



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
BROOKLYN COLLEGE FOUNDATION, INC.

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

SEPTEMBER 21, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

MESKEREM BELAY

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

December 3, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31722, dated April 13<sup>th</sup>, 2018 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Brooklyn College Foundation, Inc., hereinafter referred to as “the Fund.” The Fund’s home office is located at 2900 Bedford Avenue, Brooklyn, NY 11210.

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 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. (See item 3C 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 4 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 5 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2012. This examination covers the period from January 1, 2013 through December 31, 2017. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2017 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, 2017 to determine whether the Fund's filed 2017 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 recommendation contained in the prior report on examination. The results of such review are contained in item 6 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

#### A. History

The Brooklyn College Foundation, Inc. (the “Foundation”) is organized for the purpose of generating, encouraging, and promoting the educational purpose of Brooklyn College of the City University of New York and the educational welfare of its students in their relations with each other, the members of the faculty, the alumni and the community. The Foundation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1991. A permit was granted to the Foundation by the Department on December 10, 1992. The Foundation surrendered its originally-issued permit on May 5, 2005 and reapplied for a permit in 2008 when the Fund’s reserves exceeded \$500,000. The current permit was granted to the Foundation by the Department on March 20, 2008, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

#### B. Services

U.S. Bank National Association (“US Bank”) is the custodian of the Fund's assets. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. RV Kuns & Associates provides investment consulting services, and an independent accountant, Daniel O’Connell, C.P.A., prepares the annual statements.

#### C. Corporate Governance

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to a minimum of 9 and a maximum of 49 regular voting trustees. As of December 31, 2017, the board consisted of 40 trustees. The trustees elect the Chair, Vice Chair, President, Secretary, Treasurer and any other such officers as the board may appoint. The nomination and election procedures of the trustees and their terms of office are set by the by-laws

The examiner requested the board of trustees’ minutes for the examination period. The Fund provided the examiner with copies of the investment committee and the planned giving

committee meeting minutes. The examiner reviewed the minutes to determine whether the committee approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the committee approved the purchases and sales of investments during the examination period.

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.



#### 4. 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:

	<u>December 31,</u> <u>2012</u>	<u>December 31,</u> <u>2017</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$1,013,298</u>	<u>\$1,134,045</u>	<u>\$ 120,747</u>
Liabilities	<u>\$ 665,145</u>	<u>\$ 807,564</u>	<u>\$ 142,419</u>
Minimum required fund balance	\$ 66,515	\$ 80,756	\$ 14,241
Excess fund balance (surplus)	<u>281,638</u>	<u>245,725</u>	<u>(35,914)</u>
Total annuity fund balance	<u>\$ 348,153</u>	<u>\$ 326,481</u>	<u>\$ (21,672)</u>
Total liabilities and annuity fund balance	<u>\$1,013,298</u>	<u>\$1,134,045</u>	<u>\$ 120,747</u>

The increase in assets and liabilities reflects an increase in the total number of annuities in force. Annuities increased from 45 with annual payment amounts of \$80,043 as of December 31, 2012 to a total of 52 with annual payment amounts of \$96,358 as of December 31, 2017. The decrease in the total annuity fund balance is attributable to transfers to the general fund as well as unrealized capital losses during the examination period.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in common stocks (99%).

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 2017 annual statement, the Fund reported: 40% of its admitted assets invested in PIMCO Total Return Fund, 30% invested in Schwab U.S. Broad Market ETF and 29% invested in Vanguard Total Stock Market ETF. The Fund's current concentration in these funds

could make it highly unlikely that the Fund's other assets can provide a variability to offset the risks inherent in these funds.

Based upon the concentrations in the above 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.

## 5. 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.

## 6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is a recommendation contained in the prior report on examination and the subsequent action taken by the Fund in response to the citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Fund prepare its annual statements in accordance with the Department's instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.</p> <p>The Examiner's review of the annual statements for the examination period did not indicate any deviation from the Department's instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.</p>

## 7. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
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.	5
B	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

Respectfully submitted,

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/s/  
Meskerem Belay  
Senior Insurance Examiner

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

Meskerem Belay, being duly sworn, deposes and says that the foregoing report, subscribed by her,  
is true to the best of her knowledge and belief.

\_\_\_\_\_  
/s/  
Meskerem Belay

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

*APPOINTMENT NO. 31722*

*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:*

***MESKEREM BELAY***

*as a proper person to examine the affairs of the*

***SEGREGATED GIFT ANNUITY FUND OF THE  
BROOKLYN COLLEGE FOUNDATION, INC.***

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

***FUND***

*with such other information as she 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 13th day of April, 2018*

*MARIA T. VULLO  
Superintendent of Financial Services*

*By:*

*Mark McLeod*

*MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU*

