



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

**AS OF DECEMBER 31, 2022**

**EXAMINER: Adelia Gbadamosi**

**DATE OF REPORT: November 1, 2023**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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KATHY HOCHUL  
Governor

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ADRIENNE A. HARRIS  
Superintendent

December 13, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32502, dated May 15, 2023 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of Clarkson University. The Fund's home office is located at 8 Clarkson Avenue, Potsdam, NY 13699-5546.

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 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'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 Clarkson University Segregated Annuity Fund (the "Fund") through which the Clarkson University (the "University") provides annuity benefits.

The prior examination was conducted as of December 31, 2017. This examination covers the period from January 1, 2018 through December 31, 2022. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2022 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, 2022 to determine whether the Fund's filed 2022 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 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

Clarkson University is organized for the purpose of providing and maintaining educational, research and service programs and granting scholastic and honorary degrees. The University established a program to issue gift annuity agreements in return for gifts from donors in 1998. The Superintendent of Insurance granted to the College a Charitable Annuity special permit on October 21, 2004.

#### B. Structure

The Fund is overseen by the University's board of trustees. The University provides oversight of the management of the investments of the Fund and reviews the policies and procedures related to the Fund. The University approves the investment strategy of the Fund.

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

As of the June 30, 2022 IRS Form 990, the Board of Trustees oversaw an endowment comprising \$216,602,679 in total assets. The Fund, as of December 31, 2022, held total admitted assets of \$2,058,829.

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

Bank of New York Mellon is the custodian of the Fund's assets. Bank of New York Mellon also performs investment management, annuity calculations and benefit payments to annuitants and prepare annual tax filings. The University engages PG Calc to perform actuarial calculations used to prepare the annual statement. K2N Advisors & CPAs provide assistance in preparation of the annual statement to include accounting and tabulation sections of the statement.

#### 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. The examiner further 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 if 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 decline in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2017</u>	<u>December 31,</u> <u>2022</u>	<u>(Decrease)</u>
Admitted assets	<u>\$3,107,143</u>	<u>\$2,058,830</u>	<u>\$(1,048,313)</u>
Liabilities	<u>\$1,991,669</u>	<u>\$1,274,977</u>	<u>\$ (716,692)</u>
Minimum required fund balance	\$ 199,699	\$ 112,498	\$ (87,201)
Excess fund balance (surplus)	<u>916,307</u>	<u>671,354</u>	<u>(244,953)</u>
Total annuity fund balance	<u>\$1,115,474</u>	<u>\$ 783,853</u>	<u>\$ (331,621)</u>
Total liabilities and annuity fund balance	<u>\$3,107,143</u>	<u>\$2,058,830</u>	<u>\$(1,048,313)</u>

The Fund's decline during the examination period was due to stock market volatility and terminations. Market performance, especially in 2022, declined, resulting in a decrease in the Fund's assets. Also, during that time, there was little gift activity compared to the many terminations, fees and quarterly distributions from the account. Annuities in force decreased from 80 as of December 31, 2017 with annuity payments of \$235,816 to 71 as of December 31, 2022 with annuity payments of \$121,859.

The Fund's admitted assets, as of December 31, 2022, were invested mainly in stocks (97.68%).

## 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 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 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 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's review of the board minutes revealed that the board of trustees failed to review the purchases and sales of investments and noted such approvals in the minutes. A similar recommendation appears in this report on examination.</p>
D	<p>The examiner recommends that the Fund strengthen the diversification of its investment holdings.</p> <p>The Department no longer provides specific guidance for investment diversification.</p>
E	<p>The examiner recommends that the Fund avoid or mitigate situations that have the appearance of a conflict of interest, by paying greater scrutiny to any high concentrations in investments that are either issued or sponsored by the investment advisor and establishing a Board of Directors (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment advisors.</p> <p>The Department no longer provides specific guidance for investment diversification.</p>

<u>Item</u>	<u>Description</u>
F	<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>The Fund filed gift annuity agreement forms that were used and not previously filed with the Superintendent.</p>
G	<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>The Fund filed gift annuity agreement forms that were used and not previously filed with the Superintendent.</p>
H	<p>The examiner recommends that the Fund not exceed the maximum rates recommended by the American Council on Gift Annuities.</p> <p>The review of the Fund's rates by the Albany actuaries revealed that the rate of one annuity was above the Department's rates. However, once the Fund indicated to the actuaries that going forward it will issue rates below the Department's, the actuaries did not pursue the issue further.</p>
I	<p>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.</p> <p>Except in one instance, the Fund obtained death certificates that supported the termination of the annuity contract.</p>

## 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 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	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.	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 \_\_\_\_\_

***APPOINTMENT NO. 32502***

***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  
CLARKSON 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 17th day of May, 2023*

***ADRIENNE A. HARRIS***  
*Superintendent of Financial Services*

*By:*



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

