



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
UNIVERSITY AT BUFFALO FOUNDATION, INC.
AS OF December 31, 2022**

EXAMINER: Hasan Ahmed

DATE OF REPORT: March 1, 2024

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 service providers	4
4.	Investment review	5
	A. Monitoring	5
5.	Assets and liabilities summary	6
6.	Treatment of annuitants	7
7.	Prior report summary and conclusions	8
8.	Summary and conclusions	10



KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

April 5, 2024

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

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32526, dated April 7th, 2023, and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the University at Buffalo Foundation, Inc. The Fund's home office is located at Flint and Service Center Roads, Amherst, New York 14260.

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

1. EXECUTIVE SUMMARY

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 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 in its documentation for terminated contracts. (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' (the "Department") examination and assessment of the University at Buffalo Foundation, Inc. Gift Annuity Fund (the "Fund") through which University at Buffalo Foundation, Inc. (the "Foundation") 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 College 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, 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 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 University at Buffalo Foundation was chartered in 1962 and is organized for the purpose of promoting education, research, and the public service mission of the University at Buffalo, State University of New York. The Foundation established the Fund to issue gift annuity agreements in return for gifts from donors in 1990. The Superintendent of Insurance granted to the Foundation a Charitable Annuity Society special permit on December 18, 1998.

B. Structure

The Fund is overseen by the Foundation'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, 2022 audited financial statement, the Foundation's Board of Trustees oversaw an endowment consisting of 1,480 individual funds comprising \$907,867,833 in total assets. The Fund, as of December 31, 2022, held total admitted assets of \$9,543,584.

D. Third-party Service Providers

The Bank of New York Mellon (BNY Mellon) is the Fund's custodian.

4. INVESTMENT REVIEW

A. Monitoring

New York Estate Powers and Trust Law § 11-2.3(c)(1) requires trustees to exercise care, skill and caution in periodically reviewing the delegee's exercise of the delegated function and compliance with the scope and terms of the delegation.

New York Not-for-Profit Corporation Law § 554(a)(3) provides that, when delegating investment functions, an institution must monitor its agents' performance and compliance with the scope and terms of each's respective delegation. In so doing, the institution must use the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

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 growth (decline) in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	December 31, <u>2017</u>	December 31, <u>2022</u>	Increase (Decrease)
Admitted assets	<u>\$8,182,178</u>	<u>\$9,543,584</u>	<u>\$ 1,361,406</u>
Liabilities	<u>\$5,858,473</u>	<u>\$4,076,941</u>	<u>\$(1,781,532)</u>
Minimum required fund balance	\$ 585,847	\$ 407,694	\$ (178,193)
Excess fund balance (surplus)	<u>1,737,858</u>	<u>5,058,949</u>	<u>3,321,091</u>
Total annuity fund balance	<u>\$2,323,705</u>	<u>\$5,466,643</u>	<u>\$ 3,142,938</u>
Total liabilities and annuity fund balance	<u>\$8,182,178</u>	<u>\$9,543,584</u>	<u>\$ 1,361,406</u>

The increase in admitted assets and annuity fund balance is due to investment gains that occurred during the examination period. The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 69 with annual payment amounts of \$949,876 as of December 31, 2017 to a total of 57 with annual payment amounts of \$516,131 as of December 31, 2022.

The Fund's admitted assets, as of December 31, 2022, were invested in equity securities (99.43%)

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 a sample of 6 annuity contracts terminated revealed that in 4 of the 6 cases (66.67%) reviewed, the Fund did not 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.

The examiner's review of a sample of 6 annuity contracts terminated revealed that in 4 of the 6 cases (66.67%) reviewed, the Fund did not maintain a copy of the canceled check and documentary evidence showing proof of residuum transfer for each sample terminated contract.

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 in its documentation for terminated contracts.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are 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 members of the board signed statements 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 members of the board signed statements indicating that they received and read the prior 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 board, or a committee thereof, failed to review the activities of the Fund and note them 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. 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 diversification.</p>
E	<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>The Fund failed to obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. A similar recommendation appears in this report on examination.</p>

<u>Item</u>	<u>Description</u>
F	<p>The examiner recommends that the Fund maintain all of the Fund's securities with a licensed bank or trust company.</p> <p>The Fund's contracted with a licensed bank to serve as the Fund's custodian for the Fund's securities.</p>
G	<p>The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.</p> <p>The examiner noted no new discrepancies during his review.</p>
H	<p>The examiner recommends that the Fund obtain yearly valuations of its investment in real estate.</p> <p>This is no longer applicable. The Fund sold its investments in real estate.</p>

8. SUMMARY AND CONCLUSIONS

Following are the and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	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
B	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
C	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 in its documentation for terminated contracts.	7

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. 32526

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
UNIVERSITY AT BUFFALO 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 7th day of April, 2023

*ADRIENNE A. HARRIS
Superintendent of Financial Services*

By:



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

