

REPORT ON EXAMINATION

OF THE

AVIVA INSURANCE COMPANY OF CANADA

UNITED STATES BRANCH

AS OF

DECEMBER 31, 2005

DATE OF REPORT

OCTOBER 11, 2007

EXAMINER

JAINARINE TILAKDHARRY

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

October 11, 2007

Honorable Eric R. Dinallo
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 22460 dated February 24, 2006, attached hereto, I have made an examination into the condition and affairs of Aviva Insurance Company of Canada, United States Branch ("U.S. Branch") as of December 31, 2005, and submit the following report thereon.

Wherever the designations "the Branch" or "Aviva" appear herein without qualification, they should be understood to indicate Aviva Insurance Company of Canada, United States Branch.

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 Branch's Home Office located at 2206 Eglinton Avenue East, Scarborough, Ontario, Canada M1L 4S8.

The Branch is required pursuant to Section 1312 of the New York Insurance Law to maintain a minimum trusteed surplus of \$2,050,000. This examination has determined that the Branch's trusteed surplus was \$(201,881), resulting in an impairment in the amount of \$2,251,881. Subsequent to the examination date, on May 31, 2006, the Branch deposited qualifying assets in the amount \$2,250,000 with its United States trustee, thereby reducing the impairment at December 31, 2005 to \$1,881. It is recommended that the Branch deposit additional qualifying assets with its United States trustee to eliminate the remaining impairment.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 2000. This examination covers the five-year period from January 1, 2001 through December 31, 2005. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a verification of assets and liabilities as of December 31, 2005. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Branch's independent certified public accountants ("CPA"). A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners ("NAIC"):

- History of Branch
- Management and control
- Corporate records
- Fidelity bonds and other insurance
- Territory and plan of operation
- Growth of the Branch
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Branch 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, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

2. DESCRIPTION OF BRANCH

The Branch was licensed in the State of New York on December 31, 1978 as the United States Branch of Simcoe and Erie General Insurance Company, an insurer incorporated under the laws of the province of Ontario, Canada on February 26, 1959.

The Branch operated as a reinsurer only until 1985, when it discontinued underwriting and commenced the run off of its reinsurance operations. In June 1990, the Branch began writing surety business on a direct basis. The Branch discontinued writing surety in 2000.

On February 21, 1996, the Branch changed its name to GAN General Insurance Company, U.S. Branch (“GAN General”). On December 30, 1999, GAN General was purchased by CGU Insurance Company of Canada (“CGU”), and amalgamated into that Company. On March 23, 2000, the Branch changed its name to CGU Insurance Company of Canada, U.S. Branch.

Effective May 5, 2003, CGU Insurance Company of Canada changed its name to Aviva Insurance Company of Canada, and the Branch adopted its current title.

A. Management

On September 22, 2000, the Branch appointed Mr. Kenneth Ottenbreit as its United States manager. The statutory Branch office was moved from Williamsville, New York, to its current location of New York, NY on that date.

Pursuant to the Branch’s charter and by-laws, management of the Branch is vested in a board of directors consisting of not less than eleven nor more than eighteen members. The board met four times during each calendar year.

For the period under examination, the Branch was managed by its Home Office, Aviva Insurance Company of Canada. At December 31, 2005, the board of directors was comprised of the following eleven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Brian W. Barr Port Carling, Ontario, Canada	Chairman and Chief Executive Officer, Medprodirect.net
J. Charles Caty	Retired

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Oakville, Ontario Canada	
Lorne H. Larson Calgary, Alberta, Canada	Retired
A. Warren Moysey Toronto, Ontario, Canada	Vice Chairman, First International Asset Management, Inc.
Igal M. Mayer Toronto, Ontario, Canada	President and Chief Executive Officer, Aviva Canada Inc.
John B. Newman Toronto, Ontario, Canada	Chairman and Chief Executive Officer, First Canadian Place
Alexander R. Robinson Norfolk, England NR19 2RG	Information Technology Director, Norwich Union
J. William Rowley Toronto, Ontario, Canada	Chairman, McMillan Binch Mendelsohn LLP
C. Wesley M. Scott Toronto, Ontario, Canada	Retired
Patrick J. R. Snowball Norfolk, England	Group Executive Director, General Insurance, Aviva plc
Louise Vaillancourt-Chatillon, Montreal, Quebec, CN H3W 1T5	President, LV Conseils

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 had an acceptable record of attendance.

The following is a listing of the principal officers of the Branch and their respective titles, as of December 31, 2005:

<u>Name</u>	<u>Title</u>
Igal Mayer	President and Chief Operating Officer
Robin L. Spencer	Executive Vice President and Chief Financial Officer
Carol A. Berger	Senior Vice President and Corporate Secretary
Karl H. Driedger	Senior Vice President and Chief Actuary

Pursuant to the provisions of Section 1315 of the New York Insurance Law, an alien insurer is required to maintain in the United States, trustee assets for the security of all its policyholders and creditors within the United States and to appoint a trustee of such assets. Under the terms of a deed of trust dated August 14, 1978, the Branch designated Citibank, NA as its United States trustee. The deed provides that legal title to the trustee assets shall be vested in the trustee and authorizes the trustee to sell or collect any security or property and to invest and reinvest the proceeds thereof upon written direction of the manager.

Citibank, NA, is also the custodian of the securities required on deposit with the Superintendent pursuant to Section 1314 of the New York Insurance Law.

B. Territory and Plan of Operation

The Branch is licensed to do insurance business only in the State of New York effective December 31, 2000. As part of the sale of the GAN General to the CGU Insurance Group, the Branch submitted a new plan of operation. This plan included the relocation of the Branch's book of accounts and claims files to Ontario, Canada. This Department approved the plan on September 22, 2000.

As of the examination date, the Branch 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>Kinds of Insurance</u>
3	Accident and health
4	Fire
5	Miscellaneous property damage
6	Water damage
7	Burglary and theft
9	Boiler and machinery
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
17	Credit Insurance
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity

The Branch is also authorized to write 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 the insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69th Congress as amended; 33USC Section 901 it seq. as amended) to the extent permitted by certified copy of its charter document on file with this Department, provided, however, that the authority conferred by the license shall be limited to the writing of contracts issued for delivery in the United States, insuring risks of policyholders within the United States.

Based upon the kinds of insurance for which the Branch is licensed, and the Branch's current capital structure, and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Branch is required to maintain a minimum trusteed surplus in the amount of \$2,050,000.

During the period under examination, the Branch did not have any direct premiums written.

C. Reinsurance

The bulk of the Branch's business was the assumption of insurance from other companies. During the period of the examination, the Branch continued to run-off its assumed reinsurance business. All of its ceded reinsurance contracts have been in run-off since 1985.

Prior to the run-off, the Company had structured its ceded reinsurance program to limit its maximum exposure to any one risk as follows:

<u>Type of Contract</u>	<u>Cession</u>
Quota share	Effective January 1, 1979 – June 30, 1982: 80% of \$500,000 per occurrence in any one class of business per policy from any one original ceding company for all lines of business the branch is authorized to write except surety.
	100 % Authorized
	Effective July 1, 1982 – December 31, 1983: 80% of the Branch's net liability under each and every contract of insurance and/or reinsurance issued by the Branch.
	71.75% Authorized 28.25% Unauthorized
	Effective January 1, 1984 – December 31, 1984:

Type of ContractCession

56.25% of the Branch's net liability under each and every contract of insurance and /or reinsurance issued by the Branch.

73.4% Authorized

26.6% Unauthorized

It is the Branch's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. Letters of credit obtained by the Branch to take credit for cessions to unauthorized reinsurers were reviewed for compliance with Department Regulations 133 and 114. No exceptions were noted.

All ceded reinsurance agreements in effect prior to the run-off 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.

A review of the Schedule F data reported by the Branch in its filed annual statement found that it accurately reflected its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in the NAIC Accounting Practices and Procedures Manual, Statements of Statutory Accounting Principles ("SSAP") No. 62. The Branch did not do a risk transfer analysis but did provide an attestation from the Branch's Chief Executive Officer and Chief Financial Officer pursuant to Department Circular Letter No. 8. Additionally, an examination review revealed that the Branch was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraphs 17, 19, 25 and 26 of SSAP No. 62.

Letter of Credit

The Branch is the beneficiary of a letter of credit agreement with QBE Insurance and Reinsurance Ltd. This letter of credit was amended on January 9, 2003 to change the beneficiary from Gan General to CGU. Effective May 5, 2003, the Branch changed its name to Aviva Insurance Company of Canada, but the letter of credit was not amended to reflect the name change.

It is recommended that the Branch amend its letter of credit with QBE Insurance and Reinsurance Ltd. to change the name of the beneficiary to Aviva Insurance Company of Canada (U.S. Branch), which is the legal name of the Branch.

Additionally, the letter of credit was reported by the Branch in the amount of \$310,000 in Schedule F – Part 5 of its annual statement. Upon review, it was noted that the amount of the letter of credit was \$265,532, a difference of \$44,460. The difference was due to the fact that the letter of credit was reported in Canadian dollars.

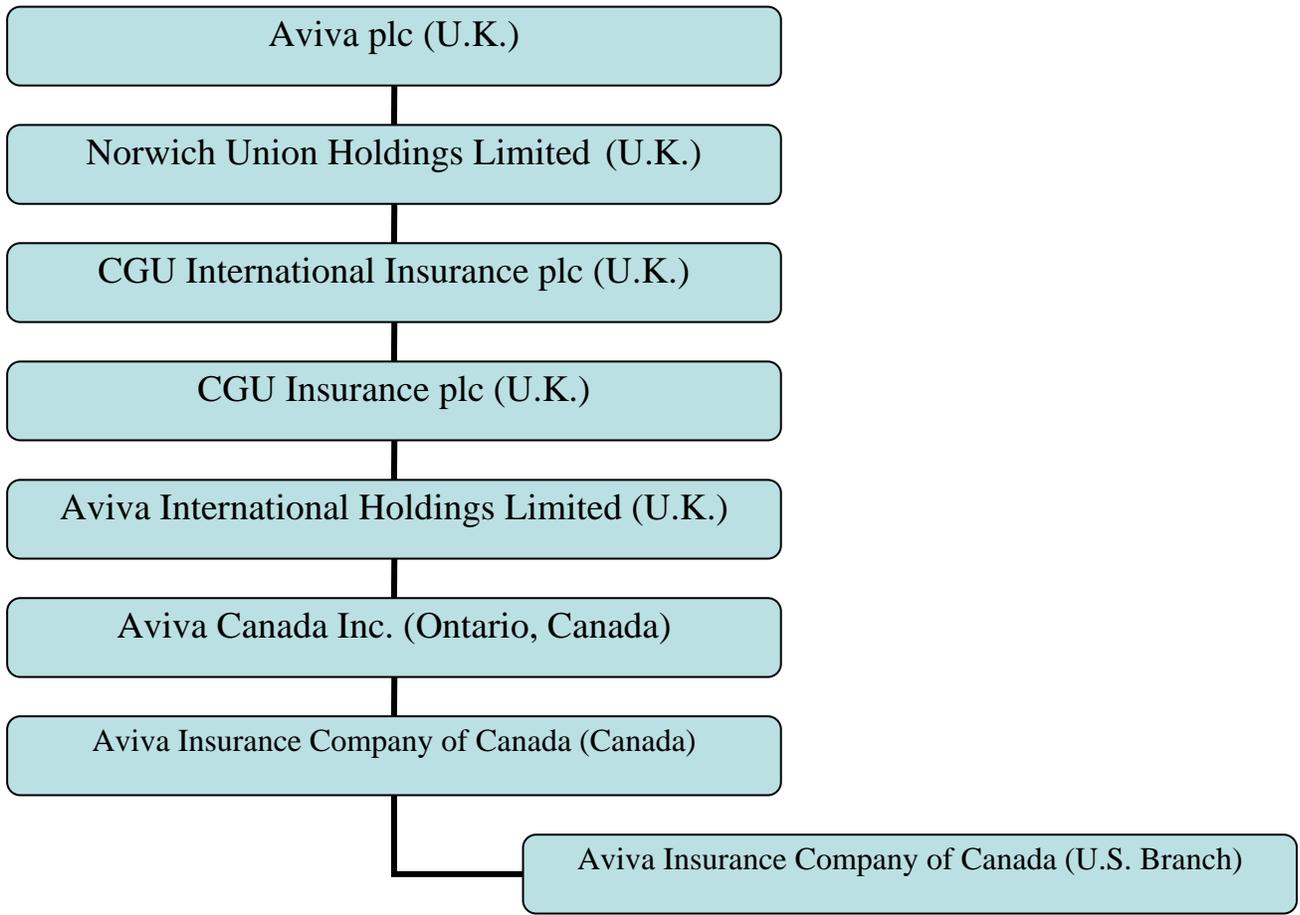
It is recommended that the Branch report letters of credit in U.S. dollars in its filed financial statements.

D. Holding Company System

Aviva Insurance Company of Canada (U.S. Branch) is a member of a holding company system and is subject to the provisions of Article 15 of the New York Insurance Law. The immediate parent, Aviva Canada Inc. owns 100% of the issued and outstanding stock of Aviva Insurance Company of Canada (the “Home Office”). The ultimate parent is Aviva plc (UK).

Pursuant to Section 1502 of the New York Insurance Law, transactions between the Branch and the Home Office are exempted from the filing requirements of Article 15 of the New York Insurance Law. 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 partial organization chart of the holding company system at December 31, 2005:



The Branch is party to the following agreements with its Home Office and affiliates:

Investment Management Agreement

Effective October 1, 1999, the Branch entered into an investment management agreement with CGU Investment Management Canada Limited (now changed to Aviva Investment Canada, Inc.) a corporation incorporated under the laws of the Province of Ontario, Canada. Pursuant to the agreement, CGU Investment Management Canada was appointed as the investment adviser to manage, invest and reinvest the Branch investment portfolio for a management fee. This agreement was not submitted to this Department for approval.

It is recommended that the Investment Management Agreement between the Branch and Aviva Investment Canada Inc. be submitted to this Department for approval pursuant to Section 1505(d) of the New York Insurance Law.

Expenses Allocation Agreement

For the period under examination, the Branch was managed by its Home Office, Aviva Insurance Company of Canada. All expenses for the operation of the Branch were paid by the Home Office and there was no allocation of expenses to the Branch. The Branch did not have a written expense allocation agreement setting forth provisions that would serve as guidelines to properly allocate, reimburse, and settle expenses paid by the Home Office on behalf of the Branch in accordance with Department Regulation 30. The Home Office was not reimbursed for any expenses incurred on behalf of the Branch.

It is recommended that the Branch enter into a management agreement with its Home Office setting forth the services to be performed and the compensation to be paid by the Branch to its Home Office.

E. Abandoned Property Law

Section 1316 of the New York Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed to be abandoned property. Such abandoned property shall be reported to the comptroller on or before the

first day of April each year. Such filing is required of all insurers regardless of whether or not they have any abandoned property to report.

The Branch's abandoned property reports for the period of this examination were all filed on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2005, based upon the results of this examination:

Net premiums written in 2005 as to surplus to policyholders	0.00%
Liabilities to liquid assets (cash and invested assets less investment in affiliates)	50.00%
Premium in course of collection to surplus to policyholders	0.00%

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

The underwriting ratios were not calculated due to the fact that the Branch's business is in run-off. Therefore, such ratios would not be meaningful.

G. Accounts and Records

Custodian Agreement

Aviva Insurance Company of Canada (U.S. Branch), formerly known as Simcoe and Erie General Insurance Company, entered into a custodian agreement with Citibank, NA on September 7, 1978. This agreement does not meet the requirements of the NAIC Financial Examiners' Handbook, Part 1, Section IV-J:

1. That the national bank, state bank, or trust company, as custodian is obligated to indemnify the insurance company for any insurance company's loss of securities in the custodian's custody, except that, unless domiciliary state law, regulation, or administrative action otherwise require a stricter standard (Section 2.b. sets forth an example of such a stricter standard), the bank or trust company shall not be so obligated to the extent that such loss was caused by other than the negligence or dishonesty of the custodian.

2. If domiciliary state law, regulation, or administrative action requires a stricter standard of liability for custodians of insurance company securities than that set forth in Section 2.a., then such stricter standard shall apply. An example of a stricter standard that may be used is that the custodian is obligated to indemnify the insurance company for any loss of securities of the insurance company in the custodian's custody occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction.
3. That in the event of a loss of the securities for which the custodian is obligated to indemnify the insurance company, the securities shall be promptly replaced or the value of the securities and the value of any loss of rights or privileges resulting from said loss of securities shall be promptly replaced; and may provide.
4. That the national bank, state bank or trust company as custodian shall not be liable for any failure to take any action required to be taken hereunder in the event and to the extent that the taking of such action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosions, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.
5. That in the event that the custodian gains entry in a clearing corporation through an agent, there should be a written agreement between the custodian and the agent that the agent shall be subjected to the same liability for loss of securities as the custodian. If the agent is governed by laws that differ from the regulation of the custodian, the Commissioner of Insurance of the state of domicile may accept a standard of liability applicable to the agent that is different from the standard liability.
6. That if the custodial agreement has been terminated or if 100% of the account assets in any one custody account have been withdrawn, the custodian shall provide written notification, within three business days of termination or withdrawal, to the insurer's domiciliary commissioner.
7. That during regular business hours, and upon reasonable notice, an officer or employee of the insurance company, an independent accountant selected by the insurance company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, its records relating to securities, if the custodian is given written instructions to that effect from an authorized officer of the insurance company.
8. The custodian and its agents, upon reasonable request, shall be required to send all reports which they receive from a clearing corporation or the Federal Reserve book-entry system which the clearing corporation or the Federal Reserve permits to be redistributed and reports prepared by the custodian's outside auditors, to the insurance company on their respective systems of internal control.
9. To the extent that certain information maintained by the custodian is relied upon by the insurance company in preparation of its annual statement and supporting schedules, the custodian agrees to maintain records sufficient to determine and verify such information.

10. That the custodian shall provide, upon written request from a regulator or an authorized officer of the insurance company, the appropriate affidavits, with respect to the insurance company's securities held by the custodian.

It is recommended that the Branch amend its custodial agreement to include the safeguards and provisions per the NAIC Financial Condition Examiner's Handbook, Part 1, Section IV- J.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2005 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Examination</u>		<u>Branch</u>	<u>Surplus Increase (Decrease)</u>
	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	
Bonds	\$9,718,309	\$	\$9,718,309	\$
Cash	7,702,815		7,702,815	
Investment income due and accrued	144,251		144,251	
Amounts recoverable from reinsurers	586,560		586,560	
Funds held by or deposited with reinsured companies	1,899		1,899	
Current federal and foreign income tax recoverable and interest thereon	<u>79,263</u>	—	<u>79,263</u>	—
Total assets	<u>\$18,233,097</u>	<u>\$ 0</u>	<u>\$18,233,097</u>	<u>\$ 0</u>

<u>Liabilities, surplus and other funds</u>	<u>Examination</u>	<u>Company</u>	Surplus Increase (Decrease)
<u>Liabilities</u>			
Losses	\$ 7,222,241	\$ 6,733,241	\$ (489,000)
Reinsurance payable on paid losses and loss adjustment expenses	2,900,549	2,900,549	
Loss adjustment expenses	42,619	42,619	
Other expenses (excluding taxes, licenses and fees)	59,700	59,700	
Funds held by company under reinsurance treaties	1,011,927	0	(1,011,927)
Amounts withheld or retained by company for account of others	11,066	11,066	
Provision for reinsurance	227,769	227,769	
Aggregate write-ins for liabilities – Reinsurance Allowance	<u>0</u>	<u>1,011,927</u>	<u>1,011,927</u>
<u>Total liabilities</u>	<u>\$11,475,871</u>	<u>\$10,986,871</u>	<u>\$ (489,000)</u>
Aggregate write-ins for special surplus funds	\$ 250,000	\$ 250,000	\$
Unassigned funds (surplus)	<u>6,507,226</u>	<u>6,996,226</u>	<u>489,000</u>
Surplus as regards policyholders	<u>\$ 6,757,226</u>	<u>\$ 7,246,226</u>	<u>\$ (489,000)</u>
Total surplus and other funds	<u>\$18,233,097</u>	<u>\$18,233,097</u>	

NOTE: The Branch has not been audited by the Internal Revenue Service since it became licensed in this state. 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 by \$231,828 during the five-year examination period January 1, 2001 through December 31, 2005, detailed as follows:

Capital and Surplus

Underwriting Income

Premiums earned		\$(4,752)
Deductions:		
Losses incurred	\$4,413,072	
Loss adjustment expenses incurred	350,739	
Other underwriting expenses incurred	<u>58,349</u>	
Total underwriting deductions		<u>4,822,160</u>
Net underwriting gain or (loss)		\$(4,826,912)

Investment Income

Net investment income earned	\$2,697,895	
Net realized capital gain	<u>69,360</u>	
Net investment gain or (loss)		2,767,255

Other Income

Aggregate write-ins for miscellaneous income	<u>\$11,173</u>	
Total other income		<u>11,173</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$(2,048,484)
Federal and foreign income taxes incurred		<u>575</u>
Net income (loss)		<u>\$(2,049,059)</u>

Capital and Surplus

Surplus as regards policyholders per report on
examination as of December 31, 2000

\$6,989,054

	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$	\$2,049,059	
Change in nonadmitted assets	1,993,000		
Change in provision for reinsurance		189,769	
Aggregate write-ins for gains and losses in surplus	<u>14,000</u>	<u>0</u>	
Total gains and losses	<u>\$2,007,000</u>	<u>\$2,238,828</u>	
Net increase (decrease) in surplus			<u>(231,828)</u>
Surplus as regards policyholders per report on examination as of December 31, 2005			<u>\$6,757,226</u>

C. Trusted Surplus Statements

The following statement shows the trusted surplus of the Branch calculated in accordance with Section 1312 of the New York Insurance Law and as determined by this examination:

Assets

Securities deposited with state insurance departments for the protection of all policyholders and creditors within the United States:

New York	\$896,064
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Vested in and held by United States Trustee for the protection of all of the Branch's policyholders and creditors within the United States:

Bonds	\$9,647,115	
Accrued interest income	<u>144,251</u>	
Total vested in and held by United States Trustee		<u>9,791,366</u>

Total gross trusted assets	<u>\$10,687,430</u>
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Liabilities

Liabilities as determined by this examination	\$11,475,871
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Deductions from Liabilities:

Reinsurance recoverable on paid losses and loss adjustment expenses:

Authorized companies	\$586,560	
Unauthorized companies	<u>0</u>	
Total deductions		<u>586,560</u>

Net liabilities (per Section 1312)	\$10,889,311
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Trusted surplus(per Section 1312)	<u>(201,881)</u>
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Total liabilities and trusted surplus	<u>\$10,687,430</u>
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NOTE: Pursuant to Section 1312 of the New York Insurance Law, the Branch is required to maintain a minimum trusted surplus of \$2,050,000. This examination has determined that the Branch's trusted surplus was \$(201,881), resulting in an impairment in the amount of \$2,251,881 at December 31, 2005. Subsequent to the examination date, on May 31, 2006, the Branch deposited qualifying assets in the amount \$2,250,000 with its United States trustee, thereby reducing the impairment at December 31, 2005 to \$1,881. It is recommended that the Branch deposit additional qualifying assets with its United States trustee to eliminate the remaining impairment.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$7,264,860 is \$489,000 more than the \$6,775,860 reported by the Branch in its December 31, 2005 filed annual statement. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Branch's internal records and in its filed annual statements.

Regarding the Actuarial Report underlying the loss and loss adjustment expense reserves reported by an insurer, the National Association of Insurance Commissioners Annual Statement Instructions requires the following:

"Actuarial Report should contain both narrative and technical components. The narrative component should provide sufficient detail to clearly explain to company management, the regulator, or other authority the findings, recommendations and conclusion, as well as their significance. The technical component should provide sufficient documentation and disclosure for another actuary practicing in the same field to evaluate the work. This technical component must show the analysis from basic data, e.g., loss triangles to the conclusions."

Whereas the Branch met the requirements for the narrative component, the technical component did not provide sufficient data to support the conclusions contained in its Actuarial Report. Therefore, the Department's actuaries were unable to properly evaluate the reported conclusions.

It is recommended that the Branch provide to this Department sufficient documentation for the Department actuary to properly evaluate the Actuarial Report of the Branch.

5. FUNDS HELD BY COMPANIES UNDER REINSURANCE TREATIES

The Branch reported no liability under this caption as of the examination date. This examination has established the captioned liability in the amount of \$1,010,737. The examination change represents a reclass of the amount reported under the caption "Aggregate write-in for liabilities – Reinsurance Allowance."

The liability represents the proceeds of a parental letter of credit from the Home Office that was used to guarantee the outstanding loss and loss adjustment expenses due the Branch from

unauthorized reinsurers. On December 30, 1999, as part of the purchase of GAN General by CGU Insurance Group, Canada, the Department allowed the parental letter of credit to be drawn down with the stipulation that the proceeds would remain with the Branch as funds held against future losses. The Branch reported these funds held as “Aggregate write-in for liabilities – Reinsurance Allowance” instead of Funds held by company under reinsurance treaties.

It is recommended that the Branch reports funds held in its annual statements in accordance with NAIC’s Annual Statement Instructions.

6. AGGREGATE WRITE-INS FOR LIABILITIES – REINSURANCE ALLOWANCE

The Branch reported a liability in the amount of \$1,010,737 under this caption as of the examination date. Pursuant to this examination, the liability has been eliminated as more fully explained in item 5 of this report.

7. MARKET CONDUCT ACTIVITIES

The Branch was primarily engaged in the business of reinsurance. The examiner has, therefore, not reviewed any market conduct activities.

8. 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>
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A.	<u>Capital Impairment</u>	
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The Branch is required pursuant to Section 1312 of the New York Insurance law to maintain a minimum trusteed surplus of \$2,050,000. This examination has determined that the Branch’s trusteed surplus of \$1,312,203 was impaired in the amount of \$737,797.	1
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Subsequent to the examination date, on January 4, 2002, the Branch deposited qualifying assets in the amount of \$2,000,000, which eliminated

ITEMPAGE NO.

the impairment as of the examination date.

B. Holding Company

It is recommended that the Branch comply with Section 1504(a) of the New York Insurance Law and Department Regulation 52 by filing such reports or material the superintendent may direct in a timely manner.

7

The Branch has complied with this recommendation.

C. Accounts and Records

i. Invested Assets

It is recommended that the Branch amend its account names and custodial agreement to reflect its legal name.

10

The Branch has complied with this recommendation.

ii. Expense Allocation Agreement

It is recommended that CGU Insurance Company of Canada, the Home Office Company of the Branch, reimburse the Branch for any expenses paid and not allocate any further expenses to the Branch until such time as an approved expense sharing agreement has been submitted to and approved by this Department in accordance with Section 1505 of the New York Insurance Law.

10

The Branch was reimbursed for these expenses.

iii. Write-in for the Expenses

It is recommended that the Branch comply with Circular Letter 15 (1975) and Section 1302 of the New York Insurance Law and report all assets of doubtful value and amounts over ninety days past due from affiliates as non-admitted assets.

11

The Branch has complied with this recommendation.

iv. Record Retention

It is recommended that the Branch retain its books and records as required by Department Regulation 152.

11

The Branch has complied with the recommendation.

v. Certified Public Accountants

It is recommended that the Branch enter into an agreement with its

12

certified public accountants that comply with Section 307 (b) of the New York Insurance Law and Department Regulation 118.

The Branch has complied with this recommendation.

It is recommended that the Branch comply with the NAIC's Annual Statement Instructions by notifying and filing the necessary documents with the Department when changing auditors.

There has been no change in the external auditors since the prior examination.

D. Reinsurance Recoverable on Loss and Loss Adjustment Expenses

It is recommended that the Branch report funds held in its annual statements in accordance with the NAIC's Annual Statement Instructions. 19

The Branch has not complied with this recommendation. A similar comment is made in this report.

E. Losses and Loss Adjustment Expenses

It is recommended that the Branch's actuarial opinion accurately reflect the methods used to determine the reserves for unpaid losses and unpaid adjustment expenses. It is also recommended that the Branch retain workpapers to support its filed actuarial opinion in accordance with Annual Statement Instructions. 20

The Branch has not fully complied with this recommendation and a similar recommendation is contained in this report.

F. Reinsurance Payable on Paid Losses and Loss Adjustment Expenses

It is recommended that the Branch properly report Reinsurance recoverable on paid losses and loss adjustment expenses as an asset and report a non-admitted asset for all inter-company balances over ninety days past due in accordance with Department Circular Letter 15 (1975). 21

The Branch has complied with this recommendation.

9. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO</u>
A. <u>Trusteed Surplus Impairment</u>	
The Branch is required pursuant to Section 1312 of the New York Insurance Law to maintain a minimum trustee surplus of \$2,050,000. This examination has determined that the Branch's trustee surplus was \$(201,881), resulting in an impairment in the amount of \$2,251,881. Subsequent to the examination date, on May 31, 2006, the Branch deposited qualifying assets in the amount \$2,250,000 with its United States trustee, thereby reducing the impairment to \$1,881.	1, 18
It is recommended that the Branch deposit additional qualifying assets with its United States trustee to eliminate the remaining impairment.	
B. <u>Reinsurance</u>	
<u>Letter of Credit</u>	
It is recommended that the Branch amend its letter of credit with QBE Insurance and Reinsurance Ltd. to change the name of the beneficiary to Aviva Insurance Company of Canada (U.S. Branch), which is the legal name of the Branch.	7
It is recommended that the Branch report letters of credit in U.S. dollars in its filed financial statements.	8
C. <u>Holding Company System</u>	
i. <u>Investment Management Agreement</u>	
It is recommended that the Investment Management Agreement between the Branch and Aviva Investment Canada Inc. be submitted to this Department for approval pursuant to Section 1505(d) of the New York Insurance Law.	10
ii. <u>Expense Allocation Agreement</u>	
It is recommended that the Branch enter into a management agreement with its Home Office setting forth the services to be performed and the compensation to be paid by the Branch to its Home Office.	10
D. <u>Accounts and Records.</u>	
<u>Custodian Agreement</u>	
It is recommended that the Branch amend its custodial agreement to include the safeguards and provisions per the NAIC Financial Condition Examiners Handbook Part 1, Section IV-J.	13

ITEMPAGE NOE. Losses and Loss Adjustment Expenses

It is recommended that the Branch provide to this Department sufficient documentation for the Department actuary to properly evaluate the Actuarial Report of the Branch

19

F. Funds Held by Company Under Reinsurance Treaties

It is recommended that the Branch reports funds held in its annual statements in accordance with NAIC's Annual Statement Instructions.

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Appointment No 22460

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, HOWARD MILLS, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

Jainarine Tilakdharry

as proper person to examine into the affairs of the

AVIVA INSURANCE COMPANY OF CANADA

(U. S. BRANCH)

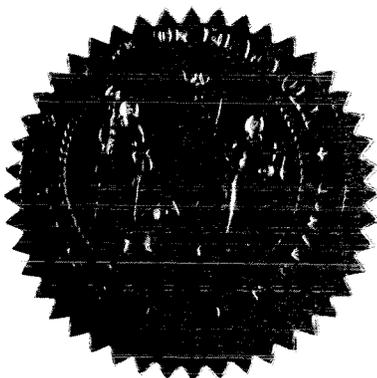
and to make a report to me in writing of the condition of the said

Branch

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 24th day of February, 2006



A handwritten signature in black ink, appearing to read "Howard Mills", written over a horizontal line.

HOWARD MILLS
Superintendent of Insurance