



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
MEMORIAL SLOAN-KETTERING CANCER CENTER

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

NOVEMBER 16, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

HASAN AHMED

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

July 26, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31317, dated August 14, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of Memorial Sloan-Kettering Cancer Center, hereinafter referred to as the “Fund,” at its home office located at 633 Third Avenue, 12th Floor, New York, NY 10017.

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 diversify its investment holdings. (See item 4 of this report)

The examiner recommends that the Fund use the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. (See item 5 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2009. This examination covers the period from January 1, 2010 through December 31, 2014. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2014 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, 2014 to determine whether the Fund's filed 2014 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 recommendations 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

The Memorial Sloan-Kettering Cancer Center (the “Center”) is organized for the purpose of providing preventive care, patient care, research and education for cancer patients. Under the provisions of its by-laws, the Center is permitted to issue gift annuity agreements and it has done so since 1975. A special permit was granted to the Center by the Department on May 22, 1979, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund solicits and executes the agreements with the contract holders, calculates the annuity benefit payments, and corresponds directly with the annuitants. The Center’s investment management department authorizes the Fund’s purchases and sales of investments. State Street Global Advisors, Inc. (“State Street”) is the custodian of the Fund’s assets and is the Fund’s investment manager. State Street also issues the annuity benefit payments and provides accounting services on behalf of the Fund.

The management of the Center and the Fund and all of its affairs and property are entrusted to a board of directors (known as the board of managers). The number of managers is limited to not fewer than 15 and not more than 30 regular voting managers. The managers elect a chairman, one or more vice chairmen, a president, an executive vice president, one or more senior vice presidents, one or more vice presidents, a secretary, and a treasurer. The nomination and election procedures of the managers and their terms of office are set by the by-laws.

4. SIGNIFICANT FINANCIAL INFORMATION

The following table indicates the Fund's financial decline during the period under review:

	December 31, <u>2009</u>	December 31, <u>2014</u>	<u>(Decrease)</u>
Admitted assets	<u>\$37,324,007</u>	<u>\$29,179,059</u>	<u>\$(8,144,948)</u>
Liabilities	<u>\$27,906,845</u>	<u>\$21,799,295</u>	<u>\$(6,107,550)</u>
Minimum required fund balance	\$ 2,790,684	\$ 2,179,930	\$ (610,754)
Excess fund balance (surplus)	<u>6,626,478</u>	<u>5,199,834</u>	<u>(1,426,644)</u>
Total annuity fund balance	<u>\$ 9,417,162</u>	<u>\$ 7,379,764</u>	<u>\$(2,037,398)</u>
Total liabilities and annuity fund balance	<u>\$37,324,007</u>	<u>\$29,179,059</u>	<u>\$(8,144,948)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 1,356 with annual payment amounts of \$4,472,281 as of December 31, 2009 to a total of 1,210 with annual payment amounts of \$3,592,506 as of December 31, 2014.

The decrease in assets and annuity fund balance is also attributable to net unrealized losses in the Fund's investments and gross amount transferred to general funds of the corporation during the examination period. Specifically, the Fund reported an unrealized capital loss of \$1,544,837 in 2011 and gross amount transferred to general funds of the corporation of \$6,668,453 in 2012.

The Fund's admitted assets, as of December 31, 2014, were mainly invested in common stocks (96.91%).

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 2014 annual statement on file, the Fund reported 32.80% invested in the securities of Passive Bond Market Index Common Trust Fund ("CTF") and 29.71% invested in the securities S&P 500 Tobacco Free Fund mutual fund. The Fund's current concentration in the CTF and mutual fund makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in these funds.

The examiner recommends that the Fund diversify its investment holdings. 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 ("ISS") 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. 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.

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's review of a sample of annuity benefit payments made to annuitants during the examination period revealed that only the name of the Center, not the Fund's name, appeared on the annuity benefit checks.

The examiner recommends that the Fund use the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendations contained in the prior report on examination and the subsequent actions taken by the Fund in response to each recommendation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the board of managers, or a committee thereof, review the Fund's investment policy and note the same in the board minutes.</p> <p>The board of managers reviewed the Fund's investment policy and noted the same in the board minutes.</p>
B	<p>The examiner recommends that the board of managers, or a committee thereof, review and approve the purchases and sales of the Fund's investments and note the same in the board minutes.</p> <p>The board of managers reviewed and approved the purchases and sales of the Fund's investments and noted the same in the board minutes.</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 diversify its investment holdings.	6
B	The examiner recommends that the Fund use the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.	7

Respectfully submitted,

_____/s/
Hasan Ahmed
Insurance Examiner

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

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

_____/s/
Hasan Ahmed

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31317

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, ANTHONY J. ALBANESE, Acting 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:

HASAN AHMED

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
MEMORIAL SLOAN-KETTERING CANCER CENTER**

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 14th day of August, 2015

ANTHONY J. ALBANESE
Acting Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
ASSISTANT CHIEF - LIFE BUREAU

