fund. The Aggregate Trust Fund is another fund administered by the State Insurance Fund. The purpose of the Aggregate Trust Fund is to

assure and oversee the regular payments of benefits on adjudicated death cases and certain permanent disability cases.

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

2. DESCRIPTION OF THE DISABILITY BENEFITS FUND

The State Insurance Fund (“the Fund”) was created in 1914, pursuant to the provisions of Article 6, Section 76 of the New York Workers’ Compensation Law (“NYWCL”). Its primary purpose was to provide workers’ compensation insurance for employers in the State of New York. The Fund is comprised of two separate funds: the Workers’ Compensation Fund (“WC Fund”) and the Disability Benefits Fund (“DB Fund”). The WC Fund insures employers against occupational injury and disease suffered by their employees; the DB Fund insures against disabling off-the-job sickness or injury sustained by employees. The DB Fund was created in 1950 by amendment to Section 76 of the NYWCL.

The Fund is required to maintain separate records and file separate financial statements for the WC Fund and the DB Fund. This report is confined to the operations of the DB Fund. A separate report on examination was prepared for the WC Fund.

A. Corporate Governance

Pursuant to Article 6, Section 77 of the NYWCL, the Fund shall be administered by a board of commissioners consisting of ten members. The New York State Labor Commissioner is a member by virtue of the office, with the other members being appointed by the Governor with the consent of the State Senate. The commissioners are appointed for terms of three years each and they must be policyholders insured by the State Insurance Fund.

In 2007, Section 77 of the NYWCL was amended to increase the number of members from eight to ten, with one of the new commissioners to be appointed by the Governor upon the recommendation of the New York State AFL-CIO, and the other new commissioner to be appointed upon the recommendation of the Business Council of the State of New York.

The board meets every month, with the exception of August, during each calendar year. At December 31, 2014, the board of commissioners was comprised of the following nine members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Joseph Canovas Staten Island, NY	Director of Special Projects, AFL/CIO
Eileen Asandra Frank New York, NY	President, J.P. West, Inc.
Charles MacLeod Northport, NY	President, SMM Advertising
David Elihu Ourlicht New York, NY	Managing Director, GAMCO Asset Management
Peter Manuel Rivera (ex-officio) Bronx, NY	Commissioner, NYS Department of Labor
Sheila Stamps New York, NY	Independent Consultant, Formerly of Dreambuilder Investments, Inc.
Barry Swidler Brookville, NY	President, Long Island Carpet Cleaners, Inc.
Kenneth Rudolph Theobalds New Rochelle, NY	VP of Government & Regulatory Affairs, Entergy
Alexis Thomas Brooklyn, NY	Principal & Manager, The Williams Capital Group, L.P.

A review of the minutes of the board of commissioners' meetings held during the examination period indicated that the meetings were generally well attended.

Section 82 of Article 6 of the NYWCL prescribes that the commissioners shall appoint an executive director, a general attorney, and a secretary for terms of nine years each. The executive director shall, subject to the direction of the commissioners, be responsible for the direction and operation of the Fund. As of December 31, 2014, the principal officers of the DB Fund were as follows:

<u>Name</u>	<u>Title</u>
Eric Madoff	Executive Director
William Henry O'Brien	General Attorney
Shirley Stark	Deputy Executive Director

B. Territory and Plan of Operation

The DB Fund operates only in the State of New York. It writes disability benefits insurance, on a direct basis according to Article 9 of the New York Workers Compensation Law ("WCL"). The Disability Benefits Law (Article 9 of the WCL) provides for weekly cash benefits to replace, in part, wages lost due to injuries or illnesses that do not arise out of or in the course of employment.

The following schedule shows the direct premiums written by the DB Fund during the examination period:

<u>Calendar Year</u>	<u>Direct Premiums</u>
2010	\$ 9,715,280
2011	\$ 9,297,551
2012	\$12,688,463
2013	\$15,762,870
2014	\$16,405,182

C. Reinsurance Ceded

The DB Fund is strictly a direct writer and did not assume or cede any insurance during the examination period.

D. Significant Operating Ratios

The following ratios have been computed as of December 31, 2014, fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

<u>Operating Ratios</u>	<u>Results</u>
Net premiums written to surplus as regards policyholders	11.0%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	18.0%
Premiums in course of collection to surplus as regards policyholders	0.0%

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>Ratios</u>
Losses and loss adjustment expenses incurred	\$66,485,196	94.43%
Other underwriting expenses incurred	13,554,783	19.25
Net underwriting loss	<u>(9,634,373)</u>	<u>(13.68)</u>
Premiums earned	<u>\$70,405,606</u>	<u>100.00%</u>

FINANCIAL STATEMENTSA. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2014 as reported by the DB Fund:

