REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK

AS OF DECEMBER 31, 2020

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: January 13, 2023

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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March 21, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32228, dated March 16, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Roman Catholic Diocese of Albany, New York. The Fund's home office is located at 40 North Main Street, Albany, New York 12203.

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 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 Investment Strategy Statement be approved by the Board of Trustees. (See item 4A of this report)

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the December 31, 2020 filed annual statement. (See item 5 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 Roman Catholic Diocese of Albany, New York Segregated Gift Annuity Fund (the "Fund") through which the Roman Catholic Diocese of Albany, New York (the "Diocese") provides annuity benefits.

The prior examination was conducted as of December 31, 2015. This examination covers the period from January 1, 2016 through December 31, 2020. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2020 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 Diocese 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, 2020 to determine whether the Fund's filed 2020 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

The Roman Catholic Diocese of Albany, New York is organized for the purpose of supporting, maintaining, aiding, advising and cooperating with any charitable, religious, benevolent, recreational, welfare or educational corporation, association, institution, committee, agency or activity, now or hereafter existing within the state of New York or elsewhere, and more particularly within the bounds of the Roman Catholic Diocese of Albany, New York. The Diocese maintains, as one of its primary purposes, a commitment to provide, improve, promote, create, and preserve affordable housing for persons of low income. The Diocese established the Fund to issue gift annuity agreements in return for gifts from donors in since 1941. The Superintendent of Insurance granted to the Diocese a Charitable Annuity Society special permit on August 28, 2001.

B. Structure

The Fund is overseen by the Diocese's Board of Trustees. The Fund issues annuity agreements, calculates annuity benefit payments and retains the original individual agreements at its home office. All operations related to the maintenance and settlement of annuity agreements are handled by Merrill Lynch (Bank of America), the Fund's custodian and investment manager.

C. Assets under the Board of Trustees

As of the June 30, 2020 audited financial statement, the Board of Trustees oversaw an endowment comprising $9,877,085 in total assets. The Fund, as of December 31, 2020, held total admitted assets of $558,223.

D. Third-Party Payment Service Provider

Bank of America Merrill Lynch is the custodian of the Fund's assets and the Fund's investment manager.

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 that the Fund failed to obtain signed statements from its board members indicating 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 Strategy 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."

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.

The examiner also recommends that the Investment Strategy Statement be approved by the Board of Trustees.

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:

	December 31, 2015	December 31, 2020	Increase Decrease
Admitted assets	$1,254,868	$558,223	$(696,645)
Liabilities	$1,160,172	$430,410	$(729,762)
Minimum required fund balance	$ 97,633	$ 33,909	$ (63,724)
Excess fund balance (surplus)	(2,938)	93,905	96,843
Total annuity fund balance	$ 94,695	$127,814	$ 33,119
Total liabilities and annuity fund balance	$1,254,868	$558,223	$(696,645)

According to the Diocese, the fluctuation in the Fund's assets, liabilities, and annuity fund balance during the examination period was attributable to market fluctuations and the decrease in annuities. Annuities decreased from 51 as of December 31, 2015 with annuity payments of $167,700 to 24 as of December 31, 2020 with annuity payments of $59,763.

The Fund's admitted assets, as of December 31, 2020, were invested in equity securities (58.60%) and bonds (36.08%).

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 violations, recommendations and comment contained in the prior report on examination and the subsequent actions taken by the Fund in response to each citation:

Item	Description
A	The examiner recommends that the board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes. The examiner was unable to ascertain that the board of directors approved the purchases and sales of all investments. However, the examiner obtained the 2021 SOC1 report from Bank of America Merrill Lynch.
B	The examiner recommends that the Fund maintain documentation supporting the amounts reported in its filed annual statement. During the examination period, the Fund maintained documentation supporting the amounts reported in its filed annual statement.
C	The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain minimum required assets as of December 31, 2015. The Fund maintained the minimum required assets as of December 31, 2020.
D	The examiner recommends that the Fund maintain admitted assets at least equal to 110% of the amount of reserves on its outstanding agreements. The Fund maintained admitted assets at least equal to 110% of the amount of reserves on its outstanding agreements as of December 31, 2020.
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. During the examination period, the Fund used gift annuity agreement forms that were filed with the Superintendent.

Item	Description
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. During the examination period, the Fund used annuity agreement forms which were filed with and approved by the Superintendent.
G	The examiner recommends that the Fund prepare its annual statements according to the Department's instructions. The examiner noted no new issues during her review.
H	The Diocese took action to cure the underfunded condition of the Fund. The Fund maintained the minimum required assets as of December 31, 2020.

8. SUMMARY AND CONCLUSIONS

Following are the violation and recommendations contained in this report:

Item	Description	Page No(s).
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 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
D	The examiner recommends that the Investment Strategy Statement be approved by the Board of Trustees.	6

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. 32228

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 ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK

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 16th day of March, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU