



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
CATHOLIC CHARITIES OF THE ARCHDIOCESE OF NEW  
YORK**

**AS OF December 31, 2019**

**EXAMINER: Chacko Thomas**

**DATE OF REPORT: August 5, 2020**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

March 24, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32108, dated June 24, 2020 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Catholic Charities of the Archdiocese of New York. The Fund's home office is located at 1011 First Avenue, New York, New York 10022.

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 the signature of each board member indicating that they have received and read any current or future filed report on examination (See item 3E 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 examiner recommends that the Fund or Board of Trustees strengthen the diversification of its investments to better adhere to the limits within its IPS, or memorialize why, because of special circumstances, the purposes of the Fund are better served with a concentration in the Archdiocese of New York Core Fixed Collective Investment Fund. Decisions not to adhere to the IPS should be reviewed at least annually. (See item 4B 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' ("Department" or "DFS") examination and assessment of the Catholic Charities of the Archdiocese of New York Segregated Annuity Fund (the "Fund") through which Catholic Charities of the Archdiocese of New York (the "Catholic Charities") provides annuity benefits.

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).

This report outlines DFS's supervisory expectations or priorities and articulates DFS's general views regarding the exceptional circumstances where the Catholic Charities or Fund, in relation to their annuity activities, could have better adhered to statutory standards and guidance or 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, 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 violations, recommendations and/or comments 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 Catholic Charities of the Archdiocese of New York was chartered in 1917 and is organized for the purpose of aiding, supporting, advising, and conducting any and all philanthropic work that is carried on within New York, or elsewhere, for the benefit of Catholics within the Archdiocese of New York, including sustenance, shelter, and relief of the needy, and the assistance of immigrants and their children. The Catholic Charities established the Fund to issue gift annuity agreements in return for gifts from donors in 1981. The Superintendent of Insurance granted to the Catholic Charities a Charitable Annuity Society special permit on November 2, 1995.

#### B. Structure

The management of the Catholic Charities and the Fund and all of its affairs and property are entrusted to a board of trustees. The Fund handles the issuance of annuity agreements, and maintains the accounting records and individual annuity files at its principal office.

#### C. Assets under the Board of Trustees

As of the August 31, 2019 audited financial statement, Catholic Charities' Board of Trustees oversaw an endowment comprising \$13,130,844 in total assets. The Fund, as of December 31, 2019, held total admitted assets of \$2,756,749.

#### D. Third-Party Payment Service Provider

The Bank of New York Mellon ("BNY Mellon") is the investment manager and acts as the custodian to the Fund's assets. Additionally, BNY Mellon: calculates the annuity amounts to be paid; issues all checks for annuity payments; and, upon notification and receipt of a death certificate from the Fund, calculates the death payout, prepares the death payout check, prepares the Form 1099 as well as the annual statement.

#### E. Oversight Structure

Section 312(b) of the New York Insurance Law states, in part:

"(b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer's files confirming that such member has received and read such report . . ."

The examiner's review revealed the Fund failed to obtain 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 the signature of each board member indicating that they have received and read any current or future filed report on examination



#### 4. INVESTMENT REVIEW

##### A. Investment Policy 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.”

Catholic Charities prepared and adopted an investment policy statement (“IPS”) for the Fund. The Fund does not review its IPS annually.

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.

##### B. 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.”

Catholic Charities prepared and provided to the Fund its own formatted IPS. That IPS limits individual stock (equity) exposures to seven percent (7%) of the market value of an investment manager's portfolio. The Fund reported 31.14% of its admitted assets invested in the Archdiocese of New York Core Fixed Collective Investment Fund, as of December 31, 2019.

At the fund level, the concentration levels of the Fund's investments appear to exceed the limits set by Catholic Charities' own IPS.

The examiner recommends that the Fund or Board of Trustees strengthen the diversification of its investments to better adhere to the limits within its IPS, or memorialize why, because of special circumstances, the purposes of the Fund are better served with a concentration in the Archdiocese of New York Core Fixed Collective Investment Fund. Decisions not to adhere to the IPS should be reviewed at least annually.

## 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>2014</u>	<u>December 31,</u> <u>2019</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$2,782,483</u>	<u>\$2,756,749</u>	<u>\$ (25,734)</u>
Liabilities	<u>\$2,013,579</u>	<u>\$1,750,206</u>	<u>\$(263,373)</u>
Minimum required fund balance	\$ 201,358	\$ 175,021	\$ (26,337)
Excess fund balance (surplus)	<u>567,546</u>	<u>831,523</u>	<u>263,977</u>
Total annuity fund balance	<u>\$ 768,904</u>	<u>\$1,006,543</u>	<u>\$ 237,639</u>
Total liabilities and annuity fund balance	<u>\$2,782,483</u>	<u>\$2,756,749</u>	<u>\$ (25,734)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 72 with annual payment amounts of \$176,747 as of December 31, 2014 to a total of 61 with annual payment amounts of \$169,317 as of December 31, 2019. The increase in annuity fund balance, per Catholic Charities, was due to changes in market values of assets.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in equity securities (98.70%).

## 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 4 newly issued annuities, the Fund used forms that differed from the gift annuity agreements filed with the Superintendent. The deviating form number found in the sample are 1da-I-NY.

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 diversify its investment holdings.</p> <p>The examiner's review shows that the investments are transacted according to the Investment Policy Statement. However, the investments are still not properly diversified. A similar recommendation appears in this report on examination.</p>
B	<p>The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.</p> <p>The examiner's review of the terminated annuities during the examination period shows that the Fund obtained the death certificates of the annuitants.</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. .	5
B	The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining the signature of each board member indicating that they have received and read any current or future filed report on examination.	5
C	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.	6
D	The examiner recommends that the Fund or Board of Trustees strengthen the diversification of its investments to better adhere to the limits within its IPS, or memorialize why, because of special circumstances, the purposes of the Fund are better served with a concentration in the Archdiocese of New York Core Fixed Collective Investment Fund. Decisions not to adhere to the IPS should be reviewed at least annually.	7
E	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.	9
F	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.	9

Respectfully submitted,

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/s/  
Chacko Thomas  
Senior Insurance Examiner

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

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

\_\_\_\_\_  
/s/  
Chacko Thomas

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:

**CHACKO THOMAS**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
CATHOLIC CHARITIES OF THE ARCHDIOCESE OF NEW YORK**

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 24th day of June, 2020

LINDA A. LACEWELL  
Superintendent of Financial Services

By:



MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

