



Occupational benefits

Regulations on the partial liquidation of a collective foundation

AXA Foundation for Occupational Benefits, Winterthur

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Purpose, scope, and definition of terms

No. 1

These regulations govern the conditions and procedures for partial liquidation of the collective foundation (hereinafter referred to as “Foundation”). They are based on the provisions of Art. 18a of the Swiss Vested Benefits Act (FZG/VBA), Art. 53b and 53d of the Swiss Occupational Pensions Act (BVG/LPP), and Art. 27g and 27h of the Occupational Pension Ordinance (BVW 2/OPO 2). Separate regulations govern the partial and total liquidation of occupational benefits funds affiliated with the Foundation.

Conditions for partial liquidation of the Foundation

Conditions for partial liquidation

No. 2

1. A partial liquidation of the Foundation will be carried out in accordance with the following provisions if:
 - a) an employer affiliated to the Foundation makes significant job cuts;
 - b) an employer affiliated to the Foundation is restructured, or
 - c) affiliation contracts are (fully or partially) terminated.
 2. Job cuts at an employer affiliated with the Foundation are deemed significant if the number of all active insured persons of the Foundation is reduced by at least 1.0‰ in the form of involuntary withdrawals and, as a result, the withdrawal benefits (termination benefits) of all active insured persons in the Foundation