



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

CONDITION: DECEMBER 31, 2013

DATE OF REPORT: DECEMBER 19, 2014

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

UNIVERSITY AT ALBANY FOUNDATION

AS OF

DECEMBER 31, 2013

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EXAMINER:

SAUHUNG YOU

## TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	2
3. Description of Fund	3
4. Significant financial information	4
5. Treatment of annuitants	6
6. Prior report summary and conclusions	7
7. Summary and conclusions	8



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Maria T. Vullo  
Acting Superintendent

March 4, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31172, dated May 8, 2014 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the University at Albany Foundation, hereinafter referred to as "the Fund." The Fund's home office is located at 1400 Washington Avenue, Albany, New York 12222.

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 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's review of the Fund's treatment of annuitants did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Foundation. (See item 5 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2008. This examination covers the period from January 1, 2009 through December 31, 2013. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2013 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, 2013 to determine whether the Fund's filed 2013 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 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 University at Albany Foundation (the “Foundation”) is organized for the purpose of encouraging, soliciting, receiving, accepting, holding, investing and managing money and property of every description and to disburse said money and property to promote, develop and advance the welfare of the State University of New York at Albany, its students, faculty staff and alumni. Under the provisions of its by-laws, the Foundation is permitted to issue gift annuity agreements and it has done so since 1993. A special permit was granted to the Fund by the Department on January 24, 1994, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

Operations related to the issuance and settlement of annuity agreements are handled by the Fund. Fiduciary Trust Company International (“Fiduciary”) is the custodian and investment manager of the Foundation’s investments and issues quarterly checks to the Fund’s annuitants. The Foundation’s financial statements are prepared by Fiduciary.

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to seven ex officio directors and 50 regular voting directors. The elected directors consist of five members from the Alumni Board, one member from the Benevolent Association Board, ten members nominated by the University President, three members from the University Faculty, one member from the student body and 30 members at-large nominated by the Board. The by-laws state that the maximum number of directors, including ex officio directors shall not be more than sixty-five. As of December 31, 2013, the board consisted of 35 directors. The nomination and election procedures of the directors and their terms of office are set by the by-laws.

#### 4. SIGNIFICANT FINANCIAL INFORMATION

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

	December 31, 2008	December 31, 2013	Increase
Admitted assets	<u>\$1,846,319</u>	<u>\$2,729,064</u>	<u>\$882,745</u>
Liabilities	<u>\$1,319,047</u>	<u>\$1,561,895</u>	<u>\$242,848</u>
Minimum required surplus	\$ 131,905	\$ 156,190	\$ 24,285
Unassigned funds (surplus)	<u>395,367</u>	<u>1,010,979</u>	<u>615,612</u>
Total surplus	<u>\$ 527,272</u>	<u>\$1,167,169</u>	<u>\$639,897</u>
Total liabilities and surplus	<u>\$1,846,319</u>	<u>\$2,729,064</u>	<u>\$882,745</u>

The increase in assets, liabilities and surplus reflects an increase in the total number of annuities in force. Annuities increased from 84 with annual payment amounts of \$214,593 as of December 31, 2008 to a total of 96 with annual payment amounts of \$272,565 as of December 31, 2013.

The Fund's admitted assets, as of December 31, 2013, were mainly invested in common stocks (92.41%).

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 2013 annual statement on file, the Fund reported: 25.1% invested in the securities of Ishares TR S&P 500 Index Fund Exchange Traded Fund (“ETF”); 18.1% invested in the securities of Franklin Invs Secs Total Return Fund; and 14.2% invested in the securities of Franklin US Government Securities Fund. The Fund’s current concentration in the three securities

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 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. Based upon the sample reviewed, no significant findings were noted.

## 6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendations contained in the prior report on examination and the subsequent actions taken by the Fund in response to each recommendation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommended that the Fund accurately prepare its filed annual statements. This is a repeat recommendation from the prior report on examination.</p> <p>The Fund acknowledged the mistake on the 2008 annual statement and made a prior period correction in its 2009 annual statement.</p>
B	<p>The examiner recommended that the Fund use the form numbers as approved.</p> <p>The Fund indicated that the form numbers were incorrectly used. The Fund indicated it will include the original document number on future contracts. No discrepancies were noted during the current examination.</p>

## 7. SUMMARY AND CONCLUSIONS

Following is the recommendation 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 not to diversify, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters.	5

Respectfully submitted,

/s/  
Sauhung You  
Senior Insurance Examiner

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

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

/s/  
Sauhung You

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_

**APPOINTMENT NO. 31172**

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

*I, BENJAMIN M. LAWSKY, 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:*

**SAUHUNG YOU**

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

**SEGREGATED GIFT ANNUITY FUND OF THE  
UNIVERSITY AT ALBANY FOUNDATION**

*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 8th day of May, 2014*

**BENJAMIN M. LAWSKY**  
*Superintendent of Financial Services*

*By:*



**MICHAEL MAFFEI**  
**ASSISTANT DEPUTY SUPERINTENDENT**  
**AND CHIEF OF THE LIFE BUREAU**

