REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ROSWELL PARK ALLIANCE FOUNDATION

AS OF December 31, 2022

EXAMINER: Hasan Ahmed

DATE OF REPORT: May 30, 2024

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July 9, 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. 32520, 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 Roswell Park Alliance Foundation. The Fund's home office is located at Elm and Carlton Street, Buffalo, NY 14263.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Investment Strategy Statement be approved by the board of directors. (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 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' (the "Department") examination and assessment of the Roswell Park Alliance Foundation Gift Annuity Fund (the "Fund") through which Roswell Park Alliance Foundation (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 Foundation 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 Roswell Park Alliance Foundation was chartered in 1991 and is organized for the purpose of receiving and administering gifts and bequests made to benefit Roswell Park Alliance Foundation. The Foundation established the Fund to issue gift annuity agreements in return for gifts from donors in 1997. The Superintendent of Insurance granted to the Foundation a Charitable Annuity Society special permit on October 7, 2008.

B. Structure

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

C. Assets under the Board of Directors

As of the March 31, 2022 audited financial statement, the Foundation's Board of Directors endowment comprising $79,714,407 in total assets. The Fund, as of December 31, 2022, held total admitted assets of $1,123,188.

D. Third Party Service Provider

The Fund has a service agreement with BPAS Actuarial & Pension Services ("BPAS") for actuarial services. BPAS calculates, prepares, and certifies the Fund's reserves, as well as the valuation of charitable remainder trusts. HSBC Bank is the Fund's custodian.

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 directors.

The Foundation prepared and provided an investment strategy statement ("ISS") to the Fund. The Fund adopted that form as its ISS.

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 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, 2017	December 31, 2022	Increase (Decrease)
Admitted assets	$1,312,289	$1,123,188	$(189,101)
Liabilities	$ 917,784	$ 687,456	$(230,328)
Minimum required fund balance	$ 91,778	$ 68,746	$ (23,032)
Excess fund balance (surplus)	302,727	366,986	64,259
Total annuity fund balance	$ 394,505	$ 435,732	$ 41,227
Total liabilities and annuity fund balance	$1,312,289	$1,123,188	$(189,101)

The decrease in admitted assets is a result of a lack of new gift annuities written during the exam period as well as annuity payments made. The decrease in liabilities is attributable to a decrease in annuities. Annuities decreased from 10 with annual payment amounts of $89,735 as of December 31, 2017 to a total of 5 with annual payment amounts of $75,724 as of December 31, 2022. The increase in annuity fund balance stems from a slower decrease in admitted assets versus the faster decrease in liabilities.

The Fund's admitted assets, as of December 31, 2022, were invested in equity securities (98.35%).

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.

The examiner's review of a sample of 3 annuity contracts terminated revealed that in 2 of the 3 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.

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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain and maintain signed statements from the board members indicating that they received and read the prior report on examination. The Fund obtained and maintained signed statement from the board members indicating that they received and read the prior report on examination.
B	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. The Fund complied 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.
C	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 Department no longer provides guidance on approval of the purchases and sales of investments. However, the Investment Committee reviews the investment portfolio annually and notes the same in the minutes.
D	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 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.

8. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

Item	Description	Page No(s).
A	The examiner recommends that the Investment Strategy Statement be approved by the board of directors.	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 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,

/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. 32520

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 ROSWELL PARK ALLIANCE FOUNDATION

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

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU