REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
CATHOLIC CHARITIES, DIOCESE OF BROOKLYN

AS OF December 31, 2022

EXAMINER: Manish Gera

DATE OF REPORT: July 16, 2024

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KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

November 7, 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. 32500, 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 Catholic Charities, Diocese of Brooklyn. The Fund's home office is located at 191 Joralemon Street, Brooklyn, NY 11201.

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

1. EXECUTIVE SUMMARY

The Fund should adopt an Investment Policy Statement that refers to 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 IPS's risk, return, and time horizon objectives. (See item 4A of this report)

The Investment Policy Statement should be approved by the board of trustees. (See item 4A of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner directs that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 6 of this report)

The Fund should prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. (See item 7 of this report)

The Fund should exercise due care in the preparation of its filed annual statements. (See item 7 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 Catholic Charities, Diocese of Brooklyn Segregated Gift Annuity Fund (the "Fund") through which Catholic Charities, Diocese of Brooklyn (the "Diocese") 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 Diocese 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 8 of this report.

3. DESCRIPTION OF FUND

A. History

Catholic Charities, Diocese of Brooklyn was chartered in 1917 and is organized to promote the unity of all persons through the development of caring communities, to alleviate individual misery and change the forces which cause such misery, and to advocate for justice and systemic change where needed. The Diocese established the Fund to issue gift annuity agreements in return for gifts from donors in 1994. The Superintendent of Insurance granted the Diocese a Charitable Annuity Society special permit on August 25, 1997.

B. Structure

The management of the Diocese 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. The Fund also handles the final preparation and submission of its annual statement.

C. Assets under the Board of Trustees

As of the June 30, 2022 audited financial statement, the Diocese's Board of Trustees oversaw endowment funds comprising $3,320,631 in total assets. The Fund, as of December 31, 2022, held total admitted assets of $1,156,781.

D. Third-party Service Providers

Morgan Stanley Wealth Management ("Morgan Stanley") is the custodian and investment manager of the Fund's assets. Charitable Trust Administration Company ("CTAC") is responsible for the administration of the Fund, including the preparation of the annual statements, calculating the reserves, processing the annuity benefit payments, and preparing annual tax forms.

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 showed that it failed to reference to the prudent investor standard as specified in Section 1110(b) of the New York Insurance Law.

The Fund should adopt an Investment Policy Statement that refers to 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 IPS's risk, return, and time horizon objectives.

The examiner's review of the Fund's Investment Policy Statement ("IPS") revealed that the board did not approve the IPS.

The Investment Policy Statement should be approved by the board of trustees.

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:

	December 31, 2017	December 31, 2022	Increase (Decrease)
Admitted assets	$1,074,319	$1,156,781	$ 82,462
Liabilities	$ 504,546	$ 460,413	$ (44,133)
Minimum required fund balance	$ 50,455	$ 46,041	$ (4,414)
Excess fund balance (surplus)	519,318	650,328	131,010
Total annuity fund balance	$ 569,773	$ 696,369	$126,596
Total liabilities and annuity fund balance	$1,074,319	$1,156,781	$ 82,462

The increase in assets and annuity fund balance reflects an increase in the market performance of the Fund's invested assets. The increase can also be attributable to a $100,000 gift received in 2021. The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 16 with annual payment amounts of $46,947 as of December 31, 2017 to 9 with annual payment amounts of $82,607 as of December 31, 2022.

The Fund's admitted assets, as of December 31, 2022, were invested mainly in equity securities (98.99%).

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.

Section 1110(a) of the New York Insurance Law states, in part:

> ". . . Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants . . ."

The examiner's review of the one newly issued gift annuity by the Fund during the examination period noted that the Fund used a form that differed from the gift annuity agreements filed with the Superintendent.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.

