

REPORT ON EXAMINATION

OF THE

XL INSURANCE COMPANY OF NEW YORK, INC.

AS OF

DECEMBER 31, 2010

DATE OF REPORT

APRIL 27, 2012

EXAMINER

FE ROSALES, C.F.E.

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

April 27, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 30631 dated January 4, 2011, attached hereto, I have made an examination into the condition and affairs of XL Insurance Company of New York, Inc. as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate XL Insurance Company of New York, Inc.

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

The examination was conducted at the Company’s main administrative office located at Seaview House, 70 Seaview Avenue, Stamford, CT 06902.

## 1. SCOPE OF EXAMINATION

The Department has performed a coordinated group examination of the Company, a multi-state insurer. The previous examination was conducted as of December 31, 2005. This examination covered the 5-year period from January 1, 2006 through December 31, 2010. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

New York was the coordinating state of the XL America Group. The examination was performed concurrently with the examinations of the following insurers: XL Reinsurance America Inc. (“XLRA”), Greenwich Insurance Company (“GIC”), XL Specialty Insurance Company (“XLS”), XL Insurance America, Inc. (“XLIA”), XL Select Insurance Company (“XL Select”), and Indian Harbor Insurance Company (“IHIC”). Other states participating in this examination were Delaware and North Dakota.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook (“Handbook”), which requires that we plan and perform the examination to evaluate the financial condition and identify 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 Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All financially significant accounts and activities of the Company were considered in accordance with the risk-focused examination process. This examination also included a review and evaluation of the Company’s own control environment assessment and an evaluation based upon the Company’s Sarbanes Oxley documentation and testing. The examiners also relied upon audit work performed by the Company’s independent public accountants when appropriate.

This examination report includes a summary of significant findings for the following items as called for in the Handbook:

- Significant subsequent events
- Company history
- Corporate records
- Management and control

Fidelity bonds and other insurance  
Territory and plan of operation  
Growth of Company  
Loss experience  
Reinsurance  
Accounts and records  
Statutory deposits  
Financial statements  
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.

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 Company was incorporated under the laws of New York State on September 23, 1994 as the Great Lakes American Reinsurance Company, and was licensed to transact business on October 1, 1994. At the time of its incorporation, the Company was a member of the Munich Reinsurance Group and a wholly-owned subsidiary of the Great Lakes Reinsurance Company.

On July 15, 1997, the Company was acquired by Folksamerica Holding Company and Folksamerica Reinsurance Company ("FRC"). Concurrent with the acquisition, the Company entered into a transfer and assumption agreement with FRC, whereby all of the assets and liabilities of the Company were transferred to FRC. Effective August 25, 1997, the name of the Company was changed to Folksamerica General Insurance Company.

On March 5, 1998, the Company was acquired as a shell by XL Capital Ltd., a Cayman Islands domiciled company now known as XLIT Ltd. ("XL Capital"). On May 7, 1998, the Company's name was changed to X.L. Insurance Company of America, Inc. and its current title was adopted on April 9, 1999.

On June 18, 1999, XL Capital acquired NAC Re Corporation ("NAC Re") in a pooling of interest stock transaction. Subsequent to this acquisition, a reorganization plan was submitted to the Department. As part of this restructuring, NAC Re acquired 100% of the common stock of the

Company. Effective July 1, 1999, the Company became a participant in an intercompany reinsurance pooling agreement with various affiliated companies, with XLRA functioning as the pool leader.

The Company was subsequently acquired by XLRA in September 1999. In June 2003, the outstanding shares of the Company were contributed by XLRA to GIC, and then by GIC to XLIA.

On July 1, 2010, XL Group plc, a newly formed Irish public limited company (“XL Group”) and XL Capital completed a redomestication transaction in which all of the ordinary shares of XL Capital were exchanged for all of the ordinary shares of XL Group. As a result, XL Capital became a wholly-owned subsidiary of XL Group, the ultimate parent of the Company. In addition, on July 1, 2010, XL Capital changed its name to XL Group Ltd., and in November 2011, changed its name to XLIT Ltd.

At December 31, 2010, the capital paid in was \$6,000,000 consisting of 400,000 shares of common stock at \$15 par value per share. Gross paid in and contributed surplus was \$63,908,815. There was no change in the gross paid in and contributed surplus and/or capital paid in during the examination period.

#### A. Management

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 nineteen members. The board meets four times during each calendar year. At December 31, 2010, 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 & Secretary XL Reinsurance America Inc.
John Michael DiBiasi Scottsdale, AZ	Senior Vice President XL Insurance Company of New York, Inc.
Michael Joseph Garceau Whitehouse Station, NJ	Senior Vice President XL Insurance Company of New York, Inc.
Seraina Maag Brooklyn, NY	President, Chief Executive Officer & Chairman XL Insurance Company of New York, Inc.
James Michael Norris Avon, CT	Senior Vice President XL Insurance Company of New York, Inc.

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Robert Michael Shine Morristown, NJ	Senior Vice President XL Insurance Company of New York, Inc.
Paul Ivan Tuhy Lake Hopatacong, NJ	Senior Vice President XL Insurance Company of New York, Inc.
<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Todd David Zimmerman Chester Springs, PA	Vice President and Vice Chairman XL Insurance Company of New York, Inc.

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member has an acceptable record of attendance.

As of December 31, 2010, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Seraina Maag	President, Chief Executive Officer & Chairman
Toni Ann Perkins	Secretary
Gabriel George Carino III	Treasurer
Andrew Robert Will	Controller

B. Territory and Plan of Operation

As of December 31, 2010, the Company was licensed to write business in all states and the District of Columbia, except the states of Colorado, Maine, Minnesota, New Mexico, Vermont, and Virginia.

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 & health
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
11	Animal

<u>Paragraph</u>	<u>Line of Business</u>
12	Collision
13	Personal injury liability
14	Property damage liability
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

The Company was also licensed to write special risks pursuant to Article 63 of the New York Insurance Law and is authorized, pursuant to Section 4102(c)(i) and (ii) of the 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 on 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 63 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$35,000,000.

During the period of the examination, the Company did not write any direct business. All business reflected in the financial statements are related to the business assumed as part of their participation on an inter-company pooling agreement with several affiliated companies. This agreement is fully described in Reinsurance section of this report.

#### C. Reinsurance

Assumed reinsurance accounted for 100% of the Company's gross premium written at December 31, 2010. During the examination period, January 1, 2006 through December 31, 2010, the Company wrote no direct business and assumed the following amount of business:

2006	\$25,350
2007	24,905
2008	53,096
2009	35,334
2010	<u>32,348</u>
Total	<u>\$171,033</u>

The business assumed was attributable to the Company's inter-company pooling agreement.

## Inter-Company Reinsurance Pooling Agreement

The Company participates in an inter-company pooling agreement with various affiliated companies, with XLRA functioning as pool leader. The original pooling agreement, dated July 1, 1999, has been amended and revised on numerous occasions. Effective November 1, 2006, the agreement was amended to delete the language stating that the pool participation percentages will be calculated annually, based proportionately on statutory surplus.

Under the terms of the agreement, 100% of all pool member's gross premiums, losses, insurance expenses and other related underwriting activity of the pool members are ceded to XLRA, the pool leader, except for primary financial guaranty business. XLRA then purchases external reinsurance on behalf of itself and its pool members for business that was written by the pool members and XLRA. After placement of the external reinsurance, XLRA then reinsures 50% of the pool members business (75% for business written prior to January 1, 2008) to XL Insurance (Bermuda) Ltd (for further details, refer to the Quota Share Agreement and Novation Agreement discussed below). The remaining business is then redistributed among the pool members in accordance with their respective pool participation percentage.

The following affiliates are parties to the pooling agreement (the "Pool Members"), and their respective pool participation percentages are as follows:

<u>Company</u>	<u>As of December 31, 2010</u>
XL Reinsurance America Inc. ("Pool Leader")	65%
Greenwich Insurance Company	12%
XL Insurance America, Inc.	10%
XL Select Insurance Company	2%
XL Insurance Company of New York, Inc.	3%
XL Specialty Insurance Company	6%
Indian Harbor Insurance Company	2%

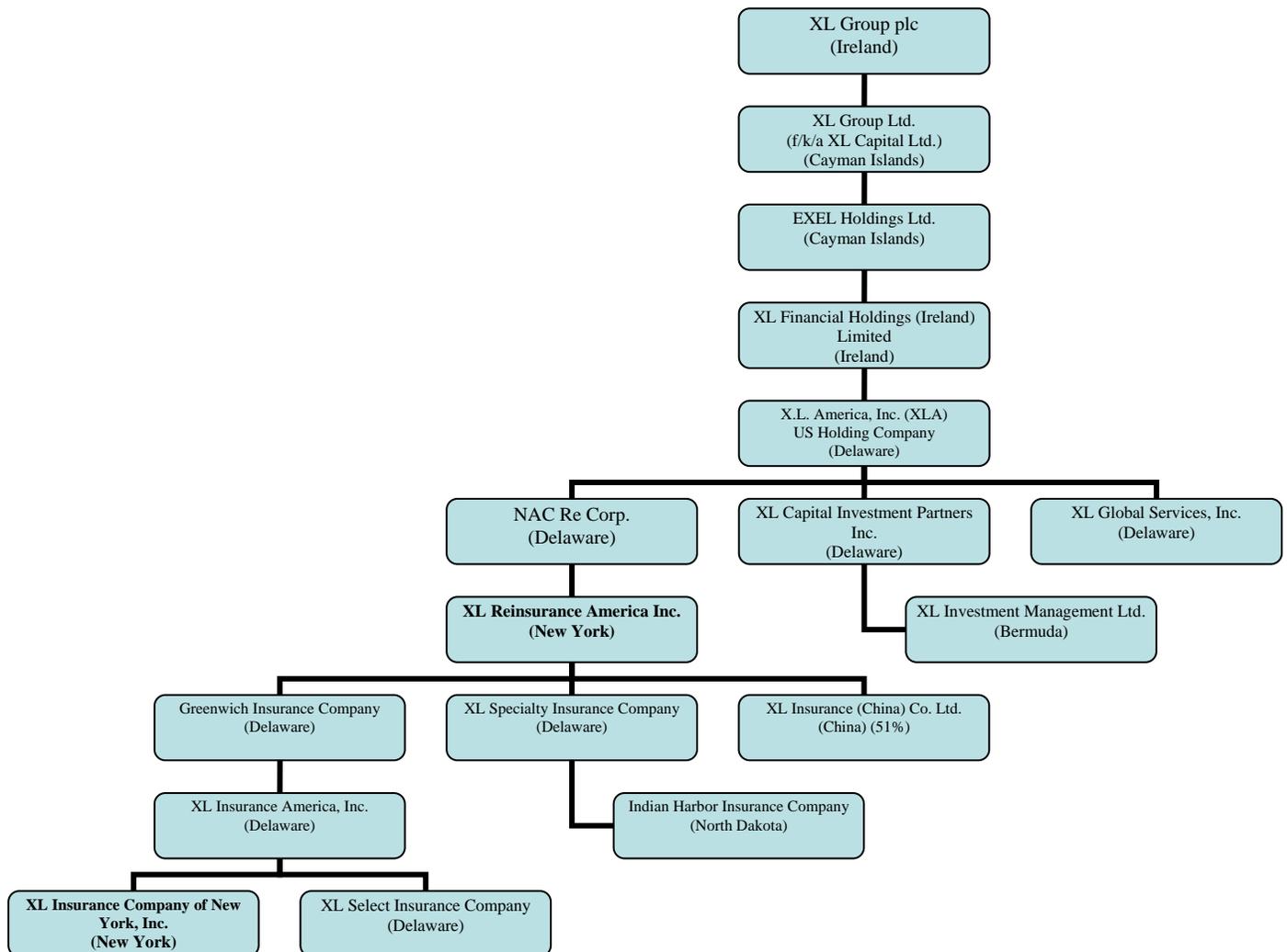
All ceded reinsurance balances related to external ceded reinsurance contracts are recorded in the statutory financial statements of XLRA, and all reinsurers which are parties to the contracts are reported in XLRA's Schedule F of the 2010 Annual Statement. Only XLRA has a contractual right of direct recovery from non-affiliate reinsurers per the terms of the reinsurance agreements placed by XLRA on behalf of itself and its pool members. Any Schedule F penalty is shared by the pool members in accordance with their pool participation percentages. XLRA and each of the pool members have an option of establishing a Funds Withheld Balance, which may be maintained until cancellation of the agreement.

D. Holding Company System

As of December 31, 2010, the Company was a member of the X.L. America, Inc. (“XLA”) group of companies. The Company was a wholly-owned subsidiary of XLIA, a property and casualty insurance company domiciled in Delaware, which is ultimately controlled by XL Group plc.

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 abridged chart of the holding company system at December 31, 2010.



In addition to the intercompany pooling arrangement previously discussed in the Reinsurance section of this report, the Company was party to the following agreements with other members of its holding company system at December 31, 2010:

Fourth Amended and Restated General Services Agreement

This agreement, effective January 1, 2009, is between XLA, the service provider, XLRA and the pool companies, including the Company, as well as various other affiliated insurance and non-insurance entities of XLA. XLA provides management and general services such as legal and auditing, data processing, and regulatory compliance to affiliates. The agreement was filed with the Department pursuant to section 1505 of the New York Insurance Law and was non-disapproved on April 27, 2009.

Third Amended and Restated General Service Agreement

This agreement, effective January 1, 2009, is between X.L. Global Services, Inc. (“XLGS”), as service provider, and XLA, with various insurance and non-insurance affiliates, including XLRA and its pool companies, including the Company. Per the terms of the agreement, XLGS is to provide various information technology services, reinsurance services, human resource services and miscellaneous services. The agreement was filed with the Department pursuant to section 1505 of the New York Insurance Law and was non-disapproved on April 27, 2009.

Investment Management Agreement

XL Investment Management Ltd. (“XLIML”) provides investment management, financial advisory and related administrative services to the Company. XLIML has the authority, subject to the terms of the agreement, to act on behalf of the Company in all such matters, including the power to retain and terminate investment managers, agents and subcontractors. The agreement was filed with the Department pursuant to section 1505 of the New York Insurance Law and was amended twice with the most recent amendment effective as of July 1, 2010, and was non-disapproved on September 27, 2010.

Sixth Amended Tax Sharing and Payment Agreement

This agreement, effective October 1, 2008, is between XLA, XLRA and its pool participants, including the Company, and various insurance and non-insurance affiliates. This agreement was filed

with the Department pursuant to Section 1505 of the New York Insurance Law and non-disapproved on December 11, 2008.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2010, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	42%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	73%
Premiums in course of collection to surplus as regards policyholders	6%

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

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

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$115,688,292	69.79%
Other underwriting expenses incurred	42,645,344	25.73
Net underwriting loss	<u>7,430,567</u>	<u>4.48</u>
Premiums earned	<u>\$165,764,203</u>	<u>100.00%</u>

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2010 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Examination</u>	Net Admitted <u>Assets</u>
		Assets Not <u>Admitted</u>	
Bonds	\$192,021,614	\$ 0	\$192,021,614
Cash, cash equivalents and short-term investments	9,250,788	0	9,250,788
Investment income due and accrued	1,122,444	0	1,122,444
Uncollected premiums and agents' balances in the course of collection	7,247,030	2,294,883	4,952,147
Deferred premiums, agents' balances and installments booked but deferred and not yet due	4,663,776	0	4,663,776
Accrued retrospective premiums	619,526	7,690	611,836
Other amounts receivable under reinsurance contracts	35,927	0	35,927
Current federal and foreign income tax recoverable and interest thereon	112,469	0	112,469
Net deferred tax asset	6,700,958	1,501,263	5,199,695
Guaranty funds receivable or on deposit	24,878	0	24,878
Receivables from parent, subsidiaries and affiliates	2,649,790	471,175	2,178,615
Deductible recoverable	74,589	63,805	10,784
Receivable from federal crop insurance corporation	<u>3,449,104</u>	<u>0</u>	<u>3,449,104</u>
Total assets	<u>\$227,972,893</u>	<u>\$4,338,816</u>	<u>\$223,634,077</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and Loss Adjustment Expenses	\$ 92,048,170
Reinsurance payable on paid losses and loss adjustment expenses	347,803
Commissions payable, contingent commissions and other similar charges	(65,460)
Other expenses (excluding taxes, licenses and fees)	2,498,498
Taxes, licenses and fees (excluding federal and foreign income taxes)	318,993
Unearned premiums	17,024,653
Advance premium	664,336
Funds held by company under reinsurance treaties	29,968,660
Remittances and items not allocated	(6,204,868)
Provision for reinsurance	2,814,200
Payable to parent, subsidiaries and affiliates	5,950,136
Accounts payable	16,919
Premium deficiency	17,047
Insurance payable on paid loss and loss adjustment expense	87,301
Deferred commission revenue	1,041,792
Deposit liability	<u>37,879</u>
Total liabilities	<u>\$146,566,059</u>

Surplus and other funds

SSAP 10R deferred tax adjustment	\$ 1,517,437
Common capital stock	6,000,000
Gross paid in and contributed surplus	63,908,815
Unassigned funds (surplus)	<u>5,641,766</u>
Surplus as regards policyholders	<u>77,068,018</u>
Total liabilities and surplus	<u>\$223,634,077</u>

NOTE: The Internal Revenue Service has not completed any Federal Income Tax audits during the examination period. However, audits covering tax years 2006 and 2007 are currently under examination. It is expected that this audit will be completed shortly. Additionally, the audit of the 2008 and 2009 tax years will commence upon completion of the 2006 – 2007 audit, and is scheduled to be completed in 2012. 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

Surplus as regards policyholders increased \$30,056,279 during the five-year examination period January 1, 2006 through December 31, 2010, detailed as follows:

Underwriting Income

Premiums earned		\$165,764,203
Deductions:		
Losses and loss adjustment expenses incurred	\$115,688,292	
Other underwriting expenses incurred	42,751,277	
Premium deficiency	<u>(105,933)</u>	
Total underwriting deductions		<u>158,333,636</u>
Net underwriting gain or (loss)		\$ 7,430,567

Investment Income

Net investment income earned	\$18,957,572	
Net realized capital gain	<u>4,541,756</u>	
Net investment gain or (loss)		23,499,328

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ (389,595)	
Net interest on fund held	8,403,469	
Interest on deposit contracts	(240,167)	
Foreign exchange gain	<u>1,025</u>	
Total other income		<u>7,774,732</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$ <u>38,704,627</u>
Dividends to policyholders		<u>0</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$ 38,704,627
Federal and foreign income taxes incurred		<u>8,833,760</u>
Net Income		\$ <u>29,870,867</u>

Surplus as regards policyholders per report on examination as of December 31, 2005			\$47,011,739
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$29,870,867		
Change in net deferred income tax		\$3,980,014	
Change in nonadmitted assets	1,926,712		
Change in provision for reinsurance	703,154		
Change in contingency reserve for adverse losses	18,123		
SSAP 10R deferred tax adjustment	<u>1,517,437</u>	<u>0</u>	
Total gains and losses	<u>\$34,036,293</u>	<u>\$3,980,014</u>	
Net increase (decrease) in surplus			<u>30,056,279</u>
Surplus as regards policyholders per report on examination as of December 31, 2010			<u>\$77,068,018</u>

#### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$92,048,170 is the same as reported by the Company as of December 31, 2010. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements.

## 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained 23 recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It was recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	6
It was noted during the field work of the prior examination that the board member cited for poor attendance had since been replaced.	
ii. It was recommended that the Company comply with Section 312(b) of the New York Insurance Law by furnishing each member of the board a copy of the report on examination and retaining a signed statement from each board member that he or she has received and read such report.	7
The Company has complied with this recommendation.	
iii. It was recommended that the Company either ensure that at least three of its directors are residents of the State of New York pursuant to the provisions of Article III, Section 3.01 of its by-laws or that it amend its charter and bylaws to require that only two directors be residents of the State of New York as permitted pursuant to Section 1201(a)(5)(B)(vi) of the New York Insurance Law.	7
The Company's charter and bylaws were amended to comply with the requirements of Section 1201(a)(5)(B)(vi) of the New York Insurance Law. Hence, the Company has complied with this recommendation.	
iv. It is recommended that the Company comply with the provisions set forth in Article III, Section 3.14 of its by-laws, which requires the board of directors to elect from among its members a chairman and one or more vice chairmen.	7
The Company has complied with this recommendation.	
B. <u>Holding Company</u>	
It was recommended that the Company settle its federal income tax related balances in accordance with the Department Circular letter No. 33 (1979) and the Company's fifth amended tax sharing and payment agreement.	13
The Company has complied with this recommendation.	

<u>ITEM</u>	<u>PAGE NO.</u>
C. <u>Accounts and Records</u>	
i. It was recommended that the Company follow the NAIC Annual Statement instructions when completing its Annual Statements and classify financial statement items into the proper account.	15
The Company has complied with this recommendation.	
ii. It was recommended that the Company maintain supporting detailed records and produce same upon examination for any amounts it reports in its financial statements, henceforth.	15
The Company has complied with this recommendation.	
iii. It was recommended that the Company maintain adequate records and controls in order to satisfy notification relating to abandoned property and ensure that any unclaimed amounts are remitted to the appropriate state and accounted for properly.	16
The Company has complied with this recommendation.	
iv. It was recommended that the Company develop and implement a comprehensive process to age and settle intercompany account balances in a timely manner and that it maintain and provide upon examination documentation sufficient to determine compliance with Department Circular Letter 15 (1975).	16
The Company has complied with this recommendation.	
v. It was recommended that the Company properly classify expenses according to the NAIC property and Casualty Annual Statement Instructions for Uniform Classification of Expenses of Property Casualty Insurers.	16
The Company has complied with this recommendation.	
vi. It was recommended that the Company set up accruals for both written premium and unearned premium reserve that represents the written premium and unearned premium reserve from the cutoff dates to year-end.	17
The Company has complied with this recommendation.	
vii. It was recommended that the Company properly classify claims paid after the early close as reductions to outstanding loss reserves and not as "remittance and items not allocated".	17
The Company has complied with this recommendation.	

<u>ITEM</u>	<u>PAGE NO.</u>
viii. It was recommended that the Company comply with SSAP No. 53 paragraph 13 when recording advance premiums.	18
The Company has complied with this recommendation.	
ix. It was recommended that the Company ensure that all future contracts entered into with its independent certified public accountants comply with Department Regulation 118 and are properly executed.	18
The Company has complied with this recommendation.	
x. It was recommended that the Company address the weaknesses noted in the IT review in order to strengthen controls and security within its IT environment.	20
The Company has complied with this recommendation.	
D. <u>Uncollected Premiums &amp; Agent Balances</u>	
It was recommended that the Company ensure that they post all non-admitted premium receivable balances in compliance with SSAP No.6. A similar recommendation was included in the prior report on examination.	24
The Company has complied with this recommendation.	
E. <u>Accrued Retrospective Premiums</u>	
It was recommended that the Company perform a review of each year to determine if any accrued retrospective should be non-admitted per the instructions of the NAIC Accounting Practices and Procedures Manual, SSAP No. 66, Paragraph 9 and that the Company retain the necessary documentation to substantiate the recorded balance.	25
The Company has complied with this recommendation.	
F. <u>Funds Held By or Deposited with Reinsured Companies</u>	
It was recommended that the Company take steps to implement controls to ensure cessions are allocated correctly and ensure that future financial statements are completed correctly in compliance with the NAIC Annual Statement Instructions.	25
The Company has complied with this recommendation.	
G. <u>Net Deferred Tax Asset</u>	
It is recommended that the Company calculate its Net Deferred Tax Asset in accordance with SSAP No. 10, as modified by Department Regulation 172.	26
The Company has complied with this recommendation.	

<u>ITEM</u>	<u>PAGE NO.</u>
H. <u>Aggregate Write - Ins For Other Than Invested Assets</u> It was recommended that the Company comply with SSAP No.65, paragraph 37 and non- admit uncollateralized recoverables with balances 90 days past their contractual due date, or billing date if no contractual date has been established.  The Company has complied with this recommendation.	26
I. <u>Losses and LAE</u> It was recommended that the Company comply with SSAP 62, paragraphs 17, 26, and 58 by not taking credit in Schedule F and the loss reserve liability for ceded IBNR recoverables due from insolvent reinsurers.  The Company has complied with this recommendation.	28
J. <u>Commission Payable</u> It was recommended that the Company establish proper procedures to ensure that it records accruals for its obligations and maintain adequate records to support account balances recorded in the general ledger and in financial statements filed with this department.  The Company has complied with this recommendation.	28
K. <u>Unearned Premiums</u> It was recommended that the Company comply with the NAIC Accounting Practices and Procedures Manual, SSAP No. 65, paragraph 6 and SSAP No. 53 in the calculation of the unearned premium reserve for its "run off" policies.  The Company has complied with this recommendation.	30

## **6. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

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



Appointment No. 30631

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, James J. Wrynn Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Fe Rosales**

*as proper person to examine into the affairs of the*

**XL INSURANCE COMPANY OF NEW YORK, INC.**

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

**Corporation**

*with such other information as she shall deem requisite.*

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

*this 4th day of January, 2011*



*James J. Wrynn*  
\_\_\_\_\_  
JAMES J. WRynn

Superintendent of Insurance