



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
LONG ISLAND UNIVERSITY
AS OF December 31, 2020**

EXAMINER: Hasan Ahmed

DATE OF REPORT: April 27, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

August 15, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 32223, dated March 8, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Long Island University. The Fund's home office is located at 700 Northern Boulevard, Brookville, NY 11548.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The Fund violated New York Insurance Law § 312(b) by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund obtain statements signed by every board member indicating that they received and read the prior report on examination. (See item 3E of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Estates, Powers and Trusts Law § 11-2.3, which standard, as specified in New York Insurance Law § 1110(b), 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 4A of this report)

The examiner recommends that the Investment Strategy Statement be approved by the board of directors. (See item 4A of this report)

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegates to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials. (See item 4A of this report)

The Fund violated New York Insurance Law § 1110(a) by a using gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' ("Department", or "DFS") examination and assessment of the Long Island University Segregated Annuity Fund (the "Fund") through which Long Island University (the "University") provides annuity benefits.

The prior examination was conducted as of December 31, 2015. This examination covers the period from January 1, 2016 through December 31, 2020. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2020 but prior to the date of this report (i.e., the completion date of the examination).

This report outlines DFS's supervisory expectations or priorities and articulates DFS's general views regarding the exceptional circumstances where the Foundation or Fund, in relation to their annuity activities, could have better satisfied statutory standards or to adhered to practices or methods of dealing that are regularly observed among similar circumstances.

The Fund is subject to the solvency and examination requirements of New York Insurance Law § 1110 and of New York Insurance Law articles 1, 2, 3, 25, and 74.

The investment of the Fund's required admitted assets is subject to N.Y. Estates, Powers and Trust Law § 11-2.3. The investment of the remainder of the Fund's admitted assets is subject to N.Y. Not-for-Profit Corporation Law Article 5-a. Both establish that the trustees are to invest the assets consistent with prudent person standards.

The examination comprised a verification of assets and liabilities as of December 31, 2020 to determine whether the Fund's filed 2020 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, recommendations and/or comments contained in the prior report on examination. The results of such review are contained in item 7 of this report.

3. DESCRIPTION OF FUND

A. History

The Long Island University was chartered in 1926 and is organized for the purpose of higher education and the granting of degrees thereof. The University established the Fund to issue gift annuity agreements in return for gifts from donors in 1993. The Superintendent of Insurance granted to the University a Charitable Annuity Society special permit on December 5, 1996.

B. Structure

The Fund is overseen by the University's board of trustees. The Fund solicits gift annuity contracts, presents the donor with an application and related schedules, maintains relations with annuitants, preparing financial reports and recording of Fund-related transactions to the general ledger.

C. Assets under the Board of Trustees

As of the August 31, 2020 audited financial report, the University's Board of Trustees oversaw an endowment comprising \$242,211,453 in total assets. The Fund, as of December 31, 2020, held total admitted assets of \$1,218,475.

D. Third-party Payment Service Provider

State Street Bank and Trust Company ("Bank") is the Fund's custodian and asset manager. The Bank makes annuity payments, mails 1099R forms to annuitants, and prepares tax filings as needed. The Bank is responsible for management, custody, and investment strategy for Fund assets.

E. Corporate Governance

New York Insurance Law § 312(b) states, in part:

"(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 revealed that the Fund failed to obtain statements signed by each board member indicating that they received and read the prior report on examination.

The Fund violated New York Insurance Law § 312(b) by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund obtain statements signed by every board member indicating that they received and read the prior report on examination.

4. INVESTMENT REVIEW

A. Investment Strategy Statement

New York Estate Powers and Trust Law § 11-2.3(b)(3)(A) requires trustees to “pursue an overall investment strategy to enable the trustee[s] to make appropriate present and future distributions to or for the benefit of the beneficiaries under the governing instrument, in accordance with risk and return objectives reasonably suited to the entire portfolio.”

New York Not-for-Profit Corporation Law § 552(e)(2) requires institutions to adopt “an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.” New York Not-for-Profit Corporation Law § 552(f) provides that each “institution shall adopt a written investment policy setting forth guidelines on investments ... and delegation of management and investment functions in accord with the standards of this article.”

The examiner’s review of the Fund’s Investment Strategy Statement (“ISS”) showed that it failed to contain reference to the prudent investor standard, as specified in New York Insurance Law § 1110(b).

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Estates, Powers and Trusts Law § 11-2.3, which standard, as specified in New York Insurance Law § 1110(b), 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.

The examiner’s review of the Fund’s ISS revealed that the board did not approve the ISS.

The examiner recommends that the Investment Strategy Statement be approved by the board of directors.

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.

5. ASSETS AND LIABILITIES SUMMARY

The following summary table indicates the growth (decline) in various categories of the Fund's assets, liabilities, and annuity fund balance during the period under review:

	December 31, <u>2015</u>	December 31, <u>2020</u>	<u>(Increase)</u>
Admitted assets	\$ <u>1,349,608</u>	\$ <u>1,218,475</u>	\$(<u>131,133</u>)
Liabilities	\$ <u>1,301,641</u>	\$ <u>952,835</u>	\$(<u>348,806</u>)
Minimum required fund balance	\$ 130,164	\$ 95,283	\$ (34,881)
Excess fund balance (surplus)	<u>(82,197)</u>	<u>170,357</u>	<u>252,554</u>
Total annuity fund balance	\$ <u>47,967</u>	\$ <u>265,640</u>	\$ <u>217,673</u>
Total liabilities and annuity fund balance	\$ <u>1,349,608</u>	\$ <u>1,218,475</u>	\$(<u>131,133</u>)

The decrease in assets and liabilities is due to a reduction in total gift annuities during the examination period. Annuities decreased from 38 with annual payment amounts of \$202,260 as of December 31, 2015 to a total of 20 with annual payment amounts of \$77,544 as of December 31, 2020. The increase in total fund balance is due the curing of the Fund's prior underfunded status, the decreased number of annuitants, as well as investment gains.

The Fund's admitted assets, as of December 31, 2020, were invested mainly in equity securities (98.66%).

6. TREATMENT OF ANNUITANTS

The examiner reviewed 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.

New York Insurance Law § 1110(a) states, in part:

“. . . Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants . . .”

The examiner’s review of a sample of the one and only newly issued gift annuity by the Fund during the examination period noted that in that one newly issued annuity, the Fund used a form that differed from the gift annuity agreements filed with the Superintendent. The deviating form used did not have a form number, and the text of the form did not correspond to any form filed and accepted with the Department.

The Fund violated New York Insurance Law § 1110(a) by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

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 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.</p> <p>The board of trustees did not approve the purchases and sales of all investments and note such approvals in the minutes. Neither did the board review the Fund's investment portfolio. A similar recommendation appears in this report.</p>
B	<p>The Fund is underfunded by \$82,197 as of December 31, 2015.</p> <p>The Society made a transfer of \$185,000 from the general funds of the corporation to the Fund in 2016.</p>
C	<p>The Fund violated New York Insurance Law § 1110(b) by failing to maintain minimum required assets as of December 31, 2015.</p> <p>The Society made a transfer of \$185,000 from the general funds of the corporation to the Fund in 2016. The Fund became compliant with Section 1110(b) by maintaining minimum required assets as of December 31, 2016.</p>
D	<p>The examiner recommends that the Fund diversify its investment holdings.</p> <p>The Department no longer provides guidance for investment diversification.</p>

8. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund violated New York Insurance Law § 312(b) by failing to obtain 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 obtain statements signed by every board member indicating that they received and read the prior report on examination.	5
C	The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Estates, Powers and Trusts Law § 11-2.3, which standard, as specified in New York Insurance Law § 1110(b), 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
D	The examiner recommends that the Investment Strategy Statement be approved by the board of directors.	6
E	The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.	6
F	The Fund violated New York Insurance Law § 1110(a) by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent.	8

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
G	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	8

Respectfully submitted,

/s/

Hasan Ahmed
Senior 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. 32223

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, **ADRIENNE A. HARRIS**, 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
LONG ISLAND UNIVERSITY**

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

FUND

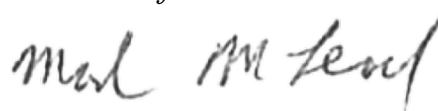
with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York

this 8th day of March, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

