



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
LONG ISLAND UNIVERSITY

CONDITION:

DECEMBER 31, 2015

DATE OF REPORT:

MAY 20, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

CHONG KIM

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

August 17, 2016

Honorable Maria T. Vullo
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31461, dated March 31, 2016 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Long Island University, hereinafter referred to as the "Fund." The Fund's home office is located at 700 Northern Boulevard, Brookville, NY 11548.

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

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

1. EXECUTIVE SUMMARY

The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes. (See item 4 of this report)

The Fund is required to maintain admitted assets in excess of the sum of the Fund's reserve and ten percent of its reserve per Section 1110(b) of the New York Insurance Law. The Fund reported total assets of \$1,349,608, net reserves of \$1,301,641, and minimum required fund balance (ten percent of net reserves) of \$130,164 in the 2015 annual statement. The Fund is required to maintain minimum required assets of \$1,431,805 based the sum of the Fund's net reserves and minimum required fund balance. Thus, the Fund is underfunded by \$82,197 as of December 31, 2015. The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain minimum required asset as of December 31, 2015. (See item 5 of this report)

The examiner recommends that the Fund diversify its investment holdings. (See item 5 of this report)

The examiner's review of the Fund's treatment of annuitants did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Fund. (See item 6 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2010. This examination covers the period from January 1, 2011 through December 31, 2015. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2015 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2015 to determine whether the Fund's filed 2015 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The examiner also reviewed the corrective actions taken by the Fund with respect to the violations and recommendations contained in the prior report on examination. The results of such review are contained in item 7 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. DESCRIPTION OF FUND

The Long Island University (“the University”) is organized for the purpose of higher education and the granting of degrees thereof. Under the provisions of its by-laws, the University is permitted to issue gift annuity agreements and it has done so since 1993. A special permit was granted to the University by the Department on December 5, 1996, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

Fiduciary Trust Company International is the custodian of the Fund’s assets.

The management of the University and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 45 regular voting trustees. As of December 31, 2015, the board consisted of 31 trustees. The trustees elect a Chairman, a Senior Vice Chairmen, one or more Chancellors, and a Secretary. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

4. CORPORATE GOVERNANCE

The examiner's review of the board minutes revealed that the board did not document its approval of the purchases and sales of investments for the examination period.

The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.

5. SIGNIFICANT FINANCIAL INFORMATION

The following table indicates the Fund's financial decline during the period under review:

	<u>December 31,</u> <u>2010</u>	<u>December 31,</u> <u>2015</u>	<u>(Decrease)</u>
Admitted assets	<u>\$1,935,750</u>	<u>\$1,349,608</u>	<u>\$(586,142)</u>
Liabilities	<u>\$1,680,925</u>	<u>\$1,301,641</u>	<u>\$(379,284)</u>
Minimum required fund balance	\$ 168,092	\$ 130,164	\$ (37,928)
Excess fund balance (surplus)	<u>86,733</u>	<u>(82,197)</u>	<u>(168,930)</u>
Total annuity fund balance	<u>\$ 254,825</u>	<u>\$ 47,967</u>	<u>\$(206,858)</u>
Total liabilities and annuity fund balance	<u>\$1,935,750</u>	<u>\$1,349,608</u>	<u>\$(586,142)</u>

Note: Any differences are due to rounding.

The decrease in assets, liabilities and surplus reflects a decrease in the total number of annuities in force. Annuities decreased from 40 with annual payment amounts of \$211,437 as of December 31, 2010 to a total of 38 with annual payment amounts of \$202,260 as of December 31, 2015.

The Fund's admitted assets, as of December 31, 2015, were invested mainly in common stocks (93.01%).

Section 1110(b) of the New York Insurance states, in part:

“Every such domestic corporation or association shall maintain admitted assets at least equal to the greater of (i) the sum of its reserves on its outstanding agreements, calculated in accordance with section four thousand two hundred seventeen of this chapter, and a surplus of ten per centum of such reserves, or (ii) the amount of one hundred thousand dollars...”

