



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
CORNELL UNIVERSITY**

AS OF December 31, 2017

EXAMINER: Chong Kim

DATE OF REPORT: July 13, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

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CORNELL UNIVERSITY

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

September 8, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 31728, dated April 13, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Cornell University. The Fund's home office is located at the Office of Trusts, Estates, and Gift Planning, 130 East Seneca St., Suite 400, Ithaca, NY 14850.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund adopt an Investment Strategy Statement (“ISS”). 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 4 of this report)

The University submitted documentation showing that the Fund’s investments in the LTI Master Trust are used for the Fund’s obligations and not the obligations of the University. The letter requesting approval of its investment arrangement was submitted to the Department, dated July 25, 2018. By letter dated September 7, 2018, the Department notified the University of its non-disapproval of the arrangement, verifying that the Fund’s investment arrangement is not in violation of Section 1110(b) of the New York Insurance Law. (See item 5 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 Fund. (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 Cornell University Segregated Annuity Fund (the "Fund") through which Cornell University (the "University") provides annuity benefits.

The prior examination was conducted as of December 31, 2012. This examination covers the period from January 1, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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 University 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, 2017 to determine whether the Fund's filed 2017 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 Cornell University was chartered in 1865 and is organized to discover, preserve, promote and disseminate knowledge through education. The University established the Fund to issue gift annuity agreements in return for gifts from donors in 1991. The Superintendent of Insurance granted to the University a Charitable Annuity Society special permit on 22, 1993.

B. Structure

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

C. Assets under the Board of Trustees

As of the June 30, 2017 IRS Form 990, the University's Board of Trustees oversaw an endowment comprising \$6,335,520,329 in total assets. The Fund, as of December 31, 2017, held total admitted assets of \$67,896,024.

D. Third-Party Payment Service Provider

BNY Mellon, National Association ("BNY Mellon") is the Fund's custodian and investment manager. The Fund has outsourced the accounting, record keeping, tax preparation and administration of annuity agreements to BNY Mellon.

All of the University's assets are held in the University's Long Term Investment (LTI) pool. The LTI pool consists of a variety of equity, fixed income, and marketable alternative investments. The LTI pool also invests in real estate. The University's Investment Committee reviews and approves the Fund's investments. (See item 5 of this report)

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 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.

5. ASSETS AND 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>2012</u>	<u>December 31,</u> <u>2017</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$58,930,103</u>	<u>\$67,896,024</u>	<u>\$ 8,965,921</u>
Liabilities	<u>\$46,945,715</u>	<u>\$45,616,268</u>	<u>\$ (1,329,447)</u>
Minimum required fund balance	\$ 4,694,572	\$ 4,561,627	\$ (132,945)
Excess fund balance (surplus)	<u>7,289,817</u>	<u>17,718,129</u>	<u>10,428,312</u>
Total annuity fund balance	<u>\$11,984,388</u>	<u>\$22,279,756</u>	<u>\$10,295,368</u>
Total liabilities and annuity fund balance	<u>\$58,930,103</u>	<u>\$67,896,024</u>	<u>\$ 8,965,921</u>

The increase in assets and surplus is due to the gains in the market value of common stocks throughout the examination period. The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 641 with annual payment amounts of \$5,095,880 as of December 31, 2012 to a total of 637 with annual payment amounts of \$4,864,427 as of December 31, 2017.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in one mutual fund, consisting of LTI MASTER TRUST UNITS ("LTI Master Trust" or "Units"), which is a master account held by the University as part of its LTI pool. The Fund reported a market value of \$67,071,724 for its investment in the Units, which comprised 98.79% of total admitted assets. The Fund pools its assets and other assets held by the University into the LTI Master Trust. The total assets are allocated into nine separate accounts of long term investments.

The examiner's initial review of the Fund's assets noted that it does not appear to maintain assets as separate and distinct of all other funds of the University. The examiner gave the Fund an opportunity to show that its assets were separate and distinct of all other funds of the University. The University submitted documentation showing that the Fund's investments in the LTI Master Trust are used for the Fund's obligations and not the obligations of the University. The letter requesting approval of its investment arrangement was submitted to the Department, dated July

25, 2018. By letter dated September 7, 2018, the Department notified the University of its non-disapproval of the arrangement, verifying that the Fund's investment arrangement is not in violation of Section 1110(b) of the New York Insurance Law.

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

7. SUMMARY AND CONCLUSIONS

Following are the recommendation and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	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.	5
B	The University submitted documentation showing that the Fund's investments in the LTI Master Trust are used for the Fund's obligations and not the obligations of the University. The letter requesting approval of its investment arrangement was submitted to the Department, dated July 25, 2018. By letter dated September 7, 2018, the Department notified the University of its non-disapproval of the arrangement, verifying that the Fund's investment arrangement is not in violation of Section 1110(b) of the New York Insurance Law.	6

Respectfully submitted,

_____/s/
Chong Kim
Senior Insurance Examiner

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

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

_____/s/
Chong Kim

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31728

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, 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:

CHONG KIM

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
CORNELL 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 13th day of April, 2018

*MARIA T. VULLO
Superintendent of Financial Services*

By:

Mark McLeod

***MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU***

