



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
LEUKEMIA AND LYMPHOMA SOCIETY**

**AS OF DECEMBER 31, 2021**

**EXAMINER: Adelia Gbadamosi**

**DATE OF REPORT: April 13, 2023**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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KATHY HOCHUL  
Governor



ADRIENNE A. HARRIS  
Superintendent

August 31, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32393, dated November 22, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Leukemia and Lymphoma Society. The Fund's home office is located at 3 International Drive, Suite 200, Rye Brook, New York 10573.

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

## 1. EXECUTIVE SUMMARY

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 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'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 Leukemia and Lymphoma Society Segregated Annuity Fund (the "Fund") through which the Leukemia and Lymphoma Society (the "Society") 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 Organization 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

The Leukemia & Lymphoma Society, Inc. is organized for the purpose of supporting research into the causes, treatments and cure of blood related cancers, including leukemia, lymphoma, Hodgkin's disease and myeloma. The Society solicits contributions and advocates for government funding to carry out the corporation's stated purposes. The Society 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 September 7, 2007.

#### B. Structure

The management of the Society and the Fund and all of its affairs and property are entrusted to a Board of Directors. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

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

As of the June 30, 2021 IRS Form 990, the Board of Directors oversaw an endowment comprising \$7,381,460 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$1,196,641.

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

Merrill Lynch Trust Company is the custodian of the Fund's assets and the Fund's investment manager. Merrill Lynch Trust Company provides services, including record keeping, the mailing of annuity payments checks and IRS Form 1099-R to annuitants, and filing of reports to the IRS.

Other functions are outsourced to the Fund's Certified Public Accountant, Daniel O'Connell. Daniel O'Connell performs financial, accounting, and tax services, and prepares the Annual Statement for filing.

#### 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.

Merrill Lynch Trust Company is the Fund’s investment adviser and custodian.



Merrill Lynch Trust Company 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.

## 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> <u>(Decrease)</u>
Admitted assets	\$ <u>1,210,057</u>	\$ <u>1,196,640</u>	\$( <u>13,417</u> )
Liabilities	\$ <u>867,643</u>	\$ <u>872,918</u>	\$ <u>5,275</u>
Minimum required fund balance	\$ 86,764	\$ 87,292	\$ 528
Excess fund balance (surplus)	<u>255,650</u>	<u>236,431</u>	<u>(19,219)</u>
Total annuity fund balance	\$ <u>342,414</u>	\$ <u>323,723</u>	\$( <u>18,691</u> )
Total liabilities and annuity fund balance	\$ <u>1,210,057</u>	\$ <u>1,196,640</u>	\$( <u>13,417</u> )

According to the Fund, its assets, liabilities, and annuity fund balance stayed consistent during the examination period. Fluctuations in account balances were due to eight new contracts added, disbursements from terminations, annuity payments to donors, and market earnings, including investment income, realized, and unrealized gains. Annuities decreased from 36 as of December 31, 2016 with annuity payments of \$108,537 to 33 as of December 31, 2021 with annuity payments of \$107,490.

The Fund's admitted assets, as of December 31, 2021, were invested in bonds (67.95%), equity securities (27.69%) and money market mutual funds (4.05%).

## 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 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 maintained signed statements from the board members indicating that they received and read the prior report on examination.</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 complied 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>
C	<p>The examiner recommends that the Fund's board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approval in the minutes.</p> <p>The Fund's Investment Committee approved the purchases and sales of all investments and noted such approval in the minutes.</p>
D	<p>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.</p> <p>No new annuities were issued during the examination period.</p>
E	<p>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</p> <p>No new annuities were issued during the examination period.</p>

<u>Item</u>	<u>Description</u>
F	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>The examiner noted no new discrepancies during her review.</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 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.	5
B	The examiner recommends that the Investment Strategy Statement be approved by the Board of Directors.	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

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 \_\_\_\_\_

*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  
THE LEUKEMIA & LYMPHOMA SOCIETY, INC.***

*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 22nd day of November, 2022*

*ADRIENNE A. HARRIS  
Superintendent of Financial Services*

*By:*



*MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU*

