

REPORT ON EXAMINATION

OF

FREELANCERS INSURANCE COMPANY, INC.

AS OF

DECEMBER 31, 2014

DATE OF REPORT
EXAMINER

AUGUST 23, 2019
VICTOR ESTRADA

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Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

August 23, 2019

Honorable Linda A. Lacewell
Superintendent of Financial Services
Albany, New York 12257

Madam:

Pursuant to the provisions of the New York Insurance Law, and acting in accordance with the instructions contained in Appointment Number 31489, dated June 6, 2016, attached hereto, I have made an examination into the condition and affairs of Freelancers Insurance Company, Inc., a for-profit stock accident and health insurer licensed pursuant to the provisions of Article 42 of the New York Insurance Law, as of December 31, 2014, and submit the following report thereon.

The examination was conducted at the home office of Freelancers Insurance Company, Inc., located at 408 Jay Street, Brooklyn, New York.

Wherever the designations “Freelancers,” “FIC” or the “Company” appear herein, without qualification, they should be understood to indicate Freelancers Insurance Company, Inc.

Wherever the designation “FUI” appears herein, without qualification, it should be understood to indicate Freelancers Union, Inc., the Parent of Freelancers Insurance Company, Inc.

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

1. SCOPE OF THE EXAMINATION

The Company was previously examined as of December 31, 2009. This examination was a combined (financial and market conduct) examination and covered the five-year period January 1, 2010 to December 31, 2014. The financial component of the examination was conducted as a financial examination, as defined in the National Association of Insurance Commissioners (“NAIC”) *Financial Condition Examiners Handbook, 2015 Edition* (the “Handbook”). The examination was conducted observing the guidelines and procedures in the Handbook. Where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2014, were also reviewed.

The examination was conducted on a risk-focused basis in accordance with the provisions of the Handbook, which provides guidance for the establishment of an examination plan based on the examiner’s assessment of risk in the Company’s operations and utilizes that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate Freelancers’ current financial condition, as well as identify prospective risks that may threaten the future solvency of the Company.

The examiner identified key processes, assessed the risks within those processes and assessed the internal control systems and procedures used to mitigate those risks. The examination also included an assessment of the principles used and significant estimates made by management, an evaluation of the overall financial statement presentation, and determined management’s compliance with the Department’s statutes and guidelines, Statutory Accounting Principles, as adopted by the Department, and NAIC annual statement instructions.

Information concerning the Company's organizational structure, business approach and control environment were utilized to develop the examination approach. The examination evaluated the Company's risks and management activities in accordance with the NAIC's nine branded risk categories.

These categories are as follows:

- Pricing/Underwriting
- Reserving
- Operational
- Strategic
- Credit
- Market
- Liquidity
- Legal
- Reputational

The Company was audited annually for the years 2010 through 2014 by the accounting firm, BDO USA, LLP ("BDO"). The Company received an unmodified opinion in each of those years. Certain audit workpapers of BDO were reviewed and relied upon in conjunction with this examination. A review was also made of Freelancers' corporate governance structure.

The examiner reviewed the corrective actions taken by the Company with respect to the recommendations concerning issues contained in the prior report on examination. The results of the examiner's review are contained in Item 9 of this Report.

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

2. **DESCRIPTION OF THE COMPANY**

Freelancers Insurance Company, Inc., was incorporated in the State of New York on January 28, 2008, as a for-profit stock corporation. The Company was licensed by the Department on November 10, 2008, as an accident and health insurer pursuant to Article 42 of the New York Insurance Law, and commenced writing business on January 1, 2009.

Concurrent with its licensing, the Company was permitted, until January 1, 2010, to limit enrollment to only the association group members of Freelancers Union, Inc., Freelancers' Parent.

In order to continue enrolling only Freelancers Union, Inc. ("FUI") members beyond January 1, 2010 (the date stipulated in which Freelancers was to offer open enrollment to all small groups and individuals), the Company submitted an application for participation in the independent workers demonstration project pursuant to Section 1123 of the New York Insurance Law. Section 1123 of the New York Insurance Law became effective on September 16, 2009, and Freelancers filed an application with the Department on October 7, 2009.

The Company was permitted to restrict enrollment to FUI's members during the Department's review of the application. The application was approved by the Department on December 7, 2010.

As of January 1, 2014, in accordance with the Affordable Care Act, FIC's insurance products were open to the public. On September 19, 2014, the Department approved the Company's filing for a withdrawal from the New York health insurance market. Effective December 31, 2014, the Company ceased writing business.

A. Management and Controls

The Company's by-laws provide for a Board of Directors ("Board") consisting of at least seven (7) members, but not more than thirteen (13).

The following eight (8) members comprised the Company's Board as of December 31, 2014:

<u>Director</u>	<u>Principal Business Affiliation</u>
Nancy Biberman Pelham, NY	Corporation Co-Founder and President, Women Housing and Economic Development
Trisala Chandaria New York, NY	Co-Founder, Temboo
Ohad Folman Tel-Aviv, Israel	Founder and Chief Executive Officer, Practi Technologies Ltd.
Sara Horowitz Brooklyn, NY	President and Chief Executive Officer, Freelancers Insurance Company, Inc.
Hanan Kolko Montclair, NJ	Shareholder and Director, Meyer, Suozzi, English & Klein
David Landis Brooklyn, NY	Financial Writer, Jacobs Levy Equity Management
Megan Mardiney Brooklyn, NY	Principal and Creative Director, The Mardiney Group
Andrea Phillips New York, NY	Vice President of Urban Investment Group, Goldman Sachs

The following individuals were Freelancers' executive officers as of December 31, 2014:

Sara Horowitz	President and Chief Executive Officer
Hanan Kolko	Vice-President
Andrea Phillips	Secretary/Treasurer

It should be noted that effective March 1, 2018, Ms. Sara Horowitz resigned from her position as the Chief Executive Officer of the Company, and effective March 22, 2018, Ms. Caitlin Pearce, was named acting Chief Executive Officer.

The Company's by-laws provide for an annual meeting of the Board of Directors immediately after Freelancers' shareholders' annual meeting, which is held in June of each year. In addition, regular meetings of the Board of Directors are to be held as designated by resolutions of the Board or by the written consent of all the Directors. It is important that Board meetings are held regularly; at least quarterly, so that the Directors can discharge their responsibility to oversee the Company's operations, strategies and policies.

It is recommended that the Company hold Board meetings regularly, at least quarterly, so that the Directors can discharge their responsibility to oversee the Company's operations, strategies and policies.

During the exam period, Freelancers' Board of Directors held annual meetings as well as several regular meetings. During the review of the attendance at said meetings, the following was noted:

- In 2011, three (3) Board members (Nancy Biberman, Matthew Hancock and Andrew Kassoy) attended 33% (1/3) of the meetings they were eligible to attend.
- In 2012, three (3) Board members (Nancy Biberman, Matthew Hancock and Andrea Phillips) attended 33% of the meetings they were eligible to attend.
- In 2013, two (2) Board members (Matthew Hancock and Charles Heckscher) did not attend any of the meetings they were eligible to attend.
- Also, in 2013, Andrew Kassoy attended 33% of the meetings he was eligible to attend.
- In 2014, Andrea Phillips attended 25% of the meetings she was eligible to attend.

Directors' attendance at Board meetings is critical to exercise their duties in a management oversight function. Board members have a fiduciary responsibility and must evince an ongoing interest in the affairs of the Company. It is essential that Board members attend meetings consistently and set forth their views on relevant matters so that appropriate policy decisions may be reached by the Board. Members who fail to attend at least one-half of the Board's regular

meetings they are eligible to attend, do not fulfill such criteria. Board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

It is recommended that Board members attend at least 50% of the meetings they are eligible to attend.

It is also recommended that Board members who are unable or unwilling to consistently attend meetings resign or be replaced.

It should be noted that Board members Stephanie Buchanan and Matthew Hancock were not listed on the Jurat Page for the Company's annual statement filings for calendar years 2011 and 2012, respectively.

It is recommended that the Company exercise greater care when completing its financial statements.

Additionally, it should be noted that upon reading the minutes of the Board meetings, it could not be determined which individuals were elected to serve as Directors.

It is recommended that FIC's Board minutes clearly reflect the names of those members who are elected to serve as Directors of its Board.

B. Audit Committee Charter

The Audit Committee Charter, Item III; *Organization / Structure / Meetings* states, in part:

"The Committee shall meet as frequently as circumstances dictate, but not less than twice annually, in order to discharge its responsibilities...the Audit Committee should meet with the external auditor...This meeting concerning the receipt of the report should include an executive session without the presence of management."

It should be noted that only one (1) Audit Committee meeting was held in 2011. Additionally, no Executive Session was held in 2011.

The Audit Committee Charter, Item II; *Membership of Audit Committee*, states:

“No more than one member of the Company’s Finance Committee may serve on the Audit Committee.”

For the years 2013 and 2014, two (2) members of FIC’s Finance Committee served on its Audit Committee.

It is recommended that FIC comply with its Audit Committee Charter by having no more than one member from its Finance Committee serve on its Audit Committee.

It is also recommended that FIC fully comply with its Audit Committee Charter by having an Audit Committee meeting no less than twice annually, and its Executive Session annually.

C. Audit Committee Membership

Section 89.12(e) of Insurance Regulation 118 (11 NYCRR 89) states:

“The company shall submit written notification to the superintendent of the selection of its audit committee within 30 days of the effective date of this Part and within 30 days of any change in membership of the audit committee. The notice shall include a description of the reason for the change.”

Section 243.2(b)(8) of Insurance Regulation 152 (11 NYCRR 243) states:

“(b) Except as otherwise required by law or regulation, an insurer shall maintain:
(8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.”

For calendar years 2011 through 2014, FIC violated Section 89.12(e) of Insurance Regulation 118 (NYCRR 89) when it failed to provide written notification to the Department of changes to its Audit Committee membership.

Additionally, FIC violated Section 243.2(b)(8) of Insurance Regulation 152 when it failed to retain records of such changes in its Audit Committee membership.

It is recommended that FIC comply with Section 89.12(e) of Insurance Regulation 118 by providing written notification to the Department, within thirty (30) days of any change to its Audit Committee membership, and a description of the reason for any such change.

It is also recommended that FIC comply with Section 243.2(b)(8) of Insurance Regulation 152 by maintaining all records of changes made to its Audit Committee membership.

D. Territory and Plan of Operation

Prior to 2014, the Company provided health insurance coverage exclusively to the members of Freelancers Union, Inc. (“FUI”), which consisted of independent workers who either resided or worked within New York State. Pursuant to eligibility rules, independent workers are defined as individuals who are employed as follows: (i) freelancers, (ii) independent contractors or consultants, (iii) self-employed persons, (iv) part-time or temporary workers, and (v) workers employed simultaneously by multiple companies. Except for individuals receiving a W-2 while working for a temporary or placement agency, a member is not considered an independent worker if at the time of applying for coverage, the individual worked full-time as a “W-2 employee” for the last 18 months with the same employer, or whose employment is expected to last more than 18 months.

In order for a member of Freelancers Union, Inc. to obtain insurance coverage, he or she must meet the following eligibility requirements:

- Be an independent worker living or working in New York State; and
- Work in one or more of the following eligible industries and/or occupations: (i) arts, design and entertainment, (ii) domestic child care giver, (iii) financial services, (iv) media and advertising, (v) nonprofit, (vi) skilled computer user, (vii) technology, and (viii) traditional or alternative health care provider; and

- Demonstrate that he or she has done one of the following while working in the eligible industries and/or occupations above: (i) worked at least 20 paid hours in each of the last 8 weeks or (ii) earned at least \$10,000 within the last 6 months.

In a letter dated December 1, 2009, to the Department, Freelancers Union, proposed revisions to its Members' Eligibility Rules for 2010, namely redefining the meaning of an independent worker and expanding the Company's eligible area to include additional New York counties within the proximity of several other states contiguous to New York State. Independent workers were redefined as individuals who work as freelancers, independent contractors and consultants, or who are self-employed, part-time, or temporary workers. No longer considered independent workers are individuals, who, at the time of application, are working full-time as a W-2 employee, unless they work for an employment agency or payroll service, or for an employer for a pre-determined, finite period of time or on a specific project(s). Also, the 2010 definition of "eligible area" was revised wherein members enrolled in Freelancers must either live in Freelancers' coverage area or live in an eligible state and also work within the Company's coverage area. Freelancers' coverage area comprised the thirty-four counties in New York State where the Company has filed rates and forms.

In 2014, FIC offered five plan options for its subscribers, three PPO plans and two high deductible plans. Additionally, in 2014, FIC added four additional PPO type individual plans that were available for direct purchase off the exchange, in compliance with the Affordable Care Act ("ACA"). All plans operate on a calendar basis with premium rates and all benefit levels resetting on January 1st each year.

FIC experienced significant losses in 2014 and exited the health insurance business as of December 31, 2014. On September 19, 2014, the Department approved the Company's filing for

a withdrawal from the New York health insurance market. Effective December 31, 2014, the Company ceased writing business. The Company maintains that it has and will continue to pay outstanding claims as they are received.

