



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
NEW YORK MEDICAL COLLEGE

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

JUNE 8, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

JAMES WANG

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

August 27, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31740, 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 New York Medical College, hereinafter referred to as the “Fund.” The Fund’s home office is located at 40 Sunshine Cottage Road, Valhalla, NY 10595.

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 contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities. This is a repeat recommendation. (See item 3B of this report)

The examiner recommends that the Fund's board of trustees 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 trustees, 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 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)

## 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 violation, recommendations and comment contained in the prior report on examination. The results of such review are contained in item 6 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

The New York Medical College (the “College”) is a health sciences university whose purpose is to educate physicians, scientists, public health specialists and other health care professionals, and to conduct biomedical and population based research. The College has been issuing gift annuity agreements since December 2004. A permit was granted to the College, by the Department on November 8, 2008, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

Morgan Stanley Wealth Management (“Morgan Stanley”) is the custodian of the Fund’s investments and investment manager. Morgan Stanley, an asset management company, provides fundraising strategy, including planned giving support and endowment management to the Fund.

Charitable Trust Administration Company (“CTAC”) prepares the annual statements, calculates the reserves, and processes the annuity benefits on behalf of the Fund. The Fund maintains a licensing agreement with Crescendo Interactive (gift annuity software) to manage the Fund’s gift annuity program. All other operations related to the issuance, maintenance and settlement of annuity agreements are performed by the Fund.

As mentioned, the Fund’s custodian is Morgan Stanley Wealth Management; however, Morgan Stanley is not a licensed bank or trust company.

The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund’s custodian for the Fund’s securities.

### C. Corporate Governance

The management of the New York Medical College and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees should consist of no less than 15 and no more than 35 regular voting trustees. As of December 31, 2017, the board consisted of 20 trustees. The trustees elect a Chairman, Vice Chairman, Secretary, and Assistant Secretary. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

The examiner requested the board of trustees' minutes for the examination period. The Fund provided the examiner with a copy of the board minutes for the board meetings conducted in 2016 only.

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

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

#### 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><br><u>2012</u> | <u>December 31,</u><br><u>2017</u> | <u>Increase</u><br><u>(Decrease)</u> |
|--|------------------------------------|------------------------------------|--------------------------------------|
| Admitted assets                            | <u>\$86,567</u>                    | <u>\$106,081</u>                   | <u>\$ 19,514</u>                     |
| Liabilities                                | <u>\$63,360</u>                    | <u>\$ 48,917</u>                   | <u>\$(14,444)</u>                    |
| Minimum required fund balance              | \$ 6,336                           | \$ 4,608*                          | \$ (1,728)                           |
| Excess fund balance (surplus)              | <u>16,871</u>                      | <u>52,556*</u>                     | <u>35,685</u>                        |
| Total annuity fund balance                 | <u>\$23,207</u>                    | <u>\$ 57,164</u>                   | <u>\$ 33,957</u>                     |
| Total liabilities and annuity fund balance | <u>\$86,567</u>                    | <u>\$106,081</u>                   | <u>\$ 19,514</u>                     |

\* This amount was determined by the examiner during the examination.

The increase in assets and annuity fund balance reflects the fact that the society has added additional funds to bolster the Gift Annuity pool. The reduction of liabilities during the examination period reflects the decline in reserves on existing annuities due to ordinary runoff of contracts.

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, the Fund reported: 40.46% of its admitted assets invested in the Vanguard REIT ETF, 12.16% in the IShares Tips Bond ETF, 10.98% in the IShares Short Treasury BD ETF, 10.28% in the IShares Russell 1000 Value ETF, and 10.18% in the IShares Russell 1000 Growth ETF. The Fund's current concentration in these funds makes 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 Exchange Traded Funds, 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. Based upon the sample reviewed, no significant findings were noted.

## 6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation, recommendations and comment 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 is underfunded by \$13,432 as of December 31, 2012.</p> <p>The Fund is no longer underfunded as of December 31, 2017.</p>   |
| B           | <p>The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain admitted assets at least equal to the greater of the sum of its reserves on its outstanding agreements and a surplus of ten percent of such reserves, or the amount of one hundred thousand dollars.</p> <p>The examiner recalculated the required admitted assets of the Fund and determined that the Fund maintained the appropriate amount of admitted assets.</p> |
| C           | <p>The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities.</p> <p>The Fund does not utilize the services of a bank or trust company as the custodian of its securities. A similar recommendation appears in this report.</p>   |
| D           | <p>The examiner recommends that the Fund maintain its assets in a custody agreement under its name, not in the name of the College.</p> <p>The Fund's custody account remains under the name of the college and not the Fund. A similar recommendation appears in this report.</p>  |

## 7. 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 contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities. This is a repeated recommendation from prior examination.   | 4                  |
| B           | The examiner recommends that the Fund's board of trustees review the activities of the Fund at least annually and note the same in the minutes.  | 5                  |
| C           | 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                  |
| 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                  |

Respectfully submitted,

\_\_\_\_\_/s/  
James Wang  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
James Wang

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

*APPOINTMENT NO. 31740*

**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:*

**JAMES WANG**

*as a proper person to examine the affairs of the*

**SEGREGATED GIFT ANNUITY FUND OF THE  
NEW YORK MEDICAL COLLEGE**

*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**

