REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
STONY BROOK FOUNDATION, INC.

AS OF December 31, 2021

EXAMINER: Hasan Ahmed

DATE OF REPORT: January 20, 2023

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

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OF THE

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AS OF

DECEMBER 31, 2021

DATE OF REPORT: JANUARY 20, 2023

EXAMINER: HASAN AHMED

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March 24, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32390, dated May 27th, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Stony Brook Foundation, Inc. The Fund's home office is located at 230 Administration Building, Stony Brook, NY 11794-1188.

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 obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period. (See item 3E of this report)

The examiner recommends that the Fund's name that appears on the board resolution issued in accordance with its permit application to the Department for a special permit to issue charitable gift annuities in New York be included on all custodian statements. (See item 3E of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement ("ISS") 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 Board of Trustees, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes. (See item 4B 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 examiner also recommends that the Fund maintain a copy of the annuity agreement and a copy of the canceled check and documentary evidence showing proof of residuum transfer for terminated contracts. (See item 6 of this report)

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (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' (the "Department") examination and assessment of the Stony Brook Foundation, Inc Segregated Annuity Fund (the "Fund") through which Stony Brook Foundation (the "Organization") 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 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, 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 8 of this report.

3. DESCRIPTION OF FUND

A. History

The Stony Brook Foundation, Inc. is organized for the purpose of advancing the mission and goals of State University of New York at Stony Brook (also referred to as Stony Brook University or the "University"). The Organization established the Fund to issue gift annuity agreements in return for gifts from donors in 1991. The Superintendent of Financial Services granted to the Organization a Charitable Annuity Society special permit on March 2, 2012.

B. Structure

The Fund is overseen by the Organization's Board of Trustees. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

C. Assets under the Board of Trustees

As of the June 30, 2021 IRS Form 990, the Organization's Board of Trustees oversaw an endowment comprising $366,699,386 in total assets. The Fund, as of December 31, 2021, held total admitted assets of $857,519.

D. Third-Party Payment Service Provider

PNC Institutional Asset Management is the Fund's custodian and investment manager. Those services include record keeping, annuity benefit payments, calculation of the annuity reserve, and preparation of tax and regulatory filings. The Fund utilizes OS group to prepare its 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 that 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.

The examiner reviewed the investment transactions for the period under examination and noted that the Fund failed to obtain broker's advices or other supporting documentation for its investment transactions to reconcile such advices to the monthly statements furnished by the custodian.

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period.

The examiner's review of the custodian statement provided by the bank during the examination period revealed that only the name of the Society (Stony Brook Foundation), not the Fund's name, appeared on the statement.

The examiner recommends that the Fund's name that appears on the board resolution issued in accordance with its permit application to the Department for a special permit to issue charitable gift annuities in New York be included on all custodian statements.

4. INVESTMENT REVIEW

A. Investment Strategy Statement

New York Estates 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.

PNC Institutional Investment Asset Management is the Fund's investment adviser and custodian.

PNC Institutional Investment Asset Management prepared and provided a form investment strategy statement ("ISS") to the Fund. The Fund adopted that form as its ISS. 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.

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 reviewed the Board of Trustees minutes to determine whether the board had been provided with a report concerning the Fund's investment of required admitted assets. The minutes did not contain any indication that the board was provided with a report concerning the Fund's investment of required admitted assets.

The examiner recommends that the Board of Trustees, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.

5. ASSETS AND LIABILITIES SUMMARY

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

	December 31, 2016	December 31, 2021	Increase
Admitted assets	$638,537	$857,519	$218,982
Liabilities	$568,672	$613,608	$ 44,936
Minimum required fund balance	$ 56,867	$ 61,361	$ 4,494
Excess fund balance (surplus)	12,998	182,550	169,552
Total annuity fund balance	$ 69,865	$243,911	$174,046
Total liabilities and annuity fund balance	$638,537	$857,519	$218,982

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 25 with annual payment amounts of $68,147 as of December 31, 2016 to a total of 32 with annual payment amounts of $75,355 as of December 31, 2021.

The Fund's admitted assets, as of December 31, 2021, were invested in equity securities (95.37%).

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 the one annuity contract terminated during the examination period revealed that the Fund failed to obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner's review of the sample also revealed that the Fund failed to maintain a copy of the annuity agreement and a copy of the canceled check as well as documentary evidence showing proof of residuum transfer for the sample terminated 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. The examiner also recommends that the Fund maintain a copy of the annuity agreement and a copy of the canceled check and documentary evidence showing proof of residuum transfer for terminated contracts.

7. ANNUAL STATEMENT REPORTING

The examiner's review of the Fund's filed 2021 annual statement revealed that the Fund reported $71,956 as annuity payments to the donors during the year conditioned upon annuity agreement on page 3, line 8. However, the Fund's Monthly Breakdown from January through December 2021 totaled $67,634, a difference of $4,322 or 6.39%.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

8. 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:

Item	Description
A	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 The Department no longer provides specific guidance for diversification.
B	The examiner recommends that the Fund use on the custodian agreement and any associated accounts the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. The Fund failed to use on the custodian agreement and any associated accounts the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. This is a repeat recommendation.
C	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. The Fund used gift annuity agreement forms that were filed with the Superintendent.
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. The Fund filed with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.
E	The Fund used on all annuity benefit payment checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. The Fund continued to use the name Stony Brook Foundation on its bank statements. A similar recommendation appears in this report on examination.

9. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

Item	Description	Page No(s).
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.	6
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	6
C	The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period.	6
D	The examiner recommends that the Fund's name that appears on the board resolution issued in accordance with its permit application to the Department for a special permit to issue charitable gift annuities in New York be included on all custodian statements.	6
E	The examiner recommends that the Fund adopt an Investment Strategy Statement ("ISS") 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	7
F	The examiner recommends that the Investment Strategy Statement be approved by the Board of Trustees.	8

Item	Description	Page No(s).
G	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.	8
H	The examiner recommends that the Board of Trustees, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.	8
I	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.	10
J	The examiner recommends that the Fund maintain a copy of the annuity agreement and a copy of the canceled check and documentary evidence showing proof of residuum transfer for terminated contracts.	10
K	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	11

Respectfully submitted,

/s/
Hasan Ahmed
Senior Insurance Examiner

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

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

/s/
Hasan Ahmed

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 32390

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:*

HASAN AHMED

as a proper person to examine the affairs of the

SEGREGATED GIFT ANNUITY FUND OF THE STONY BROOK FOUNDATION, INC.

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 27th day of May, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU