



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

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

JULY 31, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

ASHOK REDDY

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

October 31, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31372, dated April 13, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the HIAS, Inc., hereinafter referred to as “the Fund”. The Fund’s home office is located at 1300 Spring Street, Suite 500, Silver Spring, MD 20910.

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's board of directors, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes. (See item 3C 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 3C of this report)

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian. (See item 3C of this report)

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. (See item 4 of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement that references the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives. (See item 4 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 5 of this report)

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. (See item 6 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2012. This examination covers the period from January 1, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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, 2017 to determine whether the Fund's filed 2017 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 recommendation 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

A. History

HIAS, Inc. is organized for the purpose of providing essential lifesaving services to world Jewry, through its mission of rescue, reunion and resettlement. HIAS, Inc. also addresses the migration needs of other people who are threatened and oppressed. HIAS, Inc. established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 2004. A special permit was granted to HIAS, Inc. by the Department on April 28, 2004, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

HIAS, Inc. maintains a custodial and investment management services agreement with PNC Bank. PNC Bank is responsible for all administrative and investment management duties. HIAS, Inc. performs the calculations and gift management for its charitable gift annuity program.

C. Corporate Governance

The management of HIAS, Inc. and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to no fewer than 21 and no more than 60 regular voting directors. As of December 31, 2017, the board consisted of 23 directors and one ex-officio director. The directors elect a chair of the board, a president, a secretary-treasurer, not more than two (2) vice chairs of the board, and such other officers as may be appropriate. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

The examiner requested the minutes of the board of directors and all committees thereof for the examination period. The Fund provided the examiner with a copy of the Investment subcommittee meetings conducted in 2016 only.

The examiner recommends that the Fund's board of directors, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.

The examiner reviewed the board of directors' minutes 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.

The examiner reviewed the investment transactions for the period under examination and noted that the Fund did not obtain broker's advices or other supporting documentation for its investment transactions to reconcile such advices to the monthly statements furnished by the custodian.

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian.

4. SIGNIFICANT FINANCIAL INFORMATION

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

	<u>December 31,</u> <u>2012</u>	<u>December 31,</u> <u>2017</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$2,653,871</u>	<u>\$1,892,084</u>	<u>\$(761,787)</u>
Liabilities	<u>\$2,204,217</u>	<u>\$1,315,418</u>	<u>\$(888,799)</u>
Minimum required fund balance	\$ 221,417	\$ 118,281	\$(103,136)
Excess fund balance (surplus)	<u>228,237</u>	<u>458,385</u>	<u>230,148</u>
Total annuity fund balance	<u>\$ 449,654</u>	<u>\$ 576,666</u>	<u>\$ 127,012</u>
Total liabilities and annuity fund balance	<u>\$2,653,871</u>	<u>\$1,892,084</u>	<u>\$(761,787)</u>

The decrease in assets and liabilities reflects a decrease in annuity payment amounts and terminated annuities from annuitant deaths. Annuity payments decreased from \$296,124 as of December 31, 2012 to \$190,380 as of December 31, 2017; annuities in force decreased from 128 as of December 31, 2012 to a total of 84 as of December 31, 2017. The increase in surplus is due in part to a net decrease in actuarial reserves of \$195,207 in 2013, \$231,705 in 2014, \$235,127 in 2015, \$141,903 in 2016, and \$210,166 in 2017.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in common stocks (94.66%), including money market mutual funds (5.34%).

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 2017 annual statement on file, the Fund reported: 44.77% of its admitted assets invested in the securities of ISHARES Core S&P 500 (IVV) ETF, 14.99% invested in

ISHARES Core US Aggregate Bond (AGG) ETF, and 10.00% invested in ISHARES Core MSCI EAFE ETF (IEFA). The Fund's current concentration in these funds could make it highly unlikely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

Based upon the concentrations in the above ETF's, 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.

The examiner's review of the Fund's Investment Strategy Statement revealed that it failed to refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law.

The examiner recommends that the Fund adopt an Investment Strategy Statement that references the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives.

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. Based upon the sample reviewed, no significant findings were noted.

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, 2015, namely, lines 10.1 and 11 of the Statement of Income and Disbursements, states the following:

“Line 10.1: Report the net increase/(decrease) in actuarial reserves as of December 31 of the current year.

This is the change in the amount of actuarial reserves (as shown on Page 2, Line 10b) between December 31 current year and December 31 prior year.

Line 11: Report any gross amount transferred to the general funds of the corporation/reporting entity from the Segregated Gift Annuity Fund in the current year and prior year.”

The examiner noted that, in the current year column of the disbursements section on page 3 of the Fund's filed 2014 annual statement, the Fund reported \$(136,548) as the net decrease in actuarial reserves and \$0 as the gross amount transferred to the general funds of the corporation. The examiner's review of the prior year disbursements column on page 3 of the Fund's filed 2015 annual statement revealed that the Fund reported \$(231,705) as the net decrease in actuarial reserves in 2014 and \$90,000 as the gross amount transferred to the general funds of the corporation for 2014. The examiner determined that the Fund should have reported such figures in the 2014 annual statement.

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the years ended December 31, 2014 and 2015, namely Item 2 of the notes to the annual statement, states the following:

“2. Annuity Payments to donors and others

Generally, it is expected that the amount of annuity payments that the Segregated Gift Annuity Fund makes during the year will be approximately the amount calculated by comparing the Annualized Amount of Annuity Payments at the beginning of the year and the amount outstanding at the end of year, as reported in the Exhibit of Annuities In Force (Page 3, Columns 3 and 9). If the amount reported on Page 3, Line 8 is significantly different than the amount so calculated, OR if the Society reports "0" on Page 3, Line 8, provide an explanation at this Note.”

In the Fund's filed 2014 annual statement, it reported \$359,979 in annuity payments to donors or others in line 8 of the disbursements section of page 3. In the 2014 Exhibit of Annuities In Force, the annualized annuity payments were \$284,147 at the beginning of the year and \$258,939 at the end of the year, respectively. For 2015, the Fund reported \$513,442 in annuity payments to donors or others in line 8 of the disbursements section of page 3 and reported \$258,939 in annuity payments at the beginning of the year and \$238,820 in annuity payments at the end of the year in the Exhibit of Annuities in Force on page 3. The examiner determined that the large gaps were caused by \$90,000 in disbursements to the general fund of HIAS, Inc. in 2014 and \$255,000 in disbursements in 2015. The Fund failed to provide any explanation in Note 2.

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the years ended December 31, 2015, 2016 and 2017, namely item 3 of the notes to the annual statement, states the following:

"3. Segregated Gift Annuity Funds authorized to write annuities in states that mandate a legally required segregated and distinct trust account for that particular state's annuitants should respond "Yes" to General Interrogatory 11 and report the dollar amount of the segregated assets, liabilities and annuity fund balance (surplus) for each state that requires a separate trust account for the maintenance of assets in accordance with their statutes or laws."

In the Fund's filed annual statements for the years ended December 31, 2015, 2016 and 2017, respectively, it checked "No" in Interrogatory 11. This would seem to indicate that the Fund is not authorized to issue charitable gift annuities in states that require a separate trust account for the maintenance of assets for the sole benefit of its residents, e.g. California. However, the notes to the financial statements show that the Fund appeared to have a segregated account for the benefit of California residents. As an example, the 2017 note in the annual statement regarding the segregated California account stated the following:

"\$218,914 of assets, \$218,914 of liabilities (including reserves), and \$218,914 of annuity fund balance, was maintained in a segregated account for the sole benefit of California residents, in accordance with the requirements of California Law. There were 9 annuities in force in California as of the current year-end."

The above would appear to indicate a discrepancy in the responses between General Interrogatory 11 and item 3 of the notes to the financial statements.

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 CONCLUSIONS

Following are the recommendation 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 examiner recommends that the Fund prepare its filed annual statements according to the Department's instructions.</p> <p>The examiner uncovered new issues regarding the preparation of its filed annual statements. A similar recommendation appears in this report on examination.</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's board of directors, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.	4
B	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
C	The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian.	5
D	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.	7
E	The examiner recommends that the Fund adopt an Investment Strategy Statement that references the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives	7
F	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.	11

Respectfully submitted,

_____/s/
Ashok Reddy
Senior Examiner

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

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

_____/s/
Ashok Reddy

Subscribed and sworn to before me
this _____ day of _____

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:

ASHOK REDDY

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
HIAS, 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 13th day of April, 2018

MARIA T. VULLO
Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

