



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
AMERICAN FRIENDS OF THE HEBREW UNIVERSITY**

AS OF DECEMBER 31, 2019

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: June 9, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

March 29, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32087, dated May 6, 2020 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the American Friends of the Hebrew University. The Fund's home office is located at 199 Water Street, 11th Floor, New York, NY 10038.

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 board of directors or a committee thereof periodically, at least annually, review the investment policy statement. (See item 4A of this report)

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. 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. (See item 6 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)

The Fund violated Section 1110(a) of the New York Insurance Law by issuing annuities with payout rates that exceeded the maximum rates allowed. The examiner recommends that, going forward, the Fund adhere to the maximum rates determined in accordance with Section 1110(a) of the New York Insurance Law. (See item 7 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 American Friends of the Hebrew University Segregated Gift Annuity Fund (the "Fund") through which the American Friends of the Hebrew University (the "Organization") provides annuity benefits.

The prior examination was conducted as of December 31, 2014. This examination covers the period from January 1, 2015 through December 31, 2019. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2019 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, 2019 to determine whether the Fund's filed 2019 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 8 of this report.

3. DESCRIPTION OF FUND

A. History

The American Friends of the Hebrew University, Inc. was chartered in 1931 and is organized for the purpose of: promoting, aiding, advancing and encouraging higher and secondary education, research and training in all branches of knowledge in Israel and elsewhere; promoting the maintenance and development of the Hebrew University of Jerusalem in the State of Israel and for such purpose to create a university movement in America; and receiving and maintaining funds and allocating such funds for the maintenance and development of higher and secondary education, research and training in Israel and elsewhere including the maintenance, development and advancement of the University. The Organization established the Fund to issue gift annuity agreements in return for gifts from donors in 1999. The Superintendent of Insurance granted to the Organization a Charitable Annuity Society special permit on February 2, 2010.

B. Structure

The Fund is overseen by the American Friends of the Hebrew University's board of directors. The Fund issues annuities, performs accounting functions and oversight of investments by PNC.

C. Assets Under the Board of Directors

As of the September 30, 2019 audited financial statements, the American Friends of the Hebrew University's Board of Directors oversaw an endowment comprising \$609,777,623 in total assets. The Fund, as of December 31, 2019, held total admitted assets of \$8,269,813.

D. Third-Party Payment Service Provider

PNC Bank is the Fund's custodian and investment manager. PNC administers monthly and quarterly benefit payments to annuitants, prepares annual tax forms for beneficiaries, maintains record of transactions and prepares year end accounting, develops investment plan to meet specific objectives of the Fund, and generates performance reports for the Fund's assets.

4. INVESTMENT REVIEW

A. Investment Strategy Statement

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.

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) calls for "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) states 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."

PNC Bank is the Fund's investment adviser and custodian.

PNC Bank prepared an investment policy statement ("IPS") adopted by the Fund.

The examiner recommends that the board of directors or a committee thereof periodically, at least annually, review the investment policy statement.

5. ASSETS AND LIABILITIES SUMMARY

The following summary table indicates the decline in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2014</u>	<u>December 31,</u> <u>2019</u>	<u>(Decrease)</u>
Admitted assets	<u>\$9,097,777</u>	<u>\$8,269,813</u>	<u>\$(827,964)</u>
Liabilities	<u>\$6,654,156</u>	<u>\$6,490,888</u>	<u>\$(163,269)</u>
Minimum required fund balance	\$ 665,416	\$ 649,089	\$ (16,327)
Excess fund balance (surplus)	<u>1,778,205</u>	<u>1,129,837</u>	<u>(648,368)</u>
Total annuity fund balance	<u>\$2,443,621</u>	<u>\$1,778,926</u>	<u>\$(664,696)</u>
Total liabilities and annuity fund balance	<u>\$9,097,777</u>	<u>\$8,269,813</u>	<u>\$(827,964)</u>

The decrease in assets, liabilities and annuity fund balance is due to the exclusion of the Florida annuities since 2017. Annuities decreased from 188 with annual payment amounts of \$851,446 as of December 31, 2014 to a total of 162 with annual payment amounts of \$691,755 as of December 31, 2019.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in equity securities (96.25%).

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.

Section 1110(a) of the New York Insurance Law states, in part:

“. . . Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants . . .”

The examiner’s review of a sample of 11 newly issued gift annuities by the Fund during the examination period noted that in 11 newly issued annuities, the Fund used forms that differed from the gift annuity agreements filed with the Superintendent. The deviating form numbers found in the sample are “Form1-L”; “Form1-L-D”; and “Form2-L”. In 10 cases including once in the case of Form1-L-D, the forms contain the words, "This represents an annuity rate of ...%" on the last line of the first paragraph, whereas the approved form does not. In all 11 cases, the form omitted the following words in the second paragraph: “Upon receipt of AFHU of its obligation under this agreement an amount equal to the residuum of the gift shall be used by AFHU for its general or restricted purposes. If any amount is undesignated or if the designated purpose no longer exists, it shall be used by AFHU for its general purposes.”

In two cases the Fund used “Form2-L” to issue joint gift annuities instead of the approved “Form2-L-J”.

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. 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.

The examiner’s review of a sample of 9 annuity contracts terminated revealed that in 3 of the 9 cases (33.33%) 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. ANNUITY RATES

Section 1110(a) of the New York Insurance Law states in part:

“...Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants and a schedule of its maximum annuity rates, which shall be computed on the basis of the annuity standard adopted by it for calculating its reserves so as to return to it upon the annuitant’s death a residue at least equal to one half of the original gift or other consideration for such annuity.”

During the review of 11 annuity contracts issued during the examination period, the examiner noted that in 8 of the 11 cases (72.73%), the Fund exceeded the maximum rates permitted by Section 1110(a) of the New York Insurance Law.

The Fund violated Section 1110(a) of the New York Insurance Law by issuing annuities with payout rates that exceeded the maximum rates allowed. The examiner recommends that, going forward, the Fund adhere to the maximum rates determined in accordance with Section 1110(a) of the New York Insurance Law.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments 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 examiner recommends that the Fund diversify its investment holdings.</p> <p>The Department no longer provides specific guidance for investment diversification.</p>
B	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement.</p> <p>The Fund has adopted an Investment Strategy Statement.</p>
C	<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.</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>
D	<p>The examiner recommends that the Fund submit to the Superintendent any gift annuity agreement forms used during the examination period that have not been previously filed with the Superintendent.</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>
E	<p>The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.</p> <p>The Fund failed to obtain copies of the death certificates, or of other reliable documentary evidence for some annuity contracts terminated. A similar recommendation appears in this report on examination.</p>
F	<p>The examiner recommends that the Fund adhere to the maximum rates recommended by the American Council on Gift Annuities.</p> <p>The Fund failed to take corrective action in response to this prior report comment. Please refer to Item 7 of this report.</p>

<u>Item</u>	<u>Description</u>
G	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>The examiner's review revealed that there were no deviations identified from the Department's instructions.</p>
H	<p>The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.</p> <p>The examiner's review revealed no deviations in the preparation of its filed annual statements.</p>

9. SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and commensts 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 board of directors or a committee thereof periodically, at least annually, review the investment policy statement.	5
C	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.	7
D	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.	7
E	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.	8
F	The Fund violated Section 1110(a) of the New York Insurance Law by issuing annuities with payout rates that exceeded the maximum rates allowed.	9

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
G	The examiner recommends that, going forward, the Fund adhere to the maximum rates determined in according with Section 1110(a) of the New York Insurance Law.	9

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, 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:

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
AMERICAN FRIENDS OF THE HEBREW UNIVERSITY, INC.***

and to make a report to me in writing of the condition of said

FUND

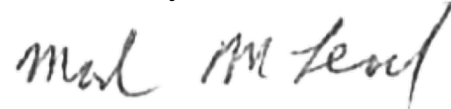
with such other information as she shall deem requisite.

*In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York*

this 6th day of May, 2020

*LINDA A. LACEWELL
Superintendent of Financial Services*

By:



*MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU*

