

REPORT ON EXAMINATION

OF THE

ASSURANCE COMPANY OF AMERICA

AS OF

DECEMBER 31, 2011

DATE OF REPORT

DECEMBER 13, 2012

EXAMINER

SHAWN TOWCHIK, CFE

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

December 13, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
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 30773 dated January 6, 2012, attached hereto, I have made an examination into the condition and affairs of Assurance Company of America as of December 31, 2011, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate Assurance Company of America.

Wherever the term “ZAIC” appears herein without qualification, it should be understood to indicate Zurich American Insurance Company.

Wherever the designation “ZAIG” appears herein without qualification, it should be understood to indicate Zurich American Insurance Group, which is comprised of the fourteen pool company participants listed in Item 2C of this report.

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 main administrative office located at 1400 American Lane, Schaumburg, Illinois 60196-1056

## 1. SCOPE OF EXAMINATION

The Department has performed a coordinated group examination of the Company. The previous examination was conducted as of December 31, 2006. This examination covered the five year period from January 1, 2007 through December 31, 2011. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination was performed concurrently with the examinations of the following insurers:

- American Guarantee and Liability Insurance Company (NY)
- American Zurich Insurance Company (IL)
- Colonial American Casualty and Surety Company (MD)
- Empire Fire & Marine Insurance Company (NE)
- Fidelity and Deposit Company of Maryland (MD)
- Maryland Casualty Company (MD)
- Northern Insurance Company of New York (NY)
- Steadfast Insurance Company (DE)
- Zurich American Insurance Company (NY)
- Zurich American Insurance Company of Illinois (IL)

Other states participating in this examination were California, Delaware, Illinois, Maryland and Nebraska.

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 and 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 also included a review and evaluation of the Company’s own control environment assessment and evaluation based upon the Company’s Internal Control Framework (“ICF”) documentation and testing. The Company is not publicly traded and is not required to comply with the Sarbanes-Oxley Act of 2002. The Company has, in its place, initiated an ICF process with similar goals and objectives as that of the Sarbanes-Oxley Act with respect to documentation and testing of the Company’s internal control environment.

The examiner also relied upon audit work performed by the Company's independent certified public accountants when appropriate.

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

- Significant subsequent events
- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Pensions, stock ownership and insurance plans
- Territory and plan of operation
- Growth of Company
- Loss experience
- Reinsurance
- Accounts and records
- Statutory deposits
- 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 Company was incorporated under the laws of the state of New York on June 20, 1945. The Company was a subsidiary of Northern Insurance Company of New York ("NICNY"). In 1963, 99% of the NICNY was acquired by Maryland Casualty Company ("Maryland Casualty"), a property and casualty insurer domiciled in Maryland. The remaining 1% was acquired by Maryland Casualty in 1968. On July 31, 1972, the ownership of the Company was transferred from NICNY to its parent, Maryland Casualty.

On May 25, 1989, Maryland Casualty and its subsidiaries were purchased by the Zurich Holding Company of America, Inc. ("ZHCA") (84%) and Zurich Insurance Company, United States Branch ("the Branch") (16%). On June 3, 1998, ZAIC was formed as the vehicle for the domestication of the Branch and on December 31, 1998, all of the assets and liabilities of the Branch

were transferred to ZAIC, and the Branch ceased to exist. In 1999, the remaining 84% ownership of Maryland Casualty Company was transferred from ZHCA to ZAIC. ZAIC is the lead company in ZAIG, a group of wholly owned property and casualty insurance companies.

At December 31, 2011, capital paid in was \$5,000,000 consisting of 25,000 shares of common stock at \$200 par value per share. Gross paid in and contributed surplus was \$1,250,000. There was no change to gross paid in and contributed surplus during the examination period.

A. Management

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 thirteen members nor more than twenty-one members. At December 31, 2011, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Earl Randall Clouser Princeton, NJ	Executive Vice President, Zurich American Insurance Company
Michael Thomas Foley Barrington Hills, IL	Chairman and Chief Executive Officer, Zurich American Insurance Company
Craig Jay Fundum Omaha, NE	Executive Vice President, Zurich American Insurance Company
Steven Michael Hatch Barrington, IL	Executive Vice President, Zurich American Insurance Company
Richard Patrick Kearns East Williston, NY	Director, Zurich American Insurance Company
Michael Gerard Kerner Wyckoff, NJ	Executive Vice President, Zurich American Insurance Company
Dennis Francis Kerrigan, Jr. North Barrington, IL	Executive Vice President and Corporate Secretary, Zurich American Insurance Company
Mary Rose Merkel Mount Prospect, IL	Executive Vice President, Zurich American Insurance Company

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Nancy Diane Mueller Kildeer, IL	President, Zurich American Insurance Company
Daniel Wayne Riordan McLean, VA	Executive Vice President, Zurich American Insurance Company
Vibhu Ranjan Sharma Wayzata, MN	Executive Vice President and Chief Financial Officer, Zurich American Insurance Company
Angus Mark Talbot Horgen, Switzerland	Director, Zurich American Insurance Company
Vincent Christopher Tizzio Summit, NJ	Executive Vice President, Zurich American Insurance Company

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, 2011, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Michael Thomas Foley	Chief Executive Officer
Nancy Diane Mueller	President
Vibhu Ranjan Sharma	Executive Vice President, Chief Financial Officer
Dennis Francis Kerrigan, Jr.	Executive Vice President, Corporate Secretary
Barry Sajowitz Paul	Treasurer
Bob David Effinger, Jr.	Executive Vice President, Chief Actuary
Earl Randall Clouser	Executive Vice President
Martin Feuer	Executive Vice President
Craig Jay Fundum	Executive Vice President
Steven Michael Hatch	Executive Vice President
Tina Gaye Mallie	Executive Vice President
Mary Rose Merkel	Executive Vice President
John Clarence Parker	Executive Vice President
Daniel Wayne Riordan	Executive Vice President
Vincent Christopher Tizzio	Executive Vice President

B. Territory and Plan of Operation

As of December 31, 2011, the Company was licensed to write business in all fifty states, and the District of Columbia.

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>
3	Accident & health
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
11	Animal
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
17	Credit
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity
26(A)(B)(C)(D)	Gap
29	Legal services

In addition, the Company is licensed to transact such workers' compensation insurance as may be incident to coverages contemplated under Paragraphs 20 and 21 of Section 1113(a) of the New York Insurance Law, including insurance described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 Cong. as amended; 33 USC Section 901 et seq. as amended).

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 and 41 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$4,200,000.



The following schedule shows the direct premiums written by the Company both in total and in New York for the period under examination:

DIRECT PREMIUMS WRITTEN

<u>Calendar Year</u>	<u>New York State</u>	<u>Total Premiums</u>	<u>Premiums Written in New York State as a Percentage of Total Premiums</u>
2007	\$ 16,916,623	\$ 520,013,749	3.25%
2008	\$ 11,704,476	\$ 430,496,432	2.72%
2009	\$ 9,145,539	\$ 318,656,924	2.87%
2010	\$ 12,614,515	\$ 297,333,708	4.24%
2011	\$ 19,651,078	\$ 203,807,640	9.64%

In 2011, direct premiums written for the Company as well as ZAIG were produced by a combination of approximately 9,637 independent agents, 288 brokers, 136 general agents, and 464 captive agents. Agency produced business accounted for approximately 67% of direct premiums written with the remainder produced by brokers.

ZAIG markets a variety of commercial property and casualty insurance products including professional liability and workers' compensation insurance, as well as risk management products and services, primarily through independent insurance agents and brokers, to domestic and international companies in all fifty states and many foreign markets.

Central to ZAIG's business strategy are its customer-focused business divisions, which are supported by shared service units. These customer-focused business divisions operate through independent agents and brokers that have access to products and services through a nationwide network of four regional offices and eighty-eight field offices.

ZAIG is divided into two strategic business divisions:

- Global Corporate in North America ("GCiNA"), which is the North American portion of Zurich Financial Services, Ltd.'s (Switzerland) ("Zurich"), Global Corporate business division; and
- North America Commercial ("NAC") which is part of Zurich's general insurance segment and represents its own business division within Zurich.

