



**REPORT ON EXAMINATION
OF
SEGREGATED GIFT ANNUITY FUND**

OF THE

ROCHESTER AREA COMMUNITY FOUNDATION

AS OF DECEMBER 31, 2020

EXAMINER: Chacko Thomas

DATE OF REPORT: December 15, 2021

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Fund	4
	A. History	4
	B. Structure	4
	C. Assets under the board of directors	4
	D. Third-party payment service provider	4
4.	Assets and liabilities summary	5
5.	Treatment of annuitants	6
6.	Prior report summary and conclusions	7

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

June 7, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 32227, dated November 16, 2021 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Rochester Area Community Foundation. The Fund's home office is located at 500 East Avenue, Rochester, NY 14607.

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

1. EXECUTIVE SUMMARY

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 December 31, 2020 filed annual statement. (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

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' ("Department" or "DFS") examination and assessment of the Rochester Area Community Foundation (the "Fund") through which Rochester Area Community Foundation (the "Foundation") provides annuity benefits.

The prior examination was conducted as of December 31, 2015. This examination covers the period from January 1, 2016 through December 31, 2020. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2020 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 adhered to statutory standards and guidance or 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, 2020 to determine whether the Fund's filed 2020 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 6 of this report.

3. DESCRIPTION OF FUND

A. History

The Rochester Area Community Foundation was chartered in 1972 and is a not-for-profit corporation primarily serving the eight-county area of Monroe, Orleans, Genesee, Livingston, Ontario, Seneca, Yates and Wayne Counties, New York. The Foundation was organized for the purpose of benefiting a broad spectrum of charitable activities, including but not limited to social services, community betterment, the fine and performing arts, equal justice, medical care and research, and education at all levels, with grants for special purposes. The Foundation established the Fund to issue gift annuity agreements in return for gifts from donors in 2000. The Superintendent of Financial Services granted to the Foundation a Charitable Annuity Society special permit on October 4, 2011.

B. Structure

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a 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, 2020, Form 990, the Foundation's Board of Directors oversaw an endowment consisting of \$373,438,657 in total assets. The Fund, as of December 31, 2020, held total admitted assets of \$1,911,289.

D. Third-party Payment Service Provider

Bank of America is the custodian and investment manager. Bank of America also performs all administrative functions on the Fund's behalf, such as investments and benefit payments.

4. 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:

	<u>December 31,</u> <u>2015</u>	<u>December 31,</u> <u>2020</u>	<u>Increase/</u> <u>(Decrease)</u>
Admitted assets	<u>\$1,484,101</u>	<u>\$1,911,289</u>	<u>\$427,188</u>
Liabilities	<u>\$ 789,035</u>	<u>\$ 731,141</u>	<u>\$ (57,894)</u>
Minimum required fund balance	\$ 78,904	\$ 73,114	\$ (5,790)
Excess fund balance (surplus)	<u>616,162</u>	<u>1,107,034</u>	<u>490,872</u>
Total annuity fund balance	<u>\$ 695,066</u>	<u>\$1,180,148</u>	<u>\$485,082</u>
Total liabilities and annuity fund balance	<u>\$1,484,101</u>	<u>\$1,911,289</u>	<u>\$427,188</u>

The increase in assets and annuity fund balance is mainly due to gains in investment income. The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 28 with annual payment amounts of \$95,624 as of December 31, 2015, to a total of 25 with annual payment amounts of \$95,529 as of December 31, 2020.

The Fund's admitted assets, as of December 31, 2020, were invested mainly in equity securities (97.36%).

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 are the recommendations 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 diversify its investment holdings.</p> <p>The Department no longer provides guidance for investment diversification.</p>
B	<p>The examiner recommended that the Fund prepare its annual statements according to the Department's instructions.</p> <p>The examiner's review of the annual statement during the examination period did not indicate any significant deviations from the annual statement instructions.</p>
C	<p>The examiner recommended that the Fund exercise due care in the preparation of its filed annual statements.</p> <p>The examiner's review of the annual statement during the examination period did not indicate any significant deviations from the annual statement instructions.</p>

Respectfully submitted,

_____/s/
Chacko Thomas
Senior Insurance Examiner

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

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

_____/s/
Chacko Thomas

Subscribed and sworn to before me
this _____ day of _____

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

*I, **ADRIENNE A. HARRIS**, Acting 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:*

CHACKO THOMAS

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
ROCHESTER AREA COMMUNITY 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 16th day of November, 2021

*ADRIENNE A. HARRIS
Acting Superintendent of Financial Services*

By:



*MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU*

