



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
NEW YORK UNIVERSITY**

**AS OF December 31, 2018**

**EXAMINER: Adelia Gbadamosi**

**DATE OF REPORT: June 7, 2019**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

NEW YORK UNIVERSITY

AS OF

DECEMBER 31, 2018

DATE OF REPORT:

JUNE 7, 2019

EXAMINER:

ADELIA GBADAMOSI

## TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Fund	4
	A. History	4
	B. Structure	4
	C. Assets under the board of trustees	4
	D. Third party payment service provider	4
4.	Assets and liabilities summary	5
5.	Treatment of annuitants	6
6.	Segregation of assets and internal control	7
7.	Prior report summary and conclusions	8
8.	Summary and conclusions	11

---

KATHY HOCHUL  
Governor



---

ADRIENNE A. HARRIS  
Superintendent

August 8, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 31918, 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 New York University, at its home office located at 105 East 17<sup>th</sup> Street, 3<sup>rd</sup> Floor, New York, New York 10003.

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

## 1. EXECUTIVE SUMMARY

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)

The Fund violated New York Insurance Law § 1110(b) by failing to maintain segregation of the assets of the Fund separate from the assets of the University. The examiner recommends that the proceeds from the gifts received for the gift annuity program be deposited directly into the Fund's account upon receipt of the gift. (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 New York University Segregated Annuity Fund (the "Fund") through which New York University (the "University") provides annuity benefits.

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).

This report outlines DFS's supervisory expectations or priorities and articulates DFS's general views regarding the exceptional circumstances where the Foundation or Fund, in relation to their annuity activities, could have better satisfied statutory standards or to adhered to 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, 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 violations, recommendations and/or comments contained in the prior report on examination. The results of such review are contained in item 7 of this report.

### 3. DESCRIPTION OF FUND

#### A. History

New York University was chartered in 1831 and is organized for the purpose of providing higher learning in liberal arts and sciences, and per the University's description, is considered to be the largest private research university in the United States. The University established the Fund to issue gift annuity agreements in return for gifts from donors in 1973. The Superintendent of Insurance granted to the University a Charitable Annuity Society special permit on July 19, 1974.

#### 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 August 31, 2018 audited financial statement, the University's Board of Trustees oversaw an endowment comprising \$4,249,498,000 in total assets. The Fund, as of December 31, 2018, held total admitted assets of \$19,495,258.

#### D. Third Party Payment Service Provider

The Fund's custodian and investment manager is Bank of New York Mellon ("BNY Mellon"). BNY Mellon is also responsible for recordkeeping functions, such as annuity payments, termination distributions to the University, and the maintenance of addresses of annuitants.

#### 4. 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>2013</u>	<u>December 31,</u> <u>2018</u>	<u>Increase</u> <u>(Decrease)</u>
Total assets	<u>\$18,806,724*</u>	<u>\$19,495,258</u>	<u>\$ 688,534</u>
Liabilities	<u>\$15,140,685*</u>	<u>\$16,040,728</u>	<u>\$ 900,043</u>
Minimum required fund balance	\$ 1,514,068*	\$ 1,604,073	\$ 90,005
Excess fund balance (surplus)	<u>2,150,080*</u>	<u>1,850,458</u>	<u>(299,622)</u>
Total annuity fund balance	<u>\$ 3,664,148*</u>	<u>\$ 3,454,530</u>	<u>\$(209,618)</u>
Total liabilities and annuity fund balance	<u>\$18,806,724*</u>	<u>\$19,495,258</u>	<u>\$ 688,534</u>

\*Totals reflect absorbance of annuities from SGAF Polytechnic University after merger with SGAF New York University at beginning of 2014.

The increase in assets and liabilities reflect an increase in the total number of annuities in force resulting from the absorbance of annuities from the Polytechnic Institute of NYU. Annuities increased from 605 with annual payment amounts of \$2,041,702 as of December 31, 2013 to a total of 611 with annual payment amounts of \$2,029,355 as of December 31, 2018. The decrease in annuity fund balance is attributable to the \$90,000 increase in minimum required fund balance as well as the increase in liabilities.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in bonds (32.11%) and equity securities (66.12%).



## 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.

The examiner's review of a sample of 10 annuity contracts terminated revealed that in 2 of the 10 cases (20%) reviewed, the Fund failed to 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. SEGREGATION OF ASSETS AND INTERNAL CONTROL

New York Insurance Law § 1110(b) states, in part:

“(b)... Such assets shall be segregated as separate and distinct funds, independent of all other funds of such corporation or association ...”

The examiner’s review of gifts received by the Fund during the examination period noted that the proceeds were deposited into a University general gift bank account before being transferred to the segregated gift annuity account. By not depositing gifts received directly into the accounts of the gift annuity fund, the Fund failed to maintain segregation of the assets of the Fund separate from the assets of the University.

The Fund violated New York Insurance Law § 1110(b) by failing to maintain segregation of the assets of the Fund separate from the assets of the University. The examiner recommends that the proceeds from the gifts received for the gift annuity program be deposited directly into the Fund’s account upon receipt of the gift.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and 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 Fund violated New York Insurance Law § 312(b) by failing to maintain signed statements from the board members indicating that they received and read the prior report on examination.</p> <p>The Fund has maintained signed statements from the board members indicating that they received and read the prior report on examination.</p>
B	<p>The examiner recommends that the Fund establish procedures to ensure compliance with New York Insurance Law § 312(b) by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.</p> <p>The Fund has established procedures to ensure compliance with New York Insurance Law § 312(b) by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.</p>
C	<p>The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.</p> <p>The board of trustees, or a committee thereof, did not approve the purchases and sales and all investments and note such approvals in the minutes.</p>
D	<p>The examiner recommends that the Fund amend its ISS to remove the authorization for investing in derivatives and refrain from investing in such financial instruments. The examiner further recommends that, should the Fund decide to invest in derivatives, the Fund first file with the Department and receive approval for a derivative use plan, prior to any such investment.</p> <p>The Fund did not amend its ISS to remove the authorization for investing in derivatives. However, the Fund has not invested in derivatives.</p>

<u>Item</u>	<u>Description</u>
E	<p>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.</p> <p>The Department no longer provides guidance for diversification.</p>
F	<p>The Fund violated New York Insurance Law § 1110(a) by using gift annuity agreement forms that were not filed with the Superintendent.</p> <p>The Fund used gift annuity agreement forms that were filed with the Superintendent.</p>
G	<p>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.</p> <p>The Fund filed with the Superintendent all gift annuity forms that were used and not previously filed with the Superintendent.</p>
H	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>No new discrepancies were noted by the examiner during her review.</p>
I	<p>The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.</p> <p>No new discrepancies were noted by the examiner during her review.</p>
J	<p>The Fund violated New York Insurance Law § 1110(b) by failing to maintain segregation of the assets of the Fund separate from the assets of the University.</p> <p>The Fund failed to maintain a proper segregation of its assets separate from the assets of the University. A similar violation appears in this report on examination.</p>
K	<p>The examiner recommends that the proceeds from the gifts received for the gift annuity program be deposited directly into the Fund's account upon receipt of the gift.</p>

<u>Item</u>	<u>Description</u>
	The Fund failed to deposit the gifts received from the gift annuity program directly into the Fund's account upon receipt of the gift. A similar recommendation appears in this report on examination.
L	The examiner recommends that the Fund record in the proper accounting period as assets of the Fund the proceeds of gifts received, to avoid understatement of current year assets and overstatement of the following year's assets.  The Fund recorded as assets in the proper accounting period the proceeds of gifts received, to avoid understatement of current year assets and overstatement of the following year's assets.
M	The examiner's review of the Fund's 2014 and 2015 annual statement reserve listings revealed that the same issues regarding gifts received in one year not being deposited into the Fund's custodian account until the following year continued. As a result, the Fund understated Fund assets by \$16,766 and \$306,423, respectively, in its 2014 and 2015 annual statements.  The Fund's 2016, 2017 and 2018 annual statement reserve listings were not understated.
N	A desk audit of the Fund's 2015 annual statement revealed an underfunding in the amount of \$(643,937). This deficiency was cured on March 1, 2016.  The desk audits of the Fund's 2017 and 2018 annual statements did not reveal underfunding.

## 8. 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 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
B	The Fund violated New York Insurance Law § 1110(b) by failing to maintain segregation of the assets of the Fund separate from the assets of the University.	7
C	The examiner recommends that the proceeds from the gifts received for the gift annuity program be deposited directly into the Fund's account upon receipt of the gift.	7



APPOINTMENT NO. 31918

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:

**ADELIA GBADAMOSI**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
NEW YORK UNIVERSITY**

and to make a report to me in writing of the condition of said

**FUND**

with such other information as she 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

