



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
NATIONAL MULTIPLE SCLEROSIS SOCIETY

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

DECEMBER 4, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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SEGREGATED GIFT ANNUITY FUND

OF THE

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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

August 11, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31319, dated August 14, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the National Multiple Sclerosis Society, hereinafter referred to as the "Fund," at its home office located at 733 Third Avenue, 3rd Floor, New York, New York 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 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. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination. (See item 4 of this report)

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 4 of this report)

The examiner recommends that the Fund diversify its investment holdings. (See item 5 of this report)

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated. (See item 6 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 the violation and recommendations contained in the prior report on examination. The results of such review are contained in item 7 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 National Multiple Sclerosis Society (the “Corporation”) is organized for the purpose of advancing the cure, prevention and treatment of multiple sclerosis and improving the lives of those affected by the disease. Under the provisions of its by-laws, the Corporation is permitted to issue gift annuity agreements and it has done so since 1996. A special permit was granted to the Corporation by the New York State Insurance Department on August 18, 2000, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law. Operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. Operations related to accounting, preparation of the annual statement and tax forms, and annuity payments are outsourced to PNC Financial Services Group, Inc. (“PNC”), who also serves as the Fund’s custodian and investment manager.

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 40. As of December 31, 2014, the number of directors totaled 35. The trustees elect a chair of the board, one or more vice chairs of the board, a president, a secretary, a treasurer and such other officers as the board deems proper. The nomination and election procedures of the directors and their term of office are set by the by-laws.

4. CORPORATE GOVERNANCE

Section 312 of the New York Insurance Law states, in part:

“(a) The superintendent shall forward to every insurer or other person examined a copy of the report on examination . . . (b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer’s files confirming that such member has received and read such report . . .”

The examiner’s review of the board of directors’ meeting minutes noted that there is no indication in the meeting minutes that the members of the board of directors received and read the prior examination report as of December 31, 2009. The Fund failed to maintain statements signed by each board member indicating that they received and read the prior report on examination.

The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain signed statements from its board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.

The examiner reviewed the Investment Committee (the “Committee”) minutes to determine if the Committee members approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the Committee members 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. This is a repeat recommendation.

5. SIGNIFICANT FINANCIAL INFORMATION

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

	<u>December 31,</u> <u>2009</u>	<u>December 31,</u> <u>2014</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$2,748,171</u>	<u>\$2,901,689</u>	<u>\$153,518</u>
Liabilities	<u>\$2,317,357</u>	<u>\$2,221,763</u>	<u>\$(95,594)</u>
Minimum required fund balance	\$ 231,736	\$ 222,176	\$ (9,560)
Excess fund balance (surplus)	<u>199,078</u>	<u>457,750</u>	<u>258,672</u>
Total annuity fund balance	<u>\$ 430,814</u>	<u>\$ 679,926</u>	<u>\$249,112</u>
Total liabilities and annuity fund balance	<u>\$2,748,171</u>	<u>\$2,901,689</u>	<u>\$153,518</u>

Note: Any differences are due to rounding.

The increase in assets and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 122 with annual payment amounts of \$260,480 as of December 31, 2009 to a total of 127 with annual payment amounts of \$265,099 as of December 31, 2014.

The increase in assets and annuity fund balance is also attributable to an increase in the market value of investments in common stocks.

The decrease in liabilities is attributable to a net decrease in actuarial reserves. Specifically, the Fund reported net decrease in actuarial reserves of \$(36,342) in 2013 and \$(434,874) in 2014.

The Fund's admitted assets, as of December 31, 2014, were mainly invested in common stocks (95.31%).

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: 14.96% invested in the securities of T Rowe Price ST Bond Fund mutual fund; 14.36% invested in the securities of Wells Fargo Advantage Core Bond Fund mutual fund; 14.20% invested in the securities of PNC Total Return Advantage Fund mutual fund; and 13.95% invested in the securities of PIMCO Total Return Bond Fund mutual fund. The Fund's current concentration in the four mutual funds makes it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the four mutual 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.

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.

The examiner's review of a sample of five annuity contracts terminated revealed that in all five cases reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation 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 1110(a) of the New York Insurance Law by using annuity agreement forms that were not filed with the Superintendent. This is a repeat violation.</p> <p>The examiner's review revealed that the Fund filed the forms in question, and based on a sample of annuities issued in the current exam period, revealed that there were no continuing instances in which the Fund failed to file the policy forms used.</p>
B	<p>The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent. This is a repeat recommendation.</p> <p>The examiner's review of a sample of annuities issued revealed that there were no instances in which the Fund failed to file the policy forms used.</p>
C	<p>The examiner recommends that the board of directors, or a committee thereof, approve all investment transactions and note such approvals in the minutes. This is a repeat recommendation.</p> <p>The Fund failed to provide evidence that the board approved all investment transactions and noted such approvals in the minutes. This is a repeat recommendation. (See item 4 of this report)</p>

8. 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 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.	5
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.	5
C	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. This is a repeat recommendation.	5
D	The examiner recommends that the Fund diversify its investment holdings.	7
E	The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.	8

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. 31319

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

NATIONAL MULTIPLE SCLEROSIS SOCIETY

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

