



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
CONSUMER REPORTS, INC.

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

NOVEMBER 1, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

CONSUMER REPORTS, INC

AS OF

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EXAMINER:

IKENNA ONYEGWARA

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

March 9, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31594, 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 Consumer Reports, Inc., hereinafter referred to as “the Fund.” The Fund’s home office is located at 101 Truman Avenue, Yonkers, NY 10703.

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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain and maintain signed statements from each of the board members indicating that they received and read the prior report on examination. This is a repeat violation. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination. (See Item 4 of this report)

The examiner recommends that the board of directors, 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 violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (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 actions 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

The Consumer Reports, Inc. (“Consumer Reports” or “Corporation”) is organized for the purpose of obtaining and providing consumers information and counsel on consumer’s goods and services. Consumers Union of United States Inc. was formed in February 1936. On November 15, 2016, the name of the Corporation was formally changed to Consumer Reports, Inc. The Corporation has been issuing gift annuity agreements since 1999. A permit was granted to the Corporation by the Department on October 8, 2003, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

PNC Institutional Investments (“PNC”) serves as the trustee of the Fund. PNC is responsible for the development of the Fund’s Investment Policy Statement (“IPS”) and the management of assets in compliance with the IPS. PNC is also responsible for initiating and processing investment transactions, providing reports to the Fund, and advising the Fund on compliance with state laws and regulations regarding investments and reserves. PNC is also responsible for the maintenance and settlement of annuity agreements. The Fund performs the receipt of gifts and issuance of new gift annuities, as well as performing accounting functions, including reconciliations, the review of annual statements and general reviews of assets and liabilities.

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to not less than 12 or more than 21 regular voting directors. As of December 31, 2016, the board consisted of 18 directors. The board elects a chair of the board, one or more vice chairs of the board, a secretary, and a treasurer. The board also engages the services of a president to be in charge of the activities and staff of the Corporation. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

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

“(b) 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 examiner requested evidence of statements signed by each board member indicating that they received and read the prior report on examination. The Fund was only able to provide statements from members of the Audit Committee, which does not meet the above requirement of the full board.

The Fund violated Section 312(b) of the New York Insurance Law by failing to obtain and maintain signed statements from each of the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signed statements of each board member indicating that they have received and read the prior report on examination.

The examiner reviewed the minutes of the Finance and Performance Oversight Committee of the board of directors of Consumer Reports to determine whether the board approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the board approved the purchases and sales of investments during the examination period.

The examiner recommends that the board of directors, 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 summary 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>9,020,844</u>	\$ <u>12,064,684</u>	\$ <u>3,043,840</u>
Liabilities	\$ <u>7,212,008</u>	\$ <u>8,306,411</u>	\$ <u>1,094,403</u>
Minimum required fund balance	\$ 721,201	\$ 830,641	\$ 109,440
Excess fund balance (surplus)	<u>1,087,635</u>	<u>2,927,632</u>	<u>1,839,997</u>
Total annuity fund balance	\$ <u>1,808,836</u>	\$ <u>3,758,273</u>	\$ <u>1,949,437</u>
Total liabilities and annuity fund balance	\$ <u>9,020,844</u>	\$ <u>12,064,684</u>	\$ <u>3,043,840</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 549 with annual payment amounts of \$745,965 as of December 31, 2011 to a total of 604 with annual payment amounts of \$826,437 as of December 31, 2016. The main driver for the increase in assets and annuity fund balance is the favorable increase in the market valuation for the Fund's investments. Liabilities increased as a direct result of the \$2.4 million in gift annuity contributions received during the exam period.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in stocks (96.42%) and mutual funds (3.46%).

## 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.

Section 1110(a) of the New York insurance Law states, in part:

“...Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants ...”

The examiner reviewed six gift annuity agreement forms used by the fund for gift annuities issued in New York during the examination period and noted that in five instances, the Fund used forms that differed from the gift annuity agreements forms filed with the Superintendent.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>
A	<p>The Fund violated Section 312(b) of the New York Insurance Law by failing to obtain and maintain signed statements from the board members indicating that they received and read the prior report on examination.</p> <p>The Fund failed to take corrective action (See Item 4 of this report).</p>

## 8. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations 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 obtain and maintain signed statements from each of the board members indicating that they received and read the prior report on examination.	5
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signed statements of each board member indicating that they received and read the prior report on examination.	5
C	The examiner recommends that the board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
D	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.	7
E	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	7

Respectfully submitted,

\_\_\_\_\_/s/  
Ikenna Onyegwara  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Ikenna Onyegwara

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

APPOINTMENT NO. 31594

**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:

**IKENNA ONYEGWARA**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
CONSUMERS UNION OF UNITED STATES, INC.**

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