The Company's net premium income and enrollment during the five-year examination period were as follows:

<u>Calendar Year</u>	<u>Net Premium Income</u>	<u>Enrollment</u>	<u>Net Premiums to Capital and Surplus</u>
2010	\$ 83,114,015	22,003	7.7
2011	\$ 96,126,505	23,326	5.5
2012	\$105,921,928	24,282	4.6
2013	\$112,202,834	26,562	3.8
2014	\$101,998,912	21,160	7.6

E. Reinsurance

The Company held the following ceded excess-of-loss reinsurance coverage with Navigators Insurance Company, a New York domestic insurer, as of December 31, 2014:

Layer 1

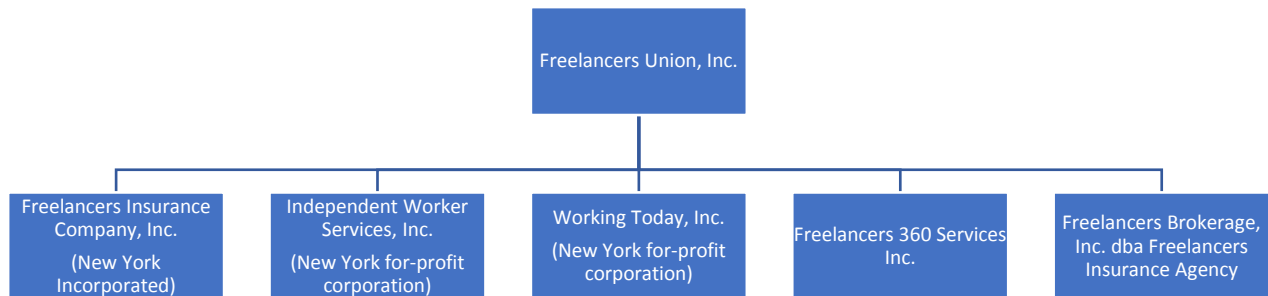
<u>Company's retention</u>	<u>Reinsurer's liability</u>
\$325,000 of the first ultimate net loss, each covered person, each agreement year.	100% excess of the Company's \$325,000 retention, of ultimate net loss, each covered person, each agreement year, not to exceed a maximum liability of \$1,675,000 each covered person, per agreement year.

The reinsurance agreements contained all the required standard clauses, including the insolvency clause, as required by Section 1308(a)(2)(A) of the New York Insurance Law.

F. Holding Company System

Freelancers Insurance Company, Inc. is wholly-owned by Freelancers Union, Inc., (“FUI”) a Delaware not-for-profit corporation, tax exempt under Section 501(c)(4) of the Internal Revenue Code as a membership organization. As a member of a holding company system, FIC is required to file registration statements pursuant to the requirements of Article 15 of the New York Insurance Law and Insurance Regulation 52 (11 NYCRR 80). The Company made all of its pertinent filings during the examination period.

The following chart depicts the Company’s holding company system as of December 31, 2014:



The following describes the history and activities of the Company’s affiliates which provided the majority of the services to FIC:

(i) Freelancers Union, Inc. (“FUI” or the “Parent”)

FUI is a not-for-profit organization that was re-organized in 2005 pursuant to the Internal Revenue Code as a Section 501(c)(4) tax-exempt organization. FUI, formerly named Working Today Education Fund, is a national organization that serves the independent workforce through advocacy, education and service. FUI offers health, dental, life and disability benefits to its members as an association group. By bringing together a large group of people, the organization has been able to negotiate more favorable rates for its members. In 2009, the Parent formed Freelancers Insurance Company, Inc., a wholly-owned insurance company that offers health benefits to only FUI’s members. Freelancers Union, Inc. provides benefits to members through insurers in addition to Freelancers Insurance Company, Inc. These benefits include dental, disability and life insurance that are offered through non-affiliated carriers.

(ii) Working Today, Inc. (“WT”)

WT is an Internal Revenue Code Section 501(c)(3) tax exempt, non-profit New York corporation formed in 1996. The organization is a research and policy organization. Freelancers Union, Inc. is its sole member. WT provides, through the leasing of its business personnel and infrastructure facilities, all of the administrative services for the day-to-day management of Freelancers Insurance Company, Inc., pursuant to an inter-company services agreement. Such agreement was approved by the Department, effective October 23, 2008.

(iii) Independent Worker Services, Inc. (“IWS”)

IWS is a wholly-owned for-profit New York corporation of Freelancers Union, Inc. that was established in 2007. IWS provides administrative services to its affiliate, Working Today, Inc. Additionally, IWS, on behalf of Freelancers Union, Inc. and Freelancers Insurance Company, Inc., contracted with an outside enrollment and billing vendor during 2009 through the end of August 2010, to provide enrollment, premium billings, collections, cash deposits and bank reconciliation services to FUI in connection with the various insurance products purchased by FUI’s members, including health insurance coverage provided by Freelancers Insurance Company, Inc.

In addition to Freelancers’ approved agreement with Working Today, Inc. mentioned in Item (ii) above, the Company also held the following inter-company agreement, approved by the Department, with FUI:

Group Contract between Freelancers Insurance Company, Inc. and Freelancers Union, Inc., effective, November 10, 2008:

The captioned contract was approved by the Department on November 10, 2008. The contract established Freelancers Union, Inc. as the group contract holder with the primary responsibility of paying Freelancers the premiums to secure the benefits for members of the group contract holder. The group contract holder is responsible for notifying the Company when particular individuals and/or members of their families are to become covered or are no longer to be covered. The Company is not responsible for providing benefits unless it receives timely notification from the group contract holder within 30 days of the occurrence of the event causing member and family eligibility. The group contract holder is not at any time acting as an agent for the Company. Based on the contract terms and statements made by management, Freelancers Insurance Company, Inc. pays no service fees to Freelancers Union, Inc., under this contract.

Additionally, FUI is also the sole shareholder of Freelancers 360 Services, Inc. and Freelancers Insurance Agency (“FIA”). These companies are New York business corporations organized as C corporations.

FIC does not have any employees and the business operations and affairs of the Company are effectuated by Working Today, Inc., (“WT”) and Freelancers Union, Inc., (“FUI”) pursuant to the terms of an approved Inter-company Leasing Services Agreement and an approved Inter-company Expense Allocation Agreement, respectively. WT provides, through the leasing of its business personnel and infrastructure facilities, all of the administrative services for the day-to-day management of Freelancers Insurance Company, Inc. FUI also provides certain services for FIC based on the parent-subsidiary relationship. Under the Inter-company Expense Allocation Agreement, FIC and FUI agree to allocate the following third-party joint services, including but not limited to: financial and accounting, corporate governance, legal services, marketing and advertising, billing and enrollment and other services.

A review of Freelancers’ accounts and records revealed that the Company engaged in numerous inter-company transactions with its Parent and its affiliates, resulting in a significant increase in the inter-company receivable balances owed to FIC during the examination period.

Below is a summary of the Company’s 2014 year-end inter-company account balances:

<u>Account</u>	<u>2014 Year End Balance</u>
<u>Inter-company receivables</u>	
Due from Freelancers Union, Inc.	\$ 4,128,841
Due from Independent Worker Services, Inc.	784,364
Due from Working Today	4,713,822
Due from FIA	<u>60,500</u>
Total	\$ <u>9,687,527</u>

The balances noted above consisted of (i) cash borrowing via electronic transfers, (ii) expenses paid by one entity for another entity and (iii) revenue collected by FUI for FIC and IWS. As of December 31, 2013, FIC reported amounts due from affiliates in the amount of \$1,467,658. During calendar year 2014, FIC paid \$1,179,827 in expenses on behalf of its affiliates, loaned or advanced \$7,884,678 to its affiliates and was charged \$(844,635) on behalf of its affiliates, to arrive at the amounts due from affiliates as noted above. As of December 31, 2014, FIC reported \$4,100,167 of its amounts due from affiliates as a non-admitted asset. As of December 31, 2016, subsequent to the examination date, the non-admitted asset amount increased to \$11,466,643.

See Section 2H, Accounts and Records, and Section 7, Subsequent Events, of this report for further details regarding the inter-company expense allocations and the related inter-company receivable balances.

It should be noted that it could not be determined if FIC's Board had discussed or approved such inter-company transactions as no such discussion(s) or approval(s) were reflected in FIC's Board minutes. Transactions of such magnitude should be discussed and approved by the Board and should be reflected in the respective Board Minutes.

It is recommended that all material inter-company transactions be discussed and approved by the Company's Board and that such approvals be reflected in the respective Board minutes.

It is also recommended that FIC not allow such large inter-company receivables to remain outstanding and that it be more aggressive in obtaining receipt of the overdue receivable balances.

G. Dividends

Section 4207(b)(1) of the New York Insurance Law states in part:

“(b)(1) Except as provided in paragraph three hereof, no domestic stock accident and health insurance company shall declare or distribute any dividend on its capital stock, except out of earned surplus, as defined in subsection (a) of section four thousand one hundred five of this chapter... No domestic stock accident and health insurance company shall declare or distribute any dividend to shareholders which, together with all such dividends declared and distributed by it during the next preceding twelve months, exceeds the lesser of ten percent of its surplus to policyholders, as shown by its last statement on file with the superintendent, or one hundred percent of adjusted net investment income for such period unless, upon prior application therefor, the superintendent approves a greater dividend payment based upon his finding that the insurer will retain sufficient surplus to support its obligations and writings...”

On July 2, 2012, the Company declared and paid a dividend to its Parent, Freelancers Union. The Company incorrectly classified the dividend as being “ordinary” instead of “extraordinary” and as such did not obtain the Superintendent’s prior approval before distributing the dividend. Subsequently, on May 8, 2013, the excess dividend was restored to the Company.

On July 1, 2013, one day short of a full calendar year from its last dividend payout, the Company paid a second dividend to its Parent Company. Again, the Company exceeded the limitation of that of an ordinary dividend and once again failed to obtain the Superintendent’s prior approval before distributing the dividend. Further, the Company failed to properly report this extraordinary dividend on its quarterly statement as of September 30, 2013.

It is recommended that the Company comply with the requirements of Section 4207(b)(1) of the New York Insurance Law by obtaining the Superintendent’s approval before declaring and distributing any dividends exceeding the lesser of 10% of its capital and surplus or 100% of its adjusted net income earned, as shown on its last statement on file with the Superintendent.

It is also recommended that the Company exercise due care when completing its financial statements.

H. Accounts and Records

During the course of the examination it was noted that the Company's treatment of certain items was not in accordance with the approved inter-company leasing agreement and the inter-company expense allocation agreement. A description of such items is as follows:

(i) Internal Controls - Cash Borrowing

Discussions with FIC's Controller revealed that during the exam period, it was the general business practice whereby FIC would make advances to WT and FUI in order to fund their operations. FIC would advance funds to WT and FUI via wire transfers with the eventuality that expenses allocated to FIC by WT and FUI would offset the transfers. However, these advances and loans were neither approved by this Department nor allowed as part of the inter-company agreements. As noted above, FIC loaned or extended credit to affiliates in the amount of \$7,884,678 during calendar year 2014.

Section 1505(d)(1) of the New York Insurance Law states in part:

“(d) The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction... and the superintendent has not disapproved it within such period:

(1) sales, purchases, exchanges, loans or extensions of credit, or investments involving less than five percent of the insurer's admitted assets at last year-end, provided the transactions are equal to or exceed:

(A) the lesser of three percent of the insurer's admitted assets or twenty-five percent of capital and surplus at last year-end...”

It is recommended that the Company comply with the requirements of Section 1505(d)(1) of the New York Insurance Law with regards to loans and extensions of credit to members of its holding company system.

(ii) Expenses paid by one entity for another

Section III.D.1 of the Freelancers' Inter-company Leasing Agreement states in part:

“On a monthly basis, Working Today shall provide Company with an invoice setting forth the charges due hereunder, together with any supporting documentation reasonably requested by the Company. The monthly invoices shall be provided fifteen (15) days before the first of each month and shall be based on estimates of Leased Time for each Leased Employee...”

“If the Company does not object to any charges on the invoice, Company shall remit payment to Company within fifteen (15) days of receipt of said invoice.”

Furthermore, Section III.D.2 of the same Inter-company Leasing Agreement states:

“Within thirty (30) days of the end of each calendar year, the parties shall reconcile the amounts paid by Company based on the estimates of Leased Time set forth on Schedule A against the amounts actually due based on the time records prepared by the Leased Employee under Section III.C. Each party will pay the other party any amounts due under the reconciliation within ten (10) days of the completion thereof.”

Additionally, Item 3 - Payment of the Inter-company Expense Allocation

Agreement states:

“The Contracting Party shall invoice the Receiving Party for Shared Third Party Services on a monthly basis. The Receiving Party shall pay the invoice within thirty (30) days of receipt unless it objects in writing to the invoice within such time period.”

FIC and its affiliates were not in compliance with the terms of the Inter-company Leasing Agreement, in that WT does not provide monthly invoices to FIC. As noted in item (i) directly above, FIC provides advances to WT to fund operations. Furthermore, neither WT or FUI pay invoices as called for in the Inter-company Leasing Agreement. The cost allocated to FIC by WT and the funds advanced to FUI are deducted from the advances provided.

It is recommended that FIC and its affiliates comply with the terms of their Inter-company Leasing Agreement by invoicing the receiving party for shared third-party services on a monthly basis and for the receiving party to pay the invoice within thirty (30) days of receipt, unless it objects in writing to the invoice within such time period.

(iii) Premium Collection

According to Freelancers' group contract with Freelancers Union, Inc., as described above in Section 2F of this report, the Parent is responsible for collecting the members' premiums and remitting the payments to the Company. Through a contract with an outside enrollment and billing vendor, Health Plan Services, Inc., ("HPS") the members' premiums were collected by the vendor and deposited into the Parent's bank account; instead of the Company's bank account.

In November 2014, FUI collected \$8,137,668 in premiums on FIC's behalf. However, FUI only transferred \$5,000,000 to FIC. The remaining \$3,137,668 was recorded as due from FUI. The amount of \$5,587,361, reported on FIC's annual statement as due from affiliates as of December 31, 2014, was comprised of this amount due as well as the year to date activity of cash borrowings noted above, along with allocated expenses as noted in item (ii) above.

It is recommended that all funds belonging to the Company reside in accounts under its control and that such funds be moved or transferred to FUI only as needed, and with proper Department approval and authorization, where applicable, to pay debts and other expenses related to its operations.

A similar recommendation was cited in the prior report on examination.

Item 10 of the group contract between Freelancers Insurance Company, Inc. and Freelancers Union, Inc., states in part:

"If the Group Contract Holder does not make premium payments according to the Premium Rate Schedule in effect on the premium's due date, the Group Contract Holder shall be considered to be in default in payment of premiums and the Contract may be terminated as set out in the Certificate..."

Additionally, Item 12 of the Group Contract states in part:

“The Group Contract Holder must pay the total of all billed premiums on or before the due date. However, the Plan will allow the Group Contract Holder a 30 day grace period for the payment of all premiums, except the first premium, which must be paid in advance...”

Furthermore, Item 13 of the Group Contract states in part:

“If the Contract terminates the Group Contract Holder will, in any event be responsible for the payment of all premiums and applicable late payment charges owed as of the date of termination...”

On September 19, 2014, the Department approved the Company’s filing for a withdrawal from the New York health insurance market. However, as noted above, in November 2014, FUI collected \$8,137,668 in premiums on FIC’s behalf but only transferred \$5,000,000 to FIC. Effective December 31, 2014, the Company ceased writing business, however, amounts due FIC from FUI remained unpaid.

It is recommended that Freelancers comply with the provisions of the Group Contract by paying the total of all billed premiums on or before the due date.

(iv) Bank Custodial Agreement

The Company currently does not have a bank custody agreement relative to its invested assets. The Company’s existing custodial agreement with HSBC Bank relates to Freelancers’ statutory deposit investment which is a restricted bank custody account. Such account is subject to the Department’s approval and is held in the name of the Superintendent of Financial Services pursuant to Section 1314 of the New York Insurance Law. As a restricted account, amounts deposited and withdrawn from this account are subject to the Superintendent’s prior approval. Therefore, a separate custody agreement is needed by the Company to establish a bank custodial account for purposes of depositing and maintaining Freelancers’ invested assets.

It is recommended that the Company execute a bank custodial agreement for the safekeeping of Freelancers' invested assets. Such custodial agreement should comply with the requirements of Section 1, Item F of the *NAIC Financial Condition Examiners Handbook*.

A similar recommendation was cited in the prior report on examination.

I. Significant Operating 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>Ratios</u>
Claims	\$392,603,595	78.6%
Claim adjustment expenses	34,105,707	6.8%
General administrative expenses	56,830,840	11.4%
Increase in reserves for A&H contracts	4,026,650	0.8%
Net underwriting gain	<u>11,797,402</u>	<u>2.4%</u>
Premium revenue	<u>\$499,364,194</u>	<u>100.0%</u>

3. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, and surplus as of December 31, 2014, as contained in the Company's 2014 filed annual statement, a condensed summary of operations and a reconciliation of the surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2014 filed annual statement.

Independent Accountants

The firm of BDO was retained by the Company to audit its statutory-basis statements of financial position as of December 31st of each year in the examination period, and the related statutory-basis statements of operations, capital and surplus, and cash flow for the year then ended. The Company received an unmodified opinion for each year of the examination period.

BDO concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements, with no discrepancies noted.

A. Balance SheetAssets

Bonds	\$18,037,269
Common stocks	3,896,876
Cash and short-term investments	1,831,151
Investment income due and accrued	116,853
Amounts recoverable from insurers	1,322,687
Current federal and foreign income tax recoverable	6,525,334
Net deferred tax asset	110,326
Receivable from parent, subsidiaries and affiliates	5,587,360
Health care receivable	<u>56,711</u>
Total assets	<u>\$37,484,567</u>

Liabilities

Claims unpaid	\$18,092,777
Unpaid claims adjustment expenses	1,314,742
Aggregate health policy reserves	114,411
General expenses due and accrued	3,099,137
Ceded reinsurance premiums payable	176,021
Amounts withheld or retained for the account of others	700,000
Amounts due to parent, subsidiaries and affiliates	<u>631,433</u>
Total liabilities	<u>\$24,128,521</u>

Capital and Surplus

Common capital stock	200,000
Gross paid-in and contributed surplus	16,026,131
Unassigned funds (surplus)	<u>(2,870,085)</u>
Total capital and surplus	<u>\$ 13,356,046</u>
Total liabilities and net actuarial surplus	<u>\$ 37,484,567</u>

Note: The Internal Revenue Service has not conducted any audits of the income tax returns filed on behalf of the Company during the period under examination. The examiner is unaware of any potential exposure of the Company to any further tax assessment and no liability has been established herein relative to such contingency.

B. Statement of Revenue and Expenses and Capital and Surplus

Capital and surplus increased by \$6,784,727 during the five-year examination period, January 1, 2010 through December 31, 2014, detailed as follows:

Revenue

Net premium income \$ 499,364,194

Expenses

Hospital/medical benefits	\$ 298,467,806	
Other professional services	6,462,422	
Prescription drugs	75,891,043	
Aggregate write-ins for other hospital and medical	19,913,856	
Net reinsurance recoveries	<u>(8,131,532)</u>	
Total hospital and medical expenses	\$ 392,603,595	
Claim adjustment expenses	34,105,707	
General administrative expenses	56,830,840	
Increase in reserves for A&H contracts	<u>4,026,650</u>	
Total underwriting expenses		\$ <u>487,566,792</u>
Net underwriting gain		\$ 11,797,402
Net investment income earned		2,785,925
Net realized capital gain		217,134
Aggregate write-ins for other income		9,557
Federal and foreign income taxes incurred		<u>(3,582,277)</u>
Net income		\$ <u>11,227,741</u>

Changes in Capital and Surplus

Capital and surplus, per report on examination, as of December 31, 2009			\$ 6,571,319
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$11,227,741		
Change in net unrealized capital losses		\$ 146,036	
Change in net deferred income tax		2,624,478	
Change in non-admitted assets		2,618,578	
Dividends to stockholders		2,704,340	
Aggregate write-ins for gains in surplus	749,924		
Prior period adjustment	<u>2,900,494</u>		
Net increase in capital and surplus			<u>6,784,727</u>
Capital and surplus, per report on examination, as of December 31, 2014			\$ <u>13,356,046</u>

4. CLAIMS UNPAID

The examination liability of \$18,092,777 is the same the amount reported by the Company in its filed annual statement as of December 31, 2014.

The examination analysis of the claims unpaid reserve 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 as verified during the examination. The examination reserve was based upon actual payments made through a point in time, plus an estimate for claims remaining unpaid at that date. Such estimate was calculated based on actuarial principles, which utilized the Company's past experience in projecting the ultimate cost of claims incurred on or prior to December 31, 2014.

5. MARKET CONDUCT ACTIVITIES

In the course of the examination, a review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and was directed at practices of the Company in the following areas:

- A. Claims processing
- B. Explanation of benefits statements
- C. Circular Letter No. 9 (1999) – Adoption of procedure manuals

A. Claims Processing

In order to evaluate the overall accuracy and compliance environment of Freelancers claims processing, a review was performed by using a statistical sampling methodology to select claims processed during the period January 1, 2014 through December 31, 2014. The examiner selected a sample of hospital and medical claims and evaluated the selected claims, testing various attributes deemed necessary for successful claims processing activity. The sample sizes were comprised of 167 randomly selected hospital and medical claims; conducted on a stop and go basis.

This statistical random sampling process, which was performed using the computer software program ACL, was utilized to test various attributes deemed necessary for successful claims processing activity. The objective of this sampling process was to be able to test and reach conclusions about all predetermined attributes, individually or on a combined basis.

For the purposes of this report, a “claim” as defined by FIC, is the total number of items submitted by a single provider with a single claim form, as reviewed and entered into its claims processing system. To ensure the completeness of the claims population being tested, the total dollars paid were accumulated and reconciled to the paid claims data reported by FIC for the

period January 1, 2014 through December 31, 2014, as included in its annual statement filed with the Department.

It should be noted that HealthPlan Services, Inc., FIC's TPA, performs quality control reviews or audits to check the accuracy of recorded claims transactions (e.g., payment dollar, payment incidence, coding, etc.) on a monthly basis.

During the claims processing review, the examiner noted 2 procedural errors and 1 financial error. Neither were deemed systemic. Due to the low number of errors, no further review was deemed warranted.

B. Explanation of Benefits Statements

As part of the review of the Company's claims practices and procedures, an analysis of the Explanation of Benefits Statements ("EOBs") sent to the subscriber and/or provider of the Company was performed. An EOB is an important link between the subscriber, the provider and the Company. It should clearly communicate to the subscriber and/or the provider that the Company has processed a claim and how that claim was processed. It should clearly describe the charges submitted, the date the claim was received, the amount allowed for the services rendered and any balance owed to the provider.

Section 3234(b)(7) of the New York Insurance Law states:

"(b) The explanation of benefits form must include at least the following:

(7) a telephone number or address where an insured or subscriber may obtain clarification of the explanation of benefits, as well as a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with such requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made."

The Company violated Section 3234(b)(7) of the New York Insurance Law when it failed to include in its EOBs a notification to the recipients that failure to comply with the appeal requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made.

It is recommended that the Company comply with Section 3234(b)(7) of the New York Insurance Law by ensuring that the required wording be included on the Company's EOBs.

A similar recommendation was cited in the prior report on examination.

C. Circular Letter No. 9 (1999) – Adoption of Procedure Manuals

Circular Letter No. 9 (1999), dated May 25, 1999, "Adoption of Procedure Manuals," was issued to Article 43 Corporations, Public Health Law Article 44 Health Maintenance Organizations and Insurers licensed to write health insurance in New York State. The Circular Letter states in part:

"It is recommended that the board obtain the following certifications annually: (i) from either the company's director of internal audit or independent CPA that the responsible officers have implemented the procedures adopted by the board, and (ii) from the company's general counsel a statement that the company's current claims adjudication procedures, including those set forth in the current claims manual, are in accordance with applicable statutes, rules and regulations..."

In response to the examiner's request to the Company for evidence of compliance with Circular Letter No. 9, FIC responded by providing documents regarding Company training (i.e., training on the plans offered and training regarding Patient Protection and Affordable Care Act and Benefit Plans offered in 2014); however, the required annual certifications were not provided. It was determined that the aforementioned annual certifications were not obtained by FIC during the examination period.

It is recommended that FIC comply with the requirements of Circular Letter No. 9 (1999) by obtaining the requisite certifications and providing proper oversight over the Company's operations and regulatory requirements.

A similar recommendation was cited in the prior report on examination.

6. **STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENT OF CLAIMS FOR HEALTH CARE AND PAYMENTS FOR HEALTH CARE SERVICES ("PROMPT PAY LAW")**

Section 3224-a(a) of the New York Insurance Law, "Standards for prompt, fair and equitable settlement of claims for health care and payments for health care services" ("Prompt Pay Law"), requires all insurers to pay undisputed claims within 30 days of receipt of a claim that is transmitted via the internet or electronic mail, or 45 days of receipt of a claim submitted by other means, such as paper or facsimile. If such undisputed claims are not paid within the respective 30 or 45 days of receipt, interest may be payable.

Section 3224-a(a) of the New York Insurance Law states:

"Except in a case where the obligation of an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law to pay a claim submitted by a policyholder or person covered under such policy ("covered person") or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within thirty days of receipt of a claim or bill for services rendered that is transmitted via the internet or electronic mail, or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile."

Utilizing ACL software, the examiners conducted an analysis of the Company's compliance with the aforementioned statute. No problem areas were noted.

7. FACILITATION OF EXAMINATION

Section 310(a)(3) of the New York Insurance Law states:

“The officers and agents of such insurer or other person shall facilitate such examination and aid such examiners in conducting the same so far as it is in their power to do so.”

In order to conduct a thorough review of Market Conduct Activities, one of the critical pieces of information that is required is claims data. As a result, that data is requested early in the examination process and the examiner describes specifically what is required to be provided by the Company. It should be noted that the claims data that was provided by the Company initially was incomplete. After numerous follow-up requests, complete claims data was provided to the examiner.

Additionally, FIC was very slow to respond to many of the examiner’s requests throughout the examination process, occasionally taking months for information to be provided.

It should be noted that the frequent lack of timely responses are a violation of Section 310(a)(3) of the New York Insurance Law.

It is recommended that the Company comply with Section 310(a)(3) of the New York Insurance Law by ensuring that the information being provided is accurate, complete, and timely.

8. SUBSEQUENT EVENTS

Subsequent to the examination date, FIC conducted an internal analysis of its allocated expenses and determined that its cost allocation during the examination period was inaccurate. In correspondence with the Department dated January 16, 2016, the Company’s Government

Relations Officer (“GRO”) stated that at least \$4M of expenses allocated to FIC’s affiliates should have been allocated to FIC and therefore would not be due from affiliates. It was determined by BDO, FIC’s then independent auditor, that the allocations would not be retrospectively adjusted. The GRO of FIC further stated that the affiliates have neither the revenue nor the assets to make payment on the inter-company receivables due to Freelancers Insurance Company and proposed to leave the balances as non-admitted and “forgive the debt” moving forward. As of December 31, 2015, FIC non-admitted \$11,370,792 in receivables due from affiliates. On March 16, 2016, the Department corresponded with the Company’s management stating that it was permitting FIC to continue to report the receivables from affiliates as not-admitted; however, the debt should not be forgiven without the prior approval of the Department.