### Global Corporate in North America

GCiNA is comprised of two key business segments, domestic business and global business. GCiNA is an integrated business meeting the domestic and international insurance needs of corporate and global companies by capitalizing on its unique transatlantic footprint and global network to deliver customized insurance solutions to its customers and brokers. The domestic business segment serves large corporate customers and commercial markets with domestic and global solutions that include property and custom-tailored casualty programs. This segment also includes integrated programs combining insurance and alternative risk mitigating solutions for corporate customers. The global business segment provides comprehensive risk solutions, risk engineering services and claims support to companies with multi-national and global risk management needs.

GCiNA is a key provider of risk management services for large and multinational customers, featuring a broad portfolio of solutions and services chosen by the majority of Fortune's Global 100 companies including workers' compensation, general liability, commercial automobile, highly protected risks, property, boiler and machinery, marine hull and liabilities, ocean cargo, energy property, and energy casualty.

GCiNA's core property and casualty lines, in tandem with other Zurich global business divisions, provide a broad variety of insurance and risk management services including custom-tailored casualty programs to large corporate and commercial businesses seeking global and domestic property-casualty solutions. Customers are offered insurance and risk management programs designed to help them reduce the cost of risk. This is achieved by developing an extensive knowledge about the needs of each customer through strong broker and customer relationships, together with distinctive underwriting, risk engineering, and claims solutions that leverage global knowledge and capabilities within the Zurich companies worldwide.

Customer service is delivered by a global network of Zurich offices in 50 countries and resources that extend GCiNA's reach to more than 170 countries worldwide. GCiNA's services are supported by the experience of more than 1,000 risk-engineering professionals and 8,000 claims professional around the globe. As a key business division of Zurich, Global Corporate has a significant presence in both North America and Europe.

## North America Commercial

NAC provides a broad array of property and casualty insurance coverages (including both standard and specialty lines) to commercial customers in the U.S. NAC serves its customers through shared service units, which provide a unified approach to managing claims, managed care, risk engineering, information technology, marketing and other support services. NAC is subdivided into the following three primary business units:

- Commercial Markets and Customer Industry Segments,
- Specialty Products, and
- Programs and Direct Markets.

### Commercial Markets

Commercial Markets is the primary market-facing business unit in NAC with a team of over 300 underwriters across the country. Commercial Markets strives to maintain a flexible and responsive approach to meeting the needs of its brokers and customers through focused risk management solutions that target its industry-leading segment strategy.

Customer Industry Segments (CIS) is NAC's newest business unit encompassing nine segments that offer significant growth in key industries: Construction, Environmental, Financial Institutions, Healthcare, International, Manufacturing, Real Estate, Technology, and General Industry Groups. The leaders within CIS are well-known in their industries and work closely with their colleagues in Commercial Markets, Specialty Products, and Programs and Direct Markets to support three areas of focus: growing top-line sales, increasing customer centricity and serving as thought leaders in their chosen markets.

### Specialty Products

Specialty Products offers a unique set of insurance and risk management services. Specialty Products offers coverage for emerging, potentially volatile and unique third-party liability exposures through six strategic business units: Accident and Health, Casualty and Property, Credit and Political Risk, Healthcare, Management Solutions, and Surety.

### Programs and Direct Markets

Programs have provided program coverage for more than fifty years, specializing in insurance for small and mid-sized commercial and professional markets. ZAIG provides a variety of coverages including commercial auto, general liability, professional liability, excess liability and property exposures for various target businesses and industry segments. Direct Markets specializes in providing insurance for businesses that sell or service autos, trucks, motorcycles and equipment and to auto recyclers.

The Programs and Direct Markets business unit is made up of seven strategic business units: Alternative Programs, Captives and Alternative Risk Transfer Solutions, Construction Services Programs, Direct Markets, Segmented Programs, Transportation, and New Programs.

### C. Reinsurance

#### Inter-company Pooling Agreement

Effective January 1, 1999, the Company entered into an amended ZAIG inter-company pooling agreement which includes ZAIC and seventeen affiliated insurers. Pursuant to the terms of the agreement, the participants cede 100% of all underwriting assets, liabilities and expenses, as well as underwriting income and losses (net of applicable reinsurance) to ZAIC. There is no retrocession from ZAIC to any of the pool participants. Subsequent to the January 1, 1999, revised and restated agreement, several amendments each adding or deleting participants in the pool have been made and this agreement was superseded by the Amended Intercompany Pooling Agreement effective January 1, 2009.

At December 31, 2011, the following fourteen insurers participated in the pool:

- American Guarantee and Liability Insurance Company (NY)
- American Zurich Insurance Company (IL)
- Assurance Company of America (NY)
- Colonial American Casualty and Surety Company (MD)
- Empire Fire & Marine Insurance Company (NE)
- Empire Indemnity Insurance Company (OK)
- Fidelity and Deposit Company of Maryland (MD)
- Maryland Casualty Company (MD)
- Northern Insurance Company of New York (NY)
- Steadfast Insurance Company (DE)
- Universal Underwriters Insurance Company (KS)

Universal Underwriters of Texas Insurance Company (TX)  
Zurich American Insurance Company (NY)  
Zurich American Insurance Company of Illinois (IL)

Prior to cessions to the pooling agreement, the companies reduce their exposure to losses through facultative and treaty reinsurance. Article V of the pooling agreement provides that ZAIC agrees to be liable, for annual statement and other financial statement purposes, for any amount disallowed by any of the companies on account of reinsurance with unauthorized companies and any amount disallowed for non-admitted assets. Accordingly, only ZAIC reports a provision for reinsurance as the liability at December 31, 2011.

Total premium assumed by ZAIC from the affiliated companies participating in the pooling agreement represented 47.8% of the total gross written premium by ZAIC during the 2011 year.

Reinsurance agreements with affiliates were reviewed for compliance with Article 15 of the New York Insurance Law. It was noted that all affiliated reinsurance agreements were filed with the Department pursuant to the provisions of Section 1505(d)(2) of the New York Insurance Law.

#### Assumed Reinsurance

Assumed reinsurance by the Company from non-affiliates was 0.01% of total gross written premium.

During the period covered by this examination, the Company's assumed reinsurance business has modestly increased since the last examination. The Company's assumed reinsurance program consists mainly of property, casualty and multi-line assumed on a quota share, aggregate excess of loss basis, pursuant to the terms of treaty and facultative agreements with both authorized and unauthorized cedants. Additionally, the Company's participation in various mandated pools is reflected in its assumed reinsurance activity.

The Company utilizes reinsurance accounting as defined in Statement of Statutory Accounting Principle ("SSAP") No. 62 for all of its assumed reinsurance business.

#### Ceded Reinsurance

After cessions to the intercompany pooling agreement, the Company is a party to the same underlying ceded reinsurance program as that of ZAIC. An examination of ZAIC as of December 31, 2011 was conducted by this Department concurrently with this examination. A description of the

underlying ceded reinsurance program as of December 31, 2011 is included in the ZAIC report on examination.

A sample of significant 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.

Examination review of the Schedule F data reported by the Company in its filed annual statement was found to accurately reflect its reinsurance transactions.

Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's Chief Executive Officer 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 41 to 44 of SSAP No. 62.

D. Holding Company System

The Company is a wholly-owned subsidiary of Maryland Casualty Company, an insurance company domiciled in the State of Maryland, which is 100% owned by ZAIC, an insurance company domiciled in the State of New York. ZAIC is a wholly-owned subsidiary of Zurich Holding Company of America ("ZHCA"), a Delaware holding company, which in turn is 99.87% owned by Zurich Insurance Company (Switzerland) ("ZIC"). ZIC is wholly-owned by Zurich Financial Services, Ltd. (Switzerland) ("Zurich"). Effective April 29, 2012, Zurich changed its name to Zurich Insurance Group Ltd.

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, 2011:

Zurich Financial Services Ltd. (Zurich, Switzerland)

100%	Allied Zurich Limited (UK)
12.1%	Farmers Group, Inc. (NV)
100%	Zurich Insurance Company Ltd (Zurich, Switzerland)
87.90%	Farmers Group, Inc. (NV)
various	13 Direct and indirect 100% owned subsidiaries
99.87%	Zurich Holding Company of America, Inc. (DE) (remaining 0.1289% owned by Crown Management Services Limited)
100%	Zurich Global Investment Management Inc.
100%	Zurich CZI Management Holding Ltd.
100%	ZFUS Services, LLC
100%	ZNA Services, LLC
100%	Farmers Services, LLC
100%	Zurich American Corporation
100%	Maunaula Associates, Inc.
75%	KLMLP, LP
100%	Directly/indirectly owns 100% of KSMLP 2, 3 and Delta Wetlands Prop
41.67%	ZKS Real Estate Partners, LLC
100%	Zurich American Life Insurance Company (NY)
100%	Zurich American Life Insurance Company of New York (NY)
100%	Zurich Global, Ltd. (Bermuda)
100%	Zurich American Insurance Company
100%	Zurich E&S Brokerage, Inc.
100%	Empire Indemnity Insurance Company (OK)
100%	Empire Fire and Marine Insurance Company (NE)
100%	American Guarantee and Liability Insurance Company (NY)
100%	Steadfast Insurance Company (DE)
100%	Steadfast Santa Clarita Holdings LLC
100%	American Zurich Insurance Company (IL)
100%	Zurich American Insurance Company of Illinois (IL)
100%	Zurich Warranty Solutions, Inc.
100%	Fidelity and Deposit Company of Maryland (MD)
100%	Colonial American Casualty and Surety Company (MD)
100%	Maryland Casualty Company (MD)
100%	Assurance Company of America (NY)
100%	Northern Insurance Company of New York (NY)
100%	Zurich Agency Services, Inc. (TX)
100%	Universal Underwriters Insurance Company (KS)
100%	Universal Underwriters of Texas Insurance Company (TX)
100%	Universal Underwriters Life Insurance Company
100%	Sterling Forest LLC (DE)
100%	South County Services Co. Inc.
100%	ZI Park 80 West LLC
100%	L&L Park 80 Investors LLC

In addition to the entities indicated above, ZAIG includes affiliations with the Farmers Insurance Exchange, the Fire Insurance Exchange and the Truck Insurance Exchange, which in turn own entities grouped as Farmers, Foremost, Bristol West and 21<sup>st</sup> Century organizations (referred to collectively as Farmers Group).

In addition to the intercompany pooling arrangement previously discussed in the Reinsurance section of this report, the Company was a party to the following agreements with other members of its holding company system at December 31, 2011:

#### Amended and Restated Tax Allocation Agreement

Effective 1998, the Company has been a party to a tax sharing agreement between ZHCA and its subsidiaries. This agreement was amended in January 2006 in order to clarify that the intercompany tax settlements would be paid in cash or eligible investment securities as a result the new effective date of the agreement was January 1, 2006. The participants of the agreement record their apportioned tax liabilities and estimated tax payments according to terms of the agreement. In general, allocation is based upon a separate return calculation with no immediate benefit for a taxable loss, which is utilized in the current year consolidated return. Intercompany tax balances are settled within thirty days after any of the following events: the filing of the consolidated Federal income tax return; the payment of an estimated payment; an additional assessment of the consolidated tax liability; a refund of the consolidated tax liability; or any other adjustment to the member's apportioned tax liability in accordance with the terms of the tax sharing agreement. The agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law.

#### Intercompany Service Agreement – ZAIG

Effective January 1, 2008, ZAIC entered into an Intercompany Service Agreement, intended to allow ZAIC to provide administrative and back-office support type services such as financial and accounting services, HR services and IT services for the benefit of the other ZAIG companies. This Agreement supersedes the Amended and Restated Information Technology Service Agreement between the ZAIG companies, including the registrants and Farmers Group.

