



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
UNION COLLEGE

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

JUNE 4, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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OF THE

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EXAMINER:

IKENNA ONYEGWARA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

December 3, 2018

Honorable Maria T. Vullo
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31748, dated April 13, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Union College, hereinafter referred to as “the Fund.” The Fund’s home office is located at 807 Union Street, Schenectady, NY 12308.

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 examiner recommends that the 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 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 Fund use the name, as agreed upon by resolution of the board of directors, for its custodian account. (See item 3C of this report)

The examiner recommends that the Fund strengthen the diversification of its investments 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 avoid or mitigate situations that have the appearance of conflicts of interest, by paying greater scrutiny to any high concentrations in investments that are either issued, sponsored or promoted by the investment manager and establishing a board of trustees (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment managers. (See item 4 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 5 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2012. This examination covers the period from January 1, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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, 2017 to determine whether the Fund's filed 2017 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 recommendation contained in the prior report on examination. The results of such review are contained in item 6 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

Union College (the “College”) is organized for the purpose of the instruction and education of youth in the learned languages and liberal arts and sciences. Union College established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1991. A permit was granted to the Union College, by the Department on March 17, 1993 for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

State Street Global Advisors is the custodian of the Fund. Union College is responsible for the accounting and monthly reconciliation of the Fund. State Street Global Advisors is responsible for the investments, benefit payments and tax preparation.

C. Corporate Governance

The management of the College 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 less than 10 and not more than 45 regular voting trustees. As of December 31, 2017, the board consisted of 43 trustees. The trustees elect the Chairman, Vice Chairman, Secretary, General Council, Life Trustees, Term Trustees and President’s Council of Trustees. The President of the college is also elected by the board of trustees. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

The examiner requested the minutes of the board of trustees and all committees thereof pertaining to the Fund covering the examination period. The Fund provided only the Investment Committee minutes for 2013, 2014, 2016, and 2017.

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

The examiner reviewed the Investment Committee minutes to determine whether the Investment Committee approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the committee approved the purchases and sales of investments during the examination period.

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.

The examiner's review of the Fund's custodian account noted that the account is not in the name of the Fund as agreed to by resolution of the board of directors filed with the Department.

The examiner recommends that the Fund use the name, as agreed upon by resolution of the board of directors, for its custodian account.

4. SIGNIFICANT FINANCIAL INFORMATION

The following summary table indicates the growth in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2012</u>	<u>December 31,</u> <u>2017</u>	<u>Increase</u>
Admitted assets	<u>\$7,906,905</u>	<u>\$8,486,313</u>	<u>\$579,408</u>
Liabilities	<u>\$5,657,653</u>	<u>\$5,666,685</u>	<u>\$ 9,032</u>
Minimum required fund balance	\$ 564,842	\$ 566,668	\$ 1,826
Excess fund balance (surplus)	<u>1,684,410</u>	<u>2,252,960</u>	<u>568,550</u>
Total annuity fund balance	<u>\$2,249,252</u>	<u>\$2,819,628</u>	<u>\$570,376</u>
Total liabilities and annuity fund balance	<u>\$7,906,905</u>	<u>\$8,486,313</u>	<u>\$579,408</u>

The increase in assets and annuity fund balance is mainly due to an increase in the gifts received during the period under review. The increase in assets and annuity fund balance is also attributable to investment income received, realized capital gains, and unrealized capital gains.

The increase in liabilities is attributable to an increase in gifts received.

The above increase was partially offset by the disbursement "completed contracts" of \$264,854 in 2013, \$145,624 in 2014, \$49,995 in 2015, along with gross amounts of \$106,188 in 2016 and \$220,173 in 2017 transferred to general fund of the corporation.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in common stocks (96%).

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 2017 annual statement, the Fund reported: 25.53% of its admitted assets invested in SPDR S&P 500 ETF Trust and 15.44% of its admitted assets invested in iShares MSCI EAFE ETF. The Fund's current concentration in these ETF's 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 institutions, 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 exposures 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 2017 annual statement on file, the Fund reported 51.06% of its admitted assets invested in securities issued by State Street Global Advisors. State Street also serves as the Fund's investment advisor. This relationship may create a conflict of interest that can negatively impact the interests of the Fund's annuitants.

The examiner recommends that the Fund avoid or mitigate situations that have the appearance of a conflict of interest, by paying greater scrutiny to any high concentration in investments that are either issued, sponsored or promoted by the investment manager and establishing a board of trustees (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment managers.

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. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the recommendation contained in the prior report on examination and the subsequent actions taken by the Fund in response to the citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommended that the Fund obtain a copy of the death certificate as proof of death of the annuitants.</p> <p>The Fund took corrective action by obtaining death certificates as proof of death for annuity terminations.</p>

7. 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 board of trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.	4
B	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.	5
C	The examiner recommends that the Fund use the name, as agreed upon by resolution of the board of directors, for its custodian account.	5
D	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
E	The examiner recommends that the Fund avoid or mitigate situations that have the appearance of conflict of interest, by paying greater scrutiny to any high concentration in investments that are either issued, sponsored or promoted by the investment manager and establishing a board of trustees (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment managers.	7

Respectfully submitted,

/s/
Ikenna Onyegwara
Insurance Examiner

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

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

/s/
Ikenna Onyegwara

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31748

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, **MARIA T. VULLO**, 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:

IKENNA ONYEGWARA

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
UNION COLLEGE**

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 13th day of April, 2018

MARIA T. VULLO
Superintendent of Financial Services

By:

Mad M Leod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

