



**REPORT ON EXAMINATION
OF
FINANCIAL GUARANTY INSURANCE COMPANY
AS OF DECEMBER 31, 2021**

**EXAMINER:
DATE OF REPORT:**

**TEENA VARGHESE
FEBRUARY 15, 2023**

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

February 15, 2023

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 32343 dated January 25, 2022, attached hereto, I have made an examination into the condition and affairs of Financial Guaranty Insurance Company as of December 31, 2021, and submit the following report thereon.

Wherever the designation “the Company” or “FGIC” appears herein without qualification, it should be understood to indicate Financial Guaranty Insurance Company.

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

1. SCOPE OF EXAMINATION

The Department has performed an examination of the Financial Guaranty Insurance Company, a multi-state insurer that emerged from rehabilitation on August 19, 2013. The previous examination was conducted as of December 31, 2016. This examination covered the five-year period from January 1, 2017, through December 31, 2021. 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, 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, annual statement instructions, and Department guidelines as they pertain to the provisions of the Rehabilitation Plan, discussed further herein.

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

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

On April 10, 1972, Switzerland General Insurance Company of New York (“SGICNY”) was incorporated under the laws of the State of New York to serve as the corporate vehicle in the domestication of the U.S. Branch of the Switzerland General Insurance Company, Ltd., Zurich, Switzerland, which had entered the United States through the State of New York in 1872. SGICNY was licensed on June 6, 1972, and the domestication became effective as of July 1, 1972.

In October 1982, Christiania General Insurance Corporation of New York (“Christiania”) obtained control of the Company. The Company’s name changed to Tarrytown Insurance Company (“TIC”) on July 12, 1983.

On October 31, 1983, Christiania sold TIC to FGIC Corporation (“FGIC Corp.”), a Delaware holding company, which then changed TIC’s name to Financial Guaranty Insurance Company.

On December 18, 2003, an investor group acquired FGIC Corp. from a subsidiary of General Electric Capital Corporation.

In January 2008, due to the global financial crisis, the Company voluntarily ceased writing new business. On November 20, 2009, the Company filed its quarterly statement for the period ending September 30, 2009, which reported a policyholders’ surplus deficit and an impairment of the required minimum policyholders’ surplus. Due to this filing, on November 24, 2009, the Department issued an order, pursuant to Section 1310 of the New York Insurance Law (“1310 Order”), which required the Company to suspend payment of all claims and prohibited the Company from writing any new business. The 1310 Order also directed the Company to submit a plan to eliminate the impairment of its policyholders’ surplus. Although the Company developed a surplus restoration plan, the Company was not able to implement the plan and eliminate its policyholders’ surplus deficit.

On August 3, 2010, FGIC Corp. commenced a proceeding under Chapter 11 of the United States Bankruptcy Code (“FGIC Corp. proceeding”). None of FGIC Corp.’s affiliates or subsidiaries, including the Company, was a debtor in the FGIC Corp. proceeding.

On June 28, 2012, by petition of the Superintendent, the Supreme Court of the State of New York (“Rehabilitation Court”) issued an order of rehabilitation (“Rehabilitation Order”) pursuant to Article 74 of the New York Insurance Law, placing the Company into rehabilitation. The Rehabilitation Order (i) appointed the Superintendent as the rehabilitator of the Company (ii) directed the rehabilitator to take

possession of the Company's property and assets and to conduct the business thereof, and (iii) directed the rehabilitator to take steps towards the removal of the causes and conditions that made the Company's rehabilitation proceeding necessary. The Company consented to the commencement of the rehabilitation proceeding and, upon such commencement, the Company's board of directors resigned.

As part of the rehabilitation proceeding, the rehabilitator developed a rehabilitation plan, which was subsequently amended. The goal of the rehabilitation plan was to treat FGIC's policyholders in a fair and equitable manner while at the same time removing the causes and conditions that made the rehabilitation proceeding necessary.

On June 11, 2013, the Rehabilitation Court issued an order pursuant to Article 74 of the New York Insurance Law which, among other items, (i) approved the Rehabilitation Plan, and authorized its implementation (ii) approved FGIC's amended and restated charter and amended and restated by-laws (which now constitute FGIC's charter and by-laws) (iii) approved an initial cash payment percentage ("CPP") of 17.25%, subject to adjustment by the rehabilitator (by notice dated August 19, 2013, the rehabilitator set the initial CPP at 17%) and (iv) allowed FGIC to resume possession of its property and conduct of its business subject to the terms of the Rehabilitation Plan.

On April 19, 2013, FGIC Corp. emerged from its bankruptcy proceeding. Four months later, on August 19, 2013, the Rehabilitation Plan became effective, whereupon the Company's rehabilitation proceeding terminated, the 1310 Order was lifted, and the Company resumed possession of its property and conduct of its business subject to the terms of the Rehabilitation Plan. The Company emerged from rehabilitation as a solvent insurer under the New York Insurance Law (with Department-specified statutory accounting guidance, discussed below in section F of this report), with its policies restructured in a manner intended to ensure it remains solvent.

On June 19, 2020, the Company sold its wholly owned United Kingdom insurance subsidiary, FGIC UK Limited ("FGIC UK").

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 seven members (except for vacancies temporarily unfilled). The board meets at least four times during each calendar year. At December 31, 2021, the board of directors was comprised of the following seven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Derek M. Donnelly New York, NY	Senior Managing Director, Financial Guaranty Insurance Company
Cono R. Fusco New York, NY	Retired
Edward J. Grzybowski Marco Island, FL	Retired
Paula A. Price New York, NY	Retired
Jamie B. Stewart, Jr. Orleans, MA	Retired
Timothy S. Travers New York, NY	Chief Executive Officer, Financial Guaranty Insurance Company
A. Edward Turi, III Morris Township, NJ	Executive Vice President and General Counsel, Financial Guaranty Insurance Company

As of December 31, 2021, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Timothy S. Travers	Chief Executive Officer
A. Edward Turi, III	Executive Vice President and General Counsel
Karen L. Brenner	Vice President, Controller, and Chief Accounting Officer

B. Territory and Plan of Operation

As of December 31, 2021, the Company was licensed to write business in New York, New Jersey, Texas, and Puerto Rico.

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)	Surety
17(A)	Credit
25	Financial guaranty

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, 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 written by the Company for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>
2017	\$7,106,664
2018	\$5,127,058
2019	\$4,419,108
2020	\$3,949,147
2021	\$2,791,713

The premiums written consist solely of installment premiums related to its legacy business. The Company stopped writing new business in January 2008. When the Company was an active writer, it provided credit enhancement through the issuance of financial guaranty insurance policies in public finance, structured, and other financial obligations, including credit default swaps.

As previously noted, on June 28, 2012, the Company was placed into rehabilitation from which it emerged on August 19, 2013.

Effective August 19, 2013, the Company is required to conduct its business in compliance with the terms of the Rehabilitation Plan. The following is a brief description of select aspects of the Rehabilitation Plan:

The Rehabilitation Plan is the exclusive means for resolving and paying (i) all policy claims, whenever arising, (ii) all other claims arising during, or relating to, the period prior to August 19, 2013, and (iii) all equity interests in FGIC in existence as of the date of the Rehabilitation Order. The Rehabilitation Plan designated six categories of claims and equity interests: secured claims; administrative expense claims; policy claims; non-policy claims; late-filed claims; and equity interests. Claims arising during or relating to the period on and after August 19, 2013 (other than policy claims) are not covered by the Rehabilitation Plan and are resolved and paid by FGIC in the ordinary course of business. The Company is responsible for administering, reviewing, verifying, reconciling, objecting to, compromising, or otherwise resolving all claims, including policy claims, not resolved prior to August 19, 2013, in compliance with the

Rehabilitation Plan. With respect to any policy claim permitted by the Company, the Company is obligated to pay in cash to the applicable policy payee only an upfront amount equal to the product of the then-existing CPP and the amount of such permitted policy claim (subject to any setoff rights the Company may have). The portion of such permitted policy claim not paid or deemed to be paid by FGIC generally comprises a deferred payment obligation (“DPO”) with respect to the applicable policy. The DPO with respect to any policy generally represents the aggregate amount of all permitted policy claims under such policy minus the aggregate amount paid, or deemed to be paid, in cash by the Company with respect to such policy (other than DPO Accretion, defined below) from and after August 19, 2013, subject to further adjustments as provided in the Rehabilitation Plan. From and after August 19, 2013, each policy with an outstanding DPO accrues an amount (“DPO Accretion”) based on such DPO at a rate of 3% per annum. DPO Accretion is calculated on a simple basis and is not added to the DPO. In the absence of an upward adjustment of the CPP, the Company is not obligated to pay any portion of the DPO or DPO Accretion.

