

EXAMINATION REPORT OF

CAPACITY INSURANCE COMPANY

NAIC Company Code: 32930

Sunrise, Florida as of December 31, 2016

BY THE FLORIDA OFFICE OF INSURANCE REGULATION

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January 11, 2018

David Altmaier Commissioner Office of Insurance Regulation State of Florida Tallahassee, Florida 32399-0326

Dear Commissioner:

Pursuant to your instructions, in compliance with Section 624.316, Florida Statutes, Rule 690-138.005, Florida Administrative Code, and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners ("NAIC"), we have conducted an examination as of December 31, 2016, of the financial condition and corporate affairs of

Capacity Insurance Company
1300 Sawgrass Corporate Parkway, Suite 300
Sunrise, Florida 33323

hereinafter referred to as the "Company." Such report of examination is herewith respectfully submitted.

SCOPE OF EXAMINATION

This examination covered the period of January 1, 2012, through December 31, 2016, and commenced with planning at the Florida Office of Insurance Regulation ("Office") on August 22, 2017, to August 24, 2017. The fieldwork commenced on August 22, 2017, and concluded as of January 11, 2018. The Company's last full scope examination by representatives of the Office covered the period of January 1, 2007, through December 31, 2011.

The examination was a single-state examination conducted in accordance with the NAIC Financial Condition Examiners Handbook ("Handbook"). The Handbook requires that the examination be planned and performed to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Company, and evaluate system controls and procedures used to mitigate those risks. An examination also includes identifying and evaluating significant risks that could cause an insurer's surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management's compliance with Statements of Statutory Accounting Principles ("SSAP").

This examination report includes significant findings of fact, as mentioned in Section 624.319, Florida Statutes, and general information about the insurer and its financial condition. There may be other items identified during the examination that, due to their nature (for example, subjective conclusions or proprietary information), are not included within the examination report, but are separately communicated to other regulators and/or the Company.

SUMMARY OF SIGNIFICANT FINDINGS

Current Examination Findings

The following is a summary of significant findings of fact, material adverse findings, significant non-compliance findings, such as non-compliance with state law, SSAPs, annual financial statement instructions or material changes in the financial statements.

Corporate Records

During 2016, prior Office approval was not obtained to amend the Company's Articles of Incorporation as instructed within Section 628.101, Florida Statutes.

Affiliated Agreements

The Company paid fees to its affiliate Focus Technologies, LLC, in 2016. However, the Company has not executed a documented agreement with Focus Technologies, LLC in accordance with Rule 69O-143.047, Florida Administrative Code, and SSAP #25.

Previous Examination Findings

There were no findings, exceptions or corrective actions to be taken by the Company for the examination as of December 31, 2011.

COMPANY HISTORY

General

The Company was incorporated in Florida on April 23, 1986, and commenced business on February 16, 1989, as Capacity Insurance Company. The Company focuses on low-hazard business classes with non-coastal and non-habitational exposures in Commercial Multi-Peril coverages. The Company targets shopping centers, office buildings, houses of worship, restaurants, retail/wholesale risks, and other low hazard commercial exposures throughout Florida.

The Company filed amended Bylaws with the Office on February 22, 2013. The Company amended its Articles of Incorporation effective May 16, 2016. This amendment was not filed with the Office prior to execution. The Company's filing was not in compliance with Section 628.101, Florida Statutes.

Dividends

In accordance with Section 628.371, Florida Statutes, the Company declared and paid dividends to its stockholder(s) in 2016 in the amount of \$150,000.

Capital Stock and Capital Contributions

At December 31, 2015, the Company had 750,000 shares of capital stock authorized, issued and outstanding. On May 16, 2016, the Company amended its capital structure and issued 1,750,000 additional shares of common stock to Focus Insurance Corp.

As of December 31, 2016, the Company's capitalization was as follows:

Number of authorized common capital shares	2,500,000
Number of shares issued and outstanding	2,500,000
Total common capital stock	\$2,500,000
Par value per share	\$1.00

Surplus Notes

The Company did not have any surplus notes during the period of this examination.

Acquisitions, Mergers, Disposals, Dissolutions

The Company had no acquisitions, mergers, disposals, or dissolutions during the period of this examination.

MANAGEMENT AND CONTROL

Corporate Governance

The annual shareholder meeting for the election of Directors was held in accordance with Section 628.231, Florida Statutes. The Directors serving as of December 31, 2016, are shown on the following page.

Directors

Name	City, State	Principal Occupation, Company Name
Douglas Warren Bullington ¹	Mooresville, North Carolina	Co-Owner - Focus Holdings, Team Focus Insurance Group, LLC
Kevin Mark Tromer	Parkland, Florida	President and Chief Executive Officer, Team Focus Insurance Group, LLC
James Willard Blake, Jr.	Vero Beach, Florida	Retired, Team Focus Insurance Group, LLC
Thomas Bernard Rogan, Sr.	Fort Lauderdale, Florida	President - TBR Consultants, Team Focus Insurance Group, LLC
Amy Galloway	Sea Ranch Lakes, Florida	Attorney, Amy J. Galloway, Attorney at Law
Orion Paul Whitlock	Coral Springs, Florida	Senior Vice President, Capacity Insurance Company
Michael Alan Steinman ^(a)	Coral Springs, Florida	Chief Operating Officer and Interim Chief Financial Officer, Team Focus Insurance Group, LLC

¹ Chairperson

(a) Served as Interim Chief Financial Officer and Treasurer from August 19, 2016, to March 15, 2017. Peter John Prygelski III became Chief Financial Officer effective March 15, 2017.

In accordance with the Company's Bylaws, the Board of Directors ("Board") appointed the following Senior Officers:

Senior Officers

Name	City, State	Title
Kevin Mark Tromer	Parkland, Florida	Chief Executive Officer and President
Michael Alan Steinman (a)	Coral Springs, Florida	Chief Operating Officer, Interim Chief Financial Officer and Treasurer
Orion Paul Whitlock	Coral Springs, Florida	Vice President and Secretary
Paul Rodney Kopecky (b)	Overland Park, Kansas	Vice President

⁽a) Replaced James Willard Blake, Jr. on August 19, 2016 and served as Interim Chief Financial Officer and Treasurer until March 15, 2017. Peter John Prygelski III became Chief Financial Officer and Treasurer effective March 15, 2017.

The Company's Board appointed several internal committees. The following personnel were the principal internal board committees and their members as of December 31, 2016.

The Company maintained an audit committee, as required by Section 624.424(8)(c), Florida Statutes.

Audit Committee

Name	City, State	Title, Company Name
Orion Paul Whitlock ¹	Coral Springs, Florida	Senior Vice President, Capacity Insurance Company
Amy Galloway	Sea Ranch Lakes, Florida	Attorney, Amy J. Galloway, Attorney at Law
Thomas Bernard Rogan, Sr.	Fort Lauderdale, Florida	Director, Team Focus Insurance Group, LLC
James Willard Blake, Jr.	Vero Beach, Florida	Retired, Team Focus Insurance Group, LLC
¹ Chairperson		

⁽b) Separated from the Company effective May 18, 2017.

Investment Committee

Name	City, State	Title, Company Name
James Willard Blake, Jr. ¹	Vero Beach, Florida	Former Chief Financial Officer, Team Focus Insurance Group, LLC
Michael Alan Steinman	Coral Springs, Florida	Chief Operating Officer, Team Focus Insurance Group, LLC
Kevin Mark Tromer	Parkland, Florida	President and Chief Executive Officer, Team Focus Insurance Group, LLC

¹Chairperson – Mr. Prygelski was appointed as Chairperson effective March 15, 2017.

Holding Company System

The latest Holding Company Registration Statement was filed on December 6, 2017, as required by Section 628.801, Florida Statutes, and Rule 690-143.046, Florida Administration Code.

The following agreements were in effect between the Company and its affiliates:

Tax Sharing Agreement

Effective January 1, 2011, the Company entered in to a tax sharing agreement with its immediate parent, Focus Insurance Corp. The Company filed a consolidated federal income tax return for 2016. Per the agreement, the method of allocation was on a separate-entity basis. Each member of the group recorded an inter-company income tax receivable or payable with Focus Insurance Corp.

Management Services Agreement

The Company entered into a management services agreement with Team Focus Insurance Group, LLC as of July 1, 2009. This agreement is in effect for an indefinite number of successive one-year periods until terminated by written notice by either party. Focus Holdings, LLC provides the following services for the Company: corporate organization, accounting and tax services, corporate management services, human resource services, corporate expense oversight and use

of information systems. Team Focus Insurance Group, LLC receives one & five tenths percent (1.5%) of the Company's direct written premium on a monthly basis. Fees incurred under this agreement during 2016 amounted to \$225,671.

Managing General Agency Agreement

The Company entered into a managing general agency agreement ("MGA") with MacNeill Group, Inc. on July 1, 2009. The agreement was for an initial period of three (3) years and is renewable for an additional three (3) year period commencing after the initial three (3) year period has expired. The MGA has the authority to accept applications to issue policies received through licensed insurance agents, the sole responsibility to oversee the placement of business through agents, the authority to enter into agreements with premium finance companies, and the responsibility for negotiating reinsurance on behalf of the Company. The MGA receives twenty-five percent (25%) or less of the Company's monthly direct written premium as commission for services. The MGA is also eligible to receive five percent (5%) of the Company's pre-tax statutory earning for each calendar year as a profit sharing payment. This profit sharing payment is at the sole discretion of the Company. Fees incurred under the agreement in 2016 were \$3,166,209.

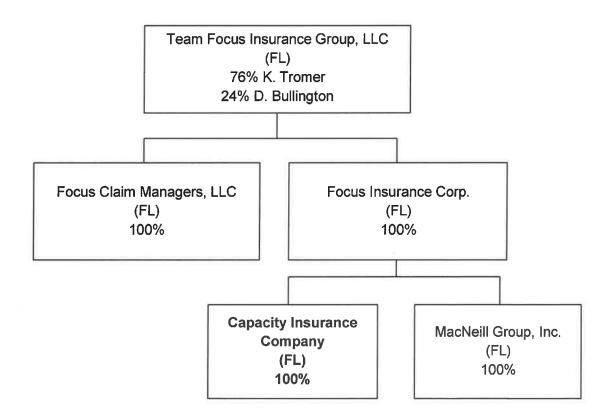
Claims Servicing Agreement

The Company executed a claims servicing agreement effective July 1, 2009, with Focus Claim Managers, LLC. The minimum term of the agreement is thirty-six (36) months and it renews automatically for an indefinite number of successive one (1) year periods thereafter unless terminated. Under the terms of the agreement, Focus Claim Managers, LLC has been granted authority to fully investigate, evaluate, handle, adjust and settle each claim reported. Operations, administration and maintenance ("OAM") and daily claims adjusting fees ("DCAF") are paid in arrears as a percentage of earned premium. The rate is determined by the number of policies in effect during the month and multiplied by the earned premium for the prior month.

Catastrophe OAM are handled for an additional fifteen percent (15%) of the catastrophe fee schedule. The catastrophe OAM fee will increase five percent (5%) at the annual anniversary date of the agreement. Additionally, the Company pays Focus Claims Managers, LLC twenty percent (20%) of all salvage and subrogation amounts recovered. Fees paid in 2016 amounted to \$609,226.

Schedule Y of the Company's 2016 annual statement provided a list of all related companies of the holding company group. A simplified organizational chart as of December 31, 2016, reflecting the holding company system, is shown on the following page.

Capacity Insurance Company Simplified Organizational Chart December 31, 2016



ACCOUNTS AND RECORDS

The Company maintained its principal operational offices in Sunrise, Florida.

Corporate Records Review

The recorded minutes of the shareholder(s), board and certain internal committees were reviewed for the period under examination. The recorded minutes of the board documented its meetings and approval of Company transactions and events, in compliance with the Handbook adopted by Rule 69O-138.001, Florida Administrative Code, including the authorization of investments, as required by Section 625.304, Florida Statutes.

Conflict of Interest

The Company adopted a policy statement requiring periodic disclosure of conflicts of interest in accordance with the Handbook adopted by Rule 69O-138.001, Florida Administrative Code.

The Company and non-affiliates had the following agreements:

Custodial Agreement

The Company maintained a custodial agreement with Comerica Bank & Trust, National Association executed on June 28, 2012. The agreement complied with Rule 69O-143.042, Florida Administrative Code.

Independent Auditor Agreement

An independent CPA, Plante & Moran, PLLC, audited the Company's statutory basis financial statements annually for the years 2012, 2013, 2014, 2015, and 2016, in accordance with Section 624.424(8), Florida Statutes. Supporting workpapers were prepared by the CPA firm as required by Rule 69O-137.002, Florida Administrative Code.

TERRITORY AND PLAN OF OPERATIONS

The Company was authorized to transact insurance only in the State of Florida for the following coverages as of December 31, 2016:

Fire

Allied Lines

Commercial Multiple Peril

Commercial Auto Physical Damage

Glass

Burglary & Theft Other Liability

Inland Marine

Commercial Auto Liability

Treatment of Policyholders

The Company established procedures for handling written complaints in accordance with Section 626.9541(1)(i)(3)(a), Florida Statutes. The Company maintained a claims procedure manual that included detailed procedures for handling each type of claim in accordance with Section 626.9541(1)(j), Florida Statutes.

REINSURANCE

The reinsurance agreements reviewed complied with NAIC standards with respect to the standard insolvency clause, arbitration clause, intermediary clause, transfer of risk, reporting and settlement information deadlines.

Reinsurance Assumed

The Company did not assume any reinsurance during the period of this examination.

Reinsurance Ceded

The Company has implemented a reinsurance program through the combination of excess of loss, catastrophe top and drop, reinstatement premium protection, retention buyback, and quota share agreements. The Company has executed this reinsurance program with various A- or greater rated reinsurers. The Company does not participate in the Florida Hurricane Catastrophe Fund.

The Company's appointed actuary reviewed the reinsurance contracts. They were utilized in determining the ultimate loss opinion.

INFORMATION TECHNOLOGY REPORT

Phil Schmoyer, CISA, IT Specialist with Lewis & Ellis, Inc., performed an evaluation of the information technology and computer systems of the Company. Results of the evaluation were noted in the Information Technology Report provided to the Company.

STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes as required or permitted by law:

State	Description	Par Value	Market Value
FL TOTAL FL	DFS Stat Deposit Fund 2.072% ORIDA DEPOSITS	\$ 300,000 \$ 300,000	\$ 300,000 \$ 300,000
TOTAL O	THER DEPOSITS	<u>\$</u>	<u>\$</u>
TOTAL SE	PECIAL DEPOSITS	\$ 300,000	\$ 300,000

FINANCIAL STATEMENTS

The examination does not attest to the fair presentation of the financial statements included herein. If an adjustment is identified during course of the examination, the impact of such adjustment will be documented separately following the Company's financial statements. Financial statements, as reported and filed by the Company with the Office, are reflected on the following pages.

Capacity Insurance Company

Assets

December 31, 2016

	Per Company	Examination Adjustments	Per Examination
Bonds	\$16,472,041		\$16,472,041
Stocks:			
Preferred stocks Common stocks	123,019 797,832		123,019 797,832
Cash, cash equivalents and short-term investments	2,723,983		2,723,983
Investment income due and accrued	124,163		124,163
Premiums and Considerations: Uncollected premiums and agents' balances in the course of collection	741,285		741,285
Amounts recoverable from reinsurers	159,349		159,349
Net deferred tax asset	694,780		694,780
Totals	\$21,836,452	\$0	\$21,836,452

Capacity Insurance Company Liabilities, Surplus and Other Funds December 31, 2016

	Per Company	Examination Adjustments	Per Examination
Losses	\$3,239,461		\$3,239,461
Loss adjustment expenses	1,505,398		1,505,398
Other expenses	95,770		95,770
Taxes, licenses and fees	45,791		45,791
Unearned premiums	6,150,290		6,150,290
Advance premiums	18,896		18,896
Ceded reinsurance premiums payable	531,800		531,800
Funds held by company under reinsurance treaties	45,323		45,323
Amounts withheld or retained by company for account of others	800		800
Payable to parent, subsidiaries and affiliates	82,112		82,112
Payable for securities	90,908		90,908
Total Liabilities	\$11,806,549	\$0	\$11,806,549
Common capital stock	\$2,500,000		\$2,500,000
Gross paid in and contributed surplus	7,414,800		7,414,800
Unassigned funds (surplus)	115,103		115,103
Surplus as regards policyholders	\$10,029,903	\$0	\$10,029,903
TOTALS	\$21,836,452	\$0	\$21,836,452

Statement of Income December 31, 2016

Underwriting Income

-	
Premiums earned	\$8,877,368
Deductions:	**
Losses incurred	\$2,523,168
Loss adjustment expenses incurred Other underwriting expenses incurred	1,822,593
Aggregate write-ins for underwriting deductions	4,126,163
Total underwriting deductions	0 474 024
Folar underwhiting deductions	\$8,471,924
Net underwriting gain or (loss)	\$405,444
Investment Income	
Net investment income earned	\$268,920
Net realized capital gains or (losses)	220,124
Net investment gain or (loss)	\$489,044
Other Income	
Net gain or (loss) from agents' or premium balances charged off	\$0
Finance and service charges not included in premiums	0
Aggregate write-ins for miscellaneous income	0
Total other income	\$0
	ΨΟ
Net income before dividends to policyholders and	
before federal & foreign income taxes	\$894,488
Dividends to policyholders	0
Net Income, after dividends to policyholders, but	
before federal & foreign income taxes	\$894,488
Federal & foreign income taxes incurred	0
Net Income	\$894,488
Capital and Surplus Account	
Surplus as regards policyholders, December 31 prior year	\$9,580,819
Net Income	\$894,488
Net unrealized capital gains or losses	45,180
Change in net deferred income tax	(342,271)
Change in non-admitted assets	1,687
Capital Changes: Transferred to surplus	1,750,000
Surplus adjustments: Paid in	(1,750,000)
Dividends to stockholders	(150,000)
Examination Adjustment	0
Change in surplus as regards policyholders for the year	\$449,084
Surplus as regards policyholders, December 31 current year	\$10,029,903

Capacity Insurance Company Reconciliation of Capital and Surplus December 31, 2016

No adjustments were made to surplus as regards policyholders as a result of this examination.

Capital/Surplus Change during Examination Period

Surplus at December 31, 2011, per Examination			\$6,024,825
	<u>Increase</u>	<u>Decrease</u>	
Net Income	\$2,672,067		\$2,672,067
Chg in Net Unrealized Capital G/L	\$10,158		
Chg in Net Deferred Income Tax		\$1,022,754	\$1,022,754
Chg in Non-Admitted Assets	\$926,797		\$926,797
Chg in Provision for Reinsurance	\$425,369		\$425,369
Chg in Paid In Capital	\$1,750,000		\$1,750,000
Chg in Paid In Surplus		\$250,000	\$250,000
Dividends to Stockholders		\$150,000	\$150,000
Agg WI for Gains/Losses		\$356,558	\$356,558
Net increase (or decrease)	\$5,784,391	\$1,779,312	\$4,005,079
Surplus at December 31, 2016, per Examination			\$10,029,904

COMMENTS ON FINANCIAL STATEMENT ITEMS

Liabilities

Losses and Loss Adjustment Expenses

George T. Dunlap IV, ACAS, MAAA, Cornerstone Actuarial Solutions, LLC, appointed by the Board, rendered an opinion that the amounts carried in the balance sheet as of December 31, 2016, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements.

The Office consulting actuary, Kathryn R. Koch, FCAS, MAAA and Gregory S. Wilson, FCAS, MAAA, of Lewis & Ellis, Inc., reviewed the loss and loss adjustment expense workpapers and were in concurrence with this opinion.

Capital and Surplus

The Company's reported capital and surplus amount of \$10,029,903, exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.

SUBSEQUENT EVENTS

On June 21, 2016, the Office approved the Company to expand writing business in Texas. The State of Texas issued a Certificate of Authority on January 9, 2017. The Company began writing business in Texas in the third quarter of 2017.

SUMMARY OF RECOMMENDATIONS

Corporate Records

We recommend that the Company adhere to Section 628.101, Florida Statutes, regarding amendments of Articles of Incorporation.

Affiliated Agreements

We recommend that the Company execute a formally documented agreement with Focus Technologies, LLC, in compliance with Rule 69O-143.047, Florida Administrative Code, and SSAP #25.

CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Capacity Insurance Company** as of December 31, 2016, consistent with the insurance laws of the State of Florida.

Per examination annual financial statements, the Company's surplus as regards policyholders was \$10,029,903, which exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.

In addition to the undersigned, Lindsey Pittman, CPA, CFE, CISA, Examiner-in-Charge, and April Wasleski, CPA, and Sheila Coomes, CPA, Participating Examiners, of Lewis & Ellis, Inc., also participated in the examination. Members of the Office who participated in the examination include Connie Hare, CFE (Fraud), AFE, Financial Examiner/Analyst Supervisor, Examination Manager and Casey Hengstebeck, Reinsurance/Financial Specialist, Participating Examiner. Additionally, Kathryn R. Koch, FCAS, MAAA, and Gregory S. Wilson, FCAS, MAAA, of Lewis & Ellis, Inc., and Phil Schmoyer, CISA, IT Specialist of Lewis & Ellis, Inc., are recognized for participation in the examination.

Respectfully submitted,

Brian Sewell, CFE, MCM

Chief Examiner

Florida Office of Insurance Regulation