



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

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

AUGUST 16, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

JAMES WANG

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Linda A. Lacewell  
Superintendent

October 16, 2019

Honorable Linda A. Lacewell  
Superintendent of Financial Services  
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31902, dated May 16, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Columbia University, hereinafter referred to as “the Fund,” at its home office located at 622 West 113th Street, New York, NY 10025.

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 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 and maintaining the signature of each board member indicating that they received and read the prior report on examination. (See item 3C of this report)

The examiner recommends that the board of trustees, or a committee thereof, approve the Fund's Investment Strategy Statement. (See item 3C of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement ("ISS") 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 3C 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 ISS's risk, return, and time horizon parameters. (See item 4 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 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 5 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2013. This examination covers the period from January 1, 2014 through December 31, 2018. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2018 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, 2018 to determine whether the Fund's filed 2018 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

#### A. History

Columbia University (“University”) is one of the world’s most important centers of research and at the same time a distinctive and distinguished learning environment for undergraduates and graduate students in many scholarly and professional fields. The University established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1982. A special permit was granted to the University by the New York State Insurance Department on August 1, 1984, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. The Bank of New York Mellon, North America (“BNY Mellon”) serves as the custodian of the Fund’s investments and is also the investment manager. BNY Mellon makes annuity benefit payments to annuitants and performs the accounting functions.

#### C. Corporate Governance

The governance of the University is entrusted to a board of trustees. The trustees select the President, oversee all faculty and senior administrative appointments, monitor the budget, supervise the endowment, and protect University property. The University’s by-laws provide that the number of trustees shall consist of no more than 24 regular voting trustees. The trustees may elect a chairman, one or more vice chairmen, and such other officers as the board shall determine. The trustees also appoint one or more provosts, one or more vice presidents, the general counsel, the secretary, the deans of the several faculties, and such officers as the trustees may appoint. The nomination and election procedures of the trustees and their term of office are set by the by-laws. As of December 31, 2018, the board consisted of 24 trustees.

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 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 and maintaining the signature of each board member indicating that they received and read the prior report on examination.

The examiner reviewed the board of trustees and Investment Committee minutes to determine whether the board of trustees and/or Investment Committee approved the Fund’s Investment Strategy Statement during the examination period. The minutes did not contain any indication that the committee approved the Fund’s Investment Strategy Statement.

The examiner recommends that the board of trustees, or a committee thereof, approve the Fund’s Investment Strategy Statement.

The examiner’s review of the Fund’s Investment Strategy Statement revealed that it did not contain a reference to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts 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.



#### 4. SIGNIFICANT FINANCIAL INFORMATION

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>2013</u>	<u>December 31,</u> <u>2018</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$25,935,008</u>	<u>\$26,334,947</u>	<u>\$ 399,939</u>
Liabilities	<u>\$14,827,275</u>	<u>\$14,117,814</u>	<u>\$ (709,461)</u>
Minimum required fund balance	\$ 1,482,728	\$ 1,411,781	\$ (70,947)
Excess fund balance (surplus)	<u>9,625,005</u>	<u>10,805,352</u>	<u>1,180,347</u>
Total annuity fund balance	<u>\$11,107,733</u>	<u>\$12,217,133</u>	<u>\$1,109,400</u>
Total liabilities and annuity fund balance	<u>\$25,935,008</u>	<u>\$26,334,947</u>	<u>\$ 399,939</u>

The increase in assets and excess fund balance are due to additional new gifts and market fluctuations during the examination period. The decrease in liabilities is due to a decline in the total number of annuities in force. Annuities decreased from 286 with annual payment amounts of \$1,707,166 as of December 31, 2013 to a total of 269 with annual payment amounts of \$1,627,066 as of December 31, 2018.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in common stocks (94.09%).

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 2018 annual statement, the Fund reported: 16.1% of its admitted assets invested in ISHARES Barclays Aggregate Bond Fund, 14.1% of its admitted assets invested in ISHARES S&P 500 Index Fund and 14.1% of its admitted assets invested in SPDR S&P 500 ETF

Trust. The Fund's current concentration in these funds makes it less likely that it 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.

## 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.

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 16 newly issued gift annuities by the Fund during the examination period noted that in 2 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 2sda-I-NY. There were two newly issued annuities with this form number that were written before the form was approved by the Department.

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 10 annuity contracts terminated revealed that in 5 of the 10 cases (50%) 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.

## 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 citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Fund diversify its investment holdings.</p> <p>The Fund still did not diversify its investment holdings in accordance with the guidance contained in Section 1409 of New York Insurance Law. A similar recommendation appears in this report on examination.</p>
B	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement. 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.</p> <p>The Fund adopted an Investment Strategy Statement.</p>
C	<p>The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.</p> <p>The Fund still did not obtain copies of all death certificates of annuitants for the annuity contracts terminated. A similar recommendation appears in this report on examination.</p>
D	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>No further discrepancies were noted during the examination period.</p>

## 7. 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 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 comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.	5
C	The examiner recommends that the board of trustees, or a committee thereof, approve the Fund's Investment Strategy Statement.	5
D	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.	5
E	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

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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
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Respectfully submitted,

\_\_\_\_\_/s/  
James Wang  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
James Wang

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

APPOINTMENT NO. 31902

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, LINDA A. LACEWELL, 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:

**JAMES WANG**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
COLUMBIA 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 16th day of May, 2019

LINDA A. LACEWELL  
Acting Superintendent of Financial Services

By:

*Mark McLeod*

MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

