



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

JEWISH THEOLOGICAL SEMINARY OF AMERICA

CONDITION:

DECEMBER 31, 2019

DATE OF REPORT:

MAY 8, 2020

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EXAMINER:

MANISH GERA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

November 12, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 32069, dated April 16, 2020 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Jewish Theological Seminary of America, hereinafter referred to as the “Fund.” The Fund’s home office is located at 3080 Broadway, New York, New York 10027.

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 and maintaining 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 board of trustees review the activities of the Fund at least annually and note the same in the minutes. (See item 3C of this report)

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. (See item 3C of this report)

The examiner recommends that the Investment Strategy Statement be approved by the board of directors. (See item 3C of this report)

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 ("ISS") risk, return, and time horizon parameters. (See item 4 of this report)

The examiner recommends that the Fund strengthen the diversification of its investment holdings by investing the Fund's assets in investments from other issuers. If the trustee has determined that it is in the interests of the beneficiaries to concentrate its invested assets in PIMCO, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's (ISS) risk, return, and time horizon parameters. (See item 4 of this report)

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 examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (See item 6 of this report)

2. SCOPE OF EXAMINATION

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).

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 recommendations contained in the prior report on examination. The results of such review are contained in item 7 of this report.

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 Jewish Theological Seminary (Seminary) is organized for the purpose of Jewish higher education. JTS serves North American Jewry by educating intellectual and spiritual leaders for Conservative Judaism and the vital religious center, training rabbis, cantors, scholars, educators, communal professionals, and lay activists who are inspired by their vision of Torah and dedicated to assisting in its realization. The Seminary established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1996. A special permit was granted to the Seminary, by the Department on December 9, 2010, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

TIAA Trust Company is the Fund's custodian and its investment manager is Kaspick and Company, LLC ("Kaspick"). Kaspick performs investment management, gift administration functions including benefit payments to annuitants, and is responsible for tax reporting. The Fund uses PG Calc Giftwrap software to administer its gift annuity program.

C. Corporate Governance

The management of the institution and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is no fewer than 5 and no greater than 50. As of December 31, 2019, the board consisted of 42 trustees. The trustees elect a chairman, a vice chairman, a chancellor, a treasurer, a secretary and an assistant secretary. The chancellor of the seminary serves at the pleasure of the board. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

The Fund failed to obtain and maintain 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 and maintaining the signature of each board member indicating that they received and read the prior report on examination.

The examiner requested copies of the board minutes for the examination period. The Fund responded that there are no minutes presented to the board of trustees relating to the activities of the Fund. As such, there was no indication that the board reviewed the activities of the Fund, including approval of the purchases and sales of the Fund's investments.

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

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.

Interrogatory 18 in the Fund's filed 2019 annual statement states the following:

"Has the board or other governing body of the segregated gift annuity fund adopted an Investment Strategy Statement specifying guidelines for the investment of the fund's assets?"

The examiner's review of the Fund's filed 2019 annual statement showed that the Fund answered "yes" to interrogatory 18. The examiner's review of the Fund's Investment Strategy Statement ("ISS") revealed that the board did not approve the ISS. Therefore, the Fund failed to answer interrogatory 18 in the 2019 annual statement correctly.

The examiner recommends that the Investment Strategy Statement be approved by the board of directors.

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>2014</u>	<u>December 31,</u> <u>2019</u>	<u>(Decrease)</u>
Admitted assets	<u>\$954,745</u>	<u>\$803,974</u>	<u>\$(150,771)</u>
Liabilities	<u>\$593,237</u>	<u>\$480,207</u>	<u>\$(113,030)</u>
Minimum required fund balance	\$ 59,324	\$ 48,021	\$ (11,303)
Excess fund balance (surplus)	<u>302,184</u>	<u>275,746</u>	<u>(26,438)</u>
Total annuity fund balance	<u>\$361,507</u>	<u>\$323,767</u>	<u>\$ (37,741)</u>
Total liabilities and annuity fund balance	<u>\$954,745</u>	<u>\$803,974</u>	<u>\$(150,771)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 19 with annual payment amounts of \$67,272 as of December 31, 2014 to a total of 15 with annual payment amounts of \$59,468 as of December 31, 2019.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in mutual funds (98.88%).

Section 1409(a) of the New York Insurance Law states,

“(a) Except as more specifically provided in this chapter, no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities (including for this purpose certificates of deposit, partnership interests and other equity interests) of any one institution.”

