REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
UNION COLLEGE

AS OF December 31, 2022

EXAMINER: Manish Gera

DATE OF REPORT: February 8, 2024

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July 8, 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. 32525, dated May 23, 2023 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Union College. The Fund's home office is located at 807 Union Street, Schenectady, NY 12308.

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

1. EXECUTIVE SUMMARY

The Fund violated New York Insurance Law § 312(b) 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 New York Insurance Law § 312(b) 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 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'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' examination and assessment of the Union College Segregated Gift Annuity Fund (the "Fund") through which Union College (the "College") 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 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

Union College was chartered in 1795 and is organized for the purpose of the instruction and education of youth in the learned languages and liberal arts and sciences. The College established the Fund to issue gift annuity agreements in return for gifts from donors in 1991. The Superintendent of Insurance granted to the College a Charitable Annuity Society special permit on March 17, 1993.

B. Structure

The management of the College 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 College's Board of Trustees oversaw an endowment comprising $501,796,213 in total assets. The Fund, as of December 31, 2022, held total admitted assets of $6,480,469.

D. Third-party Service Providers

State Street Bank and Trust Company is the custodian and investment manager of the Fund's assets. State Street Bank and Trust Company makes security trades and issues annuity benefit payments based on an agreement with the Fund.

E. Oversight Structure

New York Insurance Law § 312(b) 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 New York Insurance Law § 312(b) 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 New York Insurance Law § 312(b) 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 Guidelines

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 form investment guidelines for the Fund. The Fund adopted that form as its Investment Guidelines.

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

	December 31, 2017	December 31, 2022	Decrease
Admitted assets	$8,486,313	$6,480,469	$(2,005,844)
Liabilities	$5,666,685	$4,730,157	$ (936,528)
Minimum required fund balance	$ 566,668	$ 473,016	$ (93,652)
Excess fund balance (surplus)	2,252,960	1,277,296	(975,664)
Total annuity fund balance	$2,819,628	$1,750,312	$(1,069,316)
Total liabilities and annuity fund balance	$8,486,313	$6,480,469	$(2,005,844)

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decrease from 130 with annual payment amounts of $712,943 as of December 31, 2017 to a total of 106 with annual payment amounts of $653,296 as of December 31, 2022. In addition, the decrease in assets was attributable to market forces.

The Fund's admitted assets, as of December 31, 2022, were invested mainly in equity securities (96.35%).

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 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, review the activities of the Fund at least annually and note the same in the minutes. The Fund's investment commitee reviewed the activities of the Fund on an annual basis.
B	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 Fund's investment commitee reviewed the Fund's admitted assets on an annual basis.
C	The examiner recommends that the Fund use the name, as agreed upon by resolution of the board of directors, for its custodian account. The examiner noted that the fund name uses Union College Gift Annuity Program as the name for its custodian account.
D	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. The Department no longer provides specific guidance for diversification.
E	The examiner recommends that the Fund avoid or mitigate situations that have the appearance of conflict of interest, by paying greater scrutiny to any high concentration in investments that are either issued, sponsored or promoted by the investment manager and establishing a board of trustees (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment managers. The Department no longer provides specific guidance for diversification in relation to conflicts of interest.

8. SUMMARY AND CONCLUSIONS

Following are the violation and recommendations contained in this report:

Item	Description	Page No(s).
A	The Fund violated New York Insurance Law § 312(b) 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 New York Insurance Law § 312(b) 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 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

Respectfully submitted,

/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. 32525

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 UNION COLLEGE

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 25th day of May, 2023

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU