



**REPORT ON EXAMINATION
OF
XL REINSURANCE AMERICA INC.**

AS OF DECEMBER 31, 2020

**EXAMINER:
DATE OF REPORT:**

**WAYNE LONGMORE
MAY 12, 2022**

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

May 12, 2022

Honorable Adrienne A. Harris
Superintendent
New York State Department of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 32196 dated February 9, 2021, attached hereto, I have made an examination into the condition and affairs of XL Reinsurance America Inc. as of December 31, 2020, and submit the following report thereon.

Wherever the designations “XLRA” or “the Company” appears herein without qualification, it should be understood to indicate XL Reinsurance America Inc.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

Due to the COVID-19 pandemic, the examination was conducted remotely.

This report on examination was updated in July 2022 to reflect a minor revision in section 2D.

1. SCOPE OF EXAMINATION

The Department has performed an examination of XL Reinsurance America Inc., a multi-state insurer. The previous examination was conducted as of December 31, 2015. This examination covered the five-year period from January 1, 2016, through December 31, 2020. Transactions occurring subsequent to this period were reviewed when deemed appropriate by the examiner.

New York is the lead state of the AXA Insurance Group. The examination was performed concurrently with the examinations of the following insurers:

<u>Company</u>	<u>State of Domicile</u>
T.H.E. Insurance Company	Louisiana
Catlin Insurance Company, Inc.	Texas
XL Select Insurance Company	Delaware
Greenwich Insurance Company (“GIC”)	Delaware
XL Insurance America, Inc.	Delaware
Catlin Specialty Insurance Company	Delaware
Indian Harbor Insurance Company	Delaware
XL Specialty Insurance Company	Delaware
XL Insurance Company of New York, Inc.	New York

Other states participating in this examination were Delaware, Louisiana, and Texas.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook, which requires that we plan and perform the examination to evaluate the financial condition and identify current and prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with New York laws, statutory accounting principles, and annual statement instructions.

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

- Company history
- Management and control
- Territory and plan of operation
- Reinsurance
- Holding company description
- Financial statement presentation
- Loss review and analysis
- Significant subsequent events
- Summary of recommendations

A review was also made to ascertain what action was taken by the Company regarding the recommendation 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

XL Reinsurance America Inc. was incorporated under the laws of the State of New York on May 6, 1929, as the Service Fire Insurance Company of New York. It became licensed on September 24, 1929 and commenced business on October 1, 1929.

The Company was organized as a stock property and casualty company. Effective April 1, 1974, its name was changed to North American Company for Property and Casualty Insurance. Effective February 10, 1989, its name was changed to NAC Reinsurance Corporation. The Company adopted its current title on January 9, 2001.

The Company was controlled by NAC Re Corporation (“NAC Re”) until June 18, 1999, when XL Capital Ltd (“XL Capital”), also known as XLIT Ltd., a Cayman Islands holding company, acquired NAC Re in a pooling of interest stock transaction. On July 1, 2010, XL Group plc, an Irish public limited company (“XL Group”) and XL Capital completed a re-domestication transaction in which all the ordinary shares of XL Capital were exchanged for all the ordinary shares of XL Group. As a result, XL Capital became a wholly owned subsidiary of XL Group. On July 1, 2010, XL Capital was renamed XL Group Ltd., and effective November 8, 2011, changed its name to XLIT Ltd.

On March 19, 2012, the outstanding shares of the Company were contributed to its indirect parent, X.L. America, Inc. (“XLA”) from NAC Re Corporation, which was subsequently dissolved.

On May 1, 2015, XL Group acquired the Catlin Group Ltd (“Catlin”). On September 28, 2015, XL Group effected an internal reorganization to align the newly acquired insurance operations of Catlin with XL Group's existing operations. As a result of the reorganization, Catlin, LLC (a Delaware corporation) became a wholly owned subsidiary of XLA. Catlin, LLC included three regulated insurance entities: Catlin Specialty Insurance Company, a Delaware company; Catlin Indemnity Company, also a Delaware company; and Catlin Insurance Company, Inc., a Texas company. Catlin Indemnity Company was sold effective November 23, 2020.

During 2016, the lead company of the XL Group, named XL Group Ltd. (“XL”), re-domesticated from Ireland to Bermuda.

On February 1, 2016, the Company completed the acquisition of Allied International Holdings, Inc. (“Allied”). Allied is the holding company of Allied Specialty Insurance Inc. and T.H.E. Insurance Company (“THE”), a property and casualty insurer of the outdoor entertainment industry.

Effective September 12, 2018, AXA S.A. (“AXA”), a company organized under the laws of France, acquired XL by means of a merger of Camelot Holdings Ltd., (“Camelot”) a Bermuda exempted company, with and into XL Group Ltd., a Bermuda exempted company and the indirect parent of the Company, with XL continuing as the surviving company and a direct, wholly owned subsidiary of AXA. This was done pursuant to an agreement and plan of merger, dated March 5, 2018, by and among AXA, Camelot, and XL.

Post-acquisition, the Company is part of the group of companies comprising AXA XL, which is the property and casualty division of AXA in the United States.

A. Corporate Governance

Pursuant to the Company’s charter and by-laws, management of the Company is vested in a board of directors consisting of not less than seven nor more than 21 members. The board meets four times during each calendar year.

At December 31, 2020, the board of directors was comprised of the following eight members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Steven Peter Agosta Rye, NY	Senior Vice President, General Counsel and Secretary, XL Reinsurance America Inc.
David Douglas Brooks Weatogue, CT	Senior Vice President, XL Reinsurance America Inc.
Christopher Frederic Buse Wilton, CT	President, XL Reinsurance America Inc.
Dawn Marie Dinkins Congers, NY	Senior Vice President, XL Reinsurance America Inc.
Mark Andrew DiTaranto Rowayton, CT	Vice President, XL Reinsurance America Inc.

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Francis Joseph Lockwood* Shelton, CT	Senior Vice President, XL Reinsurance America Inc.
James Michael Norris Norwalk, CT	Vice President, XL Reinsurance America Inc.
Michael Joseph Tempesta Stamford, CT	Senior Vice President, XL Reinsurance America Inc.

*Mr. Lockwood retired and resigned effective June 1, 2021.

As of December 31, 2020, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Christopher Frederic Buse	President and Chairman
Steven Peter Agosta	Secretary
Mark Roger Twite	Chief Financial Officer and Treasurer
Andrew Robert Will	Controller

B. Territory and Plan of Operation

As of December 31, 2020, the Company was licensed to write business in all 50 states, the District of Columbia, Puerto Rico and Canada.

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 and 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

<u>Paragraph</u>	<u>Line of Business</u>
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
22	Residual value
26	Gap
27	Prize indemnification
28	Service contract reimbursement
29	Legal services
30	Involuntary unemployment
31	Salary protection

The Company is authorized to write such workers' compensation insurance as may be incidental to coverages contemplated under paragraphs 20 and 21 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to conduct the business of special risk insurance pursuant to Article 63 of the New York Insurance Law and is also authorized by Section 4102(c) New York Insurance Law, to reinsure risks of every kind or description and insure property or risks of every kind or description located or resident outside of the United States, its territories, and possessions.

Based upon 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 \$35,000,000. However, pursuant to Section 6302(c)(1) of the New York Insurance Law, to be licensed to write special risks, the Company is required to maintain surplus as regards policyholders of at least 200% of its authorized control level risk-based capital; therefore, the Company was required to maintain a minimum surplus to policyholders in the amount of \$1,723,242,524 as of December 31, 2020.

The Company is the leader of the XL America pool and in accordance with the pooling agreement (described more fully in section 2C), it assumes the business written by the other pool members. About 90% of the Company's assumed business comes from the pool. For each year covered by the exam, the Company writes a small amount of direct business representing less than one percent of the Company's total gross premiums.

The following schedule shows the direct premiums written and premiums assumed by the Company for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>	<u>Assumed Premiums</u>	<u>Total Gross Premiums</u>
2016	\$22,281,492	\$4,649,202,326	\$4,671,483,818
2017	\$17,901,543	\$4,801,111,178	\$4,819,012,721
2018	\$19,851,898	\$5,448,031,288	\$5,467,883,186
2019	\$20,431,326	\$6,510,702,465	\$6,531,133,791
2020	\$24,224,625	\$7,588,122,051	\$7,612,346,676

XLRA's largest lines of net premiums written in 2020 were other liability – claims made with \$663.7 million; other liability – occurrence with \$300.8 million; inland marine with \$177.6 million; fire with \$120.4 million and workers compensation with \$118.7 million. Other liability – claims made and other liability – occurrence categories include coverage for director and officer liability, professional liability, excess and umbrella liability, construction, cyber, environmental, and general casualty/liability products. During the examination period, direct written premiums were primarily derived from other liability.

AXA XL companies distribute insurance products and services through brokers, program administrators and surplus lines agents, contracted, appointed, and licensed as required by the various jurisdictions in which it operates. AXA XL entities have over 1,400 active, contracted producers. Business from program administrators, equine, surety, and design professional are produced by agents, whereas all other business is produced on a brokerage basis.

Effective January 1, 2019, XLRA entered into a quota share agreement with affiliate AXA Insurance Company ("AIC"), whereby the Company assumes 92.5% of AIC's ultimate net liabilities.

Effective July 1, 2020, XLRA entered into a quota share agreement with T.H.E. Insurance Company, a subsidiary of AXA XL, whereby the Company assumes 100% of the T.H.E. Insurance Company's net premiums and loss and loss adjustment expenses.

Due to the pooling agreement described below, the net exposure of the Company was significantly different than its direct and assumed exposure.

C. Reinsurance Ceded

The Company participates in an inter-company pooling agreement, as lead company, with other property and casualty affiliated entities. As of December 31, 2020, the pooling agreement resulted in sharing of premium income, losses and expenses as follows:

XL Reinsurance America Inc. (Pool leader)	65%
Greenwich Insurance Company	12%
XL Specialty Insurance Company	12%
XL Insurance America, Inc.	6%
Indian Harbor Insurance Company	3%
Catlin Insurance Company, Inc.	2%
XL Select Insurance Company	0%
XL Insurance Company of New York, Inc.	0%
Catlin Specialty Insurance Company	0%

The original pooling agreement, dated July 1, 1999, has been amended and revised several times over the years with the sixth amended and re-stated intercompany reinsurance pooling agreement becoming effective January 1, 2020, to include three new members: Catlin Specialty Insurance Company (“CSIC”), Catlin Insurance Company, Inc. (“CICI”), and Catlin Indemnity Company (“CIND”) and to align certain member’s pooling percentages with on-going legal entity reorganization. CIND was subsequently sold on November 23, 2020 and is no longer part of the pool.

The pooling agreement covers all lines of business the pool participants are eligible to write. Under the terms of the agreement, 100% of all pool member’s gross premium, losses, insurance expenses, and other related underwriting activity of the pool members are ceded gross of reinsurance to XLRA, the pool leader. XLRA then purchases external reinsurance for the pool. After placement cessions to unaffiliated reinsurers, XLRA reinsures portions of the pools results attributable to certain underwriting/accident years under quota share contracts with unauthorized affiliates XL Bermuda Ltd (“XLB”) and Seaview Re Ltd. (“Seaview Re”).

XLRA reinsures to XLB 75% of all accident date-related pool results from July 1, 1999 to December 31, 2007 and 50% of all accident date-related pool results from January 1, 2008 to December 31, 2015 (the XLB QS) and 50% of the remaining 2016 and 60% of the remaining 2017 accident date-related pool results to Catlin Re Switzerland Ltd. (“CRBB”) under quota share reinsurance arrangement (the CRBB QS). On October 1, 2020, all cessions previously ceded to CRBB, which include the losses ceded from the Catlin Group-acquired entities, as well as the accident date-related pool results from January 1, 2016 through December 31, 2017, were novated to XLB. The business written under the former entities of the Catlin pool also reinsure 75% of underwriting date-related pool results from January 1, 2011 to December 31, 2017 to CRBB (the CUS QS), which was novated to XLB on October 1, 2020. Effective January 1, 2019, XLRA also cedes to Seaview Re 30% quota share of all accident date-related pool results from January 1, 2019 (the “Seaview Re Quota Share”).

The Company's 2020 reinsurance program with unaffiliated reinsurers (unless otherwise noted below) which is placed prior to the cessions to the pool leaders off-shore affiliates as described above, included the following significant coverages:

<u>Treaty Type</u>	<u>Cession</u>
<u>2020 FLEXI-Q excess of loss multiline contract- casualty and professional business</u>	<p>100% of losses arising from business written, subject to a maximum cession of \$250,000,000 per policy, each claim made, loss discovered or occurrence as applicable to the original policy.</p> <p>With respect to business written by the U.S. Professional Underwriting Unit and the Bermuda Professional Underwriting Unit, 50% of losses, each claim made, loss discovered or occurrence (as applicable to the policy), subject to a maximum cession of \$250,000,000 per policy.</p> <p>In respect of first party property damage loss or liability that, in any way, form, or manner, directly or indirectly arises out of, is in connection with, or is related to, natural perils, the maximum recoveries, will not exceed \$12,500,000 any one loss occurrence.</p> <p>Notwithstanding the foregoing the Reinsurer will be liable only for their share of losses excess of an amount greater than 31% of original premium income.</p> <p>The maximum reinsurance recoveries for this reinsurance agreement, will not exceed 200% of the premium due.</p>
<u>Automobile physical damage and automobile liability- Lyft</u>	<p>The reinsurer shall be liable to the Company for its share of the ultimate net loss and allocated loss adjustment expenses, in excess of \$250,000 deductible, each accident, subject to policy limit.</p>

2020 Whole Account Casualty Quota Share

Under this participation agreement, effective May 1, 2020, the reinsurer will be liable for a ten percent (10%) share of the interests and liabilities of the Company as "reinsurer" under select quota share agreements. This agreement applies to select quota share reinsurance agreements issued to and executed by the Company, as reinsurer, and any renewals thereof during the term of this agreement.

North America Professional Liability Quota Share

Effective May 1, 2020, the reinsurer will accept 100% quota share of \$25,000,000, any one risk. However, for a maximum of twenty risks per underwriting year, the reinsurer will accept 100% quota share of \$50,000,000, any one risk.

Global Property Quota Share

Effective January 1, 2020, the Company and other names affiliates (collectively, the “Reinsured”) obligates itself to cede and the reinsurer accepts 15% quota share of the net liability under applicable property policies subject to either 135% or 148% of ceded net earned premium on insurance and reinsurance business, respectively, as defined in the contract.

2020 Americas Casualty Quota Share

This reinsurance agreement, effective July 1, 2020, indemnifies the Company and other named affiliates (collectively, the “Reinsured”), in respect of the liability which may attach to the reinsured under all policies for select business classification, as outlined in the agreement.

The Reinsured cedes, and the reinsurer accepts its proportionate share of a 100% quota share of \$50,000,000, any one risk as defined in the agreement. However, for a maximum of ten (10) risks during the term of this agreement, the reinsured will cede 100% quota share of \$75,000,000, any one risk as defined in the agreement. The maximum reinsurance recoveries for the period, being July 1, 2020 to July 1, 2021, will not exceed 400% of the “Gross Net Written Premium Income” as defined in the agreement. However, the maximum reinsurance recoveries for terrorism is limited to \$500,000,000 for the period, being July 1, 2020 to July 1, 2021.

Personal Lines Quota Share Agreement

This reinsurance agreement, effective January 1, 2020, is to indemnify the Company in respect of the liability that may accrue to the Company as a result of loss or losses under policies classified by the Company as homeowners and dwelling, written or renewed during the term of agreement by or through Bamboo Ide8 Insurance Services, Gold River, California (the “MGA”), for and on behalf of the Company. The Company retains a 10% quota share participation in this agreement. The Reinsurer’s liability as respects any one Loss Occurrence will not exceed its quota share of the greater of 250% of the gross net written premium income ceded or \$100,000,000.

Federal Crop Insurance Corporation (“FCIC”)

This agreement establishes, for reinsurance year 2020, the terms and conditions under which the Federal Crop Insurance Corporation, supervised by the Risk Management Agency, will provide subsidy and reinsurance on eligible crop insurance contracts sold by the Company. In exchange for premiums ceded by the Company to FCIC under this Agreement, FCIC will provide reinsurance to the Company with respect to such contracts in accordance with the provisions of this Agreement.

Only the amount of net book premium authorized by FCIC in the approved Plan of Operations, including any authorized amendments, shall be reinsured and subsidized under this agreement.

Intercompany Adverse Development Reinsurance Agreement (“ADC Agreement”)

Effective January 1, 2004, the Company entered into an adverse development cover with XLB, formerly XL RE Ltd., which provides protection on an aggregate excess of loss basis for aggregate adverse development up to \$500,000,000, net of all other available reinsurance, which occurred during the calendar period January 1, 2004 to December 31, 2005 on XLRA’s pre-pooled net retained reserves held at December 31, 2003 related to losses on policies written or assumed during underwriting years 1985 through 2000. The Company received approval from the Department to treat the ADC Agreement as prospective reinsurance.

Unaffiliated Adverse Development Reinsurance Agreement

Effective May 29, 2020, the Company closed on a ceded loss portfolio transfer (“LPT”) agreement with an unauthorized, unaffiliated reinsurer, whereby the reinsurer agreed to assume 100% of the Company’s liability for reported and incurred but not reported claims in all accident years, relating to the portfolio of Construction Contractors’ policies issued by the Company prior to October 1, 2019. The agreement provides that the reinsurer will pay the ultimate net losses on all subject policies up to a maximum aggregate amount of \$400,000,000. The agreement was entered into to eliminate the risk from further claim reserve development on the portfolio of Construction Contractors policies. At the effective date of the contract, the Company’s recorded claims reserve for reported and incurred but not reported claims related to the subject policies was \$226,539,709, for which the Company paid an initial consideration of \$210,500,000. As of December 31, 2020, the Company’s gross inception-to-date incurred claims related to the subject policies had increased/deteriorated by an additional \$27,680,759 to a total of \$254,220,468. At December 31, 2020, the Company held \$43,720,468 in its balance sheet restricted special surplus fund, representing its inception to-date gain at that time of \$254,220,468 cumulative incurred claims less \$210,500,000 premium paid.

As of the examination date, the Company reported a contra-liability in the amount of \$218,442,343 related to this agreement, reflecting the \$254,220,468 of cumulative incurred claims less \$9,320,468 of subject 2020 paid losses out of those reserves.

Department Regulation 108 states, in part:

“. . . (k) Each financial statement required to be filed in New York must be supplemented with an exhibit in the annexed form, which is approved for such use, certified by a principal officer of the filing insurer, for each loss portfolio transfer executed or entered into. . .”

The Company was unaware of the details of this Regulation and did not file the supplemental exhibit as required.

It is recommended that the Company institute procedures to ensure compliance with the filing requirements of Department Regulation 108.

In addition, the NAIC Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles (“SSAP”) No. 62R prescribes the accounting treatment for all retroactive reinsurance agreements entered into, renewed or amended on or after January 1, 1994. Paragraph 34(h) of SSAP 62R, states:

“The ceding entity shall report the initial gain arising from a retroactive reinsurance transaction (i.e., the difference between the consideration paid to the reinsurer and the total reserves ceded to the reinsurer) as a write-in item on the statement of income, to be identified as Retroactive Reinsurance Gain and included under Other Income;”

The Company’s 2020 Annual Statement Other Income Write-in Line 1401, “Miscellaneous Other Income/ (Expense)” reported amount of \$36,379,907 includes \$43,720,468 of gains related to 2020 activity from the loss portfolio transfer, offset by \$7,340,561 of other items. The \$43,720,468 reflects the Company’s initial \$16,039,709 gain as calculated per SSAP No. 62R paragraph 34(h), plus the \$27,680,759 subsequent 2020 gains as per SSAP 62R paragraph 34(j). However, the Company did not isolate the \$43,720,468 loss portfolio transfer gain in the Statement of Income on its own other income write-in line, identified as “Retroactive Reinsurance Gain.”

It is recommended that the Company establish procedures to ensure compliance with the reporting requirements of paragraph 34(h) of SSAP No. 62R and properly report the relevant “Retroactive Reinsurance Gain” in its financial statement filings.

Most of the Company's ceded business was to authorized or certified reinsurers. It is the Company's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. Letters of credit obtained by the Company to take credit for cessions to unauthorized reinsurers were reviewed for compliance with Department Regulation 133.

Examination review found that the beneficiary named in some letters of credit ("LOCs") was not changed to reflect changes in the intercompany pooling agreement.

It is recommended that the Company amend the impacted LOCs and implement procedures to ensure that, pursuant to the provisions of Department Regulation 133, the Company is the named beneficiary of letters of credit being used to reduce the liability for reinsurance ceded to unauthorized reinsurers as reported in Schedule F of the filed annual statement.

All 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 found that the Schedule F data reported by the Company in its filed annual statement accurately reflected its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62R. Representations were supported by an attestation from the Company's Chief Executive Officer and Chief Financial Officer. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements.

D. Holding Company System

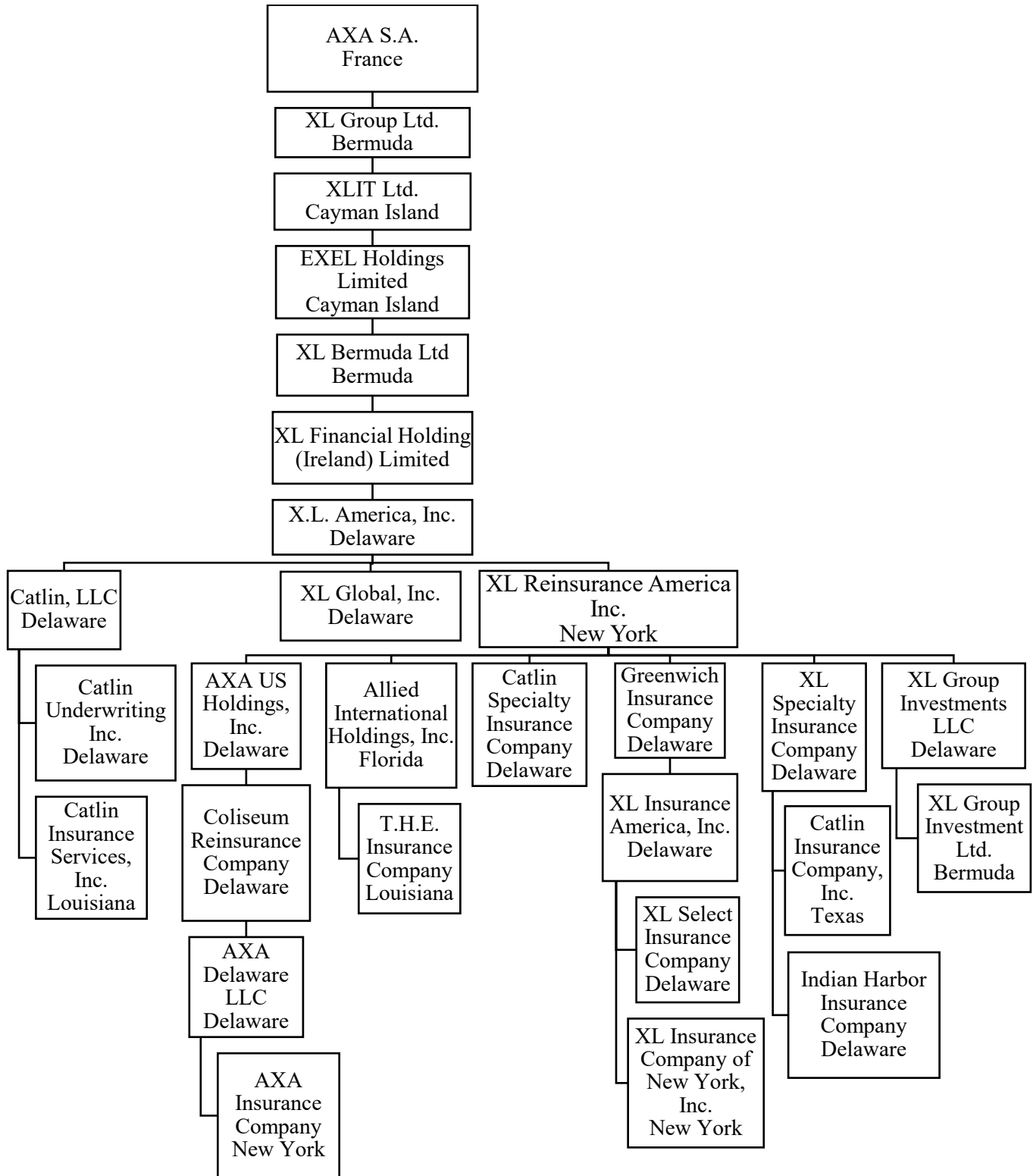
The Company is a member of the AXA Insurance Group. The Company is a wholly owned subsidiary of XLA, a Delaware corporation, which is an indirect subsidiary of AXA S.A., a public company organized under the laws of France. As of December 31, 2020, AXA Assurance IARD Mutuelle ("IARD Mutuelle") has 12.06% of the capital ownership and 19.89% of the voting rights of AXA S.A., and AXA Assurance Vie Mutuelle ("Vie Mutuelle") has 2.88% of capital ownership and 4.86% of voting rights. IARD Mutuelle and Vie Mutuelle are parties to agreements pursuant to which they have stated their intention to collectively vote their shares in AXA S.A. Consistent with Section 1501 of the New York Insurance Law, IARD Mutuelle and Vie Mutuelle, in addition to AXA S.A., are considered the ultimate controlling persons of the Company.

AXA XL is the property, casualty, and specialty risk division of AXA S.A. which provides insurance solutions and services for small, medium and large-sized companies in various countries and territories.

On July 31, 2020, the Company formed a new wholly-owned limited liability company, Albany Real Estate Holdings LLC (“AREH”).

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 abridged chart of the holding company system as of December 31, 2020:



At December 31, 2020, AXA Assurance IARD Mutuelle and AXA Assurance Vie Mutuelle owned 12.06% and 2.88%, respectively, of AXA S.A.

Holding Company Agreements

As of December 31, 2020, the Company was party to the following agreements with other members of its holding company system:

Tenth Amended and Restated General Services Agreement

XL Global Services, Inc. (“XLGS”) and XLA, on behalf of its various subsidiaries and affiliates, including XLRA and XLNY, entered the Tenth Amended and Restated General Services Agreement, dated May 15, 2020. Under the terms of the agreement, the parties agree to provide to each other services including, but not limited to, information technology, legal, auditing, actuarial, and accounting, on a cost basis. The allocation of charges and credits shall be made in accordance with allocation methods and definitions contained in the agreement and in accordance with the Department’s Regulation 30. This agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law and was non-disapproved on April 17, 2020.

During 2020 and in accordance with the terms of the Tenth Amended and Restated General Expense Allocation Agreement, XLGS was paid \$69,824,535 by XLRA.

Eleventh Amended and Restated General Services Agreement

XLRA and various affiliates entered the Eleventh Amended and Restated General Services Agreement, dated May 15, 2020, with XLA. Under the terms of the agreement, the parties agree to provide each other services including, but not limited to, legal, auditing, administrative, managerial, actuarial, and accounting, on a cost basis. The allocation of charges and credits shall be made in accordance with allocation methods and definitions contained in the agreement and in accordance with Department Regulation 30. This agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law and was non-disapproved on April 17, 2020.

Investment Management Services Agreement

Effective January 1, 2017, the Company became a party to an Investment Management Services Agreement (“IMA”) with XL Group Investments Ltd (“XLGIL”). Under the terms of the agreement, XLGIL is to provide investment management, investment advisory and related administrative services to the Company in accordance with established investment guidelines. Pursuant to the sub-investment management agreement, dated March 1, 2019 and subsequently amended, and appended to the IMA, AXA Investment Managers Inc. was appointed as an investment manager of the Company. Services are to be

compensated based on a fee schedule payable quarterly in arrears, at the end of each calendar quarter. This agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law and was amended several times over the years with the most recent amendment, effective as of February 15, 2021, being non-disapproved on January 25, 2021.

Tax Allocation Agreement

Effective May 1, 2020, the Company entered into a Twelfth Amended Tax Allocation Agreement with XLA and various insurance and non-insurance affiliates. Pursuant to the terms of the agreement, the parties file a consolidated federal income tax return. The agreement provides that the Company's tax liability on a consolidated basis will not exceed the liability had it filed its tax return on a stand-alone basis. The agreement was filed with the Department in accordance with Department Circular Letter No. 33 (1979) and non-disapproved on March 26, 2020.

E. Significant Ratios

Except as noted below, the Company's operating ratios, computed as of December 31, 2020, fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the NAIC.

<u>Operating Ratios</u>	<u>Result</u>
Net premiums written to policyholders' surplus	74%
Adjusted liabilities to liquid assets	127%
Two-year overall operating	98%

* The unusual result for the adjusted liabilities to liquid assets ratio is caused by 100% of the common stock amount of \$1,208,920,141 reported on the year-end 2020 balance sheet, being investments in subsidiaries, which is not counted as part of liquid assets in determining the ratio.

Underwriting Ratios

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

	<u>Amount</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$5,955,979,367	79.41%
Other underwriting expenses incurred	2,329,786,285	31.06%
Net underwriting loss	<u>(785,082,055)</u>	<u>(10.47)%</u>
Premiums earned	<u>\$7,500,683,597</u>	<u>100.00%</u>

The Company's reported risk-based capital ("RBC") score was 257.6 % as of December 31, 2020. The RBC score is a measure of the minimum amount of capital appropriate for a reporting entity to support its overall business operations in consideration of its size and risk profile. An RBC score of 200% or below can result in regulatory action. There were no financial adjustments in this report that impacted the Company's RBC score.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2020, as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 5,249,215,036	\$ 0	\$ 5,249,215,036
Common stocks	1,208,920,141	0	1,208,920,141
First liens - mortgage loans on real estate	66,858,255	0	66,858,255
Cash, cash equivalents and short-term investments	615,897,289	0	615,897,289
Other invested assets	661,505,749	17,972,604	643,533,145
Receivables for securities	13,080,391	0	13,080,391
Investment income due and accrued	35,737,074	0	35,737,074
Uncollected premiums and agents' balances in the course of collection	703,150,145	87,711,398	615,438,747
Deferred premiums, agents' balances and installments booked but deferred and not yet due	195,343,701	0	195,343,701
Accrued retrospective premiums	45,290,799	190,923	45,099,876
Amounts recoverable from reinsurers	654,620,049	0	654,620,049
Funds held by or deposited with reinsured companies	727,099,302	0	727,099,302
Net deferred tax asset	173,675,665	46,106,127	127,569,538
Guaranty funds receivable or on deposit	663,840	0	663,840
Receivables from parent, subsidiaries and Affiliates	157,041,081	10,651,206	146,389,875
Provision for reinsurance ceded to pool Members	154,490,488	0	154,490,488
Receivable from federal crop insurance Corporation	90,394,317	0	90,394,317
Deductible recoverable	12,697,027	8,058,359	4,638,668
Funds held or deposited - direct business	2,876,177	0	2,876,177
Accounts receivable	<u>159,160</u>	<u>159,160</u>	<u>0</u>
Total assets	<u>\$10,768,715,686</u>	<u>\$170,849,777</u>	<u>\$10,597,865,909</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses	\$ 4,096,486,614
Reinsurance payable on paid losses and loss adjustment expenses	3,130,008
Commissions payable, contingent commissions and other similar Charges	15,257,960
Other expenses (excluding taxes, licenses and fees)	76,554,560
Taxes, licenses and fees (excluding federal and foreign income taxes)	35,171,623
Current federal and foreign income taxes	81,912,992
Unearned premiums	1,117,867,638
Advance premium	17,572,868
Ceded reinsurance premiums payable (net of ceding commissions)	1,227,734,576
Funds held by company under reinsurance treaties	350,429,635
Amounts withheld or retained by company for account of Others	408,850
Remittances and items not allocated	(162,655,854)
Provision for reinsurance	441,401,394
Payable to parent, subsidiaries and affiliates	290,390,409
Payable for securities	9,084,930
Funds held - retroactive reinsurance	174,929,961
Deferred commission revenue	126,786,427
Deposit liability	44,679,912
Accounts payable	11,552
Escheat	1,000
Retroactive reinsurance	<u>(218,442,343)</u>
Total liabilities	\$ 7,728,714,712

Surplus and Other Funds

Special surplus for retroactive reinsurance	\$ 43,720,468
Common capital stock	5,000,000
Gross paid in and contributed surplus	3,162,388,405
Unassigned funds (surplus)	<u>(341,957,675)</u>
Surplus as regards policyholders	\$ <u>2,869,151,198</u>
Total liabilities, surplus and other funds	<u>\$10,597,865,910</u>

Note: The Internal Revenue Service is currently conducting an audit of XL America, Inc. and its subsidiaries' consolidated tax return for tax year 2018, which includes the US based AXA XL insurance companies (which are the subject of the current regulatory examination). 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. Statement of Income

The net income for the examination period as reported by the Company was \$443,736,344, as detailed below:

Underwriting Income

Premiums earned		\$7,500,683,597
Deductions:		
Losses and loss adjustment expenses incurred	\$5,955,979,367	
Other underwriting expenses incurred	2,329,786,285	
Total underwriting deductions		<u>8,285,765,652</u>
Net underwriting gain or (loss)		\$(785,082,055)

Investment Income

Net investment income earned	\$ 888,328,582	
Net realized capital gain	<u>314,868,571</u>	
Net investment gain		1,203,197,153

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ (8,109,856)	
Miscellaneous other income	34,140,296	
Net interest on funds held	17,478,155	
Interest on deposit contracts	19,180	
Foreign exchange gain	1,192,625	
Retroactive reinsurance premium ceded	<u>(4,559,254)</u>	
Total other income		<u>40,161,146</u>
Net income before federal and foreign income taxes		\$ 458,276,244
Federal and foreign income taxes incurred		<u>14,539,898</u>
Net income		\$ <u>443,736,344</u>

*Rounding difference of \$2

C. Capital and Surplus

Surplus as regards policyholders increased \$847,523,372 during the five-year examination period January 1, 2016 through December 31, 2020 as reported by the Company, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2015			\$2,021,627,826
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$ 443,736,344		
Change in net unrealized capital losses		\$ 458,933,572	
Change in net unrealized foreign exchange capital gain or loss	6,515,497		
Change in net deferred income tax	18,233,544		
Change in nonadmitted assets		40,434,423	
Change in provision for reinsurance		360,003,869	
Surplus adjustments paid in	1,292,628,829		
Dividends to stockholders		98,500,000	
Change in provision for reinsurance ceded to pool members	115,632,980		
SSAP 3 adjustment- net tax effect	2,979,199		
SSAP 3 adjustment- deferred ceding commission correction		6,265,304	
SSAP 3 adjustment- deposit accounting correction		11,571,348	
Goodwill write-off	<u>0</u>	<u>56,494,505</u>	
Total gains and losses	\$1,879,726,393	\$1,032,203,021	
Net increase (decrease) in surplus			<u>847,523,372</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2020			<u>\$2,869,151,198</u>

Capital paid in was \$5,000,000, consisting of 40,000 shares of class A common stock at \$125 par value, per share. Gross paid in and contributed surplus was \$3,162,388,405.

Gross paid in and contributed surplus increased by \$1,292,628,829 during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
2016	Beginning gross paid in and contributed surplus	\$1,869,759,576
2016	Surplus paid in	\$ 210,004
2017	Surplus paid in	194,064,296
2018	Surplus paid in	148,749,682
2019	Surplus paid in	356,445,879
2020	Surplus paid in	<u>593,158,968</u>
	Total surplus contributions	<u>\$1,292,628,829</u>
2020	Ending gross paid in and contributed surplus	<u>\$3,162,388,405</u>

No adjustments were made to surplus as a result of this examination.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$4,096,486,614 is the same as reported by the Company as of December 31, 2020. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with actuarial standards of practice and statutory accounting principles, including SSAP No. 55.

5. SUBSEQUENT EVENTS

On March 11, 2020, the World Health Organization declared an outbreak of a novel coronavirus (“COVID-19”) pandemic. The COVID-19 pandemic has continued to develop, with significant uncertainty remaining regarding the full effect of COVID-19 on the U.S. and global insurance and reinsurance industry. At the time of releasing this report, the examination’s review noted that there has not been a significant impact to the Company. The Department has been in communication with the Company regarding the impact of COVID-19 on the Company’s operations and financial position and will take necessary action if a solvency concern arises.

Through the first amendment to the Sixth Amended XL America Pooling Agreement, T.H.E Insurance Company, domiciled in Louisiana, joined the pool effective October 1, 2021. This agreement was filed with the Department pursuant to Section 1505 of the New York Insurance Law and was non-disapproved on October 15, 2021.

AXA XL intends to reorganize its reinsurance segment as a standalone business, with all new and renewal reinsurance business in the United States and Canada written within XLRA. XLRA, the current U.S. pool leader, will be removed from the pool and a new insurance business-only pool will be established with GIC as the pool leader. XLRA proposes to transfer 100% of its equity interests in certain direct subsidiaries of XLRA, as well as certain other assets, to GIC, as consideration to be paid by XLRA to GIC in connection with the novation of the U.S. pool insurance business liabilities to GIC. Subsequently, XLRA proposes to transfer 100% of its equity interests in GIC to its parent, XLA, such that GIC and all its subsidiaries will no longer be subsidiaries of XLRA, and GIC will become a direct subsidiary of XLA. The transfer of GIC to XLA is proposed via a share repurchase agreement, whereby XLRA will repurchase a portion of its outstanding shares from XLA using the GIC shares it holds as a portion of the total consideration.

According to the restructuring request, effective January 1, 2022, the total assets projected to be transferred out of XLRA will be approximately \$10.4 billion, of which approximately \$7.6 billion is payment for XLRA liabilities assumed by GIC and other related entities. The remaining approximate \$2.8 billion is to capitalize GIC to continue its operations as the new Pool Leader and to transfer ownership of GIC to XLA.

The restructuring request was filed with the Department pursuant to Section 1505 of the New York Insurance Law and was approved on April 15, 2022.

In its 2021 filed Annual Statement, the Company reported in its Statement of Income, Page 4 Line 3702 “SSAP 3 Adjustment”, an adjustment to opening surplus of \$(23,429,924). This amount is derived from errors in the accounting for ceded reinsurance. The breakdown, as it pertains to the Company, affected net income and surplus as follows:

- An error regarding the cession of losses of \$20,236,352, which overstated surplus at December 31, 2020 surplus;
- An error regarding the accrual of premiums of \$12,340,020, which overstated surplus at December 31, 2020;
- An error regarding the calculation of ceded written premium of \$9,146,449, which understated surplus at December 31, 2020.

The total tax effect on the noted adjustment increased surplus by \$6,596,236, as reported in the 2021 Annual Statement.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained the following recommendation (page number refers to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Holding Company</u>	
It was recommended that the Company comply with Section 1505(d) and Section 1408(b) of the New York Insurance Law in the future and submit all required transactions to the Department for prior approval.	24
The Company has complied with this recommendation.	

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Reinsurance Ceded</u>	
i. It is recommended that the Company institute procedures to ensure compliance with the filing requirements of Department Regulation 108.	12
ii. It is recommended that the Company establish procedure to ensure compliance with the with the reporting requirements of paragraph 34(h) of SSAP 62R and properly report the relevant “Retroactive Reinsurance Gain” in its financial statement filings.	12
iii. It is recommended that the Company amend the impacted LOCs and implement procedures to ensure that pursuant to the provisions of Department Regulation 133, the Company is the named beneficiary of letters of credit being used to reduce the liability for reinsurance ceded to unauthorized reinsurers as reported in XLRA's Schedule F of the filed annual statement.	13

Respectfully submitted,

_____/S/
Wayne Longmore
Associate Insurance Examiner

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

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

_____/S/
Wayne Longmore

Subscribed and sworn to before me

this _____ day of _____, 2022.

APPOINTMENT NO. 32196

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, Linda A. Lacewell, 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:

Wayne Longmore

as a proper person to examine the affairs of the

XL Reinsurance America Inc.

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

COMPANY

with such other information as he shall deem requisite.

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

this 9th day of February, 2021

*LINDA A. LACEWELL
Superintendent of Financial Services*

By:

Joan Riddell

*Joan Riddell
Deputy Bureau Chief*