According to the 2019 annual statement, the Fund reported: 20.37% of its admitted assets invested in PIMCO Total Return Fund Institutional, 13.41% invested in PIMCO Intl Bond Fund (USD-Hedged) Institutional, and 10.01% invested in Cohen & Steers Institutional Realty Shares. The Fund's current concentration in these funds could make it less likely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

Based upon the concentrations in the above mutual funds, 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. A trustee using reasonable care, skill and caution should diversify the Fund's assets. A diversification is proper when it disperses the investments' risks consistent with the Investment Strategy Statement's risk, return, and time horizon objectives, and the various risks in the portfolio offset each other. Section 1409 of the New York Insurance Law is instructive. Limiting exposure to any assets of any one institution to ten percent of admitted assets would reasonably assure that the risks in the investment in that institution are offset by the rest of the portfolio.

According to the 2019 annual statement, the Fund reported: 36.84% of its admitted assets invested in securities issued by PIMCO. The Fund's current concentration in the securities of one issuer, PIMCO, could make it less likely that the Fund's other assets can provide a variability to offset the risks inherent in concentration in one issuer.

Based upon the above-noted concentration in the securities of one issuer, the examiner recommends that the Fund strengthen the diversification of its investment holdings by investing the Fund's assets in investments from other issuers. If the trustee has determined that it is in the interests of the beneficiaries to concentrate its invested assets in PIMCO, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's (ISS) risk, return, and time horizon parameters. A trustee using reasonable care, skill and caution should diversify the issuers of the Fund's assets to reduce the risk of loss of principal. A diversification is proper when it disperses the investments' risks consistent with the Investment Strategy Statement's risk, return, and time horizon objectives, and the various risks in the portfolio offset each other. Limiting exposure to the assets of any one issuer to 25% or less of admitted assets would reasonably assure that the risks in investment in that issuer are offset by the rest of the portfolio.

5. TREATMENT OF ANNUITANTS

The examiner's review of a sample of 2 annuity contracts terminated revealed that in 2 of the 2 cases (100%) reviewed, the Fund did not 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. ANNUAL STATEMENT REPORTING

The examiner's review of the Fund's filed 2019 annual statement revealed the following discrepancies:

For 2019, the Fund reported \$2,163 as administrative fees and \$5,821 for portfolio management fees on page 3, line 10.2 and 10.4, respectively. However, the Fund's 2019 general ledger report had totals of \$4,326 and \$11,642 for administrative fees and portfolio management fees, a difference of \$2,163 and \$5,821, respectively.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

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 board of trustees review the activities of the Fund at least annually and note the same in the minutes.</p> <p>The examiner's review noted that the Fund's board of trustees failed to review the activities of the Fund at least annually and note the same in the minutes. (See item 3C of this report).</p>
B	<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 examiner's review noted that the Fund's board of trustees failed to approve the purchase and sale of investments. A similar recommendation appears in this report on examination.</p>
C	<p>The examiner recommends that the Fund diversify its investment holdings.</p> <p>The Fund failed to diversify its investment holdings. A similar recommendation appears in this report on examination.</p>
D	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement. 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.</p> <p>The Fund has complied with the recommendation.</p>
E	<p>The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.</p> <p>The examiner determined that the Fund did not issue any new annuities during the examination period.</p>

8. 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 and maintaining 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 board of trustees review the activities of the Fund at least annually and note the same in the minutes. This is a repeat recommendation.	5
D	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. This is a repeat recommendation.	5
E	The examiner recommends that the Investment Strategy Statement be approved by the board of directors.	5
F	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.	7
G	The examiner recommends that the Fund strengthen the diversification of its investment holdings by investing the Fund's assets in investments from other issuers. If the trustee has determined that it is in the interests of the beneficiaries to concentrate its invested assets in PIMCO, then it should memorialize the reasons for that determination in terms of the Investment Strategy Statement's (ISS) risk, return, and time horizon parameters.	7

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	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.	8
I	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	9

Respectfully submitted,

/s/

Manish Gera
Insurance Examiner

STATE OF NEW YORK)

)SS:

COUNTY OF NEW YORK)

MANISH GERA, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of her knowledge and belief.

/s/

Manish Gera

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:

MANISH GERA

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
JEWISH THEOLOGICAL SEMINARY OF AMERICA***

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

FUND

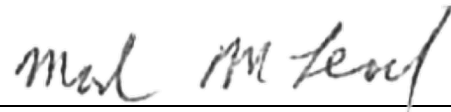
with such other information as he shall deem requisite.

*In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York*

this 16th day of April, 2020

*LINDA A. LACEWELL
Superintendent of Financial Services*

By:



*MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU*

