



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
NEW YORK AND PRESBYTERIAN HOSPITAL
AS OF DECEMBER 31, 2020**

EXAMINER: MANISH GERA

DATE OF REPORT: MARCH 30, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

April 24, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32225, dated April 19, 2021 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the New York and Presbyterian Hospital. The Fund's home office is located at 525 East 68th Street, New York, NY 10065.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Investment Policy Statement be approved by the board of directors. (See item 4A 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 upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (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' (the "Department" or "DFS") examination and assessment of the New York and Presbyterian Hospital Segregated Gift Annuity Fund (the "Fund") through which New York and Presbyterian Hospital (the "Hospital") 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 Hospital 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, 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 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 New York and Presbyterian Hospital was chartered in 1771 and is organized for the purpose of fostering the hospital's mission and value and to encourage an environment where there is respect for the rights and safety of the patients and staff. The Hospital established the Fund to issue gift annuity agreements in return for gifts from donors in 2006. The Superintendent of Insurance granted to the Hospital a Charitable Annuity Society special permit on October 3, 2006.

B. Structure

The Fund is overseen by the Hospital's board of trustees. All other operations not handled by the investment manager and custodian related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund itself.

C. Assets under the Board of Trustees

As of the December 31, 2020 IRS Form 990, the Hospital's Board of Trustees oversaw an endowment comprising \$456,234,109 in total assets. The Fund, as of December 31, 2020, held total admitted assets of \$6,818,321.

D. Third-Party Payment Service Provider

BNY Mellon is the investment manager and custodian of the Fund's assets. BNY Mellon also provides tax services to the Fund. The Fund issues annuity agreements, calculates annuity benefit payments and retains the original individual agreements at its home office.

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 2020 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 2020 annual statement showed that the Fund answered “yes” to interrogatory 18. The examiner’s review of the Fund’s Investment Policy Statement (“ISS”) revealed that the board did not approve the IPS. Therefore, the Fund failed to answer interrogatory 18 in the 2020 annual statement correctly.

The examiner recommends that the Investment Policy Statement be approved by the board of directors.

BNY Mellon is the Fund’s investment adviser and custodian. BNY Mellon prepared and provided a form investment policy statement (“IPS”) to the Fund. The Fund adopted that form as its IPS.

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.

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>2015</u>	<u>December 31,</u> <u>2020</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$6,110,562</u>	<u>\$6,818,321</u>	<u>\$ 707,760</u>
Liabilities	<u>\$3,837,594</u>	<u>\$2,946,876</u>	<u>\$ (890,718)</u>
Minimum required fund balance	\$ 383,759	\$ 294,688	\$ (89,072)
Excess fund balance (surplus)	<u>1,889,209</u>	<u>3,576,758</u>	<u>1,687,549</u>
Total annuity fund balance	<u>\$2,272,968</u>	<u>\$3,871,446</u>	<u>\$1,598,478</u>
Total liabilities and annuity fund balance	<u>\$6,110,562</u>	<u>\$6,818,321</u>	<u>\$ 707,760</u>

The increase in assets was due to investments generating a return that exceeded annuity payments as a percentage of the overall pool. The decrease in liabilities reflects a decrease in the total number of annuities in force and transfers to the general fund primarily attributed to termination. Annuities decreased from 64 with annual payment amounts of \$436,633 as of December 31, 2015 to a total of 46 with annual payment amounts of \$482,151 as of December 31, 2020. The annuity fund balance increased due to the gains of the market as well as due to additional excesses that have been generated through overall investment performance.

The Fund's admitted assets, as of December 31, 2020, were invested mainly in equity securities (97.84%).

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.

The examiner's review of a sample of 10 annuity contracts terminated revealed that in 6 of the 10 cases (60%) reviewed, the Fund failed to obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

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 Fund violated Section 312(b) of the New York Insurance Law by failing to maintain statements signed by its board members indicating that they received and read the prior report on examination.</p> <p>The Fund has complied with the recommendation.</p>
B	<p>The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.</p> <p>The Fund has complied with the recommendation.</p>
C	<p>The examiner recommends that the Fund diversify its investment holdings.</p> <p>The Department no longer provides specific guidelines for diversification.</p>
D	<p>The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.</p> <p>The Fund continued to obtain obituaries for terminated annuitants, instead of adequate documentation. A similar recommendation appears in this report on examination.</p>

8. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Investment Policy Statement be approved by the board of directors.	5
B	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.	5
C	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.	7

Respectfully submitted,

/s/

Manish Gera
Insurance Examiner

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

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

/s/

Manish Gera

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 32225

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:

MANISH GERA

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
NEW YORK AND PRESBYTERIAN HOSPITAL***

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 19th day of April, 2021

*LINDA A. LACEWELL
Superintendent of Financial Services*

By:



***MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU***

