



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
COLLEGE OF SAINT ROSE

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

AUGUST 08, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

MANISH GERA

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

May 17, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31592, 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 College of Saint Rose, hereinafter referred to as “the Fund.” The Fund’s home office is located at 432 Western Avenue, Albany, New York 12203.

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 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 avoid or mitigate situations that have the appearance of a conflict of interest, by paying greater scrutiny to any high concentrations in investments that are either issued or sponsored by the investment advisor and establishing a Board of Directors (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment advisors. (See item 5 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 6 of this report)

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued. (See item 6 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

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 2011 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 recommendation contained in the prior report on examination. The results of such review are contained in item 8 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 College of Saint Rose (the “College”) is organized for the purpose of providing an education which recognizes the individual potential of each student, drawing upon the heritage of the past to meet the needs of the present and to prepare for the future. The College has been issuing gift annuity agreements since 1998. A special permit was granted to the organization by the Department on May 31, 2007, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund’s custodian is Fiduciary Trust Company International (“Fiduciary”). Fiduciary provides investment services and makes benefit payments. The College receives monthly investment statements from Fiduciary. The College performs the accounting for the Fund and issues the annuity agreements.

The management of the College and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to 36 regular voting trustees. As of December 31, 2016, the board consisted of 30 trustees. The trustees elect the Chair of the Board, two Vice-Chairs, a Past-chair and the Secretary. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

#### 4. CORPORATE GOVERNANCE

The examiner reviewed the organization's corporate minutes for the examination period and noted that the board did not approve any sales or purchases of the Fund's investments.

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 decline in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

|  | <u>December 31,</u><br><u>2011</u> | <u>December 31,</u><br><u>2016</u> | <u>Increase</u><br><u>(Decrease)</u> |
|--|------------------------------------|------------------------------------|--------------------------------------|
| Admitted assets                            | <u>\$955,740</u>                   | <u>\$851,636</u>                   | <u>\$(104,104)</u>                   |
| Liabilities                                | <u>\$539,077</u>                   | <u>\$523,810</u>                   | <u>\$ (15,267)</u>                   |
| Minimum required fund balance              | \$ 53,908                          | \$ 52,381                          | \$ (1,527)                           |
| Excess fund balance (surplus)              | <u>362,756</u>                     | <u>275,445</u>                     | <u>(87,311)</u>                      |
| Total annuity fund balance                 | <u>\$416,663</u>                   | <u>\$327,826</u>                   | <u>\$ (88,837)</u>                   |
| Total liabilities and annuity fund balance | <u>\$955,740</u>                   | <u>\$851,636</u>                   | <u>\$(104,104)</u>                   |

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 24 with annual payment amounts of \$96,457 as of December 31, 2011 to a total of 17 with annual payment amounts of \$88,501 as of December 31, 2016.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in common stocks (98.20%).

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 2016 annual statement on file, the Fund reported: 30.91% invested in shares of Franklin Cust Fds Growth ADV CL; 22.57% invested in shares of Franklin Invs Secs Total Ret Fd; and 15.75% invested in shares of iShares Inter Credit Bd ETF. The Fund's current

concentration in the above three funds could make it less unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the 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.

According to the 2016 annual statement on file, the Fund reported 71.88% of its admitted assets invested in mutual fund investments issued by Franklin Templeton Investments. Fiduciary Trust Company International, a division of Franklin Templeton Investments, also serves as the Fund's investment advisor. This relationship may create a conflict of interest that can negatively impact the interests of the Fund's annuitants.

The examiner recommends that the Fund avoid or mitigate situations that have the appearance of a conflict of interest, by paying greater scrutiny to any high concentrations in investments that are either issued or sponsored by the investment advisor and establishing a Board of Directors (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment advisors.

## 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 terminated annuity contracts revealed that in 10 out of 13 (76.92%) annuities reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the 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.

The examiner reviewed the Fund's gift annuity agreement forms used during the examination period. The examiner noted that 3 out of the 5 gift annuity agreement forms used by the Fund did not have the appropriate form number as approved by the Superintendent printed on the forms.

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.

## 7. ANNUAL STATEMENT REPORTING

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 Annuities in force in New York" in its 2012, 2015 and 2016 annual statements. In its 2012 annual statement, the Fund reported 21 in force New York annuities with a reserve of \$122,875. The Fund should have reported 20 in force New York annuities with a reserve of \$122,875. In its 2015 annual statement, the Fund reported 12 in force New York annuities with a reserve of \$79,509. The Fund should have reported 12 in force New York annuities with a reserve of \$69,135. In its 2016 annual statement, the Fund reported 12 in force New York annuities with a reserve of \$76,192. The Fund should have reported 12 in force New York annuities with a reserve of \$66,254. These errors do not have any impact on the reported total annuities and reserves for all states.
2. The Fund's filed 2014 annual statement failed to include a page 2, Statement of Assets, Liabilities, and Annuity Fund Balance.

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

## 8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the recommendation contained in the prior report on examination and the subsequent action taken by the Fund in response to the citation:

| <u>Item</u> | <u>Description</u>  |
|-------------|---|
| A           | <p>The examiner recommends that the board authorize the purchases and sales of the Fund's investments and note such approval in the minutes.</p> <p>The examiner's review of the board minutes revealed that the board failed to approve the purchases and sales of the Fund's investments. A similar recommendation appears in this report on examination. (See item 4 of this report)</p> |

## 9. 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 trustees, 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 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                  |
| C           | The examiner recommends that the Fund avoid or mitigate situations that have the appearance of a conflict of interest, by paying greater scrutiny to any high concentrations in investments that are either issued or sponsored by the investment advisor and establishing a Board of Directors (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment advisors. | 7                  |
| D           | 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.   | 8                  |
| E           | The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.   | 8                  |
| F           | The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.   | 9                  |

Respectfully submitted,

\_\_\_\_\_/s/  
Manish Gera  
Insurance Examiner

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

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

\_\_\_\_\_/s/  
Manish Gera

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

*APPOINTMENT NO. 31592*

*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:*

***MANISH GERA***

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

***SEGREGATED GIFT ANNUITY FUND OF THE  
COLLEGE OF ST. ROSE***

*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*