In late 2016, FIC engaged WithumSmith+Brown, PC (“WSB”) to review the revised allocations of expenses between Freelancers Insurance Company and related entities for the periods 2011-2014, developed by FIC management, to determine the impact of the initial and revised allocation on the financial statements; specifically to determine if any required adjustment to the related party accounts was required. WSB reviewed the methodology used to calculate the allocations, including the reasonableness of the methodology as compared to the industry and their professional experience, and to determine if the allocations were performed in accordance with the methodology employed by FIC. WSB concluded that FIC’s management was following the allocation methodology appropriately and that based upon their analysis against industry benchmarks, the revised expenses appear to be consistent with those reported by each company’s industry counterparts. As such, WSB deemed the revised methodology utilized by management to be reasonable and that it provides for an appropriate allocation of expenses to FIC. The revised allocation for years 2011 through 2014 resulted in an additional \$3.6 million in expenses being

allocated to FIC. WSB was subsequently asked to prepare an addendum to their initial report to review the years 2009 and 2010. The revised allocation for years 2009 and 2010 resulted in an additional \$1.9 million in expenses being allocated to FIC.

To implement the corrections FIC deemed appropriate, FIC recorded adjusting allocation entries in both 2016 and 2017 to reflect its revised allocation methodology, thus reducing the asset and corresponding non-admitted inter-company receivable balances by approximately \$5.5 million. At December 31, 2017, the remaining non-admitted inter-company receivable balance was \$5,940,375. The amount of the non-admitted inter-company receivables remained at \$5,940,375 through the September 30, 2018 quarterly statement filing. After several meetings between the Department and FIC Management, it was determined that any write-off of the remaining \$5.9 million inter-company balances owed to FIC should be decided upon, and voted on, by FIC's Board of Directors. At a meeting held on December 12, 2018, FIC's Board of Directors approved, by unanimous vote, to write off the inter-company receivables to FIC from Freelancers Union, Inc. and Working Today. As of December 31, 2018, FIC reported a write off of \$5,940,375 of affiliated receivable balances and \$0 (zero) on the assets page of its filed financial statement, for its Receivable from Parent, Subsidiaries and Affiliates account.

9. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination as of December 31, 2009, contained the following thirty (30) comments and recommendations (page number refers to the prior report on examination):

<u>ITEM NO.</u>	<u>PAGE NO.</u>	
<u>Management and Controls</u>		
1.	<p>It is recommended that the Board of Directors of the Company follow prudent business practices by ensuring that its executive management, at all times, are employees of the Company.</p> <p><i>The Company has complied with this recommendation.</i></p>	9
2.	<p>It is recommended that the Board of Directors implement a viable plan of succession, including staffing Freelancers with Vice-Presidents who can duly perform or assume the duties of the President, if called upon by the Board.</p> <p><i>The Company has complied with this recommendation.</i></p>	10
<u>Reinsurance</u>		
3.	<p>It is recommended that the Company, with regard to its reinsurance agreements, state in the agreements that such exclusion does not apply to Freelancer's Union, Inc., as an association group.</p> <p><i>The Company has complied with this recommendation.</i></p>	13
<u>Holding Company System</u>		
4.	<p>It is recommended that the Company comply with Sections 1505(d)(1) and 1505(d)(3) of the New York Insurance Law relative to transactions with members of its holding company system.</p> <p><i>The Company has not complied with this recommendation. A similar recommendation is included in this report.</i></p>	18
5.	<p>It is recommended that the Company comply with Department Regulation 52, Parts 80-1.2 and 80-1.4 with regard to its HC-1 Annual Registration Statement filings.</p> <p><i>The Company has complied with this recommendation.</i></p>	20

ITEM NO.**PAGE NO.**Allocation of Expenses

6. It is recommended that the Company comply with the requirements of Sections 1505(a) and (b) of the New York Insurance Law with regard to transactions within its holding company system. 22

The Company has complied with this recommendation.

7. It is also recommended that the Company comply with Part 106.6 of Department Regulation 30 by maintaining proper records to support the allocation percentages used for its expenses. 23

The Company has complied with this recommendation.

8. It is recommended that Freelancers refrain from reimbursing FUI for allocated expenses that are the direct costs of FUI only, and that it classify expense groups in compliance with SSAP No. 70. 23

The Company has complied with this recommendation.

9. It is also recommended that all expenses paid by Freelancers which are directly allocated to expenses of FUI, including FUI's fund raising and social and political activities, be repaid with interest, to Freelancers. It is further recommended that the Company's officers abide by their fiduciary duty in regard to the management of the Company's operations and finances. 24

The Company has complied with this recommendation.

Accounts and Records

10. It is recommended that Freelancers establish internal control procedures to address the current practice that allows Company signatories to have the sole authority to authorize large transfers of funds from the Company's bank accounts. 24

The Company has complied with this recommendation.

11. It is further recommended that the Company's procedures be amended to include policies that grant to the Company's officers and employees check signing authority that is commensurate with their job title and responsibilities. In addition, a policy should be developed that requires multiple signatures / approvals for checks and wire transfers above a defined amount. 25

The Company has complied with this recommendation.

ITEM NO.**PAGE NO.**Accounts and Records (Cont'd.)

12. It is recommended that all funds belonging to the Company reside in accounts under its control and that such funds be moved or transferred to FUI only as needed, and with proper authorization, to pay debts and other expenses related to its operations. 26

The Company has complied with this recommendation.

13. It is recommended that the Company comply with Paragraph 6 of SSAP No. 55 when determining liabilities for unpaid claims and claim adjustment expenses incurred under its accident and health contracts. 28

The Company has complied with this recommendation.

14. It is also recommended that the Company comply with the requirements of Section 1303 of the New York Insurance Law when determining liability amounts for unpaid claims and claim adjustment expenses incurred under its accident and health contracts. 28

The Company has complied with this recommendation.

15. It is also recommended that the Company exercise greater oversight of its claims processing by its third-party administrator. 28

The Company has complied with this recommendation.

16. It is recommended that the Company comply with the requirements of Section 1217 of the New York Insurance Law and Department Regulation 152, respectively, with regard to the Company's payment of expenses and also its maintenance of related records. 29

The Company has complied with this recommendation.

17. It is recommended that the Company execute a bank custodial agreement for the safekeeping of Freelancers' invested assets. Such custodial agreement should comply with the requirements of Section 3, Item F of the NAIC Financial Condition Examiners Handbook. 30

The Company has not complied with this recommendation. A similar recommendation is included in this report.

Unsecured Loans

18. It is recommended that the Company comply with the requirements of Section 4207(b)(1) of the New York Insurance Law with regard to approval of dividends. 36

The Company has complied with this recommendation.