In January 2014, the Company made its first payment in cash of approximately \$255,500,000 to policyholders for permitted policy claims related to the period from the 1310 Order through August 19, 2013, utilizing the initial CPP of 17%. Per the Rehabilitation Plan, at least annually, the Company is required to re-evaluate (based on run-off data) the CPP to determine whether the CPP should remain the same or be adjusted upward or downward (“CPP revaluation”). All CPP revaluations require review and approval by the Company’s board of directors. Any change in the CPP requires the Department’s approval. During the examination period, the CPP was approved by the board and by the Department as follows: 33% (effective December 4, 2017); 38.5% (effective September 4, 2018); 43.5% (effective October 14, 2019); 44.5% (effective October 4, 2020); and 49.65% (effective October 27, 2021).

C. Reinsurance Ceded

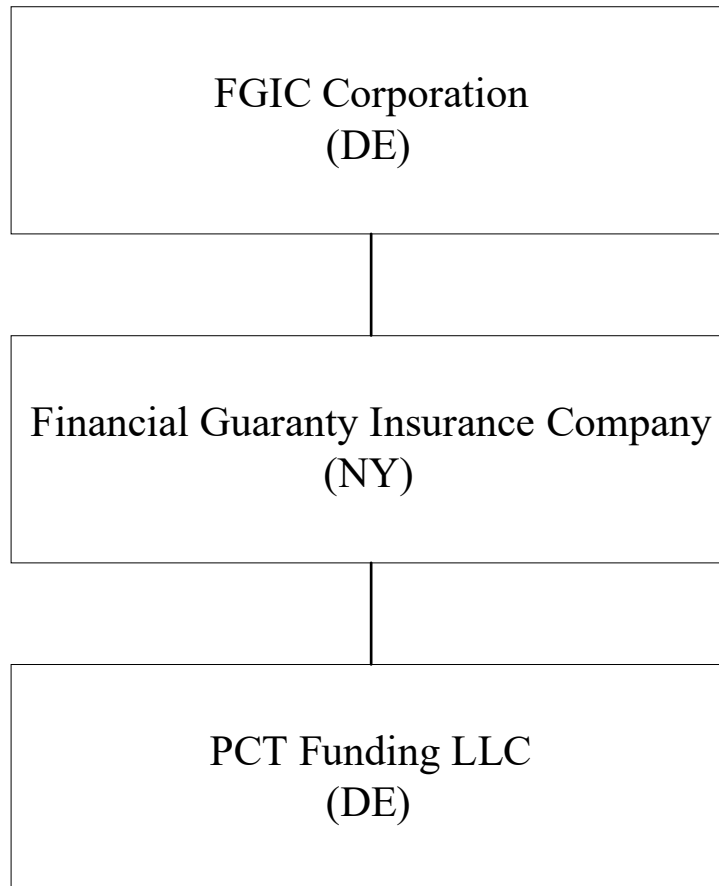
The Company has not written new business since 2008 and has not ceded any business since that time. There are no reinsurance contracts in run-off that have material reinsurance recoverables.

D. Holding Company System

The Company is a New York stock insurance corporation and is a wholly-owned subsidiary of FGIC Corp., a privately held Delaware holding corporation whose only business is to hold the common stock of FGIC. The Company wholly owns PCT Funding LLC, a Delaware limited liability company whose sole purpose is to assist in a loss mitigation transaction undertaken by FGIC.

A review of the holding company registration statements filed with this Department indicated that such filings were complete and were filed in a timely manner pursuant to Article 15 of the New York Insurance Law and Department Regulation 52.

The following is an unabridged chart of the holding company system at December 31, 2021:



Holding Company Agreements

At December 31, 2021, the Company was party to the following agreements with other members of its holding company system:

Amended and Restated Tax Allocation Agreement

Effective April 19, 2013, the Company is a party to a tax allocation agreement with FGIC Corp. This agreement was approved by the Department on April 17, 2013, as part of the FGIC Corp. proceeding.

Amended and Restated Space and Cost Sharing Agreement

Effective April 19, 2013, the Company is a party to a cost sharing agreement whereby the Company provides to FGIC Corp. the following services at cost: office space, operational and administrative services. These services are provided either directly or through the engagement of third parties, related to FGIC Corp's business as an insurance holding company for FGIC. This agreement was approved by the Department on April 17, 2013, as part of the FGIC Corp. proceeding.

E. Significant Ratios

The Company's operating ratios, as computed by the Insurance Regulatory Information System of the NAIC, and underwriting ratios are not relevant because the Company emerged from rehabilitation with Department specified statutory accounting guidance (discussed further in section F of this report) that was designed to ensure the Company maintains its statutory minimum surplus to policyholders of \$66,400,000.

F. Accounts and Records

The Rehabilitation Plan states that the Department has "the authority to take such further actions as may be necessary or appropriate in its sole and absolute discretion to carry out the purposes and effects" of the Rehabilitation Plan. Accordingly, effective August 19, 2013, the Department issued statutory accounting guidance, summarized as follows:

- at the applicable reporting date, the Company shall record loss reserves in an amount equal to the excess of (i) the amount of the Company's admitted assets minus the minimum required statutory surplus to policyholders over (ii) the sum of the Company's statutory reserves excluding loss reserves (e.g., unearned premium reserves, contingency reserves, loss adjustment expense reserves) and other liabilities. The loss reserve amount shall be comprised of:

(i) the claims reserve
(ii) the DPO for all policies and
(iii) the DPO Accretion for all policies,
minus an adjustment (known as the Policy Revision Adjustment) in an amount that will permit the Company to report a minimum surplus to policyholders of \$66,400,000.

- the Company shall calculate the claims reserve on a policy-by-policy basis for insured obligations as the sum, net of reinsurance, of (x) the total amount of all policy claims submitted to FGIC in accordance with the Rehabilitation Plan that are unpaid as of the reporting date and (y) the net present value of the policy claims that FGIC expects to receive in the future in accordance with the Rehabilitation Plan determined as of such reporting date (using the prescribed statutory discount rate)
- the claims reserve, DPO, DPO Accretion, and Policy Revision Adjustment shall be disclosed in the Notes to Financial Statements
- the Company shall estimate a loss adjustment expense reserve based on the ultimate future net cost, determined using internally developed estimates, of the efforts involved in managing and mitigating existing and future policy claims. The loss adjustment expense reserve is not subject to the Policy Revision Adjustment.

Per Note 25 of the filed Annual Statement, the following amounts comprise the loss reserves as of December 31, 2021:

Claims Reserve	\$ 560,047,000
DPO	1,417,646,000
DPO Accretion	<u>289,280,000</u>
Total	\$2,266,973,000
Policy Revision Adjustment	<u>(433,729,000)</u>
Loss Reserves	<u>\$1,833,244,000</u>

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities, and surplus as regards policyholders as of December 31, 2021, as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$1,862,338,871	\$ 0	\$1,862,338,871
Cash, cash equivalents and short-term investments	93,649,811		93,649,811
Receivables for securities	293		293
Other invested assets	39,567,948		39,567,948
Investment income due and accrued	11,676,797		11,676,797
Amounts recoverable from reinsurers	68,521		68,521
Electronic data processing equipment and software	39,987	39,987	0
Furniture and equipment, including health care delivery assets	193,723	193,723	0
Receivables from parent, subsidiaries and affiliates	10,503		10,503
Miscellaneous receivables	<u>247,633</u>	<u>241,667</u>	<u>5,966</u>
Total assets	<u>\$2,007,794,087</u>	<u>\$475,377</u>	<u>\$2,007,318,710</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses	\$1,843,568,573
Other expenses (excluding taxes, licenses and fees)	18,787,560
Taxes, licenses and fees (excluding federal and foreign income taxes)	22,387
Unearned premiums	28,365,989
Ceded reinsurance premiums payable (net of ceding commissions)	1,206
Contingency reserve	49,961,260
Other liabilities	<u>211,734</u>
Total liabilities	\$1,940,918,710

