



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
STUDENT CONSERVATION ASSOCIATION

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

SEPTEMBER 15, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

JAMES WANG

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

January 26, 2018

Honorable Maria T. Vullo
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31615, dated April 20, 2017 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Student Conservation Association, hereinafter referred to as the "Fund." The Fund's home office is located at 689 River Road, Charleston, NH 03603.

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

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

1. EXECUTIVE SUMMARY

The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain 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 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. (See Item 4 of this report)

The examiner recommends that the board of directors, or a committee thereof, document its review of the Fund's purchase and sale of investments at least annually in the board minutes. This is a repeat recommendation. (See Item 4 of this report)

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 Investment Strategy Statement's ("ISS") risk, return, and time horizon parameters. (See Item 5 of this report)

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. (See Item 5 of this report)

The Fund is underfunded by \$55,022 as of December 31, 2016. The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain sufficient admitted assets. (See Item 6 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 7 of this report)

The examiner recommends that the Fund prepare its listing of reserves in accordance with the Department's instructions. (See Item 8 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2011. This examination covers the period from January 1, 2012 through December 31, 2016. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2016 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2016 to determine whether the Fund's filed 2016 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 comment contained in the prior report on examination. The results of such review are contained in item 9 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 FUND

The Student Conservation Association, Inc. (“the Corporation”) is organized for the purpose of seeking and enlisting the voluntary services of conservation-minded people to assist and cooperate with federal, state, and local forest, recreation and conservation services in maintaining the natural resources, beauty, and cultural heritage of the nation’s parks, forests and public lands. The Corporation has been issuing gift annuity agreements since 1998. A special permit was granted to the Corporation by the New York State Insurance Department on July 17, 2003, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

The Fund solicits new business from potential annuitants and deposits amounts received into its annuity account with the Fiduciary Trust Company International, the Fund’s investment advisor and custodian. All annuity benefit payments are made on behalf of the Corporation by the custodian. The custodian also calculates the reserves and processes the annuity benefit payments on behalf of the Fund.

The management of the Corporation and the Fund and all of its affairs and property are entrusted to the board of directors (the “board”). The number of directors is limited to not less than 6 and no more than 33 regular voting directors. The by-laws provide that the board has the power to change the number of directors and thereby increase or decrease the number to be elected at any meeting or to fill any newly created directorships resulting from such action. As of December 31, 2016, there were 28 directors. The board elects the president, vice-president, secretary, treasurer and such other officers as the board deems necessary. The nomination and election procedures of the board members and their terms of office are set by the by-laws.

4. CORPORATE GOVERNANCE

Section 312(b) of the New York Insurance Law 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 Fund failed to maintain statements signed by each board member indicating that they received and read the prior report on examination.

The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain 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 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 examiner requested the board of directors and the investment committee minutes for the examination period. The examiner reviewed the minutes that were provided by the Fund and found no evidence that the board of directors, or a committee thereof, reviewed the purchase and sale of the Fund’s investments from 2013 to 2016.

The examiner recommends that the board of directors, or a committee thereof, document its review of the Fund’s purchase and sale of investments at least annually in the board minutes.

5. SIGNIFICANT FINANCIAL INFORMATION

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, <u>2011</u>	December 31, <u>2016</u>	Increase (Decrease)
Admitted assets	<u>\$1,209,895</u>	<u>\$1,274,146</u>	\$ <u>64,251</u>
Liabilities	<u>\$1,125,549</u>	<u>\$1,208,335</u>	\$ <u>82,786</u>
Minimum required fund balance	\$ 112,555	\$ 120,833	\$ 8,278
Excess fund balance (surplus)	<u>(28,209)</u>	<u>(55,022)</u>	<u>(26,813)</u>
Total annuity fund balance	<u>\$ 84,346</u>	<u>\$ 65,811</u>	<u>\$(18,535)</u>
Total liabilities and annuity fund balance	<u>\$1,209,895</u>	<u>\$1,274,146</u>	\$ <u>64,251</u>

The increase in assets and liabilities reflects an increase in the total number of annuities in force. Annuities increased from 134 with annual payment amounts of \$156,338 as of December 31, 2011 to a total of 156 with annual payment amounts of \$149,858 as of December 31, 2016. The decrease in excess fund balance is attributable to \$203,778 transferred to the general funds of the corporation in 2012 as well as \$49,808 in aggregate realized capital losses for the examination period.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in common stocks (89.41%).

Section 1409(a) of the New York Insurance Law states,

“(a) Except as more specifically provided in this chapter, no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities (including for this purpose certificates of deposit, partnership interests and other equity interests) of any one institution.”