<u>ITEM NO.</u>		<u>PAGE NO.</u>
	<u>Consumer Complaints</u>	
19.	It is recommended that the Company correctly identify those claims that address pre-existing conditions and process such claims appropriately. <i>The Company has complied with this recommendation.</i>	39
20.	It is also recommended that claims be paid within the timeframe mandated by the Prompt Pay Law (Section 3224-a(a) of the New York Insurance Law) and that appropriate interest be paid as required by statute (Section 3224-a(c) of the New York Insurance Law). <i>The Company has complied with this recommendation.</i>	39
21.	It is recommended that the Company, based on the corrective actions discussed with the Department's Consumer Assistance Unit, continue to assess and monitor the effectiveness of the policies and procedures implemented by the Company to address member billing, enrollment, and claims processing related matters. <i>The Company has complied with this recommendation.</i>	41
	<u>Claims Processing</u>	
22.	It is recommended that Freelancers implement the procedures necessary to ensure that it provides proper oversight of its claims processing vendor(s). <i>The Company has complied with this recommendation.</i>	43
23.	It is recommended that the Company comply with the items set forth in Department Circular Letter No. 9 (1999). <i>The Company has complied with this recommendation.</i>	44
	<u>Prompt Pay Law</u>	
24.	It is recommended that the Company take steps to ensure that the provisions of Section 3224-a(a) of the New York Insurance Law are fully implemented and complied with. <i>The Company has complied with this recommendation.</i>	46
25.	It is also recommended that the Company take steps to ensure that the provisions of Section 3224-a(c) of the New York Insurance Law, regarding the payment of interest, are fully implemented and complied with by Freelancers. <i>The Company has complied with this recommendation.</i>	46

ITEM NO.**PAGE NO.****Explanation of Benefits Statements**

26. It is recommended that the Company comply with Section 3234(b)(7) of the New York Insurance Law by ensuring that the required wording be included on the Company's EOBs. 47

The Company has not complied with this recommendation. A similar recommendation is included in this report.

27. It is recommended that the Company refrain from the systematic practice of denying claims based on pre-existing conditions without having received sufficient, credible medical information necessary to render such decision. 48

The Company has complied with this recommendation.

28. It is also recommended that the Company comply with Section 3234(b)(6) of the New York Insurance Law and revise the verbiage on its Explanation of Benefits to indicate a pre-existing condition investigation is ongoing, whenever additional information related to pre-existing condition is needed to fully adjudicate the claim. 48

The Company has complied with this recommendation.

29. It is further recommended that the Company comply with Section 3234(b)(6) of the New York Insurance Law by providing, when applicable, on EOBs, the denial code(s) that reflect the basis and specific explanation(s) for any denial of payments. 48

The Company has complied with this recommendation.

Advertising and Marketing

30. It is recommended that the Company comply with the requirements of Department Regulation 34 with regard to its advertising and marketing materials. 49

Due to FIC's exit from the health insurance market and its limited advertising in 2014, a review of the Company's marketing and advertising was not conducted.

10. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management and Controls</u>	
i. It is recommended that the Company hold Board meetings regularly, at least quarterly, so that the Directors can discharge their responsibility to oversee the Company's operations, strategies and policies.	6
ii. It is recommended that Board members attend at least 50% of the meetings they are eligible to attend.	7
iii. It is also recommended that Board members who are unable or unwilling to consistently attend meetings resign or be replaced.	7
iv. It is recommended that the Company exercise greater care when completing its financial statements.	7
v. It is recommended that FIC's Board minutes clearly reflect the names of those members who are elected to serve as Directors of its Board.	7
B. <u>Audit Committee Charter</u>	
i. It is recommended that FIC comply with its Audit Committee Charter by having no more than one member from its Finance Committee serve on its Audit Committee.	8
ii. It is also recommended that FIC fully comply with its Audit Committee Charter by having its Audit Committee meeting no less than twice annually, and its Executive Session annually.	8
C. <u>Audit Committee Membership</u>	
i. It is recommended that FIC comply with Section 89.12(e) of Insurance Regulation 118 by providing written notification to the Department, within thirty (30) days of any change to its Audit Committee membership and a description of the reason for any such change.	9
ii. It is also recommended that FIC comply with Section 243.2(b)(8) of Insurance Regulation 152 by maintaining all records of changes made to its Audit Committee membership.	9

<u>ITEM</u>	<u>PAGE NO.</u>
D. <u>Holding Company System</u>	
i. It is also recommended that all material inter-company transactions be discussed and approved by the Company's Board and that such approvals be reflected in the respective Board minutes.	15
ii. It is also recommended that FIC not allow such large inter-company receivables to remain outstanding and that it be more aggressive in obtaining receipt of the overdue receivable balances.	15
E. <u>Dividends</u>	
i. It is recommended that the Company comply with the requirements of Section 4207(b)(1) of the New York Insurance Law by obtaining the Superintendent's approval before declaring and distributing any dividends exceeding the lesser of 10% of its capital and surplus or 100% of its adjusted net income earned, as shown on its last statement on file with the Superintendent.	16
ii. It is also recommended that the Company exercise due care when completing its financial statements.	16
F. <u>Accounts and Records</u>	
i. It is recommended that the Company comply with the requirements of Section 1505(d)(1) of the New York Insurance Law with regards to loans and extension of credit to members of its holding company system.	17
ii. It is recommended that FIC and its affiliates comply with the terms of their Inter-company Leasing Agreement by invoicing the receiving party for shared third-party services on a monthly basis and for the receiving party to pay the invoice within thirty (30) days of receipt, unless it objects in writing to the invoice within such time period.	18
iii. It is recommended that all funds belonging to the Company reside in accounts under its control and that such funds be moved or transferred to FUI only as needed, and with proper Department approval and authorization, where applicable, to pay debts and other expenses related to its operations.	19
A similar recommendation was cited in the prior report on examination.	
iv. It is recommended that Freelancers comply with the provisions of the Group Contract by paying the total of all billed premiums on or before the due date.	20

ITEM**PAGE NO.**Accounts and Records (Cont'd.)

- v. It is recommended that the Company execute a bank custodial agreement for the safekeeping of Freelancers' invested assets. Such custodial agreement should comply with the requirements of Section 1, Item F of the *NAIC Financial Condition Examiners Handbook*. 21

A similar recommendation was cited in the prior report on examination.

G. Explanation of Benefits Statements

It is recommended that the Company comply with Section 3234(b)(7) of the New York Insurance Law by ensuring that the required wording be included on the Company's EOBs. 28

A similar recommendation was cited in the prior report on examination.

H. Circular Letter No. 9 (1999) – Adoption of Procedure Manuals

It is recommended that FIC comply with the requirements of Circular Letter No. 9 (1999) by obtaining the requisite certifications and providing proper oversight over the Company's operations and regulatory requirements. 29

A similar recommendation was cited in the prior report on examination.

I. Facilitation of Examination

It is recommended that the Company comply with Section 310(a)(3) of the New York Insurance Law by ensuring that the information being provided is accurate, complete, and timely. 30

NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, 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:

Victor Estrada

as a proper person to examine the affairs of

Freelancers Insurance Company, Inc.

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

Company

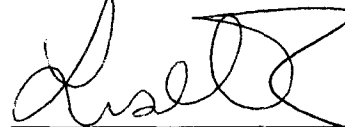
with such other information as he shall deem requisite.

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

this 6th day of June, 2016

MARIA T. VULLO
Acting Superintendent of Financial
Services

By:



Lisette Johnson
Bureau Chief
Health Bureau

