



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
NEW YORK PUBLIC RADIO
AS OF December 31, 2021**

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: October 12, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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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. Diversification	5
5.	Assets and liabilities summary	6
6.	Treatment of annuitants	7
7.	Prior report summary and conclusions	8
8.	Summary and conclusions	10

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

December 14, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 32383, dated May 2, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the New York Public Radio. The Fund's home office is located at 160 Varick Street, New York, New York 10013.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund or Board of Trustees diversify the investments or memorialize why, because of special circumstances, the purposes of the fund are better served without diversification. Decisions not to diversify should be reviewed at least annually. (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)

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 Public Radio Gift Annuity Fund (the "Fund") through which the New York Public Radio (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

New York Public Radio was chartered in 1995 and is organized for the purpose of producing innovative public radio programs, podcasts, and live events that touch a passionate community of people on air, online and in person and to reshape radio for a new generation of listeners with groundbreaking, award-winning programming. The Organization established the Fund to issue gift annuity agreements in return for gifts from donors in 1998. The Superintendent of Financial Services granted to the Organization a Charitable Annuity Society special permit on April 27, 2012.

B. Structure

The management of the Organization and the Fund and all of its affairs and property are entrusted to a board of trustees. All operations related to the issuance and settlement of annuity agreements are handled by the Fund itself.

C. Assets under the Board of Trustees

As of the June 30, 2021 audited financial statement, the Organization's Board of Trustees oversaw an endowment comprising \$826,044 in total assets and \$60,662,376 in total investments. The Fund, as of December 31, 2021, held total admitted assets of \$2,664,242.

D. Third-Party Payment Service Provider

Morgan Stanley is the custodian of the Fund's assets. The Fund outsourced its investment management and various back office functions including annuity payments, database of gifts, reserves and liability reporting to Cornerstone Institutional Investors, LLC ("Cornerstone"). Cornerstone has hired PG Calc to provide the database of gifts, make payments and provide the reserve and liability reporting required for the Fund and the annual filings. The Fund also utilizes the services of OSGroup for the preparation of annual statements.

4. INVESTMENT REVIEW

A. Diversification

New York Estate Powers and Trust Law § 11-2.3(b)(3)(C) requires trustees to diversify assets unless the trustee reasonably determines that it is in the interests of the beneficiaries not to diversify.

New York Not-for-Profit Corporation Law § 552(e)(4) states,

“Except as otherwise provided by a gift instrument, ... (4) [a]n institution shall diversify the investments of an institutional fund unless the institution prudently determines that, because of special circumstances, the purposes of the fund are better served without diversification. An institution shall review a decision not to diversify as frequently as circumstances require, but at least annually.”

Morgan Stanley is the Fund’s custodian. Cornerstone Institutional Investors, LLC is the Fund’s investment adviser. In that role, it prepared and provided to the Fund its own formatted ISS. That ISS limits individual stock (equity) exposures to 10 percent.

The Fund reported 32.49% invested in Schwab US Large Cap ETF, 32.35% in IShares Core US Aggregate, and 10.52% in the Vanguard FTSE Developed Markets E.

At the fund level, the concentration levels of the Fund’s investments appear to exceed the limits set by Cornerstone Institutional Investors, LLC’s own ISS format and which were approved by the Board of Trustees.

The examiner recommends that the Fund or Board of Trustees diversify the investments or memorialize why, because of special circumstances, the purposes of the fund are better served without diversification. Decisions not to diversify should be reviewed at least annually.

5. ASSETS AND LIABILITIES SUMMARY

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>2016</u>	<u>December 31,</u> <u>2021</u>	<u>Increase</u>
Admitted assets	\$ <u>1,974,184</u>	\$ <u>2,664,242</u>	\$ <u>690,058</u>
Liabilities	\$ <u>1,249,952</u>	\$ <u>1,410,130</u>	\$ <u>160,178</u>
Minimum required fund balance	\$ 124,995	\$ 141,013	\$ 16,018
Excess fund balance (surplus)	<u>599,237</u>	<u>1,113,099</u>	<u>513,862</u>
Total annuity fund balance	\$ <u>724,232</u>	\$ <u>1,254,112</u>	\$ <u>529,880</u>
Total liabilities and annuity fund balance	\$ <u>1,974,184</u>	\$ <u>2,664,242</u>	\$ <u>690,058</u>

The increase in assets, liabilities, and annuity fund balance is attributable to the market performance of the segregated reserve fund and the addition of new gifts into the pool. Annuities increased from 38 with annual payment amounts of \$124,348 as of December 31, 2016 to 54 with annual payment amounts of \$150,462 as of December 31, 2021.

The Fund's admitted assets, as of December 31, 2021, were invested mainly in equity securities (96.57%).

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. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation 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 examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approval in the board minutes.</p> <p>During the examination period, the Investment Committee approved the purchases and sales of all investments and noted such approval in the board minutes.</p>
B	<p>The examiner recommends that the board use on the custodian agreement and any associated accounts the name on its application to the Department for a permit to offer charitable gift annuities in New York.</p> <p>The board used on the custodian agreement and associated accounts the name on its permit application.</p>
C	<p>The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for its securities.</p> <p>The Fund contracted with a licensed bank to serve as the custodian for its securities.</p>
D	<p>The examiner recommends that the Fund strengthen the diversification of its investment holdings.</p> <p>The Department no longer provides guidance for investment diversification. However, the Fund's own investment strategy statement limits holdings in each investment to 10% of admitted assets, which limits were apparently exceeded by some of the Fund's investments. A similar recommendation appears in this report on examination.</p>
E	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law.</p> <p>The Fund has adopted an Investment Strategy Statement which refers to the prudent investor standard as defined in Section 11-2.3 of the Estate, Powers and Trusts law.</p>

<u>Item</u>	<u>Description</u>
F	<p>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.</p> <p>During the examination period, 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 which were used and not previously filed with the Superintendent.</p> <p>The Fund filed with the Superintendent all gift annuity agreement forms which were used and not previously filed with the Superintendent.</p>
H	<p>The examiner recommends that upon the death of an annuitant the Fund obtain and maintain a death certificate or other reliable or documentary evidence that supports such information terminating an annuity contract.</p> <p>During the examination period, the Fund obtained and maintained a death certificate or reliable documentary evidence that supported such information terminating an annuity contract.</p>

8. SUMMARY AND CONCLUSIONS

Following is the recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Fund or Board of Trustees diversify the investments or memorialize why, because of special circumstances, the purposes of the fund are better served without diversification. Decisions not to diversify should be reviewed at least annually.	5

Respectfully submitted,

/s/

Adelia Gbadamosi
Senior Insurance Examiner

STATE OF NEW YORK)

)SS:

COUNTY OF NEW YORK)

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

/s/

Adelia Gbadamosi

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 32383

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:*

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
NEW YORK PUBLIC RADIO***

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 2nd day of May, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

