



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ST. JOHN'S UNIVERSITY

CONDITION:

DECEMBER 31, 2015

DATE OF REPORT:

JUNE 24, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

ELKIN WOODS

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

August 15, 2017

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

Madam:

In accordance with instructions contained in Appointment No. 31467, dated April 25, 2016 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the St. John's University, hereinafter referred to as the "Fund." The Fund's home office is located at 8000 Utopia Parkway, Queens, NY 11439.

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 obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian. (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 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 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 obtain copies of the death certificates of annuitants for annuity contracts terminated. (See item 6 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 2011. This examination covers the period from December 21, 2011 through December 31, 2015. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2015 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, 2015 to determine whether the Fund's filed 2015 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

St. John's University ("the University") is organized for the purpose of educating individuals by striving to preserve and enhance an atmosphere in which scholarly research, imaginative methodology, global awareness, and an enthusiastic quest for truth serve as a basis of a vital teaching-learning process and the development of lifelong learning. Under the provisions of its by-laws, the University is permitted to issue gift annuity agreements and it has done so since 2000. A special permit was granted to the University by the Department on December 21, 2011, authorizing it to issue 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. Other specific functions are handled by its custodian, State Street Bank and Trust Company, namely, gift processing, investment and custody of assets, accounting and recordkeeping, beneficiary distributions and tax preparation and reporting.

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 is limited to not less than 5 nor more than 30 regular voting trustees. As of December 31, 2015, the board consisted of 29 trustees. The trustees elect a Chairperson, a vice Chairperson, and a Secretary. The President of the University shall be elected to office by a majority vote of the board of trustees. 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 board of trustees' minutes to determine if 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.

The examiner reviewed the investment transactions for the period under examination and noted that the Fund did not obtain broker's advices or other supporting documentation for its investment transactions to reconcile such advices to the monthly statements furnished by the custodian.

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian.

5. SIGNIFICANT FINANCIAL INFORMATION

The following table indicates the Fund’s financial growth during the period under review:

| | December 31, <u>2011</u> | December 31, <u>2015</u> | <u>Increase</u> |
|--|-----------------------------|-----------------------------|------------------|
| Admitted assets | <u>\$962,739</u> | <u>\$1,471,146</u> | <u>\$508,407</u> |
| Liabilities | <u>\$740,891</u> | <u>\$ 909,026</u> | <u>\$168,135</u> |
| Minimum required fund balance | \$ 74,089 | \$ 90,903 | \$ 16,814 |
| Excess fund balance (surplus) | <u>147,759</u> | <u>471,217</u> | <u>323,458</u> |
| Total annuity fund balance | <u>\$221,848</u> | <u>\$ 562,120</u> | <u>\$340,272</u> |
| Total liabilities and annuity fund balance | <u>\$962,739</u> | <u>\$1,471,146</u> | <u>\$508,407</u> |

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 37 with annual payment amounts of \$90,313 as of December 31, 2011 to a total of 52 with annual payment amounts of \$107,504 as of December 31, 2015.

The Fund’s admitted assets, as of December 31, 2015, were invested mainly in common stocks (96.38%).

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 2015 annual statement on file, the Fund reported: 22.92% of its admitted assets invested in the securities of S&P 500 Common Trust Fund (“CTF”); 18.66% invested in the securities of EAFE Index CTF; and 13.13% invested in the securities of Passive Bond Market IDX

CTF. The Fund's current concentration in the three CTFs make it highly unlikely that the Fund's other assets could provide a variability to offset the risks inherent in the CTFs.

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 ISS'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.

The examiner's review of a sample of 8 annuity contracts terminated revealed that in 1 out of 8 (12.5%) cases reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract. Instead, the Fund obtained a copy of the obituary for the case in which the Fund did not obtain a copy of the death certificate.

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

7. 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 obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian. | 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 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. | 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 obtain copies of the death certificates of annuitants for annuity contracts terminated. | 8 |

Respectfully submitted,

_____/s/
Elkin Woods
Senior Insurance Examiner

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

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

_____/s/
Elkin Woods

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31467

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, **MARIA T. VULLO**, 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:

ELKIN WOODS

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
ST. JOHN'S UNIVERSITY**

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 25th day of April, 2016

MARIA T. VULLO

Acting Superintendent of Financial Services

By:



MARK MCLEOD

DEPUTY CHIEF - LIFE BUREAU

