



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
NATURAL RESOURCES DEFENSE COUNCIL, INC.**

AS OF DECEMBER 31, 2021

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: May 15, 2023

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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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 strategy statement	6
5.	Assets and liabilities summary	7
6.	Treatment of annuitants	8
7.	Prior report summary and conclusions	9
8.	Summary and conclusions	11

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

August 30, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32381, dated November 9, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Natural Resources Defense Council, Inc. The Fund's home office is located at 40 West 20th Street, New York, NY 10011.

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 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'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)

In order to maintain compliance with Section 1110 of the New York Insurance Law, the Fund must issue its contracts in accordance with its previously accepted gift annuity agreements in the same format as filed with, and accepted by, the Department. The Fund must, on a going forward basis, have its form numbers appear in lower left corners of agreement pages; similarly, agreement serial numbers must appear in the upper right agreement page corners. (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 Natural Resources Defense Council, Inc. Segregated Annuity Fund (the "Fund") through which the Natural Resources Defense Council, Inc. (the "Council") 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 Natural Resources Defense Council, Inc. is organized for the purpose of preserving, protecting and defending natural resources, wildlife and the environment against encroachment, misuse and destruction; conducting research and collecting, compiling and publishing facts, information and statistics concerning natural resources, wildlife and the environment; and conducting public education programs with respect thereto. The Council established the Fund to issue gift annuity agreements in return for gifts from donors in 1989. The Superintendent of Insurance granted to the Society a Charitable Annuity Society special permit on June 16, 1992.

B. Structure

The management of the Council and the Fund and all of its affairs and property are entrusted to a Board of Trustees. The Fund solicits charitable contributions and issues gift annuity agreements.

C. Assets under the Board of Trustees

As of the June 30, 2021 IRS Form 990, the Board of Trustees oversaw an endowment consisting of 62 individual funds comprising \$336,828,965 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$21,651,089.

D. Third-party Payment Service Provider

State Street Global Advisors is the custodian of the Fund's assets and the Fund's investment manager. State Street Global Advisors is a licensed bank that handles the following functions for the Fund: sending benefit payments to the Fund's annuitants; providing the annuitants with the necessary tax information at the end of each calendar year; and investing the annuity fund's assets. Milliman, Inc. performs valuation of charitable gift annuities and provides an actuarial opinion on the Fund's reserves.

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 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 (“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.

State Street Global Advisors is the Fund’s investment adviser and custodian.

State Street Global Advisors 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:

	December 31, <u>2016</u>	December 31, <u>2021</u>	<u>Increase</u>
Admitted assets	\$ <u>17,199,723</u>	\$ <u>21,651,090</u>	\$ <u>4,451,367</u>
Liabilities	\$ <u>13,190,213</u>	\$ <u>13,399,447</u>	\$ <u>209,234</u>
Minimum required fund balance	\$ 1,319,021	\$ 1,339,945	\$ 20,924
Excess fund balance (surplus)	<u>2,690,489</u>	<u>6,911,698</u>	<u>4,221,209</u>
Total annuity fund balance	\$ <u>4,009,511</u>	\$ <u>8,251,643</u>	\$ <u>4,242,132</u>
Total liabilities and annuity fund balance	\$ <u>17,199,723</u>	\$ <u>21,651,090</u>	\$ <u>4,451,367</u>

The growth of the Fund during the examination period was due to new gifts and the performance of the economy. Further, the Fund kept the residuum in the contracts. However, annuities in force decreased from 767 as of December 31, 2016 with annuity payments of \$1,653,390 to 660 as of December 31, 2021 with annuity payments of \$1,521,526.

The Fund's admitted assets, as of December 31, 2021, were invested in bonds (53.22%) and equity securities (40.16%).

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 nine gift annuity agreement forms used by the Fund for gift annuities issued in New York during the examination period noted that in all nine instances, the Fund included the form number on the top left hand corner of the page and a serial number on the bottom left hand corner of the page.

In order to maintain compliance with Section 1110 of the New York Insurance Law, the Fund must issue its contracts in accordance with its previously accepted gift annuity agreements in the same format as filed with, and accepted by, the Department. The Fund must, on a going forward basis, have its form numbers appear in lower left corners of agreement pages; similarly, agreement serial numbers must appear in the upper right agreement page corners.

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. A similar violation appears in this 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 failed to take corrective action in response to this prior report comment. A similar recommendation appears in this report on examination.</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>During the review of the board minutes, the examiner determined that the Fund's board of trustees reviewed the activities of the Fund at least annually.</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 approve the purchases and sales of all investments. However, the Investment Committee thoroughly reviewed the activities of the Fund and provided quarterly updates and exhibits to the board.</p>
E	<p>The examiner recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries not to diversify, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters.</p> <p>The Department no longer provides specific guidance for investment diversification.</p>

<u>Item</u>	<u>Description</u>
F	<p>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. Powers, and Trusts Law. A similar recommendation appears in this report on examination.</p> <p>The Fund adopted an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trust Law.</p>
G	<p>The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that were not filed with the Superintendent and approved.</p> <p>The Fund filed with the Superintendent all gift annuity agreement forms that were used during the prior examination and this examination.</p>
H	<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, and retain evidence that the Forms were approved.</p> <p>The Fund filed with the Superintendent all gift annuity agreement forms that were used during the prior examination and this examination. However, the forms used during the exam period had the policy form numbers on the top left hand corner of the page and serial numbers on the bottom left hand corner of the page.</p>
I	<p>The examiner recommends that upon the death of an annuitant, the Fund obtain a death certificate or other reliable documentary evidence that supports the termination of an annuity contract.</p> <p>The Fund obtained death certificates that support the termination of an annuity contract.</p>
J	<p>The examiner recommends that the Fund prepare its filed annual statements in accordance with the Department's instructions for completing the New York State segregated gift annuity fund annual statement.</p> <p>The examiner noted no new discrepancies during the review.</p>

8. SUMMARY AND CONCLUSIONS

Following are the violation, recommendations, and comment 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 Trustees.	6
D	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
E	In order to maintain compliance with Section 1110 of the New York Insurance Law, the Fund must issue its contracts in accordance with its previously accepted gift annuity agreements in the same format as filed with, and accepted by, the Department. The Fund must, on a going forward basis, have its form numbers appear in lower left corners of agreement pages; similarly, agreement serial numbers must appear in the upper right agreement page corners.	8

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. 32381

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
NATURAL RESOURCES DEFENSE COUNCIL, 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 9th day of November, 2022

*ADRIENNE A. HARRIS
Superintendent of Financial Services*

By:



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

