



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

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

OCTOBER 31, 2017

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EXAMINER:

PETER AGUH

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

December 18, 2017

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

Madam:

In accordance with instructions contained in Appointment No. 31618, 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 Yeshiva University, hereinafter referred to as the "Fund." The Fund's home office is located at 500 West 185th Street New York, NY 10033.

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 maintain signed statements from 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 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 Fund's board of directors review the activities of the Fund at least annually and note the same in the minutes. (See item 4 of this report)

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 examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer to 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 5 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 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 Yeshiva University (the “University”) is solely organized for the purpose of providing undergraduate, graduate, professional and post-doctoral education and training and medical research and clinical programs. The University serves as a platform to bring collective wisdom to the world through community outreach, publications, seminars and a broad range of academic programs. For the Jewish community in America, Israel and around the world, the University’s mission is to bring wisdom to life and foster greater understanding and appreciation of the heritage, traditions and values.

The University has been issuing gift annuity agreements since 2001. A special permit was granted to the University by the Department on April 24, 2007 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. Bank of America Merrill Lynch is the custodian of the Fund’s assets and the Fund’s investment manager. Bank of America Merrill Lynch also issues the payments to the donors. The Fund engages an outside accountant, Daniel O’Connell, C.P.A., to prepare the accounts and file the Annual Statements.

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 no fewer than 25 and no more than 50 members. As of December 31, 2016, the board consisted of 36 trustees. The trustees elect a Chair, up to four Vice Chairs, a Treasurer, as well as the President and the Chancellor. The nomination and election procedures of the trustees 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 Fund failed to maintain statements signed by each board member indicating that they received and read the prior report on examination.

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. 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.

The examiner requested the board of trustees’ minutes for the examination period. The Fund was unable to provide any minutes evidencing board review of Fund activities.

The examiner recommends that the Fund’s board of directors review the activities of the Fund at least annually and note the same in the minutes.

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 summary table indicates the growth (decline) 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>	Increase (Decrease)
Admitted assets	<u>\$888,737</u>	<u>\$705,413</u>	<u>\$(183,324)</u>
Liabilities	<u>\$753,784</u>	<u>\$569,397</u>	<u>\$(184,387)</u>
Minimum required fund balance	\$ 75,378	\$ 56,940	\$ (18,438)
Excess fund balance (surplus)	<u>59,575</u>	<u>79,076</u>	<u>19,501</u>
Total annuity fund balance	<u>\$134,953</u>	<u>\$136,016</u>	<u>\$ 1,063</u>
Total liabilities and annuity fund balance	<u>\$888,737</u>	<u>\$705,413</u>	<u>\$(183,324)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 11 with annual payment amounts of \$94,592 as of December 31, 2011 to a total of 9 with annual payment amounts of \$80,667 as of December 31, 2016. The Fund did not supply an explanation for the increase in its surplus.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in bonds (47%) and mutual funds (48%). All bonds held were investment grade.

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. Such a Statement should refer to 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.

## 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 violation 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 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.</p> <p>The Fund indicated that there were no minutes that discussed the Fund during the examination period. A similar recommendation appears in this report on examination.</p>
B	<p>The examiner recommends that the Fund maintain brokers' advices, or other documentation from Bank of America Merrill Lynch to support the source transactions, and reconcile such documentation to the monthly statements provided by the custodian.</p> <p>The Fund indicated that advices or other transaction documentation are not produced and generated. However, the Fund's custodian supplied its 2016 SSAE 16 report, which contained an unqualified opinion relating to its controls.</p>
C	<p>The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that were not filed with the Superintendent.</p> <p>The examiners review of the Fund's reserve listing indicated that no new annuities were issued in New York during the examination period.</p>
D	<p>The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent.</p> <p>The examiners review of the Fund's reserve listing indicated that no new annuities were issued in New York during the examination period.</p>
E	<p>The examiner recommends that the Fund's name be included on all checks used to issue annuity benefit payments.</p> <p>A review of the checks provided indicated that the Fund's name appeared on the check stubs sent to the annuitants.</p>

## 8. SUMMARY AND CONCLUSIONS

Following are the violation 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 maintain signed statements from 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 signature of each board member indicating that they received and read the prior report on examination.	5
C	The examiner recommends that the Fund's board of directors review the activities of the Fund at least annually and note the same in the minutes.	5
D	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
E	The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer to 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.	6

Respectfully submitted,

\_\_\_\_\_/s/  
Peter Aguh  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Peter Aguh

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

**APPOINTMENT NO. 31618**

**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:

**PETER AGUH**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
YESHIVA 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**  
DEPUTY CHIEF - LIFE BUREAU

