



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
BARUCH COLLEGE FUND**

AS OF DECEMBER 31, 2022

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: May 3, 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. Investment policy statement	5
	B. Monitoring	5
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

June 3, 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. 32497, dated May 17, 2023 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Baruch College Fund. The Fund's home office is located at 135 East 22nd Street, New York, New York 10010.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Investment Policy 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 Fund's Board of Trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes. (See item 4B 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 Baruch College Fund Segregated Annuity Fund (the "Fund") through which the Baruch College Fund (the "Corporation") 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 Corporation 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 recommendations and violation 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 Baruch College Fund was chartered in 1969 is organized for the purpose of generating, encouraging, and promoting the educational welfare of the students of the Baruch College of the City University of New York as granted by the Board of Regents of the State of New York. The Corporation established the Fund to issue gift annuity agreements in return for gifts from donors in 1969. The Superintendent of Insurance granted to the Corporation a Charitable Annuity Society special permit on August 28, 2008.

B. Structure

The Fund is overseen by the Corporation's board of trustees. All operations related to the issuance, maintenance, and settlement of annuity agreements are handled by the Fund itself.

C. Assets under the Board of Trustees

As of the June 30, 2022 IRS Form 990, the Corporation's Board of Trustees oversaw an endowment fund comprising \$182,784,906 in total assets. The Fund, as of December 31, 2022, held total admitted assets of \$1,090,080.

D. Third-party Service Providers

BNY Mellon Bank ("BNY Mellon") is the Fund's custodian and investment manager. BNY Mellon prepares the annual statements, calculates the reserves, and processes the annuity benefits on behalf of the Fund. The Fund also maintains a licensing agreement with PG Calc, Inc. for gift annuity software to manage the Fund's gift annuity program. Prime Buchholz is the investment advisor for the Corporation's Investment Committee.

4. INVESTMENT REVIEW

A. Investment Policy 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 Policy Statement (“IPS”) revealed that the board did not approve the IPS.

The examiner recommends that the Investment Policy Statement be approved by the Board of Trustees.

BNY Mellon is the Fund’s investment adviser and custodian.

BNY Mellon prepared and provided a form investment policy statement (“IPS”) to the Fund. The Fund adopted that form as its IPS.

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

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 minutes of the Board of Trustees and did not note any indication that the board specifically discussed or reviewed the investments of the Fund.

The examiner recommends that the Fund's Board of Trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.

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:

	December 31, <u>2017</u>	December 31, <u>2022</u>	<u>(Decrease)</u>
Admitted assets	\$ <u>3,360,635</u>	\$ <u>1,090,080</u>	\$ <u>(2,270,555)</u>
Liabilities	\$ <u>1,434,552</u>	\$ <u>538,805</u>	\$ <u>(895,747)</u>
Minimum required fund balance	\$ 143,455	\$ 53,880	\$ (89,575)
Excess fund balance (surplus)	<u>1,782,628</u>	<u>497,394</u>	<u>(1,285,234)</u>
Total annuity fund balance	\$ <u>1,926,083</u>	\$ <u>551,275</u>	\$ <u>(1,374,808)</u>
Total liabilities and annuity fund balance	\$ <u>3,360,635</u>	\$ <u>1,090,080</u>	\$ <u>(2,270,555)</u>

The decrease in all categories was mainly attributable to the withdrawal of \$2,260,369 from the Fund's account in 2019 resulting from the death of a single annuitant as well as market fluctuations. Annuities decreased from 28 with annual payment amounts of \$230,735 as of December 31, 2017 to a total of 21 with annual payment amounts of \$52,557 as of December 31, 2022.

The Fund's admitted assets, as of December 31, 2022, were invested mainly in equity securities (95.65%).

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 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 examiner recommends that the Board of Trustees, or a committee thereof, approve the purchases and sales of all investments and note such approval in the minutes.</p> <p>A review of the board minutes revealed that the Board of Trustees did not specifically review the activities of the Fund. A similar recommendation appears in this report on examination.</p>
B	<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>
C	<p>The Fund violated Section 1110(a) of the New York Investment Law by using gift annuity agreement forms that differed from gift annuity agreement forms that were filed with the superintendent.</p> <p>The Fund filed with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.</p>
D	<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 with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.</p>
E	<p>The examiner recommends that the Fund ensure that all gift annuity agreement forms have appropriate form numbers as approved by the Superintendent printed on each form issued.</p> <p>The Fund utilized forms that contained appropriate form numbers as approved by the Superintendent on each form used.</p>

<u>Item</u>	<u>Description</u>
F	<p>The examiner recommends that upon the death of the annuitant, the Fund obtain and maintain death certificates or other reliable documentary evidence that supports such information terminating an annuity contract.</p> <p>During the examination period, the Fund obtained and maintained death certificates that supported the terminating of an 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 examiner recommends that the Investment Policy Statement be approved by the Board of Trustees.	5
B	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
C	The examiner recommends that the Fund's Board of Trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.	6
D	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. 32497

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
BARUCH COLLEGE FUND***

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:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

