



**REPORT ON EXAMINATION
OF THE
FIRST MUTUAL TRANSPORTION ASSURANCE COMPANY
AS OF DECEMBER 31, 2020**

**DATE OF REPORT
EXAMINER**

**JANUARY 14, 2022
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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

January 14, 2022

Honorable Adrienne A. Harris
Acting 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 32321 dated November 17, 2021, attached hereto, I have made an examination into the condition and affairs of the First Mutual Transportation Assurance Company as of December 31, 2020, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate the First Mutual Transportation Assurance Company.

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

Due to an outbreak of the novel coronavirus (“COVID-19”), the examination was conducted remotely.

1. SCOPE OF EXAMINATION

The examination covers the period from January 1, 2016, through December 31, 2020, and was limited in its scope to a review or audit of only those balance sheet items considered by this Department to require analysis. Transactions occurring subsequent to this period were review where deemed appropriate. The examination included a review of Company records deemed necessary to accomplish such analysis or verification. Additionally, a review was performed to determine whether the captive insurer was operating within its by-laws, conforming with its plan of operation, as submitted to the New York State Department of Financial Services, and was in compliance with Article 70 of the New York Insurance Law (“the Law”).

Comments and recommendations are limited to those items requiring financial adjustment, procedural recommendations, or instances where the Company was not conforming to the application submitted to the Department or Article 70 of the Law.

The report utilized work performed by the Company’s independent certified public accountant and its opining actuary to the extent considered appropriate.

2. DESCRIPTION OF COMPANY

The Company was incorporated under the laws of New York State as a pure captive insurance company on December 5, 1997, and commenced business on the same day. The Company is a wholly owned subsidiary of the Metropolitan Transportation Authority (“MTA”) and was established to maximize the flexibility and effectiveness of the MTA’s insurance program.

The Metropolitan Transportation Authority was established under the New York Public Authorities Law and is a public benefit corporation and a component unit of the State of New York. The MTA’s mission is to develop and improve public transportation and to develop and implement a unified public transportation policy in the New York metropolitan area.

The MTA carries out these responsibilities directly and through its subsidiaries and affiliates, which are also public benefit corporations. In addition to the Company, the following entities are MTA subsidiaries and affiliates:

- Metropolitan Transportation Authority Headquarters
- The Long Island Railroad Company
- Metro-North Commuter Railroad Company
- Staten Island Rapid Transit Operating Authority
- MTA Construction and Development Company
- MTA Bus Company
- New York City Transit Authority and its subsidiary
- Triborough Bridge and Tunnel Authority

A. Article of Incorporation

The Company is organized to transact the kinds of insurance specified in Section 1113(a) of the New York Insurance Law, subject at all times to the limitations on the business of pure captive insurance companies set-forth in Article 70 of the Law.

B. By-Laws

The examination found that the Company was in compliance with its by-laws in all material respects.

C. Capital Structure

As a pure captive insurer incorporated as a mutual insurer, the Company is required to possess and thereafter maintain unimpaired not less than \$250,000 of total surplus as regards to policyholders, pursuant to Section 7004(a)(2) of the Law. As of December 30, 2020, the Company's paid-in capital was \$3,000,000 and contributed surplus was \$77,669,000.

D. Corporate Records

The corporate records reviewed appeared to be substantially accurate and complete in all material respects.

E. Operations

As of December 31, 2020, the Company's insurance program is as follows:

Paratransit: On March 1, 2020, the MTA renewed its one-year auto liability policy with Travelers Indemnity Company ("Travelers"). Also, on March 1, 2020, the Company renewed a self-insured retention reimbursement policy for the auto liability of the New York City Transit Paratransit operations with the MTA.

Non-Revenue: The Company renewed a one-year deductible reimbursement policy for automobile liability of the MTA's non-revenue vehicle fleet.

Property Program: On May 1, 2020, the Company renewed the all-agency property insurance program which directly insures property damage claims of the MTA in excess of a deductible that is subject to an annual aggregate and certain exceptions. The Company is reinsured in the domestic, Asian, London, European, and Bermuda marketplaces for this coverage.

The property insurance policy provides replacement cost coverage for all risks (including earthquake, flood and wind) of direct physical loss or damage to all real and personal property, with minor exceptions. The policy also provides extra expense and business interruption coverage.

Terrorism Program: The Company directly provides terrorism coverage for the MTA and its agencies in excess of a self-insured retention subject to an annual aggregate. Losses occurring after the retention aggregate is exceeded are subject to a deductible.

The Company receives reinsurance protection for its terrorism coverage from the reinsurance market and the Terrorism Risk Insurance Act ("TRIA"). TRIA is a federal program allowing the federal government to share monetary losses with insurers on commercial property/casualty losses from a terrorist attack. Under TRIA the Company is reimbursed by the federal government, after a statutorily established deductible, for 80% of its eligible terrorism losses. The Company cedes its 20% retention to unaffiliated reinsurers.

Excess Loss Fund: The Excess Loss Fund covers excess third party liability, including employee liability arising out of or incidental to MTA operations during the period covered by this examination. The Company assumed the program both on a retrospective and prospective basis. The retrospective portion is for occurrences that happened on or before October 30, 2003. On a prospective basis, effective October 31, 2003, the Company issued a policy indemnifying the MTA, its subsidiaries and affiliates above their specifically assigned self-insured retention. This coverage was fully reinsured with third-party reinsurers.

General Liability: The Company renewed its direct general liability coverage for the Long Island Railroad and Metro-North Commuter Railroad with a limit of liability amount per occurrence with no general aggregate stop loss protection. The policy covers the period from December 15, 2020, to December 15, 2021.

All Agency Protective Liability: The Company issued an All Agency Protective Liability policy to protect the MTA, its subsidiaries and affiliated companies against the potential liability arising from independent contractors working on capital and noncapital projects.

The Company also provided Excess Blanket Railroad Protective Liability coverage.

East Side Access Project: (“ESA”): On April 1, 2016 the Company renewed Owner-Controlled Insurance Programs for the ESA. The agreement with Liberty Mutual was renewed to April 1, 2021. The Company had a limit of liability from losses resulting from both Workers’ Compensation and General Liability.

East Side Access Project- Excess General Liability: Effective August 1, 2018, the Company provided the MTA excess general liability coverage for ESA with a limit per occurrence and in the aggregate. The coverage expired on April 1, 2021.

F. Management and Control

(i) Captive Manager

Section 7003(b)(4) of the Law provides that no captive insurer shall do any captive insurance business in this State unless it utilizes a captive manager resident in this State that is licensed as an agent or broker under the provisions of Article 21 of the Law, or any other person approved by the Superintendent.

During the period covered by this examination, the Company was managed by Marsh Management Services, Inc. (“Marsh”), which is authorized to act as a manager for captive insurance companies by the Department.

Pursuant to a management agreement, effective July 26, 2012, Marsh’s responsibilities include assisting the Company in complying with the rules, regulations and requirements of the Law. It also includes maintaining true and complete books of account and records of all business conducted under this agreement.

(ii) Board of Directors

Pursuant to the Company’s by-laws, “[t]he boards of the Corporation as used herein shall consist of all of those persons who from time to time hold office as chairman or members of the Metropolitan Transportation Authority pursuant to §1263 of the Public Authorities Law of the State of New York.” All board members of the Company are also directors of the MTA. As of December 31, 2020, the board of directors was comprised of the following eighteen members:

Name and ResidencePrincipal Business Affiliation

Andrew Albert
New York, NY

New York City Transit Riders Council

Jamey Barbas
New York, NY

Advisor for Bridges and prosperity,
a nonprofit organization

Frank Borelli Jr.
New York, NY

Town Councilman in Clarkstown, New York

Norman E. Brown
Brooklyn, NY

New York State Council of Machinists

Victor Calise
New York, NY

Commissioner of the New York City Mayor's office

Lorraine Cortés-Vázquez
Bronx, NY

New York City Commissioner to the Department
for the Aging

Michael Fleischer
Hyde Park, NY

Director of a family foundation and charitable trust

Randolph Glucksman
West Nyack, New York

Systra Engineering, Inc.,
Senior rail operations analyst

Rhonda Herman
White Plains, NY

Internal Revenue Service

David R. Jones
New York, NY

Community Service Society of New York,
President and chief executive officer

Linda A. Lacewell
New York, NY

Superintendent of the New York State Department
of Financial Services

Kevin S. Law
St. James, NY

Tritec Real Estate Development Company,
Partner and Executive Vice President

Robert W. Linn
Brooklyn, NY

Retired

David S. Mack
Kings Point, NY

Senior partner of The Mack Company & Director of
the Mack-Cali Realty Corp

Haeda B. Mihaltses
Bayside, NY

Director of Government & External Relations for
Sterling Project Development

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Robert F. Mujica Jr. Albany, NY	Director of the Budget for New York State
Lawrence Schwartz New York, NY	Chief strategy officer at OTG, an airport concessions company
Neal Zuckerman Garrison, NY	Senior partner and managing director in the New York office of the Boston Consulting Group

In accordance with its by-laws and Section 7003(b)(2) of the Law, the board of directors met at least once annually, during the period covered by this examination. A review of the meeting minutes found that the meetings were well attended.

(iii) Officers

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

<u>Name</u>	<u>Title</u>
Phyllis J. Rachmuth	President
Christopher D'Antonio	Vice President & Secretary
Patrick McCoy	Senior Vice President

G. Certified Public Accountant

Deloitte & Touche LLP was the Company's independent certified public accounting firm for the period covered by the examination. Deloitte & Touche LLP noted that the Company's financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2020. It also noted that the changes in the Company's financial position and cash flows for the years then ended was in accordance with accounting principles generally accepted in the United States of America.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The financial statements of the Company have been prepared in conformity with accounting principles generally accepted in the United States of America.

Assets

Cash and cash equivalents	\$76,906,000
Bonds	823,954,000
Investment income due and accrued	3,740,000
Accounts and premiums receivable	62,224,000
Reinsurance recoverable	4,936,000
Funds held by ceding reinsurers	1,451,000
Prepaid reinsurance premiums	36,055,000
Deposit with reinsurer	7,614,000
Loss escrow	5,558,000
Deferred acquisition cost	<u>3,000</u>
Total asset	<u>\$1,022,441,000</u>

Liabilities

Losses and loss adjustment expense reserve	\$538,880,000
Commissions and fees	6,042,000
Unearned premium	169,990,000
Reinsurance payable	13,169,000
Loss payable	<u>7,212,000</u>
Total liabilities	<u>\$735,293,000</u>

Capital and Surplus

Paid in capital	\$3,000,000
Contribute capital	77,669,000
Retained earnings	<u>206,479,000</u>
Total capital and surplus	<u>\$287,148,000</u>
Total liabilities, capital and surplus	<u>\$1,022,441,000</u>

B. Statement of Income

The Company's net income for the period covered by the examination was \$144,979,000 as detailed below:

Premiums earned		\$706,300,000
Deductions:		
Loss and loss adjustment expense	\$629,741,000	
Underwriting expenses	31,822,000	
General administrative	<u>44,130,000</u>	
Total underwriting deductions		<u>705,693,000</u>
Total underwriting income		607,000
Total investment income		<u>144,372,000</u>
Net income		<u>\$144,979,000</u>

C. Capital and Surplus Account

The Company's capital and surplus increased \$144,979,000 during the period covered by this examination, detailed as follows:

Capital and surplus as of January 1, 2016			\$142,169,000
	<u>Increase in surplus</u>	<u>Decrease in surplus</u>	
Net income	\$144,979,000	\$0	
Net increase in surplus			<u>144,979,000</u>
Capital and surplus as of December 31, 2020			<u>\$287,148,000</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

As of December 31, 2020, the Company reported outstanding losses and loss adjustment expense reserves of \$538,880,000. The Company's opining actuarial firm, Oliver Wyman Actuarial Consulting, Inc., noted in its Statement of Actuarial Opinion that the loss and loss adjustment expense provision was computed in accordance with accepted loss reserving standards and principles and meet the requirements of the insurance laws of New York. It was also noted that a reasonable provision had been made for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements.

5. ARTICLE 70 COMPLIANCE

Article 70 of the New York State Insurance Law is the governing section of the law for the formation and continued operation of captive insurers in New York State. A review was performed to test the Company's compliance with all applicable parts of Article 70. No significant areas of non-compliance were found.

6. SUBSEQUENT EVENTS

On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic. The COVID-19 pandemic has continued to develop throughout 2020 and 2021, with uncertainty

remaining regarding its full effect on the U.S. and global insurance and reinsurance industry. At the time of releasing this report, the examiner's review notes 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. The Department continues to closely monitor the impact of the pandemic on the Company and will take necessary action if a solvency concern arises.

7. **SUMMARY OF COMMENTS AND RECOMMENDATIONS**

There are no comments or recommendations in this report.

Respectfully submitted,

_____/S/
Wei Cao
Senior Insurance Examiner

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

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

_____/S/
Wei Cao

Subscribed and sworn to before me
this _____ day of _____, 2025.

APPOINTMENT NO. 32321

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:

Wei Cao

as a proper person to examine the affairs of the

First Mutual Transportation Assurance 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 17th day of November, 2021

ADRIENNE A. HARRIS
Acting Superintendent of Financial Services

By:

Joan Riddell

Joan Riddell
Deputy Bureau Chief

