



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
DEPARTMENT OF EDUCATION, 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
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
DEPARTMENT OF EDUCATION, ARCHDIOCESE OF NEW YORK
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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
	E. Oversight structure	4
4.	Investment review	6
	A. Investment policy statement	6
	B. Monitoring	7
5.	Assets and liabilities summary	8
6.	Treatment of annuitants	9
7.	Prior report summary and conclusions	10
8.	Summary and conclusions	11

KATHY HOCHUL
Governor



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. 32109, 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 Department of Education, 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 Investment Strategy Statement be approved by the board of directors. (See item 4A of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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. (See item 4A of this report)

The examiner recommends that the Fund's board of directors, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes. (See item 4B 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 Department of Education, Archdiocese of New York Segregated Annuity Fund (the "Fund") through which Department of Education, Archdiocese of New York (the "Department of Education") 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 Department of Education, 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 Department of Education, Archdiocese of New York was chartered in 1970 to provide educational, supervisory, managerial and other forms of assistance, support and aid to the schools and other educational programs operated and supervised by or in connection with the Roman Catholic Archdiocese of New York, and to promote the objectives and purposes of such schools and programs. The Department of Education established the Fund to issue gift annuity agreements in return for gifts from donors in 1981. The Superintendent of Insurance granted to the Department of Education a Charitable Annuity Society special permit on November 2, 1995.

B. Structure

The management of the Department of Education and the Fund and all of the affairs and property are entrusted to a board of trustees. The Fund handles the issuance and maintenance of annuity agreements and handles 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, the Department of Education's Board of Trustees oversaw an endowment comprising \$5,550,398 in total assets. The Fund, as of December 31, 2019, held total admitted assets of \$178,486.

D. Third-Party Payment Service Provider

The Bank of New York Mellon ("BNY Mellon") is the investment manager and acts as 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 and prepares the death payout check.

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.”

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.

The examiner’s review of the Fund’s Investment Strategy Statement showed that it does not contain reference to the prudent investor standard, as specified in Section 1110(b) of the New York Insurance Law.

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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.

B. Monitoring

The examiner reviewed the board of trustees' minutes for the examination period. The examiner noted that the minutes did not discuss the activities of the Fund during the examination period.

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

5. ASSETS AND LIABILITIES SUMMARY

The following summary table indicates the 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>2019</u>	<u>(Decrease)</u>
Admitted assets	\$ <u>249,412</u>	\$ <u>178,486</u>	\$ <u>(70,926)</u>
Liabilities	\$ <u>180,800</u>	\$ <u>128,792</u>	\$ <u>(52,008)</u>
Minimum required fund balance	\$ 18,080	\$ 12,879	\$ (5,201)
Excess fund balance (surplus)	<u>50,532</u>	<u>36,815</u>	<u>(13,717)</u>
Total annuity fund balance	\$ <u>68,612</u>	\$ <u>49,694</u>	\$ <u>(18,918)</u>
Total liabilities and annuity fund balance	\$ <u>249,412</u>	\$ <u>178,486</u>	\$ <u>(70,926)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 13 with annual payment amounts of \$19,653 as of December 31, 2014 to a total of 9 with annual payment amounts of \$15,812 as of December 31, 2019.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in equity securities (98.62%).

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 is the recommendation 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	The examiner recommends that the Fund diversify its investment holdings. The Department no longer provides specific guidance for diversification.

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 Investment Strategy Statement be approved by the board of directors.	6
D	The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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.	6
E	The examiner recommends that the Fund's board of directors, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.	7

Respectfully submitted,

/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 _____

APPOINTMENT NO. 32109

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
DEPARTMENT OF EDUCATION, 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***