According to the 2016 annual statement, the Fund reported: 39.08% of its admitted assets invested in Franklin Custodian FDS GROWTH ADV, 16.17% invested in Franklin Investment Securities TOTAL RETURN FD ADV and 11.17% invested in Ishares Intermediate Credit. The

Fund's current concentration in these funds could make it less likely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

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. A trustee using reasonable care, skill and caution should diversify the Fund's assets. A diversification is proper when it disperses the investments' risks consistent with the Investment Strategy Statement's risk, return, and time horizon objectives, and the various risks in the portfolio offset each other. Section 1409 of the New York Insurance Law is instructive. Limiting exposure to any assets of any one institution to ten percent of admitted assets would reasonably assure that the risks in the investment in that institution are offset by the rest of the portfolio.

According to the 2016 annual statement on file, the Fund reported 65.36% of its admitted assets invested in securities issued by Franklin Templeton Investments. Fiduciary Trust Company International, which also serves as the Fund's investment advisor, is a division of Franklin Templeton Investments. This relationship may create a conflict of interest that can negatively impact the interests of the Fund's annuitants.

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.

6. UNDERFUNDING

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

“(b) Every such domestic corporation or association shall maintain admitted assets at least equal to the greater of (i) the sum of its reserves on its outstanding agreements, calculated in accordance with section four thousand two hundred seventeen of this chapter, and a surplus of ten per centum of such reserves, or (ii) the amount of one hundred thousand dollars....”

The Fund is required to maintain admitted assets in excess of the sum of the Fund’s reserves and surplus calculated at ten percent of such reserves, per Section 1110(b) of the New York Insurance Law. The Fund reported total assets of \$1,274,146, net reserves of \$1,208,335, and minimum required surplus (ten percent of net reserves) of \$120,833 in its 2016 annual statement. The sum of the Fund’s net reserves and minimum required surplus is \$1,329,168. The Fund is required to maintain minimum required assets of \$1,329,168 as of December 31, 2016. Thus, the Fund is underfunded by \$55,022 as of December 31, 2016.

The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain sufficient admitted assets. This is a repeat violation.

7. 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 five annuity contracts terminated revealed that in 4 of the 6 terminated annuities (66.67%) reviewed, the Fund did not obtain a copy of the death certificate to confirm termination of the annuity contract. In these four cases in which the Fund did not obtain a copy of the death certificate, the Fund obtained a copy of the obituary.

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.

8. ANNUAL STATEMENT WORKPAPERS

In accordance with the Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement, the Fund is required to file with the Department a detailed listing of reserves with each filed annual statement. The examiner reviewed the Fund's 2016 reserve listing and noted that the listing of reserves was not completed in accordance with the Department's instructions. The reserve listing did not include information related to the reserve (issue) state of the annuities in force.

The examiner recommends that the Fund prepare its listing of reserves in accordance with the Department's instructions.

9. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comment 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 Fund violated Section 312(b) of the New York Insurance Law by failing to maintain signed statements from the board members indicating that they received and read the prior report on examination.</p> <p>The Fund obtained the signed statements from the board members indicating that they received and read the prior report on examination.</p>
B	<p>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.</p> <p>The Fund obtained the signed statements from the board members indicating that they received and read the prior report on examination.</p>
C	<p>The examiner recommends that the board of directors, or a committee thereof, document its review of the Fund's purchase and sale of investments at least annually in the board minutes.</p> <p>The Fund again failed to provide any proof of board-level review of the Fund's purchase and sale of investments.</p>
D	<p>The Fund is underfunded by \$28,209 as of December 31, 2011.</p> <p>The Fund remained underfunded, as of December 31, 2016, by the amount of \$55,022.</p>
E	<p>The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain sufficient admitted assets.</p> <p>The Fund again violated Section 1110(b) of the New York Insurance Law by failing to maintain sufficient admitted assets.</p>
F	<p>The examiner recommends that the Fund properly complete its Notes to the Financial Statements. This is a repeat recommendation.</p> <p>The examiner's review revealed no continuing failure to properly complete the Notes to the Financial Statements during this examination period.</p>

10. SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund violated Section 312(b) of the New York Insurance Law by failing to maintain 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 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.	5
C	The examiner recommends that the board of directors, or a committee thereof, document its review of the Fund's purchase and sale of investments at least annually in the board minutes	5
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.	7
E	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.	7
F	The Fund is underfunded by \$55,022 as of December 31, 2016.	8
G	The Fund violated Section 1110(b) of the New York Insurance Law by failing to maintain sufficient admitted assets.	8

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	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.	9
I	The examiner recommends that the Fund prepare its listing of reserves in accordance with the Department's instructions.	10

Respectfully submitted,

_____/s/
James Wang
Senior Insurance Examiner

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

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

_____/s/
James Wang

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31615

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, 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:

JAMES WANG

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
STUDENT CONSERVATION ASSOCIATION, INC.**

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 20th day of April, 2017

MARIA T. VULLO
Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

