

Financial Statements



Florida Birth-Related Neurological Injury Compensation Association

*Years ended June 30, 2017 and 2016
with Report of Independent Auditors*



Florida Birth-Related Neurological Injury Compensation Association

Financial Statements

Years ended June 30, 2017 and 2016

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Report of Independent Auditors

Board of Directors
Florida Birth-Related Neurological Injury Compensation Association

Report on the Financial Statements

We have audited the accompanying financial statements of Florida Birth-Related Neurological Injury Compensation Association (NICA) which comprise the statements of financial position as of June 30, 2017 and 2016, and the related statements of revenues, expenses, and changes in net position, and cash flows for the years then ended and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Florida Birth-Related Neurological Injury Compensation Association, as of June 30, 2017 and 2016, and the changes in its financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis on pages 4 through 6 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audits of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

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Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated August 22, 2017 on our consideration of NICA's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering NICA's internal control over financial reporting and compliance.



Tallahassee, Florida
August 22, 2017

MANAGEMENT'S DISCUSSION AND ANALYSIS

Our discussion and analysis of the Florida Birth-Related Neurological Injury Compensation Association's (NICA) financial performance provides an overview of the Association's financial activities for the fiscal year ended June 30, 2017. Please read it in conjunction with NICA's basic financial statements, which begin on page 7. NICA was established by 766.315, *Florida Statutes* to administer the Florida Birth-Related Neurological Injury Compensation Plan (the Plan). The Plan was established pursuant to the *Florida Birth-Related Neurological Injury Compensation Act*, Chapter 88-1, Laws of Florida, beginning January 1, 1989, and was created for the purpose of providing limited recovery, irrespective of fault, for certain birth-related neurological injuries. The Association and Plan referenced in the Florida Statutes are collectively known as NICA.

As of June 30, 2017, NICA's total assets increased by \$75,341,059 (or 7%), primarily due to increases in investments which were offset by a decrease in receivable for securities sold. (see Table 1). Investments increased by \$86,103,774 (or 8%) resulting primarily from gains realized on proceeds from securities sold, investment holding gains, investment income earned, and assessments received during the fiscal year. The decrease in receivable for securities sold of \$10,253,002 (or 57%) is due to timing differences that occur when securities are traded by investment managers but are not scheduled to settle until after the end of the fiscal year.

Total liabilities of NICA decreased by \$30,685,669 (or 3%) as of June 30, 2017, primarily due to decreases in payable for securities purchased and claims reserves (see Table 1). The decrease in payable for securities purchased of \$24,023,127 (or 76%) is primarily due to timing differences that occur when securities are traded by the investment managers, but are not scheduled to settle until after the end of the fiscal year. Claims reserves decreased by \$6,940,000 million (or 1%) during the fiscal year as a result of decreases in actuarial estimates of incurred but not reported (IBNR) claims from prior birth years and development of known claims, revisions to the estimates of accumulated reported claims made by management resulting from claimant deaths and changes in life expectancy estimates. The decreases were offset by new claims reported during the year and actuarial estimates of incurred but not reported (IBNR) claims for the current birth year.

MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

Table 1 – Net Position

	2017	2016
Investments	\$ 1,158,494,820	\$ 1,072,391,046
Receivable for securities sold	7,855,834	18,108,836
Reinsurance recoverable	33,954,678	34,143,440
Other assets	7,842,594	8,163,545
Total assets	<u>1,208,147,926</u>	<u>1,132,806,867</u>
Claims reserves	914,560,000	921,500,000
Payable for securities purchased	7,721,777	31,744,904
Other liabilities	1,185,296	907,838
Total liabilities	<u>923,467,073</u>	<u>954,152,742</u>
Net investment in capital assets	1,722,835	567,589
Restricted	<u>282,958,018</u>	<u>178,086,536</u>
Total net position	<u>\$ 284,680,853</u>	<u>\$ 178,654,125</u>

During the year, operating revenues from assessments increased \$578,705 (or 2%) while operating expenses decreased by \$27,784,370 (or 68%) primarily due to a decrease in claims expenses (see Table 2).

Compared to the prior fiscal year, claims expenses decreased by \$27,952,023 (or 71%). The lower claims expense in the current year resulted from changes in life expectancy estimates and claimant deaths which were factored into the revisions to the estimates of accumulated reported claims made by management as well as decreases in the actuarial estimates of IBNR and development of claims from prior birth years.

Claims expense in the prior year included higher actuarial estimates of IBNR for the previous birth year and a slight increase in the Medicaid reimbursement rate for licensed practical nurses as established by the Agency for Health Care Administration which was factored into revisions to the estimates of accumulated reported claims made by management. Additionally, as compared to prior year, current year claims expense included decreases in the actuarial estimates of IBNR and development of claims from prior birth years, to a greater extent than in the prior year.

NICA recorded net investment income of \$ 92,058,841 for the year ended June 30, 2017 (see Table 2). NICA's net investment income is primarily comprised of realized gains of approximately \$48.2 million, unrealized gains of approximately \$29.8 million and interest and dividend income of approximately \$17.2 million which were offset by investment management fees of approximately \$3.1 million.

MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

The net effect of the increase in operating revenues and expenses and the recognition of investment income was an increase in net position of \$106,026,728 (see Tables 1 and 2).

Table 2 – Changes in Net Position

	2017	2016
Hospital assessments	\$ 3,607,900	\$ 3,145,176
Physician assessments	23,675,231	23,559,250
Total operating revenues	27,283,131	26,704,426
Claims expenses	11,267,590	39,219,613
Other operating expenses	2,047,654	1,880,001
Total operating expenses	13,315,244	41,099,614
Operating income (loss)	13,967,887	(14,395,188)
Investment income and other income	95,128,890	35,864,078
Investment fees	(3,070,049)	(3,618,760)
Total Nonoperating revenues and expenses	92,058,841	32,245,318
Change in net position	\$ 106,026,728	\$ 17,850,130

During the ordinary course of business, NICA is involved in various litigation. The outcome of such litigation is not determinable. In addition, an issue has recently arisen relative to the Virginia NICA Plan, which is similar to Florida's Plan, and the Virginia Plan's relation to Medicaid. In Virginia, it appears that the Centers for Medicare and Medicaid Services (CMS) may be shifting its prior interpretation as to how the Virginia Program and Medicaid interrelate by taking the position that the Virginia Program is a "third party" under 42 C.F.R. § 433.136 or otherwise legally responsible for a claim under section 1902(a)(25) of the Social Security Act. This represents a fundamental shift in the manner in which CMS has interpreted and enforced the federal regulations on third party liability. It is unclear at this time whether CMS would apply a similar interpretation with respect to NICA. NICA has not been determined to be a liable third party. NICA maintains that it is not a liable third party to Medicaid consistent with the past practice in Florida over the past 30 years, during which time NICA, as well as Medicaid, have interpreted NICA as secondary to Medicaid. With the recent events in Virginia, however, there is potential that NICA could be determined to be a liable third party to Medicaid. Since the payments made by Medicaid reduce the amounts that would be paid by NICA otherwise, any change in the portion of benefits covered by Medicaid could impact NICA's loss and loss adjustment expenses. NICA is exploring its options to obtain a final determination on this issue. At this time, the ultimate outcome of this issue is uncertain. Accordingly, no provision has been made in the financial statements for these contingencies.

Florida Birth-Related Neurological Injury Compensation Association

Statements of Net Position

	June 30,	
	2017	2016
Assets		
Current assets:		
Cash and cash equivalents	\$ 107,423	\$ 148,060
Prepaid expenses and other current assets	54,626	82,714
Total current assets	162,049	230,774
Receivable for securities sold	7,855,834	18,108,836
Investment income receivable	3,835,710	5,534,932
Assessments receivable	2,122,000	1,830,250
Investments	1,158,494,820	1,072,391,046
Reinsurance recoverables	33,954,678	34,143,440
Property and equipment, net	1,722,835	567,589
Total assets	\$ 1,208,147,926	\$ 1,132,806,867
Liabilities and net position		
Current liabilities:		
Accounts payable and accrued expenses	\$ 652,537	\$ 309,909
Accrued investment fees	432,759	350,529
Total current liabilities	1,085,296	660,438
Assessments refundable	100,000	247,400
Payable for securities purchased	7,721,777	31,744,904
Claims reserves	914,560,000	921,500,000
Total liabilities	923,467,073	954,152,742
Net position:		
Net investment in capital assets	1,722,835	567,589
Restricted	282,958,018	178,086,536
Total net position	284,680,853	178,654,125
Total liabilities and net position	\$ 1,208,147,926	\$ 1,132,806,867

See accompanying notes.

Florida Birth-Related Neurological Injury Compensation Association

Statements of Revenues, Expenses, and Changes in Net Position

	<u>Years ended June 30,</u> <u>2017</u>	<u>2016</u>
Changes in unrestricted net position:		
Operating revenues:		
Hospital assessments	\$ 3,607,900	\$ 3,145,176
Physicians assessments	<u>23,675,231</u>	<u>23,559,250</u>
Total operating revenues	<u>27,283,131</u>	26,704,426
Operating expenses:		
Claims incurred	10,630,413	39,092,125
General and administrative expenses	2,018,510	1,836,377
Depreciation and amortization	29,144	43,624
Commutation expense	<u>637,177</u>	<u>127,488</u>
Total operating expenses	<u>13,315,244</u>	41,099,614
Operating income (loss)	13,967,887	(14,395,188)
Nonoperating revenues (expenses):		
Investment income	95,128,890	35,864,078
Investment fees	<u>(3,070,049)</u>	<u>(3,618,760)</u>
Total nonoperating revenues	<u>92,058,841</u>	32,245,318
Change in net position	106,026,728	17,850,130
Net position at beginning of year	<u>178,654,125</u>	<u>160,803,995</u>
Net position at end of year	<u>\$ 284,680,853</u>	<u>\$ 178,654,125</u>

See accompanying notes.

Florida Birth-Related Neurological Injury Compensation Association

Statements of Cash Flows

	Years ended June 30,	
	2017	2016
Operating activities		
Cash received from hospitals and physicians	\$ 26,843,981	\$ 26,814,926
Cash payments to claimants and vendors	(17,732,661)	(16,478,705)
Cash payments to service providers and suppliers	(790,409)	(752,286)
Cash payments to employees for service	(847,292)	(795,215)
Cash payments to employees for benefits	(296,261)	(253,054)
Net cash provided by operating activities	7,177,358	8,535,666
Capital financing activities		
Purchase of property and equipment	(1,184,390)	(48,022)
Net cash used in capital financing activities	(1,184,390)	(48,022)
Investing activities		
Purchase of investments	(1,047,665,007)	(1,220,622,892)
Proceeds from sales of investments	1,040,923,933	1,190,861,969
Receivable from securities sold	10,258,977	(10,812,446)
Payable for securities purchased	(24,022,573)	13,151,516
Interest and dividends from investments	17,458,944	22,475,059
Investment management fees	(2,987,879)	(3,550,673)
Net cash used in investing activities	(6,033,605)	(8,497,467)
Net decrease in cash and cash equivalents	(40,637)	(9,823)
Cash and cash equivalents at beginning of year	148,060	157,883
Cash and cash equivalents at end of year	\$ 107,423	\$ 148,060
Reconciliation of operating income (loss) to net cash provided by operating activities		
Operating income (loss)	\$ 13,967,887	\$ (14,395,188)
Adjustments to reconcile change in net position to net cash provided by operating activities:		
Depreciation and amortization	29,144	43,624
Changes in operating assets and liabilities:		
Assessments receivable	(291,750)	(136,900)
Prepaid expenses and other current assets	28,088	(29,600)
Reinsurance recoverables	188,762	(350,663)
Accounts payable and accrued expenses	342,627	156,993
Claims reserves	(6,940,000)	23,000,000
Assessments refundable	(147,400)	247,400
Net cash provided by operating activities	\$ 7,177,358	\$ 8,535,666

See accompanying notes.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

Years ended June 30, 2017 and 2016

1. Summary of Significant Accounting Policies

Nature of the Business

The Florida Birth-Related Neurological Injury Compensation Association (the Association) was established by *Florida Statutes*, Chapter 766.315, in July 1, 1988 to administer the Florida Birth-Related Neurological Injury Compensation Plan (the Plan). The Plan was established by the Florida Birth-Related Neurological Injury Compensation Act (the Act), Chapter 88-1, Laws of Florida for the purpose of providing limited recovery, irrespective of fault, for certain birth-related neurological injuries beginning January 1, 1989. The Association and Plan are collectively known as NICA.

Initial funding for NICA was provided by hospital and physician assessments and a transfer of \$20 million from the Florida Department of Financial Service Insurance Regulatory Trust Fund.

If the hospital and physician assessments and the \$20 million transfer from the Insurance Regulatory Trust Fund are not sufficient to maintain NICA on an actuarially sound basis, an additional \$20 million is to be transferred from the Insurance Regulatory Trust Fund (Note 2). Also, if these funds are still not sufficient to maintain NICA on an actuarially sound basis, the Department of Financial Services, Office of Insurance Regulation may assess entities licensed in Florida to issue casualty insurance based on a rate of no greater than .25% of net direct premiums written.

In the event that management's estimate of the accumulated cost of reported claims (exclusive of family residential or custodial care as defined in Section 766.302, *Florida Statutes*) equals 80% of current funds, plus any additional funds available within 12 months, NICA shall not accept new claims without express authority from the Legislature. However, injuries occurring 18 months or more prior to the effective date of the suspension shall not be precluded.

Reporting Entity

Activities of NICA are reported in the state of Florida financial statements with other discretely presented component units.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

1. Summary of Significant Accounting Policies (continued)

Basis of Accounting

NICA follows financial reporting requirements for enterprise funds, which use the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recognized when they are incurred.

The financial statements have been prepared in conformity with the pronouncements of the Governmental Accounting Standards Board (GASB), including GASB Statement No. 14, *The Financial Reporting Entity*, which defines NICA as a component unit of the state of Florida.

Assessments

An assessment of \$250 per physician is required by *Florida Statutes* for all licensed physicians in the state of Florida, subject to certain exclusions. In addition, physicians have the option of electing to participate in NICA. Those physicians so electing are required to remit a total assessment of \$5,000. Certified nurse midwives who have paid 50% (or \$2,500) of the participating physician assessment and who are supervised by a participating physician may also participate in NICA. Additionally, each hospital licensed under Chapter 395, *Florida Statutes*, must pay NICA an assessment of \$50 per live infant delivered at the hospital during the prior calendar year, subject to certain exclusions.

Assessments are recognized at the time they are levied (annually) by NICA. The amount of physician and hospital assessments is subject to change based on the actuarial analysis of NICA. Any increase in assessment is recommended by the Board of Directors, but must be approved by the Office of Insurance Regulation.

Cash and Cash Equivalents

For purposes of the statement of cash flows, cash and interest bearing deposits with an original maturity of three months or less are considered cash equivalents. Investment purchases made through the Office of the Treasurer, State of Florida, are considered to be investments.

Cash consists of demand deposits with financial institutions. Deposits with financial institutions are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000 per depositor. Bank deposits at times may exceed federally insured limits. NICA has not experienced any losses in such accounts.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

1. Summary of Significant Accounting Policies (continued)

Cash and Cash Equivalents (continued)

Additionally, NICA maintains certain demand deposit accounts with qualified public depositories. Qualified public depositories of public funds are required to provide collateral each month pursuant to Chapter 280.04, *Florida Statutes*. The collateral is held by the Florida Division of Treasury or other custodian with full legal rights maintained by the Florida Division of Treasury to transfer ownership. Any loss not covered by the pledged securities and deposit insurance would be assessed by the Florida Division of Treasury and paid by the other public depositories. Therefore, any amount of NICA's demand deposits in excess of FDIC protection would be fully insured or collateralized.

Investments

Investments in debt and equity securities, futures, and options on futures are stated at fair value. Fair values are based on quoted values in custodian statements and/or quoted market prices. NICA investments made through the Office of the Treasurer, State of Florida, are included in the Florida Treasury Investment Pool (SPIA), which is a pool of investments of which NICA owns a share of the pool, not the underlying securities. Pooled investment shares are reported at fair value. The Auditor General, State of Florida, performs the operational audit of the activities and investments of the Office of the Treasurer. A copy of SPIA's most recent financial statements can be found at http://www.fltreasury.org/fs_01.html. Additionally, NICA invests in structured settlement annuities for selected claimants. These annuities are considered fixed income investments and are reported at fair value based on present value of future annuity payments. *Florida Statutes* and NICA's investment policy permit NICA to enter into securities lending transactions.

The financial instruments exposed to concentrations of credit risk consist primarily of its cash, cash equivalents, and investments. All investment transactions have credit exposure to the extent that a counterparty may default on an obligation of NICA. Credit risk is a consequence of carrying investment positions. To manage credit risk, NICA focuses primarily on higher quality, fixed income securities, limits its exposure in any one investment, and monitors quality.

Accounts Receivable

The management of NICA considers assessments receivable to be fully collectible; accordingly, no allowance for doubtful accounts has been recorded.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

1. Summary of Significant Accounting Policies (continued)

Property and Equipment

Property and equipment is recorded at cost less accumulated depreciation. Property and equipment is depreciated over its estimated useful lives ranging from three to fifteen years using primarily the straight-line method. The building is depreciated over forty years using the straight-line method. NICA's policy is to capitalize asset acquisitions greater than \$500.

Claims Reserves

The liability for claims reserves is based on an actuarial determination and represents the estimated ultimate net cost of all unpaid reported and unreported claims and claim adjustment expenses. These liabilities are necessarily subject to the impact of future changes in claim severity and other factors. The unpaid claims and claim adjustment expense estimates are continually reviewed and, as adjustments become necessary, such adjustments are reflected in current operations. There is an absence of a significant amount of historical experience as to whether NICA's actual incurred claims and claim adjustment expenses will conform to the actuarial assumptions inherent in the determination of the liability. Accordingly, the ultimate settlement of claims and claim adjustment expenses may vary significantly from the actuarial estimates.

Net Position

The net position of NICA is restricted to carry out the public purpose of the program as provided under the Act.

Revenue Recognition

Operating revenues consist of hospital and physicians assessments and are recognized when earned. Nonoperating revenues consist of various forms of investment income.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from those estimates.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

1. Summary of Significant Accounting Policies (continued)

Subsequent Events

The NICA has evaluated subsequent events through August 22, 2017, the date the financial statements were available to be issued. During the period from June 30, 2017 to August 22, 2017, the NICA did not have any material recognizable subsequent events.

2. Appropriation - Office of Insurance Regulation

Pursuant to *Florida Statutes*, Section 766.314(5)(b), the sum of \$20 million has been deposited in the Insurance Regulatory Trust Fund. The distribution of "up to \$20 million" to NICA has been authorized in the event that the assessments collected in accordance with *Florida Statutes*, Section 766.314(4), and prior appropriations are not sufficient to maintain NICA on an actuarially sound basis. The entire \$20 million is presently deposited in the Insurance Regulatory Trust Fund and is not reported by NICA.

3. Investments

The framework for measuring fair value provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). The three levels of the fair value hierarchy under GASB 72 are described as follows:

- Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that a government can access at the measurement date.
- Level 2: Inputs other than quoted prices included within Level 1 that are observable for an asset or liability, either directly or indirectly.
- Level 3: Unobservable inputs for an asset or liability.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

The following table set forth by level, within the fair value hierarchy, NICA's assets at fair value as of June 30, 2017.

<u>Asset Type</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Cash and cash equivalents	\$ -	\$ 130,000	\$ 8,900,187	\$ 9,030,187
Equity	297,279,293	-	1,211,295	298,490,588
Fixed income securities	37,533,994	226,967,900	-	264,501,894
Futures contracts	79,906	-	-	79,906
Annuities	-	-	15,705,416	15,705,416
	<u>334,893,193</u>	<u>227,097,900</u>	<u>25,816,898</u>	<u>587,807,991</u>
Other investments:				
Pooled investment in Florida				
State Treasury	-	-	-	25,357,373
Pooled investments reported at net asset value	-	-	-	545,155,959
Foreign currency	-	-	-	80,790
Other	-	-	-	92,707
Total assets at fair value	<u>\$ 334,893,193</u>	<u>\$ 227,097,900</u>	<u>\$ 25,816,898</u>	<u>\$ 1,158,494,820</u>

The following table set forth by level, within the fair value hierarchy, NICA's assets at fair value as of June 30, 2016.

<u>Asset Type</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Cash and cash equivalents	\$ -	\$ 27,214	\$ -	\$ 27,214
Equity	312,394,770	-	821,179	313,215,949
Fixed income securities	69,082,949	380,484,155	-	449,567,104
Futures contracts	(46,017)	-	-	(46,017)
Preferred securities	137,412	1,767,882	-	1,905,294
Annuities	-	-	16,266,254	16,266,254
	<u>381,569,114</u>	<u>382,279,251</u>	<u>17,087,433</u>	<u>780,935,798</u>
Other investments:				
Pooled investment in Florida				
State Treasury	-	-	-	35,281,186
Pooled investments reported at net asset value	-	-	-	255,734,453
Foreign currency	-	-	-	248,785
Other	-	-	-	190,824
Total assets at fair value	<u>\$ 381,569,114</u>	<u>\$ 382,279,251</u>	<u>\$ 17,087,433</u>	<u>\$ 1,072,391,046</u>

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

As of June 30, 2017, investments of NICA were as follows:

Types of Investments	Fair Value	Effective Duration (in Years)
Classifiable Investments:		
Annuities	\$ 15,705,416	n/a
Asset-backed securities	12,943,839	1.96
Corporate bonds	178,298,928	11.16
Federal Home Loan Mortgage	8,151,724	3.18
Federal National Mortgage Association	4,401,931	2.82
Futures contracts	79,906	n/a
Government National Mortgage Association	379,201	3.33
International government bonds	2,492,965	16.05
U.S. government bonds	37,533,994	14.42
Collateralized mortgage obligations	11,529,392	4.70
Municipal bonds	8,769,921	5.78
U.S. debt	441,138,531	n/a
Pooled investment in Florida State Treasury	25,357,373	2.80
Equity securities	402,588,546	n/a
Total classifiable investments	<u>1,149,371,667</u>	
Non-classifiable investments:		
Money market	<u>9,123,153</u>	
Total non-classifiable investments	<u>9,123,153</u>	
Total investments	<u>\$1,158,494,820</u>	

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

As of June 30, 2016, investments of NICA were as follows:

Types of Investments	Fair Value	Effective Duration (in Years)
Classifiable Investments:		
Annuities	\$ 16,266,000	n/a
Asset-backed securities	26,698,000	1.19
Corporate bonds	276,684,000	12.40
International government bonds	8,851,000	13.02
Federal Home Loan Mortgage	7,502,000	1.55
Federal National Mortgage Association	25,961,000	1.71
Futures contracts	(46,000)	n/a
Government National Mortgage Association	1,819,000	2.54
U.S. government bonds	64,792,000	8.31
Collateralized mortgage obligations	15,415,000	3.79
Municipal bonds	16,171,000	9.84
Other U.S. agency securities	5,726,000	7.62
U.S. debt	160,896,000	n/a
Pooled investment in Florida State Treasury	35,281,000	2.61
Equity securities	<u>402,190,000</u>	n/a
Total classifiable investments	<u>1,064,206,000</u>	
Non-classifiable investments:		
Money market	<u>8,185,046</u>	
Total non-classifiable investments	<u>8,185,046</u>	
	<u>\$1,072,391,046</u>	

Investments are diversified to minimize the risk of loss resulting from over compensation of assets in a specific maturity period, a single issuer, or an individual class of securities.

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligation. To mitigate investment risk, investing is performed in accordance with investment policies adopted by the Board of Directors complying with Section 215.47, *Florida Statutes*. State statutes provide for investment of funds in a range of instruments, including federally guaranteed obligations, other federal agency obligations, certain state bonds, commercial paper, obligations of a Florida political subdivision as permitted by law, common stock, repurchase agreements, and reverse repurchase agreements.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

Custodial credit risk is the risk that, in the event of the failure of the counterparty, NICA will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. Custody of NICA's investments is currently maintained in NICA's name by Bank of New York Mellon pursuant to a custodial agreement. Additional accounts are maintained in NICA's name under separate agreements with BlackRock Institutional Trust Company, N.A.; Neuberger Berman Fixed Income, LLC; and the Division of Treasury of the state of Florida. Structured settlement annuities are maintained under agreements with Hartford Life Insurance Company, which has an A- credit rating.

Generally, investing activities are performed by investment managers hired by NICA to implement established investment policies.

NICA's Asset Allocation Policy is as follows:

<u>Asset Class</u>	<u>Permissible Range</u>
Domestic equity	13% - 23%
International equity	13% - 19%
Fixed income	53% - 75%
Cash	0% - 4%

Credit Quality Rating. Section 215.47, *Florida Statutes*, and NICA's investment policy limits investments based on ratings provided by nationally recognized statistical rating services. Investments limited by ratings are as follows:

1. Commercial paper rated in the highest rating classification by one nationally recognized rating agency.
2. Municipal securities rated in the top four highest rating by two nationally recognized rating services.
3. Registered foreign bonds denominated in U.S. dollars rated in the top four rating classifications by two nationally recognized rating services.
4. Asset-backed securities rated in the highest rating classification by one nationally recognized rating service.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

<u>Debt Security Type</u>	<u>Quality Rating Moody's</u>	<u>Fair Value</u>
Asset-backed	AAA	\$ 8,808,608
Asset-backed	NR	4,135,231
Collateralized mortgage obligation	AAA	11,435,989
Collateralized mortgage obligation	NR	93,403
Corporate bonds	A1	11,296,722
Corporate bonds	A2	12,057,333
Corporate bonds	A3	33,026,244
Corporate bonds	Aa1	1,851,923
Corporate bonds	Aa2	3,878,765
Corporate bonds	Aa3	2,861,866
Corporate bonds	Aaa	2,853,768
Corporate bonds	Ba1	9,886,008
Corporate bonds	Ba2	1,824,478
Corporate bonds	Baa1	33,461,608
Corporate bonds	Baa2	27,547,998
Corporate bonds	Baa3	36,258,466
Corporate bonds	NR	490,207
Corporate bonds	WR	1,003,543
Federal Home Loan Mortgage	AAA	8,151,724
Federal National Mortgage Association	AAA	4,401,931
Futures contracts	NR	79,906
Government National Mortgage Association	AAA	379,201
International Government Bonds	A3	1,846,353
International Government Bonds	NR	646,613
Municipal bonds	A1	529,547
Municipal bonds	A2	491,036
Municipal bonds	AAA	1,919,765
Municipal bonds	Aa1	3,158,157
Municipal bonds	Aa2	931,577
Municipal bonds	Aa3	896,858
Municipal bonds	Baa1	179,213
Municipal bonds	Baa2	396,850
Municipal bonds	NR	266,916
Other U.S. agency securities	AAA	37,915,186
Pooled investments in Florida State Treasury	A+f	25,357,372
		<u>\$ 290,320,365</u>

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

Concentration of Credit Risk is the risk of loss attributed to the magnitude of NICA's investment in a single issuer. NICA assets are expected to be diversified across and within asset classes. However, NICA does not specify a limit on the amount that may be invested in any one issuer.

Interest Rate Risk is the risk that changes in interest rates will adversely affect the fair value of an investment. Investments that are held for longer periods are subject to increased risk of adverse interest rate changes. For reporting purposes, NICA selects effective duration to disclose the portfolio's exposure to changes in interest rates. Duration is a measure of a fixed income's cash flows using present values, weighted for cash flow as a percentage of the investment's full price. Effective duration makes assumptions regarding the most likely timing and amounts of variable cash flows arising from such investments as callable bonds, prepayments, and variable rate debt.

NICA is invested in collateralized mortgage obligations with a fair market value of \$15,415,000. These securities and obligations are based on cash flows from payments on underlying mortgages. Therefore, they are sensitive to prepayments by mortgagees, which may result from a decline in interest rates.

Foreign Currency Risk is the risk that changes in the exchange rates will adversely affect the fair value of an investment. NICA's investment policy permits it to invest up to 20 percent of total investments in international equities. At June 30, 2017, NICA's exposure to possible foreign currency risk by monetary unit is as follows:

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

<u>Investment Type</u>	<u>Currency Type</u>	<u>Maturity</u>	<u>Fair Value</u>
Currency	Canadian Dollar	n/a	\$ (939)
	Euro	n/a	31,198
	Hong Kong Dollar	n/a	10,246
	Pound Sterling	n/a	10
	Japanese Yen	n/a	40,274
Common stock	South African Rand	n/a	1
	Australian Dollar	n/a	6,161,463
	Brazilian Real	n/a	1,159,595
	Canadian Dollar	n/a	3,459,252
	Danish Krone	n/a	5,948,539
	Euro - Equity	n/a	36,782,143
	Hong Kong Dollar	n/a	9,693,283
	Japanese Yen	n/a	29,067,765
	Malaysian Ringgit	n/a	781,529
	Mexican New Peso	n/a	666,641
	Norwegian Krone	n/a	1,874,592
	Phillipines Peso	n/a	508,273
	Pound Sterling	n/a	29,553,097
	Singapore Dollar	n/a	4,381,718
	South African Rand	n/a	4,164,101
	Swedish Krona	n/a	7,093,591
	Swiss Franc	n/a	10,796,876
Thailand Baht	n/a	1,032,264	
			<u>\$ 153,205,512</u>

Pooled investments with the State Treasury and investments measured at net asset value are not subject to fair value hierarchy level classification under GASB Statement No. 73, *Fair Value Measurement and Application*.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

4. Property and Equipment

Activity within the property and equipment accounts consists of the following for the year ended June 30, 2017:

	Beginning Balances	Additions	Deletions	Ending Balances
Land	\$ 209,088	\$ -	\$ -	\$ 209,088
Building	320,585	-	-	320,585
Building improvements	72,010	6,298	-	78,308
Property and equipment	313,471	18,072	(11,911)	319,632
Software	1,321,705	-	-	1,321,705
Software in development	-	1,160,020	-	1,160,020
	2,236,859	1,184,390	(11,911)	3,409,338
Less accumulated depreciation and amortization	(1,669,270)	(29,144)	11,911	(1,686,503)
	\$ 567,589	\$ 1,155,246	\$ -	\$ 1,722,835

Software in development is not being depreciated as it is not in service as of June 30, 2017.

Activity within the property and equipment accounts consists of the following for the year ended June 30, 2016:

	Beginning Balances	Additions	Deletions	Ending Balances
Land	\$ 209,088	\$ -	\$ -	\$ 209,088
Building	320,585	-	-	320,585
Building improvements	63,718	8,292	-	72,010
Property and equipment	309,286	4,185	-	313,471
Software	1,286,160	35,545	-	1,321,705
	2,188,837	48,022	-	2,236,859
Less accumulated depreciation and amortization	(1,625,646)	(43,624)	-	(1,669,270)
	\$ 563,191	\$ 4,398	\$ -	\$ 567,589

Depreciation and amortization expense was \$29,144 and \$43,624 for the years ended June 30, 2017 and 2016, respectively.

5. Claims Reserves

Claims reserves are provided in amounts estimated to cover the custodial and rehabilitative costs resulting from certain birth-related neurological injuries of claimants of participating physicians and include an estimate of accumulated reported claims and claims incurred but not reported. The claim reserve is actuarially determined for birth years 1989 through June 30, 2017. The reserves utilize adjustment factors for the assumption of the annual investment return and the annual inflation rate.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

5 Policy Claims and Loss Adjustment Expenses and Premiums (continued)

A class action settlement agreement was entered into in September 2012, which was approved pursuant to a November 26, 2012 Final Judgment and Order by the Florida Circuit Court. The settlement terms may impact benefits payable to all parents or guardians of a child born with a “birth-related neurological injury” in the state of Florida during the time period of January 1, 1989 through June 6, 2002, who obtained a final order which imposed on NICA the “continuing obligation under provisions of Section 766.31, *Florida Statutes*, to pay future expenses as incurred.” The settlement agreement had both retrospective and prospective components.

Medical liability claims are volatile by nature. Although management of NICA believes that the estimate of the liability for losses and loss adjustment expenses is reasonable in the circumstances, the absence of adequate loss experience to support the assumptions inherent in establishing the estimate results in uncertainty as to the ultimate amount that will be required for the payment of losses and claims. Due to the timeframe associated with the emergence of claims, the most recent two years' estimates have greater uncertainty. Accordingly, the ultimate closure of losses and the related loss adjustment expenses may vary significantly from the estimated amounts included in the accompanying financial statements.

In prior years, NICA maintained a reinsurance program which addressed both the frequency and severity of claims. As discussed at Note 8, excess insurance coverage for NICA expired effective December 31, 2003. During 2007, NICA invested in structured settlement annuities for selected claimants to fund a portion of its future obligations. The purpose of the annuities is to protect NICA against the financial effects of super longevity and to reduce the mortality risk on certain claims, which is statutorily borne by NICA. NICA has also adjusted claim reserves to provide for a risk margin in the event claims incurred but not yet reported significantly exceed management's best estimate. The risk margin was \$73.56 million as of June 30, 2017.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

5 Policy Claims and Loss Adjustment Expenses and Premiums (continued)

Activity in the liability for unpaid claims and claim adjustment expenses is summarized as follows:

	June 30,	
	<u>2017</u>	<u>2016</u>
Balance at beginning of year, including risk margin	<u>\$ 921,500,000</u>	<u>\$ 898,500,000</u>
Claims incurred related to:		
Current birth year	46,968,462	49,819,844
Prior birth years	<u>(26,963,663)</u>	<u>(13,862,656)</u>
Total claims incurred	<u>20,004,799</u>	<u>35,957,188</u>
Claims adjusted related to prior birth years	(10,496,612)	4,123,676
Claims paid related to:		
Prior years	<u>(17,381,652)</u>	<u>(16,441,781)</u>
Total claims paid	<u>(17,381,652)</u>	<u>(16,441,781)</u>
Change in unallocated loss adjustment expense	(126,535)	(639,083)
Change in risk margin reserve	<u>1,060,000</u>	<u>-</u>
Balance at end of year	<u>\$ 914,560,000</u>	<u>\$ 921,500,000</u>

6. Retirement Plan

Effective July 1, 2003, NICA established a defined contribution retirement plan, in the form of a 401(k) plan, which covers substantially all full time employees with at least one year of service. Contributions are accrued and funded on a current basis. NICA contributed 15% of the participating employees' salaries for the fiscal years ended June 30, 2017 and 2016. The contribution was \$105,971 and \$104,930 for the years ended June 30, 2017 and 2016, respectively.

7. Commitments and Contingencies

During the ordinary course of business, NICA is involved in various litigation. The outcome of such litigation is not determinable. In addition, an issue has recently arisen relative to the Virginia NICA Plan, which is similar to Florida's Plan, and the Virginia Plan's relation to Medicaid. In Virginia, it appears that the Centers for Medicare and Medicaid Services (CMS) may be shifting its prior interpretation as to how the Virginia Program and Medicaid interrelate by taking the position that the Virginia Program is a "third party" under 42 C.F.R. § 433.136 or otherwise legally responsible for a claim under section 1902(a)(25) of the Social Security Act. This represents a fundamental shift in the manner in which CMS has interpreted and enforced the

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

7. Commitments and Contingencies (continued)

federal regulations on third party liability. It is unclear at this time whether CMS would apply a similar interpretation with respect to NICA. NICA has not been determined to be a liable third party. NICA maintains that it is not a liable third party to Medicaid consistent with the past practice in Florida over the past 30 years, during which time NICA, as well as Medicaid, have interpreted NICA as secondary to Medicaid. With the recent events in Virginia, however, there is potential that NICA could be determined to be a liable third party to Medicaid. Since the payments made by Medicaid reduce the amounts that would be paid by NICA otherwise, any change in the portion of benefits covered by Medicaid could impact NICA's loss and loss adjustment expenses. NICA is exploring its options to obtain a final determination on this issue. At this time, the ultimate outcome of this issue is uncertain. Accordingly, no provision has been made in the financial statements for these contingencies.

8. Excess Insurance

During the year ended June 30, 1992, NICA obtained an excess insurance policy effective January 1, 1992 and expiring December 31, 1992. The policy was renewed on an annual basis through December 31, 1998 and provided coverage of \$2.5 million on individual claims reported during the annual contract terms in excess of \$4.25 million for 1998, \$4.0 million for years 1992-1997, and aggregate coverage of \$10 million on aggregate claims in excess of \$23.5 million for 1998; \$22.9 million for 1997; \$19.9 million for 1996 and 1995; and \$21.5 million for the years 1994, 1993, and 1992. Commutation of birth years 1994 to 1998 occurred during the 2012-2013 fiscal year for \$10 million.

For the period January 1, 1999 through December 31, 2001, NICA had entered into two reinsurance contracts. The first policy, through Munich RE f/k/a American Re-Insurance Company, provided coverage of \$2.5 million on individual claims reported during the annual contract term in excess of \$4.25 million and aggregate coverage of \$10 million on aggregate claims in excess of \$23 million for birth years 1999 through 2001. The second policy, through General Reinsurance Corporation, provided aggregate coverage of \$3 million on aggregate claims in excess of \$20 million for birth years 1999 through 2001. Commutation of birth years 1999 to 2001 occurred during the 2012-2013 fiscal year for \$10.6 million associated with the Munich RE layer.

For the period January 1, 2002 through December 31, 2003, NICA was covered under an endorsement that extended the agreement described above with General Reinsurance for an additional two-year period. The endorsement also amended coverage limits to cover \$2.5 million on individual claims in excess of \$4.25 million and aggregate coverage of \$13 million in excess of aggregate claims of \$20 million for birth years 2002 and 2003. If the mean number of participating physicians in any annual agreement term exceeds 800, the aggregate attachment point of \$20 million will be proportionately increased by the actual number of physicians divided by 690.

Florida Birth-Related Neurological Injury Compensation Association

Notes to Financial Statements

8. Excess Insurance (continued)

General Reinsurance provides for an experience refund equal to 50% of the amount of the annual excess insurance premium earned less excess insurance claims incurred and excess insurer's expense charged.

NICA is engaged in an arbitration dispute with General Reinsurance Corporation who has reinsured certain NICA losses for birth years 1999 – 2003. Based on NICA's December 31, 2016 reserves analysis, NICA has calculated a reinsurance recoverable from Gen Re of approximately \$40 million. NICA commenced a commutation proceeding on March 15, 2016 pursuant to its reinsurance agreement with General Re to invoke the dispute resolution provisions of the agreement to pursue a reinsurance recovery. On April 7, 2016, Gen Re commenced an arbitration proceeding under a different provision of the reinsurance agreement and asserted seven substantive challenges to NICA's calculated reserves, but did not identify any specific disputed amounts. The parties are engaged in discovery and a hearing on the merits has been scheduled to commence on February 26, 2018. At this stage of the dispute process, it would be premature to evaluate the strengths and weaknesses of the issues that Gen Re has raised. NICA is vigorously pursuing its reinsurance recovery in the arbitration proceeding.

As of June 30, 2017 and 2016, NICA was not covered by a reinsurance policy for the 2004 through 2017 birth years.

9. Operating Leases

The NICA leases office space under an operating lease expiring June 30, 2019, with an option to renew for two three year extensions. Monthly lease payments under this agreement are \$1,550, excluding sales tax.

Rent expense for the years ended June 30, 2017 and 2016, was \$18,600 and \$0, respectively. The future minimum lease payments for operating leases are as follows:

Year ended

2018	\$	18,600
2019		<u>18,600</u>
	\$	<u><u>37,200</u></u>

Other Reports

Report of Independent Auditors on Internal Control Over Financial Reporting and
on Compliance and Other Matters Based on an Audit of Financial Statements
Performed in Accordance with *Government Auditing Standards*

Board of Directors
Florida Birth-Related Neurological Injury Compensation Association

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Florida Birth-Related Neurological Injury Compensation Association (NICA), which comprise the statement of net position as of June 30, 2017, and the related statements of revenues, expenses, and changes in net position and cash flows for the year ended, and the related notes to the financial statements, and have issued our report thereon dated August 22, 2017.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered NICA's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of NICA's internal control. Accordingly, we do not express an opinion on the effectiveness of NICA's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

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Compliance and Other Matters

As part of obtaining reasonable assurance about whether the NICA's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



Tallahassee, Florida
August 22, 2017