

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
BIRTHRIGHT ISRAEL FOUNDATION, INC

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

AUGUST 8, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

HASAN AHMED

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Department of Financial Services

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Acting Superintendent

October 19, 2021

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

Madam:

In accordance with instructions contained in Appointment No. 31911, dated May 20, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Birthright Israel Foundation, hereinafter referred to as the “Fund.” The Fund’s home office is located at 711 3rd Avenue, 10th Floor, New York, NY 10017.

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 Fund's board of directors 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 Fund utilize gift annuity agreement forms that were previously filed with, and accepted by, the Superintendent. (See item 5 of this report)

The examiner recommends that the Fund use on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. (See item 5 of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by issuing annuities that exceeded the maximum rates allowed. (See item 6 of this report)

The examiner recommends that the Fund implement appropriate controls that will ensure when annuities are issued, payout rates do not exceed the maximum rates provided in the filed schedule in compliance with Section 1110(a) of the New York Insurance Law. (See item 6 of this report)

The Fund violated Section 307(a)(1) of the New York Insurance Law by failing to file its annual statement with the superintendent. The examiner recommends that the Fund file its annual statement with the Department on or before March 1st of the following year. (See item 7 of this report)

2. SCOPE OF EXAMINATION

This is the first examination of the Fund since it received its special permit to issue gift annuity agreements in 2014. This examination covers the period from July 14, 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).

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.

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

Birthright Israel Foundation (the “Foundation”) is organized for the purpose of strengthening Jewish identity by ensuring that eligible young Jewish adults between the ages of 18 and 26 from around the world are given the opportunity to visit Israel on an educational journey. The Birthright Israel Foundation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 2014. A special permit was granted to the Foundation by the Department on July 14, 2014, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

PNC Bank is the custodian of the Fund’s assets. The bank is responsible for investment management, and handles benefit payments to annuitants, and annuity calculations. All operations related to the issuance, maintenance and settlement of annuity agreements as well as preparation of the annual statements are handled by the Fund.

C. Corporate Governance

The management of the Foundation and the Fund all of its affairs and property are entrusted to a board of directors. The number of directors will number no fewer than 3. The directors elect a Chair, one or more Vice Chair(s) (the “Executive Officers”), and a Treasurer. The nomination and election procedures of the directors and their terms of office are set by the by-laws. As of December 31, 2018, the board consisted of twenty-five directors.

The examiner requested the board of directors minutes for the examination period (2014-2018). In response, the Fund provided the examiner with a copy of the minutes for one board meeting, that of October 16, 2018. The examiner’s review noted that the Fund failed to review the activities of the Fund during the course of that meeting, nor was evidence provided of any other such review during the examination period.

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

4. SIGNIFICANT FINANCIAL INFORMATION

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:

	December 31, <u>2014</u>	December 31, <u>2018</u>	Increase (Decrease)
Admitted assets	\$ <u>141,533</u>	\$ <u>265,915</u>	\$ <u>124,382</u>
Liabilities	\$ <u>33,932</u>	\$ <u>164,004</u>	\$ <u>130,072</u>
Minimum required fund balance	\$ 3,393	\$ 16,400	\$ 13,007
Excess fund balance (surplus)	<u>104,208</u>	<u>85,511</u>	<u>(18,697)</u>
Total annuity fund balance	\$ <u>107,601</u>	\$ <u>101,911</u>	\$ <u>(5,690)</u>
Total liabilities and annuity fund balance	\$ <u>141,533</u>	\$ <u>265,915</u>	\$ <u>124,382</u>

The increase in assets, liabilities and minimum required fund balance reflects an increase in the total number of annuities in force. Annuities increased from 3 with annual payment amounts of \$3,109 as of December 31, 2014 to a total of 14 with annual payment amounts of \$20,384 as of December 31, 2018.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in money market mutual funds (67.51%), and common stocks (32.49%).

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 eight gift annuity agreements issued in New York during the examination period revealed that in four out of the eight cases (50%), the Fund used gift annuity agreement forms that differed from the gift annuity agreements filed with the Superintendent. However, the forms used differed in that the form number was incorrect. The Fund inadvertently used form 2-L, instead of the filed form 2-L-NJ. All other elements of the policy forms did not differ from the forms filed with the Superintendent.

The examiner recommends that the Fund utilize gift annuity agreement forms that were previously filed with, and accepted by, the Superintendent.

The examiner's review of a sample of benefit payments made to annuitants during the examination period revealed that only the financial institution's name (PNC Bank), not the Fund's name, appeared on the annuity benefit checks.

The examiner recommends that the Fund use on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.

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 and a schedule of its maximum annuity rates..."

The examiner's review of the reserve report noted that four out of the eight annuities issued in New York during the examination period had payout rates greater than the maximum rates provided in the filed schedule in violation of the applicable New York Insurance Law.

The Fund violated Section 1110(a) of the New York Insurance Law by issuing annuities that exceeded the maximum rates allowed.

The examiner recommends that the Fund implement appropriate controls that will ensure when annuities are issued, payout rates do not exceed the maximum rates provided in the filed schedule in compliance with Section 1110(a) of the New York Insurance Law.

6. FAILURE TO FILE

Section 307(a)(1) of the New York Insurance Law states the following:

“(1) Every insurer and every fraternal benefit society that is authorized to do an insurance business in this state, and every pension fund, retirement system or state fund that is required, by any law of this state, to report to the superintendent or is subject to the superintendent's examination, shall file in the office of the superintendent, annually on or before the first day of March, a statement, to be known as its annual statement, executed in duplicate, verified by the oath of at least two of its principal officers, showing its condition at last year-end or, in the case of a pension fund or retirement system, on such date in the year next preceding as the superintendent may approve...

The examiner reviewed the filings made by the Fund to the Department. The examiner noted that the Fund failed to file its annual statements with the Department during the period under examination except for 2014. Furthermore, the Fund failed to file annual statements with the Department in the years subsequent to the examination.

The Fund violated Section 307(a)(1) of the New York Insurance Law by failing to file its annual statement with the superintendent. The examiner recommends that the Fund file its annual statement with the Department on or before March 1st of the following year.

7. 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 the Fund's board of directors review the activities of the Fund at least annually and note the same in the minutes.	4
B	The examiner recommends that the Fund utilize gift annuity agreement forms that were previously filed with, and accepted by, the Superintendent.	6
C	The examiner recommends that the Fund use on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.	6
D	The Fund violated Section 1110(a) of the New York Insurance Law by issuing annuities that exceeded the maximum rates allowed.	6
E	The examiner recommends that the Fund implement appropriate controls that will ensure when annuities are issued, payout rates do not exceed the maximum rates provided in the filed schedule in compliance with Section 1110 (a) of the New York Insurance Law.	7
F	The Fund violated Section 307(a)(1) of the New York Insurance Law by failing to file its annual statement with the superintendent.	8
G	The examiner recommends that the Fund file its annual statement with the Department on or before March 1st of the following year.	8

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. 31895

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:

HASAN AHMED

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
BIRTHRIGHT ISRAEL FOUNDATION**

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 20th day of May, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services

By: Mark McLeod
MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

