

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

NEW YORK CITY

FIREFIGHTERS' VARIABLE SUPPLEMENTS FUND

AS OF

JUNE 30, 1999

DATE OF REPORT:

FEBRUARY 23, 2001

EXAMINER:

JAMES MURPHY

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	History of the Fund	4
4.	Administration	5
5.	Financial statements	6
	A. Statement of income and disbursements	6
	B. Statement of assets and liabilities	8
6.	Transfers from New York City Fire Department Pension Fund, Subchapter 2	9
7.	Member benefits	10
8.	Publication of annual reports	11
9.	Prior report summary and conclusions	12
10.	Summary and conclusions	13



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

February 23, 2001

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 21624, dated October 4, 2000 and annexed hereto, an examination has been made into the condition and affairs of the New York City FireFighters' Variable Supplements Fund, hereinafter referred to as the "Fund," located at 9 MetroTech Center, Brooklyn, New York 11201.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The Fund was established on July 1, 1970 to provide supplemental benefits to firefighters who are service retirees of the New York City Fire Department Pension Fund, Subchapter 2, that retired on or after October 1, 1968. (See item 3 of this report)

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the June 30, 1999 filed annual statement. (See item 5 of this report)

The Fund is in violation of Section 312(b) of the New York Insurance Law for not furnishing the members of the board of trustees with a copy of the June 30, 1994 report on examination by the Department. (See item 4 of this report)

The Fund is in violation of Section 13-388 of the Administrative Code for not publishing the annual report in the City Record. (See item 8 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of June 30, 1994. This examination covers the five-year period from July 1, 1994 through June 30, 1999. As necessary, the examiner reviewed transactions occurring subsequent to June 30, 1999 but prior to the date of this report (i.e., the completion date of this examination).

The examination comprised a verification of assets and liabilities as of June 30, 1999 to determine whether the Fund's income statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification and utilized such examination procedures, as deemed appropriate, in the review of the following matters:

- Fund history
- Administration
- Accounts
- Member benefits
- Financial statements

The examiner reviewed the corrective actions taken by the Fund with respect to violations and recommendations contained in the previous report on examination. The results of the examiner's review are contained in item 9 of this report.

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

3. HISTORY OF THE FUND

The Fund was established on July 1, 1970 by amendment to the Administrative Code of the City of New York (“Administrative Code”) to provide supplemental benefits to firefighters who are service retirees of the New York City Fire Department Pension Fund, Subchapter 2, that retired on or after October 1, 1968. A separate Fire Officers’ Variable Supplements Fund was also established at the same time as the Fund. The Fund receives certain excess earnings from the New York City Fire Department Pension Fund, Subchapter 2 (“FIRE”) pursuant to the provisions of the Administrative Code. (See item 6 of this report) The Fund is not considered a pension fund or retirement system.

The Fund is administered independently by a board of trustees and has the powers and privileges of a corporation. Members of the board are trustees of all monies received by the Fund and have the power to invest the same in accordance with the limitations and restrictions imposed on savings banks. The City Comptroller is the custodian of the assets and also provides certain administrative services to the Fund.

Under the Administrative Code, the Fund is subject to the supervision of the Department which may examine its affairs with the same powers and jurisdiction as are applicable to a life insurance company under Article 3 of the New York Insurance Law. The Fund is also subject to assessment for expenses pursuant to Section 313 of the New York Insurance Law.

4. ADMINISTRATION

The members of the board of trustees as of June 30, 1999 were as follows:

<u>Member</u>	<u>Representative of</u>
Alan G. Hevesi	Comptroller City of New York
Michael A. Carter	Vice President Uniformed Firefighters Association of Greater New York
Thomas Lamacchia	Treasurer Uniformed Firefighters Association of Greater New York
Joseph J. Lhota	Acting Commissioner Department of Finance
Laurence A. Levy	Representative of the Mayor City of New York

A review of the minutes of the board of trustees revealed that meetings were generally well attended.

Section 312(b) of the New York Insurance Law states, in part:

“A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer’s files confirming that such member has received and read such report. . . .”

The Fund did not furnish the members of the board of trustees with a copy of the June 30, 1994 report on examination by the Department and is in violation of Section 312(b) of the New York Insurance Law. This is a repeat violation from the two prior reports on examination.

5. FINANCIAL STATEMENTS

The following statements show the comparative statement of income and disbursements for the period since the prior examination and the assets and liabilities as of June 30, 1994 and June 30, 1999:

A. STATEMENT OF INCOME AND DISBURSEMENTS

June 30,

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
Ledger assets at end of previous year	\$ <u>292,897,569</u>	\$ <u>287,887,093</u>	\$ <u>350,946,717</u>	\$ <u>360,779,645</u>	\$ <u>397,272,510</u>
<u>Income</u>					
From interest	\$ 9,244,992	\$ 8,696,574	\$ 10,261,807	\$ 11,035,887	\$ 10,354,017
Dividends	5,032,091	6,017,081	6,874,454	5,932,509	6,949,500
Skim	0	45,000,000	16,430,339	0	0
Miscellaneous income	0	99,852	424,298	150,560	22,513
Money left or redeposited with Fund	1,510,104	0	0	0	0
Profit on sale of investments	30,102,822	15,414,064	16,904,749	22,797,948	34,226,886
Increase by adjustments in book value of investments	769,901	14,434,401	464,572	25,775,791	960,748
Money received from Subchapter 2, owed by FOVSF	0	0	2,520,852	0	0
Wiper Sub-account merged	<u>32,955</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total income	\$ <u>46,692,865</u>	\$ <u>89,661,972</u>	\$ <u>53,881,071</u>	\$ <u>65,692,695</u>	\$ <u>52,513,664</u>

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
<u>Disbursements</u>					
Benefit payments	\$ 19,120,215	\$ 22,450,917	\$ 24,690,647	\$ 28,341,750	\$ 26,311,738
Investment expenses	17,369	522,277	86,711	11,397	33,412
Interest at purchase	942,550	0	0	0	0
Loss on sale of investments	29,199,004	3,148,446	8,308,951	126,191	6,511,339
Decrease by adjustment in book value of investments	<u>2,424,203</u>	<u>480,708</u>	<u>10,961,834</u>	<u>720,492</u>	<u>1,621,337</u>
Total disbursements	\$ <u>51,703,341</u>	\$ <u>26,602,348</u>	\$ <u>44,048,143</u>	\$ <u>29,199,831</u>	\$ <u>34,477,826</u>
Net increase (decrease)	\$ <u>(5,010,476)</u>	\$ <u>63,059,624</u>	\$ <u>9,832,928</u>	\$ <u>36,492,864</u>	\$ <u>18,035,838</u>
Ledger assets at end of current year	<u>\$287,887,093</u>	<u>\$350,946,717</u>	<u>\$360,779,645</u>	<u>\$397,272,510</u>	<u>\$415,308,348</u>

B. STATEMENT OF ASSETS AND LIABILITIES

	<u>June 30,1994</u>	<u>June 30,1999</u>
<u>Assets</u>		
<u>Ledger assets</u>		
Bonds	\$120,541,252	\$149,703,099
Stocks	133,022,980	193,725,008
Short-term interest fund	34,541,964	33,159,466
Commercial papers	4,633,033	4,579,187
International investments	0	33,000,000
Cash on deposit	<u>158,340</u>	<u>1,141,588</u>
Total ledger assets	<u>\$292,897,569</u>	<u>\$415,308,348</u>
<u>Non-ledger assets</u>		
Receivable for investment security sold	\$ 6,356,873	\$ 9,554,707
Interest accrued on investments	1,853,613	1,760,328
Market value of stocks over book value	6,348,952	210,804,747
Receivable from Wipers sub account to FWVSF	32,956	0
Receivable from Fire Officers' Variable Supplements Fund	<u>2,520,852</u>	<u>0</u>
Total non-ledger assets	<u>\$ 17,113,246</u>	<u>\$220,359,454</u>
Total admitted assets	<u>\$310,010,815</u>	<u>\$637,428,130</u>
<u>Liabilities</u>		
Present value of benefits payable on account of beneficiaries now drawing allowances	\$252,581,021	\$338,749,700
Present value of benefits provided by employer for members now in active service	77,235,207	117,410,005
Payable for securities purchased	<u>18,150,576</u>	<u>39,668,986</u>
Total liabilities	<u>\$347,966,804</u>	<u>\$495,828,691</u>
Excess of admitted assets over liabilities	<u>\$ (37,955,989)</u>	<u>\$141,599,439</u>
Totals	<u>\$310,010,815</u>	<u>\$637,428,130</u>

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the June 30, 1999 filed annual statement.

6. TRANSFERS FROM NEW YORK CITY FIRE DEPARTMENT PENSION FUND,
SUBCHAPTER 2

FIRE provides the necessary funding for the Fund. The Administrative Code provides guidelines for how the amounts transferred from FIRE to the Fund shall be computed.

The Administrative Code provides that FIRE transfer to the Fund an amount equal to certain excess earnings on equity investments, referred to as "SKIM", which exceed what the earnings might have been had such funds been hypothetically invested in fixed income investments, less any cumulative earnings deficiencies. If earnings on equity investments were below those of the hypothetical fixed income securities, no SKIM would be available and the potential for a deficiency would exist.

During the period under examination, SKIM was transferred from FIRE to the Fund in the amounts of \$45,000,000 in 1996 and \$16,430,339 in 1997.

7. MEMBER BENEFITS

Prior to July 1, 1988, supplemental benefits paid to Fund members were not guaranteed and had to be declared by the board of trustees on an annual basis. As a result of labor negotiations, Chapter 583 of the Laws of 1989 (effective July 1, 1988) was enacted and provided for a guaranteed benefit schedule of supplemental benefit payments. These defined benefits are guaranteed by the City of New York.

For firefighters hired prior to July 1, 1988 who retire from service on or after October 1, 1968 (with a credit of twenty or more service years), the following table reflects the benefits per eligible retiree for calendar years 1988 and subsequent, based on Chapter 583 of the Laws of 1989:

<u>Calendar Year</u>	<u>Annual Supplement</u>	<u>Calendar Year</u>	<u>Annual Supplement</u>	<u>Calendar Year</u>	<u>Annual Supplement</u>
1988	\$2,500	1997	\$ 7,000	2006	\$11,500
1989	\$3,000	1998	\$ 7,500	2007 and	\$12,000
1990	\$3,500	1999	\$ 8,000	each calendar	
1991	\$4,000	2000	\$ 8,500	year thereafter	
1992	\$4,500	2001	\$ 9,000		
1993	\$5,000	2002	\$ 9,500		
1994	\$5,500	2003	\$10,000		
1995	\$6,000	2004	\$10,500		
1996	\$6,500	2005	\$11,000		

For firefighters hired on or after July 1, 1988, the annual benefit would start at \$2,500 and increase by \$500 increments each calendar year until reaching a maximum of \$12,000.

The examiner reviewed various elements of the Fund's activities affecting retirees to determine compliance with statutes and the rules of the Fund. The examiner reviewed a random sample of benefit payments to retirees and beneficiaries to determine whether the member or beneficiary was treated fairly and in accordance with the rules governing the Fund. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced accounting data to the books of account. Based on the random sample reviewed, no significant findings were noted.

8. PUBLICATION OF ANNUAL REPORTS

Section 13-388 of the Administrative Code states:

“Annual reports. - The board shall publish annually in the City Record a report for the preceding year showing the assets of the variable supplements fund and a statement as to the accumulated cash and securities of such fund certified by the comptroller and shall set forth in such report such other facts, recommendations and data as the board may deem pertinent.”

The examiner was not provided with any evidence that the Fund’s annual reports were reported in the City Record.

The examiner recommends that the Fund comply with Section 13-388 of the Administrative Code and publish the required annual report in the City Record. This is a repeat recommendation from the two prior reports on examination.

9. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in the prior report on examination and the subsequent actions taken by the Fund in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Fund violated Section 312(b) of the New York Insurance Law by failing to furnish a copy of the June 30, 1989 report on examination to each member of the board of trustees.</p> <p>A review indicated that the Fund failed to comply with Section 312(b) of the New York Insurance Law by not furnishing a copy of the June 30, 1994 report on examination to each member of the board of trustees. The Fund again violated Section 312(b) of the New York Insurance Law. (See item 4 of this report)</p>
B	<p>The Fund violated Section 325(a) of the New York Insurance Law by failing to retain the 1991 and 1992 board minutes.</p> <p>A review indicated that the Fund complied with Section 325(a) of the New York Insurance Law by retaining the board minutes for the examination period.</p>
C	<p>The examiner recommends that the Fund retain all documents and records that are used to compile the annual statement.</p> <p>A review indicated that the Fund retained all documents and records used to compile the annual statement.</p>
D	<p>The examiner recommends that the Fund comply with Section 13-388 of the Administrative Code and publish the annual report in the City Record.</p> <p>A review indicated that the Fund failed to comply with Section 13-388 of the Administrative Code by not publishing the annual report in the City Record. (See item 8 of this report)</p>

10. SUMMARY AND CONCLUSIONS

Following are the violation and recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund violated Section 312(b) of the New York Insurance Law by failing to furnish a copy of the June 30, 1994 report on examination to each member of the board of trustees.	5
B	The examiner recommends that the Fund comply with Section 13-388 of the Administrative Code and publish the annual report in the City Record.	11

Respectfully submitted,

_____/s/_____
James Murphy
Associate Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

James Murphy being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

_____/s/_____
James Murphy

Subscribed and sworn to before me
this _____ day of _____ 2001.

APPOINTMENT NO. 21624

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, NEIL D. LEVIN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

JAMES MURPHY

as a proper person to examine into the affairs of the

FIREFIGHTERS' VARIABLE SUPPLEMENTS FUND

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

FUND

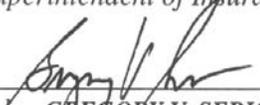
with such other information as he shall deem requisite.

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

this 4th day of October, 2000



NEIL D. LEVIN
Superintendent of Insurance


by GREGORY V. SERIO
First Deputy Superintendent