<u>Assets</u>		Assets Not	Net Admitted
	<u>Assets</u>	<u>Admitted</u>	<u>Assets</u>
Bonds	\$161,543,497	\$ 0	\$161,543,497
Preferred stocks (stocks)	116,250	0	116,250
Common stocks (stocks)	29,637	0	29,637
Cash, cash equivalents and short-term investments	9,681,297	0	9,681,297
Investment income due and accrued	807,868	0	807,868
Uncollected premiums and agents' balances in the course of collection	759,397	146,926	612,471
Deferred premiums, agents' balances and installments booked but deferred and not yet due	2,374,759	0	2,374,759
Prepaid Expenses	72,445	72,445	0
Recoverable for Premium Tax	<u>94,600</u>	<u>0</u>	<u>94,600</u>
Totals	<u>\$175,479,750</u>	<u>\$219,371</u>	<u>\$175,260,379</u>

Liabilities, surplus and other fundsLiabilities

Losses and Loss Adjustment Expenses	\$ 3,700,403
Other expenses (excluding taxes, licenses and fees)	601,063
Unearned premiums	26,400,973
Advance premium	429,058
Amounts withheld or retained by DB Fund for account of others	6,648
Payable to parent, subsidiaries and affiliates	320,771
Policyholder credit balances	1,026,280
Loss refunds suspense	1,614
Loss payments in process	<u>63,995</u>
 Total liabilities	 \$ 32,550,805

Surplus and Other Funds

Security fluctuation surplus	\$ 4,000,000
Epidemic & catastrophe surplus	4,000,000
Unassigned funds (surplus)	<u>\$134,709,574</u>
Surplus as regards policyholders	<u>142,709,574</u>
 Total liabilities, surplus and other funds	 <u>\$175,260,379</u>

NOTE: The Fund is exempt from federal income tax.

B. Statement of Income

Net income for the five-year period, January 1, 2010 through December 31, 2014, was \$47,561,286 detailed as follows:

Underwriting Income

Premiums earned		\$70,405,606
Deductions:		
Losses and loss adjustment expenses incurred	\$66,485,196	
Other underwriting expenses incurred	13,554,783	
Total underwriting deductions		<u>80,039,979</u>
Net underwriting gain or (loss)		\$(9,634,373)

Investment Income

Net investment income earned	\$23,324,797	
Net realized capital gain	<u>34,201,753</u>	
Net investment gain or (loss)		57,526,550

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$(1,198,353)	
Finance and service charges not included in premiums	650,620	
Aggregate write-ins for miscellaneous income	<u>216,842</u>	
Total other income		<u>(330,891)</u>
Net Income		<u>\$47,561,286</u>

C. Capital and Surplus Account

Surplus as regards policyholders increased \$46,399,254 during the five-year examination period January 1, 2010 through December 31, 2014, detailed as follows:

Surplus as regards policyholders per report on examination as of December 31, 2009			\$96,310,320
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$47,561,286		
Net unrealized capital gains or (losses)		\$974,805	
Change in non-admitted assets		78,147	
Aggregate write-ins for gains and losses in surplus	<u>0</u>	<u>109,080</u>	
Net increase (decrease) in surplus	\$47,561,286	\$1,162,032	<u>46,399,254</u>
Surplus as regards policyholders per report on examination as of December 31, 2014			<u>\$142,709,574</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$3,700,403 is the same as reported by the DB Fund as of December 31, 2014. The examination analysis was conducted in accordance with generally accepted actuarial principles and statutory principles, including the NAIC Accounting Practices & Procedures Manual and Statutory Statement of Accounting Principles No. 55 (“SSAP No.55”), and statistical information contained in the DB Fund’s internal records and in its filed annual statements.

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained three recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
i. <u>Custodial Agreement</u>	
It was recommended that the DB Fund amend its custodial agreement with JP Morgan Chase to include the protective covenant suggested by Section 3-56 of the 2009 Handbook.	7
The DB Fund has complied with this recommendation.	
ii. <u>Fund's Contract with Certified Public Accountants</u>	
It was recommended that the DB Fund include the provisions required by Department Regulation 118 in all future contracts with its CPA firm. It was noted that Department Regulation 118 was revised effective January 1, 2010, and therefore, the DB Fund should comply with the revised Regulation.	8
The DB Fund has complied with this recommendation.	
iii. <u>Uncollected Premiums and Agents' Balances in Course of Collection</u>	
It was recommended that the DB Fund review the netting of credit balances against its uncollected premiums to determine if the netting is in accordance with SSAP No. 64.	8
The DB Fund has complied with this recommendation.	

6. **SUMMARY OF COMMENTS AND RECOMMENDATIONS**

This report contains no comments or recommendations.

Respectfully submitted,

_____/S/
Rajendra Sunder
Senior Insurance Examiner

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

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

_____/S/
Rajendra Sunder

Subscribed and sworn to before me

this _____ day of _____, 2021.

APPOINTMENT NO. 31228

NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, 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:

Rajendra Sunder

as a proper person to examine the affairs of the

State Insurance Fund Disability Benefits

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 20th day of January, 2015

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



Rolf Kaumann
Deputy Chief Examiner

