

REPORT OF EXAMINATION
OF THE
COMMERCE WEST INSURANCE COMPANY
AS OF
DECEMBER 31, 2018

Filed on June 16, 2020

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Oakland, California
May 31, 2020

Honorable Ricardo Lara
Insurance Commissioner
California Department of Insurance
Sacramento, California

Dear Commissioner:

Pursuant to your instructions, an examination was made of the

COMMERCE WEST INSURANCE COMPANY

(hereinafter also referred to as the Company) at its primary location of books and records, 211 Main Street, Webster, Massachusetts 01570. The Company's statutory home office is located at 2633 Camino Ramon, Suite 300, San Ramon, California 94583.

SCOPE OF EXAMINATION

We have performed our multi-state examination of the Company. The previous examination of the Company was as of December 31, 2013. This examination covered the period of January 1, 2014 through December 31, 2018. The examination was conducted in accordance with the National Association of Insurance Commissioners *Financial Condition Examiners Handbook (Handbook)*. The Handbook requires the planning and performance of the examination to evaluate the Company's financial condition, assess corporate governance, identify current and prospective risks, and evaluate system controls and procedures used to mitigate those risks. The examination also included identifying and evaluating significant risks that could cause the Company'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 includes assessing significant estimates made by management and evaluating management's compliance with Statutory Accounting Principles. The examination does not attest to the fair presentation of the financial

statements included herein. If an adjustment was identified during the course of the examination, the impact of such adjustment would be documented separately following the Company's financial statements.

This examination report includes findings of fact and general information about the Company and its financial condition. There might be other items identified during the examination that, due to their nature (e.g., subjective conclusions, proprietary information, etc.), were not included within the examination report but separately communicated to other regulators and/or the Company.

This was a coordinated examination of the MAPFRE Group with Massachusetts as the lead state. The California Department of Insurance participated in this coordinated examination. It was conducted concurrently with other insurance entities in the holding company group as listed below:

- American Commerce Insurance Company (Ohio)
- Citation Insurance Company (Massachusetts)
- MAPFRE Insurance Company (New Jersey)
- MAPFRE Insurance Company of Florida (Florida)
- MAPFRE Insurance Company of New York (New York)
- The Commerce Insurance Company (Massachusetts)
- Verti Insurance Company (Ohio)

COMPANY HISTORY

The Company was incorporated in California on March 19, 1948, under the law of the state of California and commenced transacting business on October 18, 1949. The Company's immediate parent, ACIC Holding Company, Inc. (ACIC Holding), is a wholly-owned subsidiary of MAPFRE U.S.A. Corporation (MAPFRE USA), which is a privately held insurance holding company incorporated in Massachusetts. FOUNACION MAPFRE is the ultimate parent of MAPFRE USA.

Dividends

The Company paid ordinary cash dividends to its parent, ACIC Holding, and provided proper notification to the California Department of Insurance for the dividends as follows: \$5,862,987 in 2014, \$5,000,000 in 2016, \$5,000,000 in 2018 and \$5,400,000 in 2019.

MANAGEMENT AND CONTROL

The Company is a member of an insurance holding company system (MAPFRE Group), of which the ultimate controlling entity is FOUNACION MAPFRE, a Spanish insurance foundation based in Madrid, Spain. The following abridged organizational chart depicts the relationship of the insurance companies within the holding company system (all ownership is 100% unless otherwise noted):

FUNDACION MAPFRE (Spain)
Catera MAPFRE, S.L. (Spain)
MAPFRE S.A. (Spain) (68.7%)
MAPFRE Internacional. S.A. (Spain)
MAPFRE U.S.A. Corporation (Massachusetts)
Citation Insurance Company (Massachusetts)
The Commerce Insurance Company (Massachusetts)
MAPFRE Insurance Company (New Jersey)
MAPFRE Insurance Company of Florida (Florida)
ACIC Holding Company, Inc.
American Commerce Insurance Company (Ohio)
Commerce West Insurance Company (California)
MAPFRE Insurance Company of New York* (New York)
Verti Insurance Company (Ohio)

* Effective January 1, 2019, MAPFRE Insurance Company of New York was sold to Plymouth Rock Assurance Corporation.

The three members of the board of directors, who are elected annually, oversee the business and affairs of the Company. Following are members of the board and principal officers of the Company serving at December 31, 2018:

Directors

<u>Name and Location</u>	<u>Principal Business Affiliation</u>
Alfredo Castelo Webster, Massachusetts	President and Chief Executive Officer MAPFRE U.S.A. Corporation
Francois J. Facon Webster, Massachusetts	Executive Vice President and Chief Financial Officer MAPFRE U.S.A. Corporation
Daniel P. Olohan Webster, Massachusetts	Executive Vice President, General Counsel, Secretary, and Chief Compliance Officer MAPFRE U.S.A. Corporation

Principal Officers

<u>Name</u>	<u>Title</u>
Alfredo Castelo Michael S. Sher	President and Chief Executive Officer Secretary, Deputy General Counsel, and Vice President
Robert E. McKenna	Treasurer, Chief Accounting Officer, and Senior Vice President
Francois J. Facon	Chief Financial Officer and Executive Vice President

Corporate Records

Pursuant to the California Insurance Code (CIC) Section 735, the Company is required to inform the Board members of the receipt of the examination report; both in the form first formally prepared by the examiners, and in the form officially filed by the Commissioner and document these facts within the Board minutes. A review of the Board minutes determined that the Company did not make the required disclosures. It is

recommended that the Company implement procedures to ensure future compliance with the CIC Section 735. In response to this finding, the Company accepted the recommendation and agreed to comply with the CIC Section 735.

Management Agreements

Fourth Amended and Restated Tax Allocation Agreement: The Company is a party to a Fourth Amended and Restated Tax Allocation Agreement between the MAPFRE U.S.A. Corporation and its affiliates, effective January 1, 2018. Under the Agreement, tax liability and credits are to be apportioned on a separate return basis, and settlements between the companies are to be settled within thirty days of filing the return. The California Department of Insurance (CDI) issued a non-disapproval letter to the Company for this Agreement on November 13, 2017. Subsequent to the examination period, effective January 1, 2019, the Agreement was amended and restated as Fifth Amended and Restated Tax Allocation Agreement to reflect the intended sale of MAPFRE Insurance Company of New York (MAPFRE NY) and its removal as a party to the Agreement, to delete certain provisions that applied to MAPFRE NY only, and to reveal some corporate tax law changes. Fifth Amended and Restated Tax Allocation Agreement was approved by the CDI on September 26, 2018 pursuant to CIC Section 1215.5(b)(4). The Company paid/(recovered) the federal income taxes of \$1,797,571, (\$266,104), \$2,732,181, \$3,251,856, and (\$11,702) for 2014, 2015, 2016, 2017, and 2018, respectively.

Sixth Amended and Restated Management Cost Allocation Agreement: The Company and its affiliates (the Companies) are participants in a Sixth Amended and Restated Management Cost Allocation Agreement, effective January 1, 2018. Under the Agreement, any of the Companies may provide the following management services to the other parties for a fee: quarterly review and analysis of company performance, budgeting, tax advice, support, calculation and filing, legal advice and support, insurance consulting, review of corporate contracts, SEC filings, operational services, investment management services, and investment recordkeeping services. The Agreement states that non-investment related services shall be reimbursed at the actual cost borne by the party providing the services. Investment related services are reimbursed using an "Investment

Services Formula” that is calculated as the product of the number of basis points multiplied by the quarter end balance of investments and cash divided by four. The reimbursement is limited to the actual costs and expenses incurred by the party providing the services. This Agreement was approved by the CDI on November 13, 2017. The Agreement was amended and restated as Seventh Amended and Restated Management Cost Allocation Agreement, effective January 1, 2019, to remove MAPFRE NY and to set forth the management services, support, assistance, and functions that may be provided by member companies and to establish terms of reimbursement. The CDI approved the Seventh Amended and Restated Management Cost Allocation Agreement on September 26, 2018. The total fees incurred for services for 2014, 2015, 2016, 2017 and 2018 were \$13,348,459, \$13,391,567, \$14,789,619, \$17,738,181, \$17,272,634, respectively.

TERRITORY AND PLAN OF OPERATION

As of December 31, 2018, the Company was licensed to transact private passenger automobile liability, commercial automobile liability, automobile physical damage, homeowners multiple peril, and general liability insurance in the states of Arizona, California, Colorado, Nevada, Oregon, Utah, and Washington. Direct premiums written during 2018 totaled \$123.9 million. Of the direct premiums written, \$65.1 million (52.6%) was written in California, \$47.1 million (38.0%) was written in Washington, and \$11.7 million (9.4%) was written in Oregon.

Starting in 2017, the Company discontinued writing new commercial auto policies. In 2018, the private passenger automobile liability (55.2%), private passenger automobile physical damage (32.3%), and homeowners multiple peril (12.5%) lines accounted for all of the direct writings of the Company. The Company’s business is distributed and marketed through approximately 1,450 independent agents, 14 retail outlets, 5 branch offices, dealerships, and the internet.

REINSURANCE

Seventh Amended and Restated Reinsurance Pooling Agreement

The Company is a party to a pooling agreement whereby The Commerce Insurance Company (Commerce) is the pool leader. Under the terms of the pooling agreement, each participant cedes 100% of its direct business to Commerce. After applying external reinsurance, Commerce retrocedes to each participant its prorated share of the pooled business based on the participation percentages. The California Department of Insurance (CDI) issued a non-disapproval on November 14, 2017. As of December 31, 2018, the intercompany pooling participation percentages were as follows:

<u>Company</u>	<u>Participation</u>
The Commerce Insurance Company	65.2%
American Commerce Insurance Company	11.2%
Citation Insurance Company	7.7%
Commerce West Insurance Company	5.6%
MAPFRE Insurance Company of New York	4.8%
MAPFRE Insurance Company of Florida	3.2%
MAPFRE Insurance Company	2.3%
Total	<u>100%</u>

Subsequent to the examination date, the pooling agreement was amended and restated as follows:

- Effective January 1, 2019, Eighth Amended and Restated Reinsurance Pooling Agreement to remove MAPFRE Insurance Company of New York from the pool and to make changes to the pooling percentage. The Company's pooling percentage increased from 5.6% to 6.1%. The CDI issued a non-disapproval on September 27, 2018.
- Effective January 1, 2020, Ninth Amended and Restated Reinsurance Pooling Agreement to add Verti Insurance Company as an additional party to the pool and to adjust the pooling percentages. The Company's pooling percentage increased from 6.1% to 6.2%. The CDI issued a non-disapproval on February 12, 2020.

Assumed

The Company did not assume any reinsurance during the examination period other than from the intercompany pool pursuant to the intercompany pooling agreement detailed above.

Ceded

The Company did not cede any reinsurance during the examination period other than to the intercompany pool pursuant to the pooling agreement detailed above.

FINANCIAL STATEMENTS

The following statements are based on the statutory financial statements filed by the Company with the California Department of Insurance and present the financial condition of the Company for the period ending December 31, 2018. The accompanying comments to the amounts in the financial statements should be considered an integral part of the financial statements. No adjustments were made to the statutory financial statements reported by the Company.

Statement of Financial Condition as of December 31, 2018

Underwriting and Investment Exhibit for the Year Ended December 31, 2018

Reconciliation of Surplus as Regards Policyholders from December 31, 2013 through December 31, 2018

Statement of Financial Condition
as of December 31, 2018

<u>Assets</u>	Ledger and Nonledger Assets	Assets Not Admitted	Net Admitted Assets	<u>Notes</u>
Bonds	\$ 127,408,846	\$	\$ 127,408,846	
Cash and short-term investments	16,628,096		16,628,096	
Investment income due and accrued	1,010,910		1,010,910	
Uncollected premiums and agents' balances in course of collection	26,776,055		26,776,055	
Deferred premiums, agents' balances and installments booked but deferred and not yet due	1,486,492		1,486,492	
Amount recoverable from reinsurers	7,705,776		7,705,776	
Current federal and foreign income tax recoverable and interest thereon	735,116		735,116	
Net deferred tax asset	4,768,326	53,221	4,715,105	
Electronic data processing equipment and software	3,361		3,361	
Furniture and equipment, including health care delivery assets	1,007,855	1,007,855	0	
Aggregate write-ins for other than invested assets	455,157	66,590	388,567	
	<hr/>		<hr/>	
Total assets	\$ 187,985,990	\$ 1,127,666	\$ 186,858,324	

Liabilities, Surplus, and Other Funds

				<u>Notes</u>
Losses			\$ 49,675,479	(1)
Reinsurance payable on paid losses and loss adjustment expenses			5,422,429	
Loss adjustment expenses			9,308,444	(1)
Commissions payable, contingent commissions and other similar charges			1,101,610	
Other expenses			590,413	
Taxes, licenses and fees			5,578	
Unearned premiums			58,708,235	
Ceded reinsurance premiums payable			5,550,091	
Payable to parent, subsidiaries and affiliates			1,249,852	
Aggregate write-ins for liabilities			1,129,365	
			<hr/>	
Total liabilities			132,741,496	
Common capital stock		\$ 3,333,350		
Gross paid-in and contributed surplus		10,480,965		
Unassigned funds (surplus)		40,302,513		
Surplus as regards policyholders			<hr/>	
			54,116,828	
Total liabilities, surplus, and other funds			<hr/>	
			\$ 186,858,324	

Underwriting and Investment Exhibit
for the Year Ended December 31, 2018

Underwriting Income

Premiums earned		\$ 113,083,707
Deductions:		
Losses incurred	\$ 73,744,605	
Loss expenses incurred	13,926,044	
Other underwriting expenses incurred	32,384,158	
Total underwriting deductions		120,054,807
Net underwriting loss		(6,971,100)

Investment Income

Net investment income earned	\$ 3,851,298	
Net realized capital gains	49,368	
Net investment gain		3,900,666

Other income

Finance and service charges not included in premiums	6,927,669	
Aggregate write-ins for miscellaneous income	83,817	
Total other income		7,011,486
Net income after dividends to policyholders, after capital gains tax and before federal and foreign income taxes		3,941,052
Federal and foreign income taxes incurred		(12,943)
Net income		<u>\$ 3,953,995</u>

Capital and Surplus Account

Surplus as regards policyholders, December 31, 2017		\$ 54,230,047
Net income	\$ 3,953,995	
Change in unrealized capital losses	(341)	
Change in net deferred income tax	(1,232,821)	
Change in nonadmitted assets	(300,012)	
Dividends to stockholders	(5,000,000)	
Aggregate write-ins for gains in surplus	2,465,960	
Change in surplus as regards policyholders for the year		(113,219)
Surplus as regards policyholders, December 31, 2018		<u>\$ 54,116,828</u>

Reconciliation of Surplus as Regards Policyholders
from December 31, 2013 through December 31, 2018

Surplus as regards policyholders, December 31, 2013			\$ 58,629,872
	Gain in Surplus	Loss in Surplus	
Net income	\$ 11,487,304	\$	
Change in unrealized capital gains	25,366		
Change in net deferred income tax		1,465,310	
Change in nonadmitted assets		262,380	
Dividends to stockholders		15,862,987	
Aggregate write-ins for gains in surplus	1,564,963		
Total gains and losses	<u>\$ 13,077,633</u>	<u>\$ 17,590,677</u>	
Net decrease in surplus as regards policyholders			<u>(4,513,044)</u>
Surplus as regards policyholders, December 31, 2018			<u>\$ 54,116,828</u>

COMMENTS ON FINANCIAL STATEMENT ITEMS

(1) Losses and Loss Adjustment Expenses

An analysis of the intercompany pooled loss and loss adjustment expense reserves as of December 31, 2018 was performed by a consulting actuary engaged by the Massachusetts Division of Insurance. Based on the analysis, the consulting actuary determined that the Company's loss and loss adjustment expense reserves as of December 31, 2018 were found to be reasonably stated and have been accepted for the purpose of this examination.

A casualty actuary from the California Department of Insurance reviewed the work performed by the consulting actuary and concurred with the conclusion.

SUBSEQUENT EVENTS

As a result of the Coronavirus Disease 2019 (COVID-19) pandemic, economic uncertainties have arisen which are likely to impact the Company's net income and surplus. The extent to which the COVID-19 pandemic impacts the Company's business, net income, and surplus, as well as capital and liquidity position, will depend on future developments, which are highly uncertain and cannot be estimated, including the scope and duration of the pandemic and actions taken by governmental authorities and other third parties in response to the pandemic.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Current Report of Examination

Corporate Records (Page 4): It is recommended that the Company implement procedures to ensure future compliance with California Insurance Code (CIC) Section 735.

Previous Report of Examination

Company Filing (Page 5): It was recommended that the Company comply with CIC Section 1215.4(b)(6). The Company has complied with the recommendation.

ACKNOWLEDGMENT

Acknowledgment is made of the cooperation and assistance extended by the Company's officers and employees during the course of this examination.

Respectfully submitted,

_____/S/_____

Mei Gu, CFE
Examiner-In-Charge
Senior Insurance Examiner, Specialist
Department of Insurance
State of California

_____/S/_____

Li Lim, CFE
Senior Insurance Examiner, Supervisor
Department of Insurance
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