



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

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

JUNE 29, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

KINGS ANKRAH

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Acting Superintendent

February 22, 2019

Honorable Linda A. Lacewell
Acting Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31719, 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 American Heart Association, Inc. hereinafter referred to as “the Fund.” The Fund’s home office is located at 122 East 42nd Street 18th Floor, New York, NY 10168.

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 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 adopt an Investment Strategy Statement that refers 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 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)

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (See item 5 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 reviewed the prior report on examination which did not contain any violations, recommendations or comments.

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 American Heart Association, Inc. (the “Corporation”) is organized for the purpose of building healthier lives, free of cardiovascular disease and stroke. The Corporation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1991. A permit was granted to the Corporation by the Department on November 3, 1998 for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

State Street Bank & Trust (“State Street”) is the custodian of the Fund. State Street is authorized to invest the assets and collect the income from the investments in accordance with the Fund’s standards for investing funds. The custodian prepares and distributes payments to annuitants, sends Form 1099-R or such other tax notices to annuitants, and maintains the books and records of the accounts. The Fund solicits new business and issues annuity agreements.

C. Corporate Governance

The management of the Corporation 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 9 and no more than 26 regular voting directors. As of December 31, 2017, the board consisted of 23 directors. The directors are elected by the Governance Committee. The directors consist of the Chairman of the board, the Chairman-elect, the Immediate Past Chairman, the President, the President-elect, the Immediate Past President, Secretary, a Treasurer, and such other directors as the board may elect or appoint. The directors elect the Chief Executive Officer (“CEO”) of the Corporation, the Corporate Secretary, as well as other officers as the Corporation considers to be in its best interest. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

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'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 refers 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.

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:

	December 31, <u>2012</u>	December 31, <u>2017</u>	Increase (Decrease)
Admitted assets	\$ <u>15,046,713</u>	\$ <u>17,597,060</u>	\$ <u>2,550,347</u>
Liabilities	\$ <u>11,808,969</u>	\$ <u>11,353,896</u>	\$ <u>(455,073)</u>
Minimum required fund balance	\$ 1,180,897	\$ 1,135,390	\$ (45,507)
Excess fund balance (surplus)	<u>2,056,847</u>	<u>5,107,774</u>	<u>3,050,927</u>
Total annuity fund balance	\$ <u>3,237,744</u>	\$ <u>6,243,164</u>	\$ <u>3,005,420</u>
Total liabilities and annuity fund balance	\$ <u>15,046,713</u>	\$ <u>17,597,060</u>	\$ <u>2,550,347</u>

The increase in assets reflects significant gains in investment income during the examination period; the increase in annuity fund balance reflects the release of reserves due to termination of a few annuity agreements. The decrease in liabilities reflects a decrease in the number of annuities in force. Annuities decreased from 534 with annual payment amounts of \$1,460,510 as of December 31, 2012 to a total of 531 with annual payment amounts of \$1,376,669 as of December 31, 2017.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in stocks 96.1%.

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

“(a) Except as more specifically provided in this chapter, no domestic ... 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: 53.05% of its admitted assets invested in “AMER ONE CENT CHOICE 2055” and 37.02% invested in “PIMCO LOW DURATION ESG FUND”. 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 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.

The examiner's review of a sample of terminated files revealed that in 4 out of the 10 cases (40%) reviewed, the Fund did not obtain a copy of the death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

6. 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 board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
B	The examiner recommends that the Fund adopt an Investment Strategy Statement that refers 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.	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 Investment Strategy Statement's risk, return and time horizon parameters.	7
D	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a copy of a death certificate or other reliable documentary evidence that supports terminating such information.	8

Respectfully submitted,

_____/s/
Kings Ankrah
Senior Insurance Examiner

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

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

_____/s/
Kings Ankrah

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31719

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:

KINGS ANKRAH

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
AMERICAN HEART ASSOCIATION**

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