The Fund is required to maintain admitted assets in excess of the sum of the Fund's reserves and ten percent of such reserves per Section 1110(b) of the New York Insurance Law. The Fund reported total assets of \$1,349,608, net reserves of \$1,301,641, and minimum required fund balance (ten percent of net reserves) of \$130,164 in the 2015 annual statement. The Fund is

required to maintain minimum assets of \$1,431,805 based the sum of the Fund's net reserves and minimum required fund balance.

Thus, the Fund is underfunded by \$82,197 as of December 31, 2015. The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain minimum required assets as of December 31, 2015.

On March 1, 2016, the University contributed the amount of \$85,000 to the Fund to be in compliance with Section 1110(b) of the New York Insurance Law.

Section 1409(a) of the New York Insurance Law states,

“(a) Except as more specifically provided in this chapter, no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities (including for this purpose certificates of deposit, partnership interests and other equity interests) of any one institution.”

According to the 2015 annual statement on file, the Fund reported 38.90% of its admitted assets invested in the securities of Franklin Large Cap Equity Fund mutual fund. The Fund's current concentration in this mutual fund makes it highly unlikely that Fund's other assets could provide a variability to offset the risks inherent in this mutual fund.

The examiner recommends that the Fund diversify its investment holdings. A trustee using reasonable care, skill and caution should diversify the Fund's assets. A diversification is proper when it disperses the investments' risks consistent with the Investment Strategy Statement's (“ISS”) risk, return, and time horizon objectives, and the various risks in the portfolio offset each other. Section 1409 of the New York Insurance Law is instructive. Limiting exposure to any assets of any one institution to ten percent of admitted assets would reasonably assure that the risks in the investment in that institution are offset by the rest of the portfolio. If the trustee has determined that it is in the interests of the beneficiaries not to diversify, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters.

6. TREATMENT OF ANNUITANTS

The examiner reviewed a sample of annuity files to determine whether the annuitants were treated fairly and in accordance with the provisions of the annuity agreements. The examination also consisted of a review of the various controls involved, a check of the accuracy of the computations and the tracing of accounting data to the books of account. Based upon the sample reviewed, no significant findings were noted.

7. 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 maintain signed statements from the board members indicating that they received and read the prior report on examination</p> <p>The Fund maintained signed statements from the board members indicating that they received and read the prior report on examination.</p>
B	<p>The examiner recommended that the Fund maintain the statements, signed by the board members indicating that they received and read the prior report on examination, for the examiner's review during the ensuing examination.</p> <p>The Fund maintained signed statements from the board members indicating that they received and read the prior report on examination.</p>
C	<p>The examiner recommends that the board of directors, or a committee thereof, review the purchase and sale of investments annually and that such reviews be noted in the board minutes.</p> <p>The examiner's review of the board minutes revealed that the board did not approve the purchases and sales of investments for the examination period. Thus, a similar recommendation is contained in this report. (See item 4 of this report)</p>
D	<p>The Fund violated Section 1110(a) of the New York Insurance Law by using annuity agreement forms that were not filed with the Superintendent.</p> <p>The Fund submitted to the Superintendent the gift annuity agreement forms in question on July 29, 2013, and received approval for their use. The examiner's review of a sample of gift annuity agreement forms used during the examination period did not reveal any exceptions.</p>

<u>Item</u>	<u>Description</u>
E	<p>The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period, or subsequent to that period, that differ from the forms previously filed by the Fund with the Superintendent.</p> <p>The Fund submitted to the Superintendent the gift annuity agreement forms in question on July 29, 2013, and received approval for their use. The examiner's review of a sample of gift annuity agreement forms used during the examination period did not reveal any exceptions.</p>

8. SUMMARY AND CONCLUSIONS

Following are the violation, recommendations and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
B	The Fund is underfunded by \$82,197 as of December 31, 2015.	7
C	The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain minimum required assets as of December 31, 2015.	7
D	The examiner recommends that the Fund diversify its investment holdings.	7

Respectfully submitted,

_____/s/
Chong Kim
Senior Insurance Examiner

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

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

_____/s/
Chong Kim

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31461

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, Acting Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

CHONG KIM

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
LONG ISLAND UNIVERSITY**

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

FUND

with such other information as he shall deem requisite.

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

this 31st day of March, 2016

MARIA T. VULLO

Acting Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD

DEPUTY CHIEF - LIFE BUREAU