Surplus and Other Funds

Common capital stock	\$15,000,000
Preferred capital stock	300,000,000
Unassigned funds (surplus)	<u>(248,600,000)</u>
Surplus as regards policyholders	<u>66,400,000</u>
Total liabilities, surplus and other funds	<u>\$2,007,318,710</u>

Note: The Internal Revenue Service has not audited tax returns covering tax years 2017 and through 2021. 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 Company stopped writing business in 2008 and operates pursuant to the terms of the Rehabilitation Plan. Therefore, this section is not relevant.

C. Capital and Surplus

The Company stopped writing business in 2008 and operates pursuant to the terms of the Rehabilitation Plan. Therefore, this section is not relevant.

4. **LOSSES AND LOSS ADJUSTMENT EXPENSES**

As of December 31, 2021, the reported loss reserve and loss adjustment expenses totaled \$1,843,569,000. The original claims reserve used in this calculation was \$560,047,000, which was determined to be adequate. As noted in section 2.F, the loss reserve includes the DPO and the DPO accretion minus the Policy Revision Adjustment. Because of the rehabilitation, the calculation of the CPP is of the most concern to the Department. The CPP was increased to 49.65% in 2021, a level which allows the retention of sufficient claims paying assets to be used in a more severe loss scenario than that used to calculate claims reserves. The Department found the calculation to be appropriate. The Department utilized the assistance of an independent financial advisory firm that specializes in complex assets to review the adequacy of the Company's modeling, assumptions, and surveillance policies and procedures as of December 31, 2021, and to determine the Company's reasonableness of the CPP level.

The firm reviewed all the obligors insured by the Company that were still extant in 2022 to determine projected losses under a base case (to determine the reasonableness of the claims reserves before adjustments), a stress case, and an extreme stress case (both of which were used to measure an appropriate CPP as compared to that used by the Company). It also projected the value of claims paying assets through the lifetime of the insured obligations under extreme market conditions. It was determined that the claims reserves were adequate and that the CPP was appropriate.

The most significant liability has been the Company's exposure to the debt of Puerto Rico and its related authorities and public corporations. All recoveries for the following have been received: PR Infrastructure Financing Authority (PRIFA), PR Convention Center District Authority, and the Commonwealth of Puerto Rico. There were minor differences in the estimated value of PRIFA contingent

value instruments (CVIs) received by FGIC but not sold at the time of the third party review. Also, the new bonds and CVIs for the recovery from the Puerto Rico Highways and Transportation Authority had not been received and sold at the time of the third party review. However, the expected sale value and the severe loss sale value estimate by the third party differed little from that of the Company.

The Company's estimate of CPP and claims reserves are based on certain assumptions. Changes in such assumptions could materially adversely affect such CPP and claims estimates, including, as a result of more adverse macroeconomic conditions, the bankruptcies of issuers of insured bonds or swap counterparties, and the amount and timing of any claims. Under certain conditions, many of which are event-driven and outside the control of the Company, these exposures may result in significant increases in claims beyond those assumed in the Company's stress scenario (which may or may not result in a decrease in the CPP and an increase in claims). In addition, the value of the Company's investment portfolio could change and have a materially adverse effect.

5. SUBSEQUENT EVENTS

Effective December 8, 2022, the Department approved an upward adjustment of the CPP from 49.65% to 57%.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination did not contain any comments or recommendations.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

This report on examination does not contain any comments or recommendations.

Respectfully submitted,

_____/S/_____
Teena Varghese
Senior Insurance Examiner

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

Teena Varghese, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

_____/S/_____
Teena Varghese

Subscribed and sworn to before me

this _____ day of _____, 2023.

APPOINTMENT NO. 32343

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, Adrienne A. Harris, 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:

Teena Varghese

as a proper person to examine the affairs of the

Financial Guaranty Insurance Company

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

COMPANY

with such other information as she 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 25th day of January, 2022

*ADRIENNE A. HARRIS
Superintendent of Financial Services*

By:

Joan Riddell

*Joan Riddell
Deputy Bureau Chief*