The examiner directs that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

7. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the years ended December 31, 2021 through December 31, 2022, namely Schedule A, states the following, in part:

"Line 10.1

Report the gross increase/(decrease) in actuarial reserves as of December 31 of the current year. Please utilize the lines below (line 10.2, 10.3, etc.) to list any additional changes affecting reserves.
This is the change in the amount of actuarial reserves (as shown on Page 2, Line 10b) between December 31 current year and December 31 prior year."

The examiner's review of the Fund's filed 2021 annual statement indicated that it reported a decrease of $28,066 in its reserves during the year 2021. However, the Fund's reserves increased by $28,066 during the year 2021. Therefore, the Fund should have reported a change in annuity fund balance of $61,908 and an annuity fund balance of $884,216 as of December 31, 2021.

The examiner also noted the following in relation to Exhibit 1 -Verification of Investment Income for 2021 and 2022:

Exhibit 1 – Verification of Investment Income:

"Line 1…

Column 4 should equal the amount reported for Totals - Cash on Deposit in Schedule C, Column 4.

Column 6 should equal the sum of:
(1) the amount reported for Totals in Schedule A, Part 2, Column 9, and
(2) the amount reported for Totals in Schedule A, Part 3, Column 9."

Schedule A – Part 3 – Common Stocks

"…Column 9… Report the amount of income received during the current year. (e.g., dividends, distribution of gains)

Total should agree with the amount reported in Exhibit 1, Line 1, Column 6."

Schedule A – Part 5 – Column 10

Columns 9 Interest on Bonds & Dividends on Stocks, Received During Year & 10

> Report the interest and dividends received during the year for the sold, redeemed or disposed of securities in the respective columns. Include accrued interest and dividends...
>
> …Stocks: Sub-Total dividends received should agree with the amount reported in Exhibit 1, Line 2, Column 6.

The Fund's filed 2021 annual statement showed that $21,068 in income was received during the year in Exhibit 1, column 3, lines 1 and 7. It also failed to account for the difference between the $21,068 reported in Exhibit 1 and the $17,577 reported in Schedule A, Part 3, Column 9. In 2022, the Fund reported $23,075 in investment income in Exhibit 1, column 3, lines 1 and 7. It should have reported $23,073 in dividends received during the year in Exhibit 1, line 1, column 6.

"Column 1 CUSIP Identification

> CUSIP identification numbers must be listed for all publicly traded securities. If the security/mutual fund was owned during the previous year, the CUSIP will be from the previous year's Statement. If the security was purchased in the current year, the CUSIP can be obtained from the broker's confirmation or certificate."

The examiner's review of the Fund's filed annual statements during the exam period indicated that it failed to enter the proper CUSIP numbers of its common stock investments in Schedule A, Part 3. Furthermore, the Fund failed to enter the proper CUSIP numbers in Schedule A, Parts 4 and 5 of its filed annual statements as well.

In addition, the examiner's review of the Fund's filed annual statements for the years ended December 31, 2021 through December 31, 2022 revealed that it failed to enter the proper quantity (No. of Shares) of its common stock investments in Schedule A, Part 3. Furthermore, the Fund failed to enter the proper quantity (No. of Shares) in Schedule A, Parts 4 and 5 of its filed annual statements as well.

The Fund should prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.

The Fund should exercise due care in the preparation of its filed annual statements.

8. PRIOR REPORT RECOMMENDATIONS

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, approve the purchases and sales of all investments and note such approvals in the minutes. The Fund has complied with the recommendation.
B	The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer to 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. The Fund has not complied with the recommendation. A similar recommendation appears in this report on examination.

9. VIOLATIONS & RECOMMENDATIONS

Following are the violation, action, and recommendations contained in this report:

Item	Description	Page No(s).
A	The Fund should adopt an Investment Policy Statement that refers to 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 IPS's risk, return, and time horizon objectives.	5
B	The Investment Policy Statement should be approved by the board of trustees.	5
C	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.	7
D	The examiner directs that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	7
E	The Fund should prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.	9
F	The Fund should exercise due care in the preparation of its filed annual statements.	9

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. 32500

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 CATHOLIC CHARITIES, DIOCESE OF BROOKLYN

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: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU