



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
NEW YORK CITY
FIRE OFFICERS' VARIABLE SUPPLEMENTS FUND
AS OF
JUNE 30, 2003

DATE OF REPORT:

AUGUST 7, 2009

EXAMINER:

OLANIKE ATANDA-OGUNLEYE

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

August 7, 2009

Kermitt J. Brooks
Acting Superintendent of Insurance
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 22200, dated April 5, 2004 and annexed hereto, an examination has been made into the condition and affairs of the New York City Fire Officers' Variable Supplements Fund, hereinafter referred to as the "Fund," located at 9 MetroTech Center, Brooklyn, New York 11201.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

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

1. EXECUTIVE SUMMARY

This examination covers the period from July 1, 1999 through June 30, 2003. The examination comprised a verification of assets and liabilities as of June 30, 2003 to determine whether the System's 2003 filed annual statement fairly presents its financial condition. This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations or rules, or which require explanation or description.

The examination revealed the following findings:

1. The Fund violated Section 13-388 of the Administrative Code by failing to publish the Annual Report in the City Record. This is a repeat violation from the prior report on examination. (See item 9 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of June 30, 1999. This examination covers the period from July 1, 1999 through June 30, 2003. As necessary, the examiner reviewed transactions occurring subsequent to June 30, 2003, but prior to the date of this report.

The examination comprised a verification of assets and liabilities as of June 30, 2003 to determine whether the Fund's 2003 filed annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification and utilized such examination procedures, as deemed appropriate, in the review of the following matters:

- History of the Fund
- Management and control
- Corporate governance
- Growth of the Fund
- Accounts and records
- Financial statements
- Member benefits

The examiner reviewed the corrective actions taken by the Fund with respect to violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 10 of this report.

This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF THE FUND

A. History

The Fund was established on July 1, 1970 by amendment to the Administrative Code of the City of New York (“Administrative Code”). The Fund operates pursuant to the provisions of Title 13, Chapter 3, Subchapter 6 of the Administrative Code. The Fund is administered by the New York Fire Department Pension Fund, Subchapter Two (“FIRE”) and provides supplemental benefits to retired Fire Officers of the New York Fire Department who retired on or after October 1, 1968 with 20 or more years of service. Under current law, the Fund is not to be construed as constituting a pension or retirement system. Instead, it provides supplemental payments, other than pension or retirement system allowances, in accordance with applicable statutory provisions. The New York State Legislature has reserved to itself and the State of New York the right and power to amend, modify, or repeal the Fund and the payment it provides.

FIRE is the source of funding for the Fund. The Administrative Code provides that FIRE transfer to the Fund an amount equal to certain excess earnings on equity investments.

Under the Administrative Code, the Fund is subject to the supervision of the Department which may examine its affairs with the same powers and jurisdiction as are applicable to a life insurance company under Article 3 of the New York Insurance Law. The Fund is also subject to assessment for expenses pursuant to Section 313 of the New York Insurance Law.

B. Management

The Fund is administered independently by a board of trustees. The members of the board are trustees of the monies that the Fund receives and have the power to invest the same in accordance with the limitations and restrictions imposed by law upon savings banks; and have the same investment powers as are vested by the Administrative Code, and the Retirement and Social Security Law in the board of trustees of FIRE. The Comptroller of the City of New York (“Comptroller”) is the custodian of the assets and also provides certain administrative services to the Fund.

The board members and their principal business affiliation, as of June 30, 2003 were as follows:

<u>Name</u>	<u>Principal Business Affiliation</u>
Martha E. Stark	Commissioner NYC Department of Finance
William C. Thompson, Jr.	Comptroller City of New York
Arthur J. Parrinello	Chief’s Representative Uniformed Fire Officers’ Association
Stephen J. Carbone	Treasurer Uniformed Fire Fighters Association of Greater New York
Anthony Crowell	Representative of the Mayor

The examiner’s review of the minutes of the board of trustees and its committees indicated that meetings were well attended and that each trustee attended a majority of meetings.

The following is a listing of principal officers of the Fund as of June 30, 2003:

<u>Name</u>	<u>Title</u>
Peter L. Gorman	Chairman
Horatio H. Sparkes	Secretary
William C. Thompson Jr.	Treasurer
Robert C. North	Actuary

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Fund during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Fund's financial growth (decline) during the period under review:

	<u>June 30,</u> <u>1999</u>	<u>June 30,</u> <u>2003</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$325,320,399</u>	<u>\$299,044,321</u>	<u>\$ (26,276,078)</u>
Net reserves	232,376,238	308,520,243	76,144,005
Other liabilities	<u>819,127</u>	<u>36,578,375</u>	<u>35,759,248</u>
Net reserves and other liabilities	<u>\$233,195,365</u>	<u>\$345,098,618</u>	<u>\$ 111,903,253</u>
Excess of admitted assets over total net reserves and all other liabilities	<u>92,125,034</u>	<u>(46,054,297)</u>	<u>(138,179,331)</u>
Total	<u>\$325,320,399</u>	<u>\$299,044,321</u>	<u>\$ (26,276,078)</u>

As of June 30, 2003, the Fund's ledger assets were mainly comprised of stocks (40%), bonds (35%), international investments (14%), and cash and short-term investments (7%).

5. FINANCIAL STATEMENTS

The following statements show the assets and liabilities of the Fund as of June 30, 2003, as contained in the Fund's 2003 filed annual statement; and the comparative statements of income and disbursements for each of the fiscal years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the June 30, 2003 filed annual statement.

A. STATEMENT OF ASSETS AND LIABILITIES FISCAL YEAR ENDED JUNE 30, 2003

Assets

Ledger assets

Book value of bonds	\$ 84,678,090
Book value of stocks	95,483,998
Short term investment fund	3,176,563
Commercial paper	1,301,352
International investments	35,400,002
Cash on deposit	1,982,711
U.S. treasury bills and discount notes	<u>14,125,000</u>
Total ledger assets	<u>\$236,147,716</u>

Non-ledger assets

Receivable for investment security sold	\$ 20,242,185
Interest accrued on investments	988,651
Market value of stocks over book value	41,502,765
Dividends	<u>163,004</u>

Total non-ledger assets \$ 61,744,950

Gross assets \$299,044,321

Total admitted assets \$299,044,321

Liabilities

Present value of benefits payable on account of beneficiaries now drawing allowances	\$ 186,439,869
Net reserves for benefits provided by the employer and employee for members now in active service	<u>122,080,374</u>
Total net reserves	\$ 308,520,243
Payable for securities purchased	<u>36,578,375</u>
Net reserves and all other liabilities	\$ <u>345,098,618</u>
Excess of admitted assets over total net reserves and all other liabilities	\$ <u>(46,054,297)</u>
Total	\$ <u>299,044,321</u>

B. STATEMENT OF INCOME AND DISBURSEMENTS
FISCAL YEARS ENDED JUNE 30,

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Ledger assets at end of previous year	<u>\$195,267,161</u>	<u>\$200,946,987</u>	<u>\$222,202,103</u>	<u>\$224,708,488</u>
<u>Income:</u>				
<u>From interest:</u>				
Gross interest on bonds	4,282,532	5,655,514	5,908,916	5,293,339
Gross dividends on stocks	2,424,963	2,075,563	2,091,951	2,170,075
Short term investment funds	522,778	798,623	498,635	82,991
Commercial paper	509,181	346,170	69,975	76,713
<u>From other sources:</u>				
Gross profit on sale or maturity of bonds	68,510	841,038	1,629,450	2,398,286
Gross profit on sale of stocks	11,309,584	16,782,047	408,450	2,993,356
Gross increase by adjustment in book value of bonds	72,030	214,452	296,036	291,043
Miscellaneous –accounting basis	<u>0</u>	<u>7,003,040</u>	<u>2,298,805</u>	<u>11,755,882</u>
Total income	<u>\$ 19,189,578</u>	<u>\$ 33,716,445</u>	<u>\$ 13,202,218</u>	<u>\$ 25,061,685</u>
Amounts carried forward	<u>\$214,456,739</u>	<u>\$234,663,432</u>	<u>\$235,404,321</u>	<u>\$249,770,173</u>

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
<u>Disbursements:</u>				
Annual or other periodic payments	\$ 9,304,722	\$ 11,131,297	\$ 8,579,460	\$ 7,417,667
Investment expenses	0	0	0	155
Miscellaneous maintenance fees	17,238	15,320	0	0
Gross loss on sale or maturity of bonds	1,269,603	750,794	736,307	2,313,541
Gross loss on sale of stocks	962,090	454,314	1,213,348	3,451,158
Gross decrease by adjustment in book value of bonds	197,229	109,605	166,718	439,936
Miscellaneous- accounting basis	<u>1,758,870</u>	<u>0</u>	<u>0</u>	<u>5,739,868</u>
Total disbursements	\$ <u>13,509,752</u>	\$ <u>12,461,330</u>	\$ <u>10,695,833</u>	\$ <u>13,622,457</u>
Ledger assets at end of year	\$ <u>200,946,987</u>	\$ <u>222,202,103</u>	\$ <u>224,708,488</u>	\$ <u>236,147,716</u>

6. FUNDING

The benefits provided by the Fund are to be funded by transferring "excess earnings" from FIRE to the Fund based on the excess, if any, of the actual FIRE earnings over a calculated amount of earnings based on ten-year United States Treasury Notes. Under this method of funding the defined benefits of the Fund, the possibility exists that after a period of low earnings the assets in the Fund could be insufficient to pay benefits that are due. However, the funding method for FIRE recognizes that possibility: the actuarially-determined unfunded liability for the Fund is added to the normal FIRE liabilities, so that any potential shortfall in the Fund transferable earnings is part of the normal required contribution for FIRE. Beginning with the June 30, 2000 actuarial valuation of FIRE, the actuarially-determined unfunded liability for the Fund was explicitly shown in the liabilities for FIRE given that the benefits of the Fund are now on a fixed, guaranteed schedule, are no longer linked to favorable earnings on FIRE investments, and are being funded within FIRE liabilities.

7. MEMBER BENEFITS

Prior to Chapter 480 of the Laws of 1993 (“Chapter 480/93”) signed on July 26, 1993, the Board of Trustees of the Fund, under an arrangement approved by the Department, determined what benefit payments the participants were to receive. Beginning July 26, 1993, Chapter 480/93 established a scheduled of guaranteed supplemental benefits for Fire Officers who retire (or have retired) on service retirement with at least 20 years of service. The following table reflects the benefits payable to eligible retirees for the calendar years 1993 and subsequent, based on Chapter 480/93:

<u>Calendar Year</u>	<u>Annual Supplement</u>	<u>Calendar Year</u>	<u>Annual Supplement</u>
1993	\$5,000	2002	\$ 9,500
1994	\$5,500	2003	\$10,000
1995	\$6,000	2004	\$10,500
1996	\$6,500	2005	\$11,000
1997	\$7,000	2006	\$11,500
1998	\$7,500	2007 and	\$12,000
1999	\$8,000	each calendar	
2000	\$8,500	year thereafter	
2001	\$9,000		

The benefit payment is prorated in the year of retirement, based on the number of full months following the month of retirement. In addition, the variable supplement payment will be offset for the amount of any applicable Cost of Living Adjustment (“COLA”) received on the retirees pension benefit. Also, variable supplement payments are not payable to disability or other vested retirees with less than 20 years of service.

In 2002, a Deferred Retirement Option Program (“DROP”) was established under Chapter 216 of the laws of 2002. The DROP provides service retirees who retire with more than 20 years of service with a single lump sum amount equal to the variable supplement payments that the member would have been paid, had the member retired upon completion of 20 years of service. Each years Fund benefit is “banked”, beginning with the member’s 20th anniversary date or January 1, 2002, whichever is later. Upon retirement the “banked” amounts are paid as a lump sum along with the regular benefit payment. The regular benefit payment and the banked

DROP amount are not paid to service retirees who have an application pending for disability retirement.

8. TREATMENT OF MEMBERS

The examiner reviewed various elements of the Fund's activities affecting retirees to determine compliance with statutes and the rules of the Fund. The examiner reviewed a random sample of benefit payments to retirees and beneficiaries to determine whether the members or beneficiaries were treated fairly and in accordance with the rules governing the Fund. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced accounting data to the books of account. Based on the random sample reviewed, no significant findings were noted.

9. PUBLICATION OF ANNUAL REPORTS

The Fund did not provide any evidence that the 1999 annual report was published in the City Record as recommended in the prior report on examination. Section 13-388 of the Administrative Code states:

“The board shall publish annually in the City Record a report for the preceding year showing the assets of the variable supplements fund and a statement as to the accumulated cash and securities of such fund certified by the comptroller and shall set forth in such report such other facts, recommendations and data as the board may deem pertinent.”

The examiner recommends that the Fund comply with Section 13-388 of the Administrative Code and publish the required annual report in the City Record.

10. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and the recommendation 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 recommended that the Fund comply with Section 13-388 of the Administrative Code and publish the annual report in the City Record.</p> <p>The Fund could not provide any evidence that it complied with the above recommendation. The Fund responded that it will comply with Section 13-388 of the Administrative Code by publishing the 2004 and future annual reports in the City Record.</p>

11. SUMMARY AND CONCLUSIONS

Following is the recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No.</u>
A	The Fund did not comply with the prior report recommendation when it failed to publish its annual report in the City Record. The examiner recommends that the Fund comply with Section 13-388 of the Administrative Code and publish the annual report in the City Record.	13

Respectfully submitted,

_____/s/_____
Olanike Atanda-Ogunleye
Senior Insurance Examiner

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

Olanike Atanda-Ogunleye says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

_____/s/_____
Olanike Atanda-Ogunleye

Subscribed and sworn to before me
this _____ day of _____ 2005.

APPOINTMENT NO. 22200

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, **GREGORY V. SERIO**, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

OLANIKE ATANDA-OGUNLEYE

as a proper person to examine into the affairs of the

FIRE OFFICERS' VARIABLE SUPPLEMENTS FUND

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

FUND

with such other information as she shall deem requisite.

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

this 5th day of April, 2004



GREGORY V. SERIO

Superintendent of Insurance

Superintendent