



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
YESHIVA UNIVERSITY**

AS OF DECEMBER 31, 2021

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: November 30, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

YESHIVA UNIVERSITY

AS OF

DECEMBER 31, 2021

DATE OF REPORT:

NOVEMBER 30, 2022

EXAMINER:

ADELIA GBADAMOSI

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	5
4.	Investment review	6
	A. Investment strategy 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	12

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

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. 32394, dated March 31, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Yeshiva University. The Fund's home office is located at 500 West 185th Street, New York, New York 10033.

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 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's Board of Trustees, 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 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, 2021 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 Yeshiva University Segregated Annuity Fund (the "Fund") through which the Yeshiva University (the "University") provides annuity benefits.

The prior examination was conducted as of December 31, 2016. This examination covers the period from January 1, 2017 through December 31, 2021. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2021 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 University 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, 2021 to determine whether the Fund's filed 2021 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

Yeshiva University is a private, non-profit religious institution of higher education primarily based in New York City. The University was founded in 1886 as the Rabbi Isaac Elchanan Theological Seminary, with which it is still affiliated, and was chartered as a separate University in 1945. The University brings together the heritage of western civilization and the ancient traditions of Jewish law and life. The University is comprised of several colleges and schools providing undergraduate, graduate, professional, and post-doctoral education and training. The University provides instruction to approximately 6,400 undergraduate, graduate and professional students. The University is accredited by the Middle States Association of Colleges, while the other academic programs are accredited by appropriate state and professional accrediting agencies and associations. The University established the Fund to issue gift annuity agreements in return for gifts from donors in 2001. The Superintendent of Insurance granted to the Society a Charitable Annuity Society special permit on April 24, 2007.

B. Structure

The management of the University and the Fund and all of its affairs and property are entrusted to a Board of Trustees. The University solicits and finalizes the annuity agreements for the Fund, prepares and submits quarterly and annual filings, and reviews the Fund's investment strategy.

C. Assets under the Board of Trustees

As of the June 30, 2021 IRS Form 990, the Board of Trustees oversaw an endowment comprising \$542,363,183 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$742,936.

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. Bank of America Merrill Lynch also issues the payments to the donors. The Fund engages an outside accountant, Daniel O'Connell, C.P.A., to prepare the accounts and file the Annual Statements.

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 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’s review of the Fund’s Investment Strategy Statement (“ISS”) revealed that the board did not approve the ISS.

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

Bank of America Merrill Lynch is the Fund’s investment adviser and custodian.

Bank of America Merrill Lynch prepared and provided a form investment strategy statement (“ISS”) to the Fund. The Fund adopted that form as its ISS.

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. Monitoring

The examiner requested the minutes of the Board of Trustees and all committees thereof for the examination period. The Fund provided the examiner with a copy of the board minutes for audit committee meetings conducted in 2018 only.

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 growth in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2016</u>	<u>December 31,</u> <u>2021</u>	<u>Increase</u>
Admitted assets	<u>\$705,413</u>	<u>\$742,936</u>	<u>\$37,523</u>
Liabilities	<u>\$569,397</u>	<u>\$591,715</u>	<u>\$22,318</u>
Minimum required fund balance	\$ 56,940	\$ 59,172	\$ 2,232
Excess fund balance (surplus)	<u>79,076</u>	<u>92,049</u>	<u>12,973</u>
Total annuity fund balance	<u>\$136,016</u>	<u>\$151,221</u>	<u>\$15,205</u>
Total liabilities and annuity fund balance	<u>\$705,413</u>	<u>\$742,936</u>	<u>\$37,523</u>

According to the University, the fluctuations during the examination period were immaterial. Further, the number of annuities, investment performance and annuity payment distribution have increased slightly during the period. Annuities in force stood at 9 as of December 31, 2016 with annuity payments of \$80,667 and remained at 9 as of December 31, 2021 with annuity payments of \$89,830.

The Fund's admitted assets, as of December 31, 2021, were invested in equity securities (49.99%) and bonds (48.34%).

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 violation and 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 signed statements from the board members indicating that they received and read the prior report on examination.</p> <p>The Fund failed to take corrective action in response to this prior report comment. (See item 5 of this report)</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 failed to take corrective action in response to this prior report comment. (See item 5 of this report)</p>
C	<p>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.</p> <p>The Fund's audit committee failed to review the activities of the Fund at least annually and note the same in the minutes. A similar recommendation appears in this report on examination.</p>
D	<p>The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.</p> <p>The examiner did not note that the board of trustees approves the purchases and sales of all investments. However, the examiner obtained the 2021 SOC1 report from Bank of America Merrill Lynch, which had an unqualified opinion.</p>
E	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer 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</p>

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 Fund established an Investment Strategy Statement, but the statement failed to include the prudent investor standard per Section 11-2.3 of the Estates, Powers, and Trusts Law. A similar recommendation appears in this report on examination. (See item 4A of this report).

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 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
E	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	7
F	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.	7

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. 32394

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
YESHIVA UNIVERSITY***

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 31st day of March, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

