



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
SALVATION ARMY**

AS OF December 31, 2021

EXAMINER: Hasan Ahmed

DATE OF REPORT: December 1, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

SALVATION ARMY

AS OF

DECEMBER 31, 2021

DATE OF REPORT:

DECEMBER 1, 2022

EXAMINER:

HASAN AHMED

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.	Investment review	5
	A. Investment strategy statement	5
5.	Assets and liabilities summary	6
6.	Treatment of annuitants	7
7.	Prior report summary and conclusions	8
8.	Summary and conclusions	9



KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

December 21, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 32388, dated April 5th, 2022, and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of The Salvation Army. The Fund's home office is located at 440 West Nyack Road, West Nyack, New York 10994.

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”) 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 recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials. (See item 4A 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 6 of this report)

2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' (the "Department" or "DFS") examination and assessment of The Salvation Army Segregated Annuity Fund (the "Fund") through which The Salvation Army (the "Organization") provides annuity benefits.

The prior examination was conducted as of December 31, 2016. This examination covers the period from January 1, 2017 through December 31, 2021. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2021 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 Organization 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, 2021 to determine whether the Fund's filed 2021 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 violation and recommendations 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

The Salvation Army is organized for benevolent, religious and philanthropic purposes. The Organization established the Fund to issue gift annuity agreements in return for gifts from donors in 1911. The Superintendent of Insurance granted to the Organization a Charitable Annuity Society special permit on January 31, 1941.

B. Structure

The Fund is overseen by the Organization's Board of Trustees. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. The Fund is responsible for contract payments, accounting, tax, and regulatory report filings.

C. Assets under the Board of Trustees

As of the September 30, 2021 audited financial statement, the Organization's Board of Trustees oversaw endowments consisting of 1,400 individual funds comprising of \$989,954,000 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$78,209,333.

D. Third-Party Payment Service Provider

The Fund has an agreement with State Street Bank and Trust Company to provide segregated annuity account management and investment services. State Street Bank and Trust Company is the custodian of the Fund's assets and provides administrative services on behalf of the Fund. Those services include record keeping, administration, and investment advisory services.

4. INVESTMENT REVIEW

A. Investment Strategy 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.

State Street Bank and Trust Company is the Fund’s investment adviser and custodian.

State Street Bank and Trust Company prepared and provided a form investment strategy statement (“ISS”) to the Fund. The Fund adopted that form as its ISS.

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.

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>2016</u>	<u>December 31,</u> <u>2021</u>	<u>Increase</u>
Admitted assets	<u>\$72,711,536</u>	<u>\$78,209,333</u>	<u>\$ 5,497,797</u>
Liabilities	<u>\$48,736,085</u>	<u>\$42,154,395</u>	<u>\$ (6,581,690)</u>
Minimum required fund balance	\$ 4,873,608	\$ 4,215,440	\$ (658,168)
Excess fund balance (surplus)	<u>19,101,843</u>	<u>31,839,498</u>	<u>12,737,655</u>
Total annuity fund balance	<u>\$23,975,451</u>	<u>\$36,054,938</u>	<u>\$12,079,487</u>
Total liabilities and annuity fund balance	<u>\$72,711,536</u>	<u>\$78,209,333</u>	<u>\$ 5,497,797</u>

The increase in assets and annuity fund balance is due to new gifts added to the Fund in the amount of \$18,043,760 during the examination period, with \$5,010,829 added in 2020. Notably, the Fund had unrealized capital gains of \$7,508,893 in 2019. The strong equity performance contributed to appreciation in the Fund's overall assets. Annuities decreased from 3,253 with annual payment amounts of \$6,044,007 as of December 31, 2016 to a total of 2,543 with annual payment amounts of \$4,880,864 as of December 31, 2021, which accounted for the overall decrease in liabilities.

The Fund's admitted assets, as of December 31, 2021, were invested in equity securities (94.61%).

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.

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 5 newly issued gift annuities by the Fund during the examination period noted that in all 5 newly issued annuities, the Fund used forms that differed from the gift annuity agreements filed with the Superintendent. The deviating forms found in the sample did not have policy form numbers listed on them, were not filed with the Department, and were missing key details that are usually noted within the contracts, including the irrevocability of the agreements, its non-assignability, and that the forms constitute the entire agreement between the parties.

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.

7. 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 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 Investment Strategy Statement's risk, return, and time horizon parameters.</p> <p>The Department no longer provides specific guidance for diversification.</p>
B	<p>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.</p> <p>The Fund obtains and maintains death certificates or other reliable documentary evidence that support information terminating an annuity contract.</p>

8. SUMMARY AND CONCLUSIONS

Following are the recommendations 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 (“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.	5
B	The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.	5
C	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.	7
D	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.	7

Respectfully submitted,

/s/

Hasan Ahmed
Senior Insurance Examiner

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

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

/s/

Hasan Ahmed

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 32388

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

*I, **ADRIENNE A. HARRIS**, 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:*

HASAN AHMED

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
SALVATION ARMY***

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 5th day of April, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

