



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
AMERICAN JEWISH JOINT DISTRIBUTION COMMITTEE, INC.

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

AUGUST 7, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

AMERICAN JEWISH JOINT DISTRIBUTION COMMITTEE, INC.

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EXAMINER:

JUAN SOTO

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

April 11, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31589, dated April 20, 2017 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the American Jewish Joint Distribution Committee, Inc., hereinafter referred to as the “Fund,” at its home office located at 711 Third Avenue, 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'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 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 5 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)

The examiner recommends that the Fund prepare its annual statements according to the Department's instructions. (See item 7 of this report)

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (See item 7 of this report)

## 2. SCOPE OF EXAMINATION

This is the first examination of the Fund since it received its special permit to issue gift annuity agreements in 2012. This examination covers the period from May 9, 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.

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 American Jewish Joint Distribution Committee, Inc. (the “JDC”) is organized for the purpose of alleviating hunger and hardship, the rescue of Jews in danger, strengthening Jewish communities, cultivating young leaders, and creating lasting connections to Jewish life. The JDC builds Israel’s human capital, both Jewish and non-Jewish, by empowering its most vulnerable citizens, crafting broad-impact strategies that give youth at risk, the chronically unemployed, people with disabilities, and new immigrants the tools they need to participate fully in the country’s future. The Society has been issuing gift annuity agreements since 2002. A special permit was granted to the Society by the Department on May 9, 2012, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund’s custodian and investment advisor is State Street Global Markets LLC (“State Street”). State Street also makes annuity distributions to annuitants, sends annual statements of earnings to annuitants and prepares regular accounting of the Fund’s activities. Annual statement accounting services are performed by Daniel O’Connell, CPA.

The management of the Society and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is comprised of at least 125 and no more than 180 members. As of December 31, 2016, the board consisted of 177 trustees. The trustees elect a President, a Chairperson of the board of trustees, a Treasurer and a Secretary. The trustees may elect one or more Vice Presidents who shall be members of the board. The trustees also elect an Executive Vice President and Chief Executive Officer, who is not a member of the board.

#### 4. CORPORATE GOVERNANCE

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 2012 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.

## 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>2012</u>	December 31, <u>2016</u>	<u>Increase</u>
Admitted assets	<u>\$2,304,979</u>	<u>\$2,928,273</u>	<u>\$623,294</u>
Liabilities	<u>\$1,562,855</u>	<u>\$1,569,724</u>	<u>\$ 6,869</u>
Minimum required fund balance	\$ 156,286	\$ 156,972	\$ 686
Excess fund balance (surplus)	<u>585,839</u>	<u>1,201,577</u>	<u>615,738</u>
Total annuity fund balance	<u>\$ 742,125</u>	<u>\$1,358,549</u>	<u>\$616,424</u>
Total liabilities and annuity fund balance	<u>\$2,304,980</u>	<u>\$2,928,273</u>	<u>\$623,293</u>

The increase in assets, liabilities, and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 20 with annual payment amounts of \$201,950 as of December 31, 2012 to a total of 25 with annual payment amounts of \$225,609 as of December 31, 2016.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in stocks (99.8%).

Section 1409(a) of the New York Insurance Law states, in part:

“(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 2016 annual statement, the Fund reported 25.4% of its admitted assets invested in the securities of the S&P 500 CTF-CM10CTF and 12.7% in the EAFE Index CTF-ECTF(#ZV15). The Fund's current concentration in these common trust funds makes it less likely that the Fund's other assets can provide a variability to offset the risks inherent in the common trust funds.

Based on the investment in the two common trust funds cited in the preceding paragraph, 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 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. 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, 2016 state, in part:

(10) All amounts are to be reported based upon annuities issued in all states, except for states that mandate a legally required segregated and distinct trust account for that particular state's annuitants (e.g., California).

The Instructions for the Exhibit of Annuities in Force section of the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2016 state, in part:

**IMPORTANT NOTE:** For all calendar years (Columns 1 through 9), the number, annualized amount of payments on annuities in force, and reserve thereon should exclude California business and business from any state(s) that mandate a legally required segregated and distinct trust account for that particular state's annuitants.

The examiner's review of the Fund's reserve listing provided in conjunction with its 2016 Annual Statement revealed that the Fund included 1 annuity issued in California with total reserves of \$45,606 as of December 31, 2016. The examiner determined that the Fund failed to adhere to the Department's annual statement instructions which state that the Fund is required to report any amounts for its annuity program, exclusive of annuities issued in states such as California that mandate a legally required segregated and distinct trust account.

The Instructions for Completing Schedule C, Cash, Money Market, Certificates of Deposit, in the 2016 annual statement states, in part:

“Cash in Office: Report the amount of cash in the Segregated Gift Annuity Fund's office as of December 31 of the current year in Column 6. The amount should agree with the amount on Page 2, Line 6.1”

The Fund reported \$6,744 of Cash in Office as of December 31, 2016, on Page 2, Line 6.1 of the Fund's 2016 filed annual statement, but zero for Cash on Deposit on Line 6.2 of the same page. The Fund reported \$6,744 of Cash on Deposit in Schedule C of the annual statement, which

amount the examiner verified through bank confirmation. The \$6,744 should therefore have been reported on Page 2, Line 6.2 of the annual statement for Cash on Deposit, instead of Line 6.1 as Cash in Office.

The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.

The examiner's review of the Fund's annual statements for the period under examination revealed the following:

1. The Fund did not accurately complete the "Exhibit of Number and Annual Amount of Annuities in Force and Reserve Thereon" in its 2012 through 2015 annual statements. In its 2012 annual statement, for the end of year 2012, the Fund reported 17 in force annuities with an in force amount of \$2,804,239. In its 2012 reserve listing, the Fund reported 15 in force annuities with an in force amount of \$2,729,268. In its 2013 annual statement, the Fund reported 20 in force annuities with an in force amount of \$2,899,239. In its 2013 reserve listing, the Fund reported 19 in force annuities with an in force amount of \$2,849,268. In its 2014 annual statement, the Fund reported 22 in force annuities with an in force amount of \$3,099,239. In its 2014 reserve listing, the Fund reported 21 in force annuities with an in force amount of \$3,009,268. In its 2015 annual statement, the Fund reported 23 in force annuities with an in force amount of \$3,085,951. In its 2015 reserve listing, the Fund reported 23 in force annuities with an in force amount of \$3,086,001.
2. The Fund did not accurately complete the "Exhibit of Annuities in Force in New York". In its 2012 annual statement, for the end of year 2012, the Fund reported 12 in force annuities with an in force amount of \$2,440,884. In its 2012 reserve listing, the Fund reported 7 in force annuities with an in force amount of \$2,165,904. In its 2013 annual statement, for the end of year 2013, the Fund reported 11 in force annuities with an in force amount of \$2,415,884. In its 2013 reserve listing, the Fund reported 7 in force annuities with an in force amount of \$2,165,904. In its 2014 annual statement, for the end of year 2014, the Fund reported 11 in force annuities with an in force amount of \$2,415,884. In its 2014 reserve listing, the Fund reported 7 in force annuities with an in force amount of \$2,165,904. In its 2015 annual statement, for the end of year 2015,

the Fund reported 10 in force annuities with an in force amount of \$2,365,884. In its 2015 reserve listing, the Fund reported 7 in force annuities with an in force amount of \$2,165,904.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

## 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 trustees review the activities of the Fund at least annually and note the same in the minutes.	5
B	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
C	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
D	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.	7
E	The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.	10
F	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	11

Respectfully submitted,

\_\_\_\_\_/s/  
Juan Soto  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Juan Soto

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

*APPOINTMENT NO. 31589*

*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:*

***JUAN SOTO***

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

***SEGREGATED GIFT ANNUITY FUND OF THE  
AMERICAN JEWISH JOINT DISTRIBUTION COMMITTEE, 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 20th day of April, 2017*

*MARIA T. VULLO  
Superintendent of Financial Services*

*By:*

*Mark McLeod*

*MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU*