Effective January 1, 2010 the agreement was amended (Amendment No.1) to allow ZAIC to provide additional services through one of its affiliates. These services includes managed care-related services, risk engineering services, SIU services; general claims adjusting services, workers'



compensation hearing representation services, care center services and recovery services. Effective March 31, 2011 the agreement was amended (Amendment No.2) to add subsection (aa), "Aircraft Transportation Services," to Appendix (A). The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

Producer Agreement – ZAIC & Universal Underwriters Insurance Services

Effective January 18, 2012, a Producer Agreement was entered into among UUISI, ZAIC and certain of the other ZAIG companies. Pursuant to the Producer Agreement, UUISI, as the producer, may provide insurance producer services to ZAIC and certain of the other ZAIG companies. The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2011, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	0%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	73%
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. Due to the fact that the Company cedes 100% of all underwriting assets, liabilities and expenses, as well as underwriting income and losses (net of applicable reinsurance) to ZAIC with no retrocession from ZAIC to the Company, all net underwriting ratios are zero.

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2011. This statement is the same as the balance sheet filed by the Company. Due to rounding the columns may not total.

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$17,784,219	\$ 0	\$17,784,219
Cash, cash equivalents and short-term investments	503,902	0	503,902
Securities lending reinvested collateral assets	104,625	0	104,625
Investment income due and accrued	231,100	7,459	223,641
Amounts recoverable from reinsurers	12,589,361	0	12,589,361
Net deferred tax asset	1,769	1,769	0
Receivables from parent, subsidiaries and affiliates	<u>881,963</u>	<u>0</u>	<u>881,963</u>
Totals	<u>\$32,096,939</u>	<u>\$9,228</u>	<u>\$32,087,711</u>

#### Liabilities, Surplus and Other Funds

##### Liabilities

Other expenses (excluding taxes, licenses and fees)	\$ 4,739
Current federal and foreign income taxes	10,874
Net deferred tax liability	9,263
Ceded reinsurance premiums payable (net of ceding commissions)	13,474,612
Payable for securities lending	<u>104,625</u>
Total liabilities	\$13,604,113

##### Surplus and Other Funds

Common capital stock	\$ 5,000,000
Gross paid in and contributed surplus	1,250,000
Unassigned funds (surplus)	<u>12,233,598</u>
Surplus as regards policyholders	<u>18,483,598</u>
Total liabilities, surplus and other funds	<u>\$32,087,711</u>

NOTE: During the third quarter of 2012, Zurich Holding Company of America (“ZHCA”) executed Form 870-AD, concluding its audit settlement with the Appeals Division of the Internal Revenue Service (“IRS”) with respect to tax years 2005 and 2006. The IRS has completed its audits of the Company’s consolidated Federal income tax returns through tax years 2007 and 2008 and issued a Revenue Agents Report to which the Parent disagreed. The Group sought resolution of the disputed issues through the Appeals Division of the IRS and during the fourth quarter of 2012 reached a settlement in principle with IRS Appeals. ZHCA is in the process of determining additional taxes due for 2007 and 2008. Audits covering tax years 2009 and 2010 are expected to conclude on an agreed basis by June 30, 2013. A contingent Federal Income Tax liability of \$44.0 million as of December 31, 2011 was established for the companies participating in the Consolidated Tax Agreement. The IRS has not yet begun to audit tax returns covering tax years 2011.

B. Statement of Income

Surplus as regards policyholders decreased \$2,091,009 during the five-year examination period January 1, 2007 through December 31, 2011, detailed as follows:

Underwriting Income

Premiums earned		\$ 0
Deductions:		
Losses and loss adjustment expenses incurred	\$ 0	
Other underwriting expenses incurred	<u>0</u>	
Total underwriting deductions		<u>0</u>
Net underwriting gain or (loss)		\$ 0

Investment Income

Net investment income earned	\$ 4,995,738	
Net realized capital gain	<u>(1,131,921)</u>	
Net investment gain or (loss)		<u>3,863,817</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$3,863,817
Federal and foreign income taxes incurred		<u>14,203</u>
Net Income		<u>\$3,849,614</u>

C. Capital and Surplus Accounts

Surplus as regards policyholders per report on examination as of December 31, 2006			\$20,574,608
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$3,849,614		
Net unrealized capital gains or (losses)		\$ 1,644	
Change in net deferred income tax		93,872	
Change in nonadmitted assets	54,893		
Dividend to stockholders	<u>0</u>	<u>5,900,000</u>	
Total gains and losses	<u>\$3,904,507</u>	<u>\$5,995,516</u>	
Net increase (decrease) in surplus			<u>(2,091,009)</u>
Surplus as regards policyholders per report on examination as of December 31, 2011			<u>\$18,483,599</u>

#### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$0 is the same as reported by the Company as of December 31, 2011. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements.

#### 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A <u>Management</u>	
It is recommended that the Company retain detail documentation of the transactions submitted for approval and provide same upon examination so that compliance with Section 1411(a) of the New York Insurance Law can be verified. It is noted that a recommendation regarding compliance with Section 1411(a) was included in the prior report on examination.	5
The Company has complied with this recommendation.	
B <u>Reinsurance</u>	
i   It is recommended that reinsurance arrangements, where the Company participated in coverage with non-pooled affiliates, be amended to contain acceptable language for agreements with multiple reinsureds.	12
The Company has complied with this recommendation.	
ii   It is recommended that the Company ensure that the letters of credit it accepts are in compliance with Department Regulation 133, Parts 79.1(b) and 79.1(c)(2).	12
The Company has complied with this recommendation.	
C <u>Holding Company</u>	
It is recommended that the Company's board of directors approve all amendments to its tax allocation agreement in compliance with Department Circular Letter No. 33 (1979).	16
The Company has complied with this recommendation.	

ITEMPAGE NO.D Accounts and Records

- i. It is recommended that the Company report the collateral held for securities loans based on the underlying nature of the invested security. 20

The Company has complied with this recommendation.

- ii. It is again recommended that the Company comply with Department Regulation 118, Part 89.2 and incorporate the appropriate language in all future contracts with its CPA firm, which all parties have executed. 21

The Company has complied with this recommendation.

- iii. It is again recommended that the board of directors approve their respective custody agreements with the Bank of New York in accordance with the NAIC Financial Examiners Handbook, Part 1, Section IV, J Paragraph 1. 21

The Company has complied with this recommendation.

- iv. It is again recommended that the ZAIG Pool, and specifically the Company, comply with Department Circular Letter No. 10 (2001) and treat the amount of deductible paid by the policyholder to the insurer under high deductible policies as premium paid to the insurer for the purpose of Section 1510 of the New York Tax Law. 21

The Company has complied with this recommendation.

E Risk Management and Internal Controls

- It is recommended that the Company complete their implementation of the required controls for the ASPIRE, ZLPRS and premium audit applications. 22

The Company has complied with this recommendation.

F Market Conduct

- i. It is again recommended that the Company fully comply with the requirements of Circular Letter No. 11 (1978) and going forward maintain a complaint log that encompasses the eleven subject matters required in this circular letter. A similar recommendation was included in prior report. 26

The Company has complied with this recommendation.

ITEMPAGE NO.

- ii. It is recommended that the Company fully comply with the Department Circular Letter No. 11 (1978) by forwarding quarterly reports from the complaint logs to the heads of respective operating units and to the Company's president. 26

The Company has complied with this recommendation.

6. **SUMMARY OF COMMENTS AND RECOMMENDATIONS**

This report contains no comments or recommendations.

Respectfully submitted,

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Shawn Towchik, CFE

STATE OF TEXAS            )  
  )ss:  
COUNTY OF TARRANT    )

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

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Shawn Towchik

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

APPOINTMENT NO. 30773

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:

*Shawn Towchik*

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

**ASSURANCE COMPANY OF AMERICA**

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

**COMPANY**

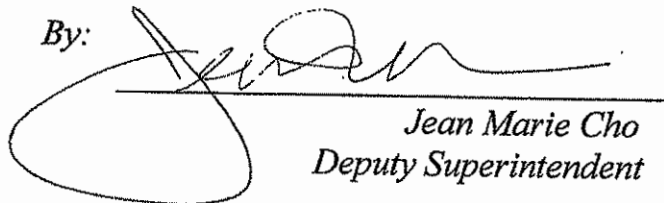
*with such other information as he shall deem requisite.*

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

*this 6th day of January, 2012*

**BENJAMIN M. LAWSKY**  
*Superintendent of Financial Services*

By:

  
\_\_\_\_\_  
*Jean Marie Cho*  
*Deputy Superintendent*

