



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ST. LAWRENCE UNIVERSITY

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

NOVEMBER 6, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

KINGS ANKRAH

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

March 1, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31612, dated August 10, 2017 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the St. Lawrence University, hereinafter referred to as “the Fund.” The Fund’s office is located at Vilas Hall, Canton, New York 13617.

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 Fund strengthen the diversification of its investment holdings. 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 Investment Strategy Statement's ("ISS") risk, return, and time horizon parameters. (See item 4 of this report)

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued. (See item 5 of this report)

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a copy of the annuitant's death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (See item 5 of this report)

The examiner recommends that the Fund prepare its filed annual statements in accordance with the instruction for completing the New York State Segregated Gift Annuity Fund Annual Statement. (See item 6 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2011. This examination covers the period from January 1, 2012 through December 31, 2016. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2016 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, 2016 to determine whether the Fund's filed 2016 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 action taken by the Fund with respect to the violation 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

St. Lawrence University (“the University”) is organized for the purpose of excellence in the undergraduate liberal arts and graduate studies in education. The University has been issuing gift annuity agreements since 1988. A special permit was granted to the University by the Department on December 11, 1992 authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The University issues the annuities and maintains the annuity files. State Street Bank and Trust Company is the custodian of the Fund’s assets and performs administrative and accounting services on behalf of the Fund. State Street Global Advisors is the Fund’s investment manager.

The management of the University and the Fund and all its affairs and property are entrusted to a board of trustees. The number of trustees is limited to no less than 18 and no more than 42 regular voting trustees. As of December 31, 2016, the board consisted of 39 regular trustees. The trustees elect a Chair of the Board, one or more Vice Chairs, the President of the University, one or more Vice Presidents of whom one shall be the Dean of Academic Affairs, the Secretary and the Treasurer. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

4. SIGNIFICANT FINANCIAL INFORMATION

The following table indicates the growth in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	December 31, <u>2011</u>	December 31, <u>2016</u>	<u>Increase</u>
Admitted assets	\$ <u>2,439,506</u>	\$ <u>3,188,267</u>	\$ <u>748,761</u>
Liabilities	\$ <u>2,087,661</u> *	\$ <u>2,637,944</u>	\$ <u>550,283</u>
Minimum required fund balance	\$ 208,766*	\$ 263,794	\$ 55,028
Excess fund balance (surplus)	<u>143,079</u> *	<u>286,529</u>	<u>143,450</u>
Total annuity fund balance	\$ <u>351,845</u> *	\$ <u>550,323</u>	\$ <u>198,478</u>
Total liabilities and annuity fund balance	\$ <u>2,439,506</u>	\$ <u>3,188,267</u>	\$ <u>748,761</u>

*Amounts determined by the examiner during the prior examination.

Annuities decreased from 163 with annual payment amounts of \$295,666 as of December 31, 2011 to a total of 137 with annual payment amounts of \$291,056 as of December 31, 2016. The increase in assets, liabilities and annuity fund balance was driven by a \$1,000,000 gift in late 2016, which resulted in \$837,064 of investment purchases.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in common stocks (87.3%).

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 2016 annual statements on file, the Fund reported: 36.06% invested in Passive Bond Mkt IDX CTF CMXF, and 31.55% invested in S&P 500 Common Trust Fund. The

Fund's current concentration in these common trust funds makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the two investments.

Based on the investment in the two funds cited in the preceding paragraph, the examiner recommends that the Fund strengthen the diversification of its investment holdings. 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. 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 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.

5. 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.

The examiner reviewed the Fund's gift annuity agreement forms used during the examination period. The examiner noted that 4 out of the 8 gift annuity agreement forms (50%) used by the Fund did not have the appropriate form number as approved by the Superintendent printed on the forms.

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.

The examiner's review of a sample of 5 annuity contracts terminated revealed that in 4 of the 5 cases (80%) reviewed, the Fund did not obtain a copy of the death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a copy of the annuitant's death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

6. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2016 state, in part:

(10) All amounts are to be reported based upon annuities issued in all states, except for states that mandate a legally required segregated and distinct trust account for that particular state's annuitants (e.g., California).

The Instructions for the Exhibit of Annuities in Force section of the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2016 state, in part:

IMPORTANT NOTE: For all calendar years (Columns 1 through 9), the number, annualized amount of payments on annuities in force, and reserve thereon should exclude California business and business from any state(s) that mandate a legally required segregated and distinct trust account for that particular state's annuitants.

The examiner's review of the Fund's reserve listing provided in conjunction with its 2016 Annual Statement revealed that the Fund included 3 annuities issued in California with total reserves of \$67,094 as of December 31, 2016. The examiner determined that the Fund failed to adhere to the Department's annual statement instructions which state that the Fund is required to report any amounts for its annuity program, exclusive of annuities issued in states such as California that mandate a legally required segregated and distinct trust account.

The Instructions for Completing Column 1 and 8 in the Exhibit of Annuities in Force section of the New York State Segregated Gift Annuity Fund Annual Statement for all years during the examination period (January 1, 2012 through December 31, 2016) state:

"Column 1 "Reserve" – The amount reported on Line 1 (i.e., the current year) should agree with the amount reported at Page 2, Line 10b."

As of December 31, 2015 and 2016, respectively, the Fund reported annuity reserves of \$1,936,360 and \$2,293,864 at Column 1 – Reserve, of the Exhibit of Annuities in Force. In accordance with the annual statement instructions cited above, the Fund should have reported

reserves of \$1,951,823 in 2015 and \$2,637,944 in 2016 at Column 1 – Reserve, respectively. The Fund therefore understated reserves by \$15,463 and \$344,080 in 2015 and 2016, respectively, in the Exhibit of Annuities in Force.

Within the same Exhibit, in the row for the year 2015, the Fund understated the number of annuity contracts written by 2 and overstated the number of annuities terminated by 2. The Fund should have reported that it had written 6 annuities and terminated 4 annuities in 2015. While the numbers reported by the Fund for written and terminated are inaccurate, the Fund reported accurately the ending amount of annuities in force at year end, as 144.

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2016 for Schedule A, Parts 2 & 3 – Preferred Stocks, Common Stocks states (in part):

“IMPORTANT NOTE: Mutual funds, Exchange Traded funds and Common Trust funds (funds that invest in stocks, bonds, options or currencies) are to be reported in Schedule A – Part 3 - Common Stocks.”

The Fund reported bonds of \$1,149,686 in Schedule A, Part 1, of its 2016 Annual Statement. The examiner determined that the amount reported in Part 1 of Schedule A consisted instead of investments in the Passive Bond Mkt IDX CTF-CMX7, a bond mutual fund, and therefore should have been reported instead as common stock in Schedule A, Part 3.

The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.

7. PRIOR REPORT SUMMARY AND CONCLUSION

Following is the violation contained in the prior report on examination and the subsequent action taken by the Fund in response to the citation:

<u>Item</u>	<u>Description</u>
A	<p>The Fund violated Section 1110(a) of the New York Insurance Law by failing to file with the superintendent copies of its forms of agreements with annuitants.</p> <p>The Fund has taken corrective action in response to this prior report recommendation.</p>

8. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Fund strengthen the diversification of its investment holdings. 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
B	The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.	7
C	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a copy of the annuitant's death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.	7
D	The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.	9

Respectfully submitted,

_____/s/
Kings Ankrah
Senior Insurance Examiner

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

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

_____/s/
Kings Ankrah

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31612

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, 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:

KINGS ANKRAH

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
ST. LAWRENCE 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 10th day of August, 2017

*MARIA T. VULLO
Superintendent of Financial Services*

By:

Mark McLeod

**MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU**

