



EXAMINATION REPORT

Capacity Insurance Company Sunrise, Florida

NAIC Company Code: 32930

**as of
December 31, 2021**

**By
The Florida Office of Insurance Regulation**

TABLE OF CONTENTS

LETTER OF TRANSMITTAL	-
SCOPE OF EXAMINATION	1
SUMMARY OF SIGNIFICANT FINDINGS	2
CURRENT EXAMINATION FINDINGS	2
PREVIOUS EXAMINATION FINDINGS	2
COMPANY HISTORY	3
GENERAL	3
DIVIDENDS	3
CAPITAL STOCK AND CAPITAL CONTRIBUTIONS	3
SURPLUS NOTES	4
ACQUISITIONS, MERGERS, DISPOSALS, DISSOLUTIONS	4
MANAGEMENT AND CONTROL	4
CORPORATE GOVERNANCE	4
HOLDING COMPANY SYSTEM	6
ORGANIZATIONAL CHART	7
CLAIMS ADMINISTRATION SERVICES AGREEMENT	8
AGENCY AGREEMENT	8
MANAGEMENT SERVICES AGREEMENT	8
ACCOUNTS AND RECORDS	8
TERRITORY AND PLAN OF OPERATIONS	8
REINSURANCE	9
REINSURANCE ASSUMED	9
REINSURANCE CEDED	9
FINANCIAL STATEMENTS	10
ASSETS	11
LIABILITIES, SURPLUS AND OTHER FUNDS	12
STATEMENT OF INCOME	13
RECONCILIATION OF CAPITAL AND SURPLUS	14
COMMENTS ON FINANCIAL STATEMENT ITEMS	15
CAPITAL AND SURPLUS	15
SUBSEQUENT EVENTS	16
SUMMARY OF RECOMMENDATIONS	17
CONCLUSION	18

May 24, 2023

Michael Yaworsky
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 (“the NAIC”), we have conducted an examination as of December 31, 2021, 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, 2017 through December 31, 2021, and the fieldwork commenced with planning with the Florida Office of Insurance Regulation (“the Office”) on June 15, 2022. The fieldwork concluded as of May 24, 2023. The Company’s last full scope exam by representatives of the Office covered the period of January 1, 2012 through December 31, 2016.

The examination was a single state examination conducted in accordance with the NAIC Financial Condition Examiners Handbook (“the 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 the NAIC Statements of Statutory Accounting Principles (“SSAP”).

This examination report includes information obtained from the examination of the records, accounts, files and documents of or relative to the Company and other information as permitted by Section 624.319, Florida Statutes. 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 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 including material adverse findings, significant non-compliance findings, such as non-compliance with state law(s), SSAPs, annual financial statement instructions, etc. or material changes in the financial statements.”

Providing Information to the Exam Team

Information was requested by the examination team during field work. Some of the requested information was not provided while other requested information provided by the Company was either incomplete, late, or required multiple follow up requests. **(See section titled MANAGEMENT AND CONTROL, ACCOUNTS AND RECORDS)**

Lack of Independent Audit Committee Member

The Company’s CEO served on the Company’s audit committee. This is not in accordance with Section 624.424(8)(c), Florida Statutes. **(See section titled MANAGEMENT AND CONTROL)**

Statutory Filings Made Subsequent to the Exam Period

Required statutory filings related to 2022 and 2023 were filed late or not at all. **(See section titled SUBSEQUENT EVENTS)**

Previous Examination Findings

The following is an update on other significant regulatory information disclosed in the previous examination.

Corporate Records

During 2016 the Company's Articles of Incorporation were amended. However, they were not filed with the Office and prior approval was required by Section 628.101, Florida Statutes. The Company was reminded of this finding on December 15, 2022. In addition, the Company was requested to file the amendment and obtain Office approval. This has not happened, and this finding is unresolved.

COMPANY HISTORY

General

The Company is a domestic stock insurance company licensed in Florida and Texas. The Company was incorporated under Florida law on April 23, 1986 and received its Certificate of Authority on February 16, 1989. The Company began to write business in Texas as of the 3rd quarter of 2017; however, at the end of 2020, the Company notified the Office of its exit from Texas due to poor performance. The Company notified the Texas Department of Insurance of its withdrawal in August of 2020.

Dividends

The Company did not declare or pay any dividends during the period under examination.

Capital Stock and Capital Contributions

As of December 31, 2021, 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

In 2020, the Company received a capital contribution of \$600,000 from Team Focus Insurance Group, LLC. In 2021, the Company received capital contributions of \$2,155,000 from Focus Insurance Corp and \$600,000 from Team Focus Insurance Group, LLC.

On February 28, 2022, the Company obtained Office approval for a cash contribution of \$243,328 from Focus Insurance Corp which was reported on the Company's December 31, 2021 financial statements in accordance with SSAP 72.

Surplus Notes

On February 28, 2022, the Company obtained Office approval and entered into a Subordinated Surplus Debenture with Focus Insurance Corp in the amount of \$7,000,000. The proceeds of the Surplus Note were reported on the Company’s December 31, 2021 financial statements as a receivable in accordance with SSAP 72.

Acquisitions, Mergers, Disposals, Dissolutions

Effective October 31, 2021, Team Focus Insurance Group, LLC (ultimate parent of the Company and Focus Insurance Corp.) was acquired by Peak6 InsurTech Holdings LLC., ultimately owned by Peak6, LLC.

MANAGEMENT AND CONTROL

Corporate Governance

The annual shareholder meeting for the election of Directors was held in accordance with Section 628.231, Florida Statutes. Directors serving as of December 31, 2021, are shown below:

Directors		
Name	City, State	Principal Occupation, Company Name
Kevin Mark Tromer ⁽¹⁾	Parkland, Florida	Chief Executive Officer, Team Focus Insurance Group, LLC
Peter John Prygelski III	Coral Springs, Florida	Chief Financial Officer, Team Focus Insurance Group, LLC
Steven Graig Elkin	Weston, Florida	Attorney, Frank, Weinberg & Black, P.L.
Edward Alan Levy	Scottsdale, Arizona	Insurance Producer - Retired
Andrew Vincent McGuire	Bradenton, Florida	Chief Executive Officer, Peak6 InsurTech Holdings LLC
Robert Lincoln Trimble, Jr.	Charlotte, North Carolina	President - Retired
Paul Robert Goodwin	Monmouth Junction, New Jersey	Insurance Executive - Retired

(1) Chairman

In accordance with the Company's Bylaws, the Board appointed the following Senior Officers:

Senior Officers		
Peter John Prygelski III	Coral Springs, Florida	Chief Financial Officer & Treasurer, Team Focus Insurance Group, LLC
Andrew Vincent McGuire ⁽¹⁾	Bradenton, Florida	Chief Executive Officer, PEAK6 InsurTech
Joseph Andrew Kurtz	Wheaton, Illinois	Secretary, PEAK6 InsurTech
Robert Lincoln Trimble, Jr	Charlotte, North Carolina	President, Capacity Insurance Company
David Macari	Weston, Florida	Vice President, Capacity Insurance Company

The Company appointed internal committees. The following were the principal internal board committees and their members as of December 31, 2021.

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

Audit Committee		
Name	City, State	Title, Company Name
Steve Craig Elkin	Weston, Florida	Attorney, Frank, Weinberg & Black, P.L.
Paul Robert Goodwin	Monmouth Junction, New Jersey	Insurance Executive - Retired
Edward Alan Levy ⁽¹⁾	Scottsdale Arizona	Insurance Producer - Retired

(1) Chairman

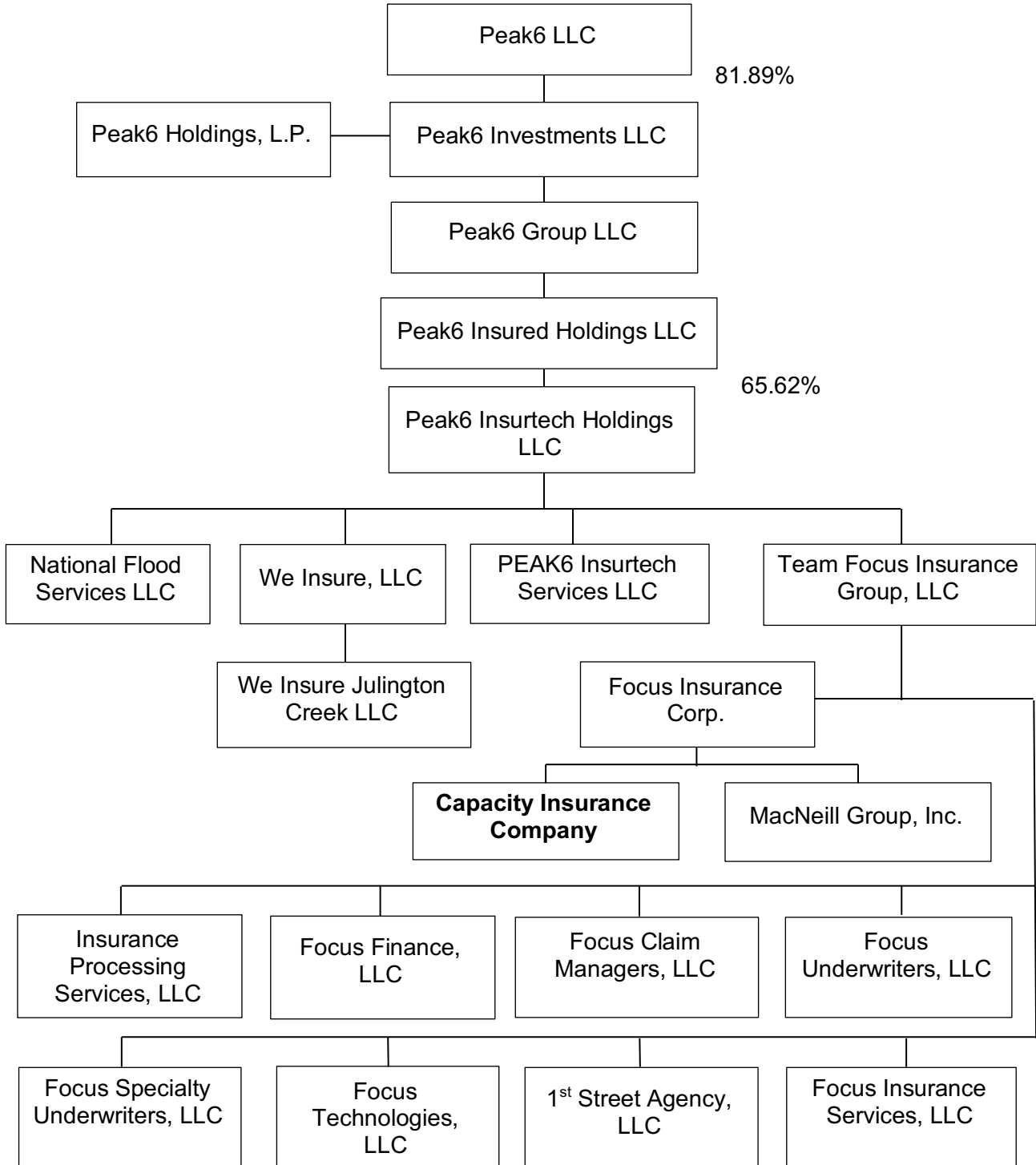
Investment Committee		
Name	City, State	Title, Company Name
Peter John Prygelski III ⁽¹⁾	Coral Springs, Florida	Chief Financial Officer & Treasurer, Team Focus Insurance Group, LLC
Douglas Warren Bullington	Mooresville, North Carolina	Retired
Kevin Mark Tromer	Parkland, Florida	Chief Executive Officer, Team Focus Insurance Group, LLC

(1) Chairman

Holding Company System

An organizational chart as of December 31, 2021, reflecting the holding company system as shown in the Company's 2021 Schedule Y is shown on the following page.

**Organizational Chart
December 31, 2021**



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

Claims Administration Services Agreement

Focus Claim Managers, LLC has entered into a Claims Administration Services Agreement with the Company effective July 1, 2009. Under this agreement, the Company pays an Operations, Administration and Maintenance, and Daily Claims Adjusting fee. In addition, the Company pays a percentage of subrogation and salvage which is recovered, and for Catastrophe adjusting services based on a fee schedule.

Agency Agreement

MacNeill Group, Inc., has entered into an agency agreement with the Company effective July 1, 2009 to produce business for which it is paid a standard commission.

Management Services Agreement

Team Focus Insurance Group, LLC entered into a Management Services Agreement with the Company effective July 1, 2009.

ACCOUNTS AND RECORDS

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

Information was requested by the examination team during field work. Some of the requested information was not provided while other requested information provided by the Company was either incomplete, late, or required multiple follow up requests. The lack of information is noted throughout this report in areas where necessary to note deficient validation.

TERRITORY AND PLAN OF OPERATIONS

The Company was authorized to transact insurance in Florida and Texas. The Company was authorized to transact insurance in Florida on February 16, 1989, and is currently authorized for

the following lines of business as of December 31, 2021:

- Fire
- Commercial Multi-Peril
- Other Liability
- Commercial Auto Physical Damage
- Burglary Theft
- Allied Lines
- Inland Marine
- Commercial Automobile Liability
- Glass

Most of the business written by the Company was long tail in nature.

REINSURANCE

Reinsurance Assumed

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

Reinsurance Ceded

As of December 31, 2021, the Company's ceded reinsurance program was covered by Quota Share, Excess-of-Loss, Catastrophe, and Casualty programs with non-affiliate commercial reinsurers.

FINANCIAL STATEMENTS

The following includes the Company's statutory Statement of Assets, Liabilities, Surplus and Other Funds; statutory Statement of Income or Summary of Income; and the statutory Analysis of Changes in Surplus for the year ended December 31, 2021. The financial statements are based on the statutory financial statements filed by the Company with the Florida Office of Insurance Regulation and present the financial condition of the Company for the periods ending December 31, 2021. (Note: Failure of the columns to add to the totals reflected in this Report is due to rounding.)

Capacity Insurance Company
Assets
December 31, 2021
(As reported by the Company)

	Assets	Non- admitted Assets	Net Admitted Assets
Bonds	12,146,516		12,146,516
Cash and short-term investments	966,546		966,546
Subtotals, cash, and invested assets	13,113,062		13,113,062
Investment income due and accrued	61,386		61,386
Uncollected premiums and agents' balances	141,720		141,720
Amounts recoverable from reinsurer	1,137,412		1,137,412
Current federal and foreign income taxes recoverable and interest thereon	754,864		754,864
Receivables from parent, subsidiaries and affiliates	7,200,000		7,200,000
Aggregate write-in for other than invested assets	7,619	7,619	0
Total	22,416,063	7,619	22,408,445

Capacity Insurance Company
Liabilities, Surplus and Other Funds
December 31, 2021
(As reported by the Company)

Losses	8,520,429
Loss adjustment expenses	1,782,101
Other expenses	126,860
Taxes, licenses and fees	46,281
Unearned premiums	3,112,259
Advance premiums	12,411
Ceded reinsurance premiums payable	324,056
Funds held by company under reinsurance treaties	49,744
Payable to parent, subsidiaries and affiliates	33,477
Total liabilities	14,007,618
Common capital stock	2,500,000
Surplus notes	7,000,000
Gross paid-in and contributed surplus	10,813,128
Unassigned funds (surplus)	(11,912,301)
Surplus as regards policyholders	8,400,827
Totals	22,408,445

Capacity Insurance Company
Statement of Income
December 31, 2021
(As reported by the Company)

Underwriting Income	
Premiums earned	3,902,931
Deductions	
Losses Incurred	8,352,140
Loss adjustment expenses incurred	2,623,059
Other underwriting expenses incurred	2,617,428
Total Underwriting deductions	13,592,627
Net underwriting gain (loss)	(9,689,696)
Investment Income	
Net investment income earned	199,804
Net realized capital gains or (losses)	908
Net investment gain or (loss)	200,711
Other Income	
Federal & foreign income taxes incurred	(192,000)
Net Income	(9,296,985)
Capital and Surplus Account	
Surplus as regards policyholders, December 31 prior year	8,194,320
Net Income	(9,296,985)
Change in net unrealized capital gains or losses less capital gains tax	(4,763)
Change in net deferred income taxes	(284,924)
Change in non-admitted assets	(5,149)
Change in provision for reinsurance	
Surplus adjustments:	
Paid in	2,798,328
Transferred from capital	7,000,000
Change in surplus as regards policyholders for the year	206,507
Surplus as regards policyholders, December 31, current year	8,400,827

Capacity Insurance Company
Reconciliation of Capital and Surplus
December 31, 2021

The examination did not make any adjustments to surplus as regards policyholders.

Capital/Surplus Change during Examination Period			
Surplus at December 31, 2016, as reported by the company			10,029,903
	Increase	Decrease	
Net Income (loss)		11,300,810	
Change in net unrealized capital gain (loss)		21,291	
Change in net deferred income tax		703,242	
Change in non-admitted assets		\$2,060	
Change in paid in surplus	3,398,328		
Surplus Note	7,000,000		
Net increase (or decrease)			(1,629,076)
Surplus at December 31, 2021, as reported by the company			8,400,827

COMMENTS ON FINANCIAL STATEMENT ITEMS

Capital and Surplus

The amount of capital and surplus reported by the Company on its 2021 Annual Statement of \$8,400,827, exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.

SUBSEQUENT EVENTS

Effective June 21, 2022, the Company suspended writing all new business in Florida.

On July 6, 2022, the Company submitted a withdrawal plan to the Office, which was approved on September 1, 2022. This plan included the timeline for sending non-renewal notices to policyholders of current in-force policies. However, on September 28, 2022, the Office issued Emergency Order 300997-22-EO in response to Hurricane Ian. This order extended the grace periods and limitations on cancellations and non-renewals until after November 28, 2022. As a result, the Company began issuing non-renewal notices on November 29, 2022.

In accordance with Consent Order 307008-23-CO the Company was placed in public administration supervision by the Office on March 3, 2023.

Subsequent to the exam period, the Company reported the following key numbers in its financial statements:

	2022 Annual Statement	First Quarter 2023 Statement
Cash and invested assets	\$11,777,230	8,384,973
Aggregate Write-ins for other than invested assets	474,791	2,142,111
Total Assets	14,184,985	12,795,951
Total Liabilities	13,425,090	8,030,254
Surplus	759,895	4,762,697
Net underwriting gain (loss)	(7,012,183)	2,212,301
Net income (loss)	(7,443,457)	3,060,123

There was material growth in capital and surplus reported by the Company between the December 31, 2022 Annual Financial Statement and the March 31, 2023 Quarterly Financial Statement which was filed on May 16, 2023. The Company also posted a positive net underwriting gain and net income in its March 31, 2023 Quarterly Financial Statement. The March 31, 2023 Quarterly Financial Statement is currently under review and subject to validation.

SUMMARY OF RECOMMENDATIONS

Providing Information to the Office

We recommend that the Company provide information requested as requested by the Office. This information should be provided in a complete, accurate, and timely manner.

Statutorily Required Filings

We recommend that the Company provide those filings required by Florida law and rule in a complete and timely manner.

Audit Committee

We recommend that the members of the Company's audit committee meet the requirements found in Section 624.424(8)(c), Florida Statutes.

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, 2021, consistent with the insurance laws of the State of Florida.


In addition to the undersigned, the following individuals from Highland Clark, LLC ("Highland"), Noble Consulting Services, Inc. ("Noble"), and The Actuarial Advantage, Inc. ("Actuarial Advantage"). also participated in the examination:

Bobby Jackson	Exam Manager	Office
Lori G. Lewter, CISA	Examiner, IT Specialist	Highland
Aleksandreja H. Kulits	Examiner	Highland
Alan Kaliski, FCAS, MAAA	Reinsurance Specialist	Noble
Laura Martin, FCAS, MAAA	Exam Actuary	Actuarial Advantage

Respectfully submitted,



Tracy, D. Gates, CISA, CFE
Examiner in Charge, IT Specialist
Highland Clark, LLC
Representing the Florida Office of Insurance Regulation



Daniel W. Applegarth, CFE, CPA, PIR
Chief Financial Examiner
Property & Casualty Financial Oversight
Florida Office of Insurance Regulation