



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
UNITED STATES FUND FOR UNICEF**

**AS OF December 31, 2020**

**EXAMINER: Ashok Reddy**

**DATE OF REPORT: March 9, 2022**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

August 11, 2022

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

Madam:

In accordance with instructions contained in Appointment No.32233, dated February 22, 2022, and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the United States Fund for UNICEF. The Fund's home office is located at located at 125 Maiden Lane, New York, NY 10038

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 obtain 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 the signature of each 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 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 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 delegees 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 examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes. (See item 4B of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms 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)

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 Fund violated Section 1110(a) of the New York Insurance Law by issuing an annuity that exceeded the maximum rates allowed. The examiner recommends that the Fund implement appropriate monitoring controls that will ensure that when annuities are issued, payout rates do not exceed the maximum rates specified by Section 1110(a) of the New York Insurance Law. (See item 7 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 United States Fund for UNICEF (the "Fund") through which United States Fund for UNICEF (the "Organization") 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 Organization or Fund, in relation to their annuity activities, could have better adhered to statutory standards and guidance or 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 reviewed the prior report on examination which did not contain any violations, recommendations or comments.

### 3. DESCRIPTION OF FUND

#### A. History

The United States Fund for UNICEF was chartered in 1947 and is organized exclusively for charitable and educational purposes, particularly to: inform the American people of the needs of children in developing countries; create an awareness of the diversity of human cultures, of the commonality of human needs and interests and of the responsibility to share in the world's resources and benefits; solicit and receive funds; participate in coordinating, planning with voluntary agencies engaged in child relief; and improve the well-being of children in the world. The Organization established the Fund to issue gift annuity agreements in return for gifts from donors in 1992. The Superintendent of Insurance granted to the Organization a Charitable Annuity Society special permit on September 11, 2002.

#### B. Structure

The management of the Organization and the Fund and all of its affairs and property are entrusted to a board of directors. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

#### C. Assets under the Board of Directors

As of the June 30, 2020 audited financial statement, the Organization's Board of Directors oversaw \$68,115,046 in total investments. The Fund, as of December 31, 2020, held total admitted assets of \$8,861,218.

#### D. Third Party Payment Service Provider

Goldman Sachs is the Fund's custodian and investment manager. The Fund also has a banking account at Citibank.

#### E. Oversight Structure

Section 312(b) of the New York Insurance Law 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 Section 312(b) of the New York Insurance Law 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 comply with Section 312(b) of the New York Insurance Law by obtaining the signature of each board member indicating that they received and read the prior report on examination.

#### 4. INVESTMENT REVIEW

##### A. Investment Policy 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) calls for “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) states 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 showed that it does not contain reference to the prudent investor standard as specified in Section 1110(b) of the New York Insurance Law.

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers 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.

The examiner’s review of the Fund’s Investment Strategy Statement (“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.

Goldman Sachs is also the Fund’s investment adviser and custodian.

The Organization prepared and provided a form investment policy statement (“IPS”) to the Fund that the Fund provided to the Department as it’s adopted IPS.

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.

B. Monitoring

It is recognized that governing boards should, commensurate with the size and complexity of the risks to be assessed and their potential harm: implement reporting or information system or controls; and, having implemented such a system or controls, monitor or oversee their operations so that they are not disabled from being informed of risks or problems requiring their attention.

The examiner reviewed the board of directors' minutes to determine if the board had been provided with a report concerning the Fund's investment of required admitted assets. The minutes did not contain any indication that the board was provided with a report concerning the Fund's investment of required admitted assets.

The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.

## 5. ASSETS & LIABILITIES SUMMARY

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

	<u>December 31,</u> <u>2015</u>	<u>December 31,</u> <u>2020</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$7,268,943</u>	<u>\$8,861,218</u>	<u>\$1,592,275</u>
Liabilities	<u>\$4,228,112</u>	<u>\$3,459,600</u>	<u>\$ (768,512)</u>
Minimum required fund balance	\$ 422,811	\$ 345,960	\$ (76,851)
Excess fund balance (surplus)	<u>2,618,020</u>	<u>5,055,658</u>	<u>2,437,638</u>
Total annuity fund balance	<u>\$3,040,831</u>	<u>\$5,401,618</u>	<u>\$2,360,787</u>
Total liabilities and annuity fund balance	<u>\$7,268,943</u>	<u>\$8,861,218</u>	<u>\$1,592,275</u>

The increase in assets and annuity fund balance reflects the improved market conditions since 2015 and the resulting increase in value of the Fund's investments.

The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 256 with annual payment amounts of \$500,629 as of December 31, 2015, to a total of 202 with annual payment amounts of \$404,920 as of December 31, 2020.

The Fund's admitted assets, as of December 31, 2020, were invested mainly in bonds (59.29%) and equity securities (39.82%). All bonds held were investment grade.

## 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.

Section 1110(a) of the New York Insurance Law 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 9 newly issued gift annuities by the Fund during the examination period noted that in all 9 newly issued annuities, the Fund used forms that differed from the gift annuity agreements filed with the Superintendent. The deviating form number found in the sample is 1da-I-NY.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms 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.

The examiner’s review of a sample of 9 annuity contracts terminated revealed that in 5 of the 9 cases (55.55%) 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.

## 7. ANNUITY RATES

Section 1110(a) of the New York Insurance Law 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 and a schedule of its maximum annuity rates, which shall be computed on the basis of the annuity standard adopted by it for calculating its reserves so as to return to it upon the annuitant's death a residue at least equal to one-half the original gift or other consideration for such annuity.”

The examiner's review of the reserve report noted that 1 out of the 10 annuities issued in the New York during the examination period had payout rates greater than the maximum rates provided in the filed schedule.

The Fund violated Section 1110(a) of the New York Insurance Law by issuing an annuity that exceeded the maximum rates allowed. The examiner recommends that the Fund implement appropriate monitoring controls that will ensure that when annuities are issued, payout rates do not exceed the maximum rates specified by Section 1110(a) of the New York Insurance Law.

## 8. ANNUAL STATEMENT REPORTING

The examiner's review of the Fund's filed annual statements revealed the following:

The instructions for Exhibit 1 of the Annual Statement state the following, in part:

“Exhibit 1 – Verification of Investment Income...

...Line 5

- Column 5 should equal the amount reported for Sub-Totals - Bonds in Schedule A, Part 4, Column 7.
- Column 6 should equal the amount reported for Sub-Totals - Stocks in Schedule A, Part 4, Column 7.”

During the examiner's review of the Fund's filed 2020 annual statement, it was noted that the Fund reported \$0 in Line 5, Column 5 and Column 6 in Exhibit 1. In Schedule A, Part 4, Column 7, the Fund reported \$115,937 in accrued interest for bonds acquired during the year and \$48,873 in accrued dividends for stocks acquired paid during 2020. The Fund reported that these were in “various” investments.

The instructions for Exhibit 2 of the Annual Statement state the following, in part:

“Column 3 Cost

Report the amount from the “Cost” column of the various Schedules for the current year and prior year in each of the categories.

Column 4 Market Value, End of Year

Report the amount from the “Market Value End of Year” column of the various Schedules for the current year and prior year in each of the categories.

Column 5 Unrealized Capital Gains/(Losses)

The amount is the difference between Column 3 and Column 4.”

The examiner's review of the Fund's filed 2018 annual statement suggested that Exhibit 2, Line 2 was filled out incorrectly. In the Fund's filed 2017 annual statement, it reported \$3,058,755 as the cost of bonds and \$3,084,413 as the market value of bonds held, yielding an unrealized capital gain of \$25,658. These totals tied to Schedule A, Part 1 of the 2017 annual statement. Therefore, in Exhibit 2 of the 2018 annual statement, the Fund should have reported an unrealized net loss of \$(121,092), and the unrealized capital gain reported during 2018 should have been \$(458,765).

The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.

## 9. 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 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.	6
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining the signature of each board member indicating that they received and read the prior report on examination.	6
C	The examiner recommends that the Fund adopt an Investment Strategy Statement that refers 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
D	The examiner recommends that the Investment Strategy Statement be approved by the board of directors.	7
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 delegates to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.	8
F	The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.	8



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J	The Fund violated Section 1110(a) of the New York Insurance Law by issuing an annuity that exceeded the maximum rates allowed.	11
K	The examiner recommends that the Fund implement appropriate monitoring controls that will ensure that when annuities are issued, payout rates do not exceed the maximum rates specified by Section 1110(a) of the New York Insurance Law.	11
L	The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.	12

Respectfully submitted,

\_\_\_\_\_/s/  
Ashok Reddy  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Ashok Reddy

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

*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:*

***ASHOK REDDY***

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

***SEGREGATED GIFT ANNUITY FUND OF THE  
UNITED STATES FUND FOR UNICEF***

*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 10th day of February, 2022*

*ADRIENNE A. HARRIS  
Superintendent of Financial Services*

*By:*



*MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU*

