



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
NEW YORK PROVINCE OF THE SOCIETY OF JESUS
AS OF December 31, 2019**

EXAMINER: Chacko Thomas

DATE OF REPORT: September 18, 2020

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

August 17, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 32128, dated August 27, 2020 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the New York Province of the Society of Jesus. The Fund's home office is located at 39 East 83rd Street, New York, New York 10028.

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 3D 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'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)

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. (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 New York Society of the Province of Jesus Segregated Annuity Fund (the "Fund") through which New York Society of the Province of Jesus (the "Society") provides annuity benefits.

The prior examination was conducted as of December 31, 2014. This examination covers the period from January 1, 2015 through December 31, 2019. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2019 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 Society 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, 2019 to determine whether the Fund's filed 2019 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 8 of this report.

3. DESCRIPTION OF FUND

A. History

The New York Province of the Society of Jesus is organized for the purpose of conducting religious, educational, and missionary work and to hold and maintain land and buildings for chapels and houses for religious, classical and scientific training, and education. The Society established the Fund to issue gift annuity agreements in return for gifts from donors in 1967. The Superintendent of Insurance granted to the Society a Charitable Annuity Society special permit on January 2, 1979.

B. Structure

The management of the Society 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. Third-Party Payment Service Provider

Wells Fargo, a banking corporation, is the custodian to the Fund's assets. Under an investment management and administrative services agreement with Wells Fargo, the bank: prepares annuity contracts for the Fund; remits benefit payments to annuitants; and provides monthly statements to the Fund.

D. 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) 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 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.

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>2014</u>	<u>December 31,</u> <u>2019</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$3,799,867</u>	<u>\$3,259,117</u>	<u>\$(540,750)</u>
Liabilities	<u>\$2,168,102</u>	<u>\$1,611,627</u>	<u>\$(556,475)</u>
Minimum required fund balance	\$ 216,810	\$ 161,163	\$ (55,647)
Excess fund balance (surplus)	<u>1,414,955</u>	<u>1,486,328</u>	<u>71,373</u>
Total annuity fund balance	<u>\$1,631,765</u>	<u>\$1,647,491</u>	<u>\$ 15,726</u>
Total liabilities and annuity fund balance	<u>\$3,799,867</u>	<u>\$3,259,117</u>	<u>\$(540,750)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 108 with annual payment amounts of \$257,982 as of December 31, 2014 to a total of 73 with annual payment amounts of \$208,401 as of December 31, 2019. The increase in the annuity fund balance reflects an increase in the market value of investments and a decrease in the liabilities due to annuity terminations.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in equity securities (97.51%).

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. ANNUAL STATEMENT REPORTING

The instructions for Exhibit 1 – Verification of Investment Income, states the following, in part:

“Line 1

- Column 4 should equal the amount reported for Totals - Cash on Deposit in Schedule C, Column 4.
- Column 5 should equal the amount reported for Totals in Schedule A, Part 1, Column 9.
- Column 6 should equal the sum of:
(1) the amount reported for Totals in Schedule A, Part 2, Column 9, **and**
(2) the amount reported for Totals in Schedule A, Part 3, Column 9.
- Column 7 should equal the amount reported for Totals in Schedule B, Column 9.
- Column 8 should equal the amount reported in Totals in Schedule D, Part 1, Column 7.

Line 2

- Column 5 should equal the amount reported for Sub-Totals - Bonds in Schedule A, Part 5, Column 9.
- Column 6 should equal the amount reported for Sub-Totals - Stocks in Schedule A, Part 5, Column 10.
- Column 8 should equal the amount reported for Totals in Schedule D, Part 3 Column 9.”

The examiner reviewed the filed annual statements during the examination period. The examiner noted the following discrepancies between Exhibit 1 and Schedule A, Parts 3 and 5:

Year	2015	2016	2017	2018	2019
Reported in Exhibit 1, Line 1, Column 6 (Stocks)	\$83,727	\$76,934	\$88,926	\$88,356	\$0
Reported in Exhibit 1, Line 2, Column 6 (Stocks)	\$0	\$0	\$0	\$0	\$79,196
Reported in Schedule A, Part 3, Column 9 (Common Stocks)	\$0	\$0	\$0	\$0	\$0
Reported in Schedule A, Part 5, Column 9 (Common Stocks)	\$0	\$0	\$0	\$0	\$0

The examiner determined that, for all years under examination, the income totals for common stocks tied out to source documentation from the Fund’s custodian. The examiner was able to receive a breakdown for 2018 and 2019 as follows:

Year	2018	2019
Amount that should have been reported on Exhibit 1, Line 1, Column 6 and Schedule A, Part 3, Column 9	\$61,718	\$68,251
Amount that should have been reported on Exhibit 1, Line 2, Column 6 and Schedule A, Part 5, Column 10	\$26,638	\$10,941

For all other years under examination, the examiner was unable to receive a breakdown of the amounts that should have been reported in Exhibit 1, lines 1 and 2, and Schedule A, Parts 3 and 5 of the annual statement. However, as noted above, the examiner was able to trace the income reported in Exhibit 1 back to supporting documentation supplied by the Organization.

The instructions for Exhibit 2 – Unrealized Gains and Losses, states 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.”

The examiner reviewed the filed annual statements during the examination period. The examiner noted the following discrepancies between Exhibit 2 and Schedule B:

Year	2015	2016	2018
Cost per Exhibit 2, Line 10, Column 3	\$49,095	\$285,024	\$52,302
Cost per Schedule B, Column 4	\$1	\$1	\$1

The examiner noted the following regarding the cost of shares for the Fund’s money market mutual fund for 2015, 2016, and 2018 in Schedule B of the Fund’s filed annual statements for the years indicated below:

Year	2015	2016	2018
Number of Shares	49,095	285,024	52,302

The examiner determined that the number of shares for each year should have been the cost of the money market mutual fund reported in Schedule B for 2015, 2016, and 2018. Furthermore, the number of shares is equal to the cost as reported in the 2017 and 2019 filed annual statements. However, there is no effect on unrealized capital gains and losses for all years under examination.

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.

8. 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's board of directors review the activities of the Fund at least annually and note the same in the minutes. This is a repeat recommendation.</p> <p>The review of the minutes revealed that the board reviewed the activities of the Fund.</p>
B	<p>The examiner recommends that the Fund's board of directors approve the purchases and sales of the Fund's investments and review to ensure that Wells Fargo conducts investment transactions on behalf of the Fund in accordance with the agreed upon investment guideline. This is a repeat recommendation.</p> <p>The review of the minutes revealed that the board reviewed and approved the investment transactions of the Fund.</p>

9. 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 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
D	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.	10

Respectfully submitted,

_____/s/_____
Chacko Thomas
Senior Insurance Examiner

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

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

_____/s/_____
Chacko Thomas

Subscribed and sworn to before me
this _____ day of _____

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:*

CHACKO THOMAS

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
NEW YORK PROVINCE OF THE SOCIETY OF JESUS***

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 27th day of August, 2020

*LINDA A. LACEWELL
Superintendent of Financial Services*

By:



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

