



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

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

JUNE 30, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

ANN MARIE THOMPSON

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

October 20, 2017

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

Sir:

In accordance with instructions contained in Appointment No. 31609, 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 Pace University, hereinafter referred to as “the Fund.” The Fund’s home office is located at One Pace Plaza, New York, NY 10038.

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 strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries to deviate from such a recommendation, 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 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 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 on the annuity benefit checks issued to annuitants. A similar recommendation was noted in the prior report as of December 31, 2011. (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 violations and 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 Pace University (the “University”) is organized for the purpose of providing educational services to students. The University has been issuing gift annuity agreements since 1984. A special permit was granted to the University by the Department on March 6, 1997, for the purpose of issuing 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 New York/Mellon (“BNY/Mellon”) is the custodian of the Fund's assets. BNY/Mellon also performs investment management, benefit payments to annuitants, annuity calculations and preparation of the annual report.

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 shall not be less than five nor more than 45 trustees. As of December 31, 2016 the board consisted of 24 trustees. The trustees elect a president, a chief academic officer, a chief financial officer, a chief advancement officer, a treasurer, a secretary, an assistant secretary, and other such executive officers recommended by the president. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

#### 4. 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>2011</u>	December 31, <u>2016</u>	<u>Increase</u>
Admitted assets	<u>\$535,214</u>	<u>\$925,871</u>	<u>\$390,657</u>
Liabilities	<u>\$306,470</u>	<u>\$421,047</u>	<u>\$114,577</u>
Minimum required fund balance	\$ 30,647	\$ 42,105	\$ 11,458
Excess fund balance (surplus)	<u>198,097</u>	<u>462,719</u>	<u>264,622</u>
Total annuity fund balance	<u>\$228,744</u>	<u>\$504,824</u>	<u>\$276,080</u>
Total liabilities and annuity fund balance	<u>\$535,214</u>	<u>\$925,871</u>	<u>\$390,657</u>

The increase in assets, liabilities and surplus reflects an increase in the total number of annuities in force. Annuities increased from 19 with annual payment amounts of \$26,851 as of December 31, 2011 to total of 23 with annual payment amounts of \$41,274 as of December 31, 2016. The Fund reported no new gifts or terminations from 2014 through 2016.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in common stocks (99.44%).

According to the 2016 filed annual statement and the custodial statement as of 12/31/2016, the Fund reported 32% of its admitted assets invested in the securities of ISHARES CORE S&P 500 ETF, 18% in ISHARES CORE U S AGGREGATE BOND ETF and 14% in ISHARESCORE S&P SMALL CAP ETF. The Fund's current concentration could make it less likely that the Fund's other assets can provide a variability to offset the risks inherent in these 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 to deviate from such a recommendation, 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.

## 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 the Fund's name did not appear on the annuity benefit checks issued to annuitants. Instead, only the name of the Fund's custodian, Bank of New York/Mellon, is noted on the 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 on the annuity benefit checks issued to annuitants. A similar recommendation was noted in the prior report as of December 31, 2011.

## 6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations 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 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.</p> <p>The Fund took corrective action to obtain signed statements by each member of the board of directors.</p>
B	<p>The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining the signature of each board member indicating that they received and read the prior report on examination and maintain the signature for the examiner's review during the ensuing examination.</p> <p>The Fund has provided signed statements by each member of the board of directors.</p>
C	<p>The examiner recommends that the Fund's name, "Pace University Gift Annuity Reserve Fund", be used on the Custodian account as stated in the resolution of the Board of Directors.</p> <p>The Fund took necessary action to change the name to 'Pace University Gift Annuity Reserve Fund' for their custodial account. A review of the custodial account statement shows the changed name.</p>
D	<p>The Fund violated Section 1110(a) of the New York Insurance Law by failing to submit to the Superintendent amended gift annuity agreement forms prior to using such forms.</p> <p>The Fund utilized compliant policy forms during the examination period.</p>
E	<p>The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period, or subsequent to that period, that differ from the forms previously submitted by the Fund to the Superintendent.</p> <p>The Fund utilized compliant policy forms during the examination period.</p>
F	<p>The examiner recommends that the Fund's name, "Pace University Gift Annuity Reserve Fund", be included on all annuity benefit checks issued to annuitants.</p> <p>The Fund failed to take corrective action in response to this prior report comment.</p>

## 7. 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 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 to deviate from such a recommendation, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters.	5
B	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
C	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 on the annuity benefit checks issued to annuitants.	7

Respectfully submitted,

\_\_\_\_\_/s/  
Ann Marie Thompson  
Senior Insurance Examiner

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

ANN MARIE THOMPSON, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_/s/  
Ann Marie Thompson

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

APPOINTMENT NO. 31609

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:

**ANN MARIE THOMPSON**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
PACE UNIVERSITY**

and to make a report to me in writing of the condition of said

**FUND**

with such other information as she 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  
DEPUTY CHIEF - LIFE BUREAU

