



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
WNET**

**AS OF December 31, 2022**

**EXAMINER: Manish Gera**

**DATE OF REPORT: March 13, 2024**

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KATHY HOCHUL  
Governor

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ADRIENNE A. HARRIS  
Superintendent

June 18, 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. 32528, dated July 21, 2023 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the WNET. The Fund's home office is located at 825 Eighth Avenue, New York, NY 10019.

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

## 1. EXECUTIVE SUMMARY

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 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)

## 2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' examination and assessment of the WNET Segregated Gift Annuity Fund (the "Fund") through which WNET (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 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 violations, recommendations and/or comments 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

WNET was chartered in 2012. Its predecessor organization was chartered in 1961 as Educational Television for the Metropolitan Area, Inc. and was renamed Educational Broadcasting Corporation in 1962 by an act of the Board of Regents. WNET is organized for the purpose of bringing quality arts, education and public affairs programming to over five million viewers each week as New York's flagship public media provider. The Corporation was consolidated with THIRTEEN on June 30, 2013. The Corporation established the Fund to issue gift annuity agreements in return for gifts from donors in 2013. The Superintendent of Insurance granted to the Corporation a Charitable Annuity Society special permit on June 14, 2013.

#### B. Structure

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of trustees. All operations related to the issuance and maintenance 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 Corporation's Board of Trustees oversaw an endowment comprising \$200,926,000 in total assets. The Fund, as of December 31, 2022, held total admitted assets of \$4,592,387.

#### D. Third-party Service Providers

State Street Global Advisors is the custodian and investment manager of the Fund's assets. BNY Mellon was the custodian and investment manager of the Fund's assets until December 31, 2020. State Street Global Advisors has managed the Corporation's gift annuity fund since January 1, 2021. State Street Global Advisors invests the Fund's assets in accordance with the Fund's Investment Policy Statement and subject to the oversight of the Investment Committee. Dan O'Connell, CPA prepares the annual statement of the Fund to the Department and performs other financial, accounting, and tax services related to the Fund as may be requested.

#### 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.”

State Street Global Advisors is the Fund’s investment adviser.

State Street Global Advisors prepared and provided a form investment policy statement (“IPS”) for 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.

## 5. ASSETS & 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:

	<u>December 31,</u> <u>2017</u>	<u>December 31,</u> <u>2022</u>	<u>Decrease</u>
Admitted assets	<u>\$4,991,467</u>	<u>\$4,592,387</u>	<u>\$(399,080)</u>
Liabilities	<u>\$3,548,768</u>	<u>\$3,135,090</u>	<u>\$(413,678)</u>
Minimum required fund balance	\$ 354,877	\$ 313,509	\$ (41,368)
Excess fund balance (surplus)	<u>1,087,822</u>	<u>1,143,788</u>	<u>55,966</u>
Total annuity fund balance	<u>\$1,442,699</u>	<u>\$1,457,297</u>	<u>\$ 14,598</u>
Total liabilities and annuity fund balance	<u>\$4,991,467</u>	<u>\$4,592,387</u>	<u>\$(399,080)</u>

The decrease in assets and liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 311 with annual payment amounts of \$567,230 as of December 31, 2017 to a total of 208 with annual payment amounts of \$536,182 as of December 31, 2022. In addition, the residual value in the terminated contracts was distributed to the Corporation. Offsetting the decrease was the strong performance of the financial markets through December 2021. The financial markets declined during 2022. The increase in the annuity fund balance was a result of reserve amounts of annuities not decreasing as much as the decrease in the number of annuities because of two large annuity contracts.

The Fund's admitted assets, as of December 31, 2022, were invested mainly in equity securities (96.44%).



## 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 13 annuity contracts terminated revealed that in 2 of the 13 cases (16.67%) 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.

## 7. 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:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the board of trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.</p> <p>The Corporation's board of trustees, or a committee thereof, reviewed the activities of the Fund's annually and noted the same in the minutes.</p>
B	<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 Corporation's board of trustees, or a committee thereof, reviewed the purchases and sales of the Fund's investments annually and noted the same in the minutes.</p>
C	<p>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.</p> <p>The Fund's bank uses block trading method to buy investments. However, the Fund's custodian provided SOC 1 reports which indicated that the custodian's systems were fairly presented and provided reasonable assurance that its controls operated effectively.</p>

<u>Item</u>	<u>Description</u>
D	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement that references 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.</p> <p>The examiner noted that the Fund adopted an Investment Policy Statement that references 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.</p>
E	<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>
F	<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 diversification in relation to investment conflicts of interest.</p>
G	<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 take corrective action in response to this prior report recommendation. A similar recommendation appears in this report on examination.</p>

## 8. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	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
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

Respectfully submitted,

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/s/

Manish Gera  
Senior Insurance Examiner

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

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

\_\_\_\_\_  
/s/

Manish Gera

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_

*APPOINTMENT NO. 32528*

*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:*

***MANISH GERA***

*as a proper person to examine the affairs of the*

***SEGREGATED GIFT ANNUITY FUND OF THE  
WNET***

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

***FUND***

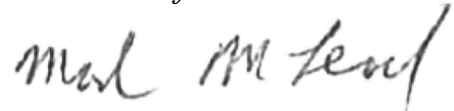
*with such other information as he shall deem requisite.*

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

*this 21st day of July, 2023*

*ADRIENNE A. HARRIS  
Superintendent of Financial Services*

*By:*



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*MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU*

