



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

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

OCTOBER 4, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

MANISH GAJIWALA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

January 17, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 31905, dated June 28, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Fordham University, hereinafter referred to as “the Fund,” at its home office located at 441 East Fordham Road, Bronx, NY 10458.

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 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 Fund's Investment Strategy Statement ("ISS") be approved by the board of trustees. (See item 3C of this report)

The examiner recommends that the Fund adopt an 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's board of trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes. (See item 3C of this report)

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the December 31, 2018 filed annual statement. (See item 4 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 reviewed the prior report on examination which did not contain any violations, recommendations or comments.

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

The Fordham University (the “University”) is organized for the purpose of promotion of education. The College 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 Department on April 26, 1994, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

State Street Bank and Trust Company is the custodian and investment manager of the Fund’s investments and issues annuity benefit checks to the annuitants. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

C. Corporate Governance

The management of the University and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to not more than forty nor less than five regular voting trustees. As of December 31, 2018, the board consisted of 39 trustees. The trustees elect a chairman, vice chairman, secretary and president. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

Section 312(b) of the New York Insurance Law states, in part:

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

The examiner's review of the Fund's Investment Strategy Statement revealed that the board had not approved the ISS.

The examiner recommends that the Fund's ISS be approved by the board of trustees.

The examiner's review of the Fund's ISS 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 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.

The examiner requested the minutes of the board of trustees and all committees thereof for the examination period. The Fund failed to provide minutes of the meetings of the board of trustees and all committees thereof pertaining to the Fund.

The examiner recommends that the Fund's board of trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.

4. SIGNIFICANT FINANCIAL INFORMATION

The following summary table indicates the 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>(Decrease)</u>
Admitted assets	<u>\$5,285,471</u>	<u>\$3,743,188</u>	<u>\$(1,542,283)</u>
Liabilities	<u>\$3,878,788</u>	<u>\$2,558,950</u>	<u>\$(1,319,838)</u>
Minimum required fund balance	\$ 387,879	\$ 255,895	\$ (131,984)
Excess fund balance (surplus)	<u>1,018,804</u>	<u>928,343</u>	<u>(90,461)</u>
Total annuity fund balance	<u>\$1,406,683</u>	<u>\$1,184,238</u>	<u>\$ (222,445)</u>
Total liabilities and annuity fund balance	<u>\$5,285,471</u>	<u>\$3,743,188</u>	<u>\$(1,542,283)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 105 with annual payment amounts of \$426,338 as of December 31, 2013 to a total of 87 with annual payment amounts of \$282,726 as of December 31, 2018.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in common stocks (97.05%).

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. SUMMARY AND CONCLUSIONS

Following are the violation 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.	4
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.	4
C	The examiner recommends that the Fund's ISS be approved by the board of trustees.	5
D	The examiner recommends that the Fund adopt an ISS that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trust 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's board of trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.	5

Respectfully submitted,

_____/s/
Manish Gajiwala
Senior Insurance Examiner

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

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

_____/s/
Manish Gajiwala

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 31905

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, 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:

MANISH GAJIWALA

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
FORDHAM 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 28th day of June, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

