



**REPORT ON EXAMINATION
OF
STATE INSURANCE FUND WORKERS' COMPENSATION
FUND**

AS OF DECEMBER 31, 2019

**EXAMINER:
DATE OF REPORT:**

**KEVIN MCNAMEE
JUNE 15, 2022**

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

April 12, 2024

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 32142 dated September 22, 2021, attached hereto, I have made an examination into the condition and affairs of State Insurance Fund Workers' Compensation Fund as of December 31, 2019, and submit the following report thereon.

Wherever the designations "WC Fund" or "the Company" appear herein without qualification, they should be understood to indicate State Insurance Fund Workers' Compensation Fund.

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 State Insurance Fund Workers' Compensation Fund, a single-state insurer. Subsequent to the examination date, in April 2021, the Governor of the State of New York signed into law an amendment to the Workers' Compensation Law to allow the WC Fund to enter into agreements with private insurance carriers to cover out-of-state work. Therefore, the WC Fund is now deemed to be a multi-state insurer. The previous examination was conducted as of December 31, 2014. This examination covered the five-year period from January 1, 2015 through December 31, 2019. 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, and annual statement instructions.

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

- WC Fund history
- Management and control
- Territory and plan of operation
- Reinsurance
- Related Party
- 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 with regard to comments and recommendations contained in the prior report on examination.

The examination of the WC Fund was performed concurrently with the examinations of the State Insurance Fund Disability Benefits Fund ("DB Fund") and the Aggregate Trust Fund ("ATF"). The DB Fund insures against disabling off-the-job sickness or injury sustained by employees. The ATF is a fund

administered by the State Insurance Fund to assure and oversee the regular payments of benefits on adjudicated death cases and certain permanent disability cases.

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

2. DESCRIPTION OF COMPANY

The State Insurance Fund (“SIF”) was created in 1914, pursuant to the provisions of Article 6, Section 76 of the New York Workers’ Compensation Law (“NYWCL”). Its primary purpose was to provide workers’ compensation insurance for employers in the State of New York. The SIF is comprised of three separate funds: the WC Fund, the DB Fund, and the ATF. The WC Fund insures employers against occupational injury and disease suffered by their employees. The DB Fund insures against disabling off-the-job sickness or injury sustained by employees. The DB Fund was created in 1950 by amendment to Section 76 of the NYWCL. The ATF is a fund administered by the State Insurance Fund to assure and oversee the regular payments of benefits on adjudicated death cases and certain permanent disability cases.

The SIF is required to maintain separate records and file separate financial statements for the WC Fund, the DB Fund, and the ATF. This report is confined to the operations of the WC Fund. A separate report on examination was prepared for the DB Fund and ATF.

A. Corporate Governance

Pursuant to Article 6, Section 77 of the NYWCL, the Fund shall be administered by a board of commissioners consisting of ten members. The New York State Labor Commissioner is a member by virtue of the office, with the other members being appointed by the Governor with the consent of the State Senate. The commissioners are appointed for terms of three years each and they must be policyholders insured by the State Insurance Fund. The board meets every month, except for August, during each calendar year. At December 31, 2019, the board of commissioners was comprised of the following eleven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Nathalie Carey Albany, New York	Executive Deputy Commissioner, New York State Department of Labor
Ryan Delgado Albany, New York	Chief of Staff, AFL-CIO
Sean Graham Brooklyn, New York	Senior Investment Officer, Cornell University
Dr. Navneet Kathuria New York, New York	Chief Medical Officer, Community Health Network
Dr. Dennis Kessler Rochester, New York	Owner & Co-founder, Kessler Group, Inc. & Kessler Family, LLC
Charles MacLeod Smithtown, New York	President, SMM Advertising
Bhakti Mirchandani Bronxville, New York	Director, Trinity Church Wall Street
Louis Roberti Mount Kisco, New York	President, Arroway Chevrolet
Barry Swidler Glendale, New York	President, American Fire Restoration, LLC
Kenneth Theobalds White Plains, New York	Vice President of Government & Regulatory Affairs, Entergy
Alexis Thomas Brooklyn, New York	Chief Executive Officer & Founder, Preston Hollow Consultants

As of December 31, 2019, the principal officers of WC Fund were as follows:

<u>Name</u>	<u>Title</u>
Eric Madoff	Executive Director
Joseph Mullen	Deputy Executive Director
Shirley Stark	Deputy Executive Director
Tanisha Edwards	General Attorney

B. Territory and Plan of Operation

As of December 31, 2019, the New York Workers' Compensation Law Article 6 Section 76 vested the authority/power in the SIF to insure employers against liability for personal injuries or death sustained by their employees and of assuring to the persons entitled thereto the compensation and benefits provided in New York only. Coverage is provided through the Workers' Compensation Fund, a fund within the SIF.

Based upon the line of business for which the Fund is authorized/empowered to insure against and the Company's premiums collected, and pursuant to the requirements of Articles 6, Section 86 of the New York Workers' Compensation Law, the Fund is required to maintain a minimum surplus to policyholders of 10% of the premiums collected from employers insured in the fund for workers' compensation and shall be set aside as surplus until surplus amounts to the sum of \$100,000, and thereafter 5% of such premiums until such time as in the judgment of the commissioners such surplus shall be sufficiently large to cover the catastrophe hazard.

The following schedule shows the direct premiums written by the WC Fund for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>
2015	\$2,437,324,769
2016	\$2,437,552,497
2017	\$2,277,778,388
2018	\$2,256,137,644
2019	\$1,996,371,709

During the examination period, the WC Fund was only a direct writer and did not assume any business; however, in April 2021, the Workers' Compensation Law was amended to allow the WC Fund to assume business.

C. Reinsurance Ceded

The WC Fund had no new ceded reinsurance contracts since 2010 and no commutations during the examination period.

D. Related Party

The WC Fund is part of the SIF, which was created pursuant to the provisions of Article 6, Section 76 of the New York Workers' Compensation Law and functions as a New York State agency. Related parties for SIF include New York State, the Worker's Compensation Board and the three Funds, WC Fund, DB Fund, and the ATF.

The WC Fund administers the claims for the State, which self-insures its liability for workers' compensation claims. The WC Fund is reimbursed for losses, allocated loss adjustment expenses, reinsurance, and administrative expenses paid on behalf of the State.

The WC Fund makes payments to the New York State Workers' Compensation Board (WCB) for various assessments and administrative expenses. These assessments are paid to the WCB for the WCB and special fund assessments. As the WC Fund also holds special fund cases, it receives reimbursements for these claim payments as well.

The WC Fund allocates a standard portion of miscellaneous operating expenses (non-real estate) and a portion of real estate expenses to the DB Fund by allocating to all related DB Fund expense accounts. DB Fund's payroll is processed with WC Fund's payroll, and as such, DB Fund's employee's payroll is due to the WC Fund each month. The WC Fund allocates the direct portion of DB Fund's compensation payments (indemnity, medical, and adjustment) from the WC Fund to the DB Fund.

The WC Fund acts as administrator for ATF on behalf of SIF. This includes but is not limited to performing actuarial calculations, making payments on claims deposited into ATF, representing ATF at WCB hearings, managing investments of fund assets, and involves using the facilities and staff of the WC Fund. Workers' Compensation Law § 27(2) requires the WCB to direct a carrier depositing an award into ATF to pay an additional amount necessary for a proportional payment of WC Fund's administrative expenses.

Related Party Agreements

It is noted that the intercompany transactions between the WC Fund, DB Fund and ATF do not have formal documented agreements. Good business practices dictate that any agreements between two or more parties should be reduced to written form. Furthermore, SSAP No. 25 states in part:

“Transactions between related parties must be in the form of a written agreement. The written agreement must provide for timely settlement of amounts owed, with a specified due date...”

It is recommended that the WC Fund prepare a written agreement before entering into any arrangements with affiliated entities in accordance with SSAP No. 25.

E. Significant Ratios

The Company’s operating ratios, computed as of December 31, 2019, 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	24%
Adjusted liabilities to liquid assets	66%
Two-year overall operating	67%

Underwriting Ratios

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

	<u>Amounts</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$ 8,109,123,058	70.23%
Other underwriting expenses incurred	1,032,712,401	8.94%
Net underwriting loss	<u>2,404,685,610</u>	<u>20.83%</u>
Premiums earned	<u>\$11,546,521,069</u>	<u>100.00%</u>

The WC Fund is exempt from risk-based capital requirements.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2019, as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$16,292,126,634	\$ 0	\$16,292,126,634
Preferred stocks (stocks)	35	0	35
Common stocks (stocks)	1,849,910,035	0	1,849,910,035
Properties occupied by the Company	104,832,298	0	104,832,298
Cash, cash equivalents and short-term investments	528,783,922	0	528,783,922
Receivables for securities	\$1,384,941	0	1,384,941
Securities lending reinvested collateral assets	239,999,357	0	239,999,357
Investment income due and accrued	114,503,955	0	114,503,955
Uncollected premiums and agents' balances in the course of collection	184,448,299	143,931,578	40,516,721
Deferred premiums, agents' balances and installments booked but deferred and not yet due	82,778,120	8,277,812	74,500,308
Accrued retrospective premiums	9,523,968	952,397	8,571,571
Electronic data processing equipment and software	6,914,054	2,260,002	4,654,052
Furniture and equipment, including health care delivery assets	7,352,808	7,352,808	0
Receivables from parent, subsidiaries an affiliates	7,643,112	0	7,643,112
Contingent receivable from New York State	1,295,000,000	0	1,295,000,000
Recoverable under supplemental benefits	934,249	0	934,249
Employee travel advances	4,586	4,586	0
Prepaid expenses	5,887,582	5,887,582	0
Other receivables	357,150	0	357,150
Advance for Workers' Compensation Board assessment	84,313,871	0	84,313,871
Total assets	<u>\$20,816,698,976</u>	<u>\$168,666,765</u>	<u>\$20,648,032,211</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses	\$10,003,647,017
Other expenses (excluding taxes, licenses and fees)	60,669,921
Taxes, licenses and fees (excluding federal and foreign income taxes)	4,829,805
Unearned premiums	361,812,302
Payable for securities	13,974,984
Payable for securities lending	240,660,784
Accrued interest payable	272,252
Safety group contingency balances	1,636,680,857
New business suspense	331,730
Run-off case reserve	1,035,908
Miscellaneous suspense	10,093,929
Policyholder credit balances	105,076,668
NSF E-checks	2,354,516
Loss payments in process	<u>1,571,185</u>
Total liabilities	\$12,443,011,858

Surplus and other funds

Security fluctuation surplus	\$1,350,000,000
Catastrophe surplus	399,561,000
Foreign terrorism catastrophe surplus	648,972,839
Domestic terrorism catastrophe surplus	122,275,118
Appropriated surplus OPEB/Pension	696,843,423
Unassigned funds (surplus)	<u>4,987,367,973</u>
Surplus as regards policyholders	<u>8,205,020,353</u>
Total liabilities, surplus and other funds	<u>\$20,648,032,211</u>

Note: The WC Fund is exempt from federal income tax.

B. Statement of Income

The net income for the examination period as reported by the Company was \$3,982,125,913, as detailed below:

Underwriting Income

Premiums earned		\$11,546,521,069
Deductions:		
Losses and loss adjustment expenses incurred	\$8,109,123,058	
Other underwriting expenses incurred	<u>1,032,712,401</u>	
Total underwriting deductions		<u>9,141,835,459</u>
Net underwriting gain or (loss)		\$2,404,685,610

Investment Income

Net investment income earned	\$2,413,995,607	
Net realized capital gain	<u>957,422,517</u>	
Net investment gain or (loss)		3,371,418,124

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$(495,157,401)	
Finance and service charges not included in premiums	74,101,637	
Credit balances charged off	8,711,340	
Costs and interest received on judgements	4,766,564	
Reimbursable supplemental benefits (VFAW)	3,642,270	
Other miscellaneous income	3,468,664	
Retroactive reinsurance	(654,212)	
Interest received from NYS	3,732,571	
Gain or (loss) on disposal of fixed assets	<u>(272,392)</u>	
Total other income or (loss)		<u>(397,660,959)</u>
Net income before dividends to policyholders		\$5,378,442,775
Dividends to policyholders		<u>1,396,316,862</u>
Net income		<u>\$3,982,125,913</u>

C. Capital and Surplus

Surplus as regards policyholders increased \$4,490,505,651 during the five-year examination period January 1, 2015 through December 31, 2019, as reported by the Company, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2014			\$3,714,514,702
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$3,982,125,913		
Net unrealized capital gains	181,423,081		
Change in nonadmitted assets	5,864,804		
NYS Pension Adjustment	91,229,000		
NYS Other Post-Employment Benefits Adjustment	20,464,000		
NYS grant - assessment reserves	<u>209,398,853</u>		<u>\$0</u>
Total gains and losses	\$4,490,505,651		\$0
Net increase in surplus			<u>4,490,505,651</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2019			<u>\$8,205,020,353</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 \$10,003,647,017 is the same as reported by the Company as of December 31, 2019. 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 the NAIC Accounting Practices & Procedures Manual, and Statement of Statutory Accounting Principles 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 throughout 2020, 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 WC Fund. The Department has been in communication with the WC Fund regarding the impact of COVID-19 on its operations and financial position. The Department continues to monitor the impact of the pandemic on the WC Fund and will take necessary action if a solvency concern arises.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Corporate Governance</u> It was recommended, as a best practice, that the State Insurance Fund present the report on examination to its board of commissioners and each such member shall sign a statement, which shall be retained in the Fund’s files.</p> <p>The Company has complied with this recommendation.</p>	5
<p>B. <u>Accounts and Records</u> It was recommended that the WC Fund amend its Securities Lending Agreement in accordance with Department Circular Letter No. 16 (2010).</p> <p>The Company has complied with this recommendation.</p>	7

8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Related Party</u> It is recommended that the WC Fund prepare a written agreement before entering into any arrangements with affiliated entities in accordance with SSAP No. 25.</p>	7

Respectfully submitted,

_____/S/_____
Kevin McNamee
Associate Insurance Examiner

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

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

_____/S/_____
Kevin McNamee

Subscribed and sworn to before me

this _____ day of _____, 2024.

APPOINTMENT NO. 32142

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, Adrienne A. Harris, Acting 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:

Kevin McNamee

as a proper person to examine the affairs of the

State Insurance Fund Workers' Compensation Fund

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 22nd day of September, 2021

*ADRIENNE A. HARRIS
Acting Superintendent of Financial Services*

By:

Joan Riddell

*Joan Riddell
Deputy Bureau Chief*

