

REPORT ON EXAMINATION

OF THE

CAPITAL MARKETS ASSURANCE CORPORATION

AS OF

DECEMBER 31, 2008

DATE OF REPORT

MAY 18, 2010

EXAMINER

GLENDAGALLARDO, CFE

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

May 18, 2010

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 30266 dated October 27, 2008 attached hereto, I have made an examination into the condition and affairs of Capital Markets Assurance Corporation as of December 31, 2008, and submit the following report thereon.

Wherever the designations “the Company” or “CapMac” appear herein without qualification, it should be understood to indicate the Capital Markets Assurance Corporation. Whenever the term “MBIA” or “parent company” appear herein, it should be understood to indicate MBIA Insurance Corporation.

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 113 King Street, Armonk, New York 10504.

## **1. SCOPE OF EXAMINATION**

The Department has performed a full scope risk surveillance examination of the Capital Markets Assurance Corporation. 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. Since the Company’s parent, MBIA Insurance Corporation provides all administrative, accounting, and claim services on behalf of CapMac, this examination was based on the review and evaluation of MBIA’s control environment, using MBIA’s Sarbanes Oxley documentation and testing. The examiners also relied upon audit work performed by the Company’s independent public accountants when appropriate.

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

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

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

## **2. DESCRIPTION OF COMPANY**

The Company was incorporated in 1938 under the laws of New York as the Jersey Insurance Company of New York. It was established to provide the means of transferring the corporate domicile of the New Jersey Insurance Company from Jersey City, New Jersey, to New York. At the time of transfer, New Jersey Insurance Company became known as the Jersey Insurance Company of New York. In 1972, the Company changed its name to Mohawk Insurance Company.

In 1973, H.F. Ahmanson & Co. acquired control of the Company and in 1976 changed the Company's name to National American Insurance Company of New York.

In December 1987, the Company was sold to CapMac Holdings Inc., a Delaware insurance holding company and a wholly-owned subsidiary of Citibank, N.A ("Citibank"). The Company's name was changed to its present name, Capital Markets Assurance Corporation, on December 29, 1987.

Effective June 25, 1992, Citibank sold CapMac Holdings Inc. to CapMac Acquisition Corp, a newly-formed corporation owned by a group of investors.

Effective February 17, 1998, the Company became an indirect wholly-owned subsidiary of MBIA Inc. through the merger of MBIA Inc. with CapMac Holdings, Inc. Simultaneously, MBIA Inc. contributed all outstanding shares of CapMac to its subsidiary MBIA. Currently, all outstanding shares of the Company are wholly-owned by MBIA. The Company has not written new business since the late 1990s.

At December 31, 2008, capital paid in was \$17,460,000 consisting of 5,820,000 shares of common stock at \$3 par value per share. Gross paid in and contributed surplus was \$57,540,000. Gross paid in and contributed surplus remained unchanged 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 nor more than twenty-one members. The board met quarterly during each year of the examination period except during 2008, in which the board held two regular meetings. At December 31, 2008, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Joseph W. Brown Bedford Corners, NY	Chairman, President and Chief Executive Officer, MBIA Insurance Corporation
Robert B. Blackwell New York, NY	Managing Director, MBIA Insurance Corporation
Charles E. Chaplin Greenwich, CT	Vice Chairman, Managing Director and Chief Financial Officer, MBIA Insurance Corporation
Clifford D. Corso Bedford, NY	Managing Director and Chief Investment Officer, MBIA Insurance Corporation
William C. Fallon Rye, NY	Managing Director and Head of Structured Finance, MBIA Insurance Corporation
Douglas C. Hamilton Armonk, NY	Managing Director and Controller, MBIA Insurance Corporation
Anthony M. McKiernan Ridgefield, CT	Managing Director, MBIA Insurance Corporation
Gerard E. Murray New Canaan, CT	Managing Director, MBIA Insurance Corporation
Alfred C. Pastore Ramsey, NJ	Managing Director and Treasurer, MBIA Insurance Corporation
Gary A. Saunders Rye Brook, NY	Director, Deputy General Counsel and Assistant Secretary, MBIA Insurance Corporation
Mitchell I. Sonkin Greenwich, CT	Managing Director, Head of Insured Portfolio Management, MBIA Insurance Corporation

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Ram D. Wertheim Westport, CT	Managing Director, General Counsel and Secretary, MBIA Insurance Corporation
*Ruth M. Whaley Scarsdale, NY	Managing Director and Chief Risk Officer, MBIA Insurance Corporation

\* This director left the Company and resigned as a board member in early 2009.

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>
Joseph W. Brown	Chairman, Chief Executive Officer and President
Charles E. Chaplin	Vice Chairman, Managing Director and Chief Financial Officer
Alfred C. Pastore	Managing Director and Treasurer
Ram D. Wertheim	Managing Director, General Counsel and Secretary
Douglas C. Hamilton	Managing Director and Controller
Clifford D. Corso	Managing Director and Chief Investment Officer

#### B. Territory and Business Operation

As of December 31, 2008, the Company was licensed to write business in all fifty states, the District of Columbia, Guam and Puerto Rico. The Company has discontinued writing new business. All premium income is related to legacy business.

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>
16 (C, D, E, F)	Fidelity and surety
25	Financial guaranty

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, 41 and 69 of the New York

Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$66,400,000.

The following schedule shows the direct premiums that the Company received on an installment basis for business written prior to 1998:

DIRECT PREMIUMS

<u>Calendar Year</u>	<u>New York State</u>	<u>Total United States Premiums</u>	<u>Percentage of the Total United States Premium Written in New York State</u>
2004	\$5,824,117	\$ 6,904,108	84.36%
2005	\$ 578,515	\$ 1,000,221	57.84%
2006	\$ 282,419	\$ 692,486	40.78%
2007	\$ 195,823	\$ 531,228	36.86%
2008	\$ 68,253	\$ 345,938	19.73%

C. Reinsurance

Assumed

The Company is not assuming new business. Assumed premiums reflected in the Company's Schedule F Part -1 are related to assumed business written prior to the examination period.

Ceded

Effective April 1, 1998, the Company and MBIA entered into a reinsurance agreement under which the Company ceded to MBIA 100% of its net portfolio exposure and its related contingency reserves and unearned premium liability.

The Company has obtained appropriate collateral for its cessions to unauthorized reinsurers. Existing letter of credits and trust agreements were reviewed for compliance with Department Regulations No. 133 and 114. No exceptions were noted.

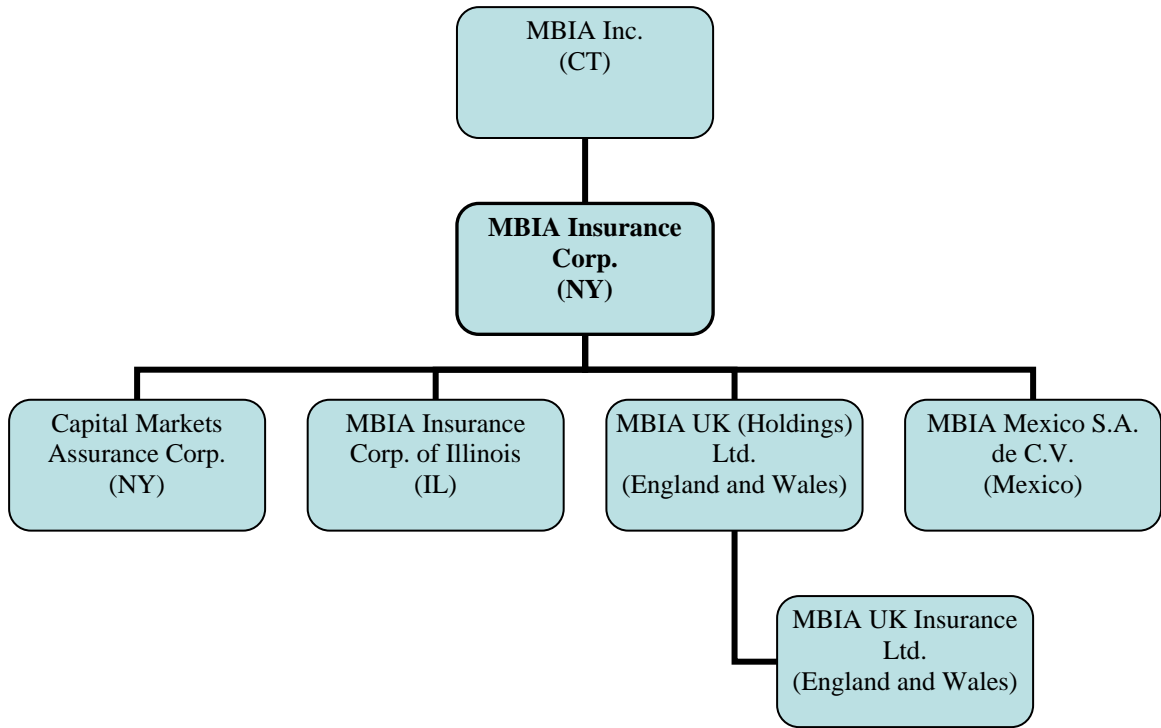
D. Holding Company System

The Company is a wholly-owned subsidiary of MBIA Insurance Corporation a New York domiciled company, MBIA Insurance Corporation is a wholly-owned subsidiary of MBIA, Inc., a publicly-traded company domiciled in Connecticut, with its principal business location in New York.



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 a chart of the holding company system at December 31, 2008:



At December 31, 2008, the Company was party to the following agreements with members of its holding company system:

Tax Allocation Agreement

The Company participates in a tax allocation agreement with its ultimate parent and members of its holding company group. A formal agreement was executed and submitted to the Department, pursuant to Circular Letter No. 33 (1979). The agreement was effective January 1, 1987, and was amended numerous times to add various participants and to change various terms and conditions.

Management Agreement between CapMaC and MBIA Insurance Corporation

The Company entered into a management agreement with MBIA, effective January 31, 2000. Pursuant to the terms of the agreement, MBIA provides all administrative, production, accounting and claim services on behalf of the Company. The agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law.

Investment Management Agreement between CapMac and MBIA Capital Management Corp.

The Company receives investment management services from MBIA Capital Management Corp. ("CMC"). This agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law.

E. Significant Operating Ratios

These ratios were not calculated because they are not relevant. The Company did not write business during the examination period. Any premiums received by the Company from business written prior to 1998 are 100% ceded to its parent company.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards to 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	\$ 93,489,159	\$ 0	\$ 93,489,159
Cash, cash equivalents and short-term investments	28,101,078	0	28,101,078
Investment income due and accrued	1,248,556	0	1,248,556
Uncollected premiums and agents' balances in the course of collection	173,701	0	173,701
Net deferred tax asset	266,346	0	266,346
Receivables from parent, subsidiaries and affiliates	2,957,885	0	2,957,885
Leasehold improvements	146,240	146,240	0
Taxes, licenses and fees refund	9,266	0	9,266
Other receivables	<u>296</u>	<u>296</u>	<u>0</u>
Total assets	<u>\$126,392,527</u>	<u>\$146,536</u>	<u>\$126,245,991</u>

Liabilities, Surplus and Other FundsLiabilities

Losses		\$	0
Current federal and foreign income taxes			1,445,681
Ceded reinsurance premiums payable (net of ceding commissions)			<u>42,783</u>
Total liabilities		\$	<u>1,488,464</u>

Surplus and Other Funds

Common capital stock	\$17,460,000		
Gross paid in and contributed surplus	57,540,000		
Unassigned funds (surplus)	<u>49,757,527</u>		
Surplus as regards policyholders			<u>124,757,527</u>
Totals liabilities, surplus and other funds			<u>\$126,245,991</u>

NOTE: The Internal Revenue Service has completed its audits of the Company's consolidated Federal Income Tax returns through tax year 2005. Audits covering tax years 2005 through 2008 are currently under examination. Because MBIA has filed for a refund claim for its capital losses in 2008 through a carry-back claim for tax years 2005, 2006 and 2007, tax year 2005 was re-opened. The examiner is unaware of any potential exposure of the Company to any tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$19,436,235 during the five year examination period January 1, 2004 through December 31, 2008, detailed as follows:

Premiums earned		\$	0
Deductions:			
Losses incurred	\$	0	
Loss adjustment expenses incurred		0	
Other underwriting expenses incurred		<u>39,243,734</u>	
Total underwriting deductions			<u>39,243,734</u>
Net underwriting gain or (loss)			\$(39,243,734)
<u>Investment Income</u>			
Net investment income earned	\$23,197,975		
Net realized capital gain	<u>2,617,761</u>		
Net investment gain or (loss)			25,815,736
<u>Other Income</u>			
Aggregate write-ins for miscellaneous loss	\$	<u>(442,374)</u>	
Total other income			<u>(442,374)</u>
Net income before federal and foreign income taxes			\$(13,870,372)
Federal and foreign income taxes incurred			<u>994,891</u>
Net loss			<u>\$(14,865,263)</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 2003			\$105,321,292
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net loss		\$14,865,263	
Change in net unrealized foreign exchange capital gain (loss)		65,327	
Change in net deferred income tax	\$ 247,226		
Change in non-admitted assets	766,336		
Dividends to stockholders		3,000,000	
Cumulative effect of prior year accounting change	3,019,120		
Correction of an expense allocation adjustment	<u>33,334,143</u>	<u>0</u>	
Total gains and losses	<u>\$37,366,825</u>	<u>\$17,930,590</u>	
Net increase (decrease) in surplus			<u>19,436,235</u>
Surplus as regards policyholders per report on examination as of December 31, 2008			<u>\$124,757,527</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$0 is the same as the amount reported by the Company as of December 31, 2008. Effective April 1998, the Company and MBIA entered into a reinsurance agreement under which MBIA Insurance Corporation agreed to reinsure 100% of the Company's net unearned premium, loss reserves and related contingency reserves.

5. SUMMARY OF COMMENTS AND RECOMMENDATIONS

There are no comments or recommendations in this report on examination.



Appointment No. 30266

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Glenda Gallardo**

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

**CAPITAL MARKETS ASSURANCE CORPORATION**

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

**Corporation**

*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 27th day of October, 2008*



A handwritten signature in black ink, reading "Eric R. Dinallo".

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**ERIC R. DINALLO**  
*Superintendent of Insurance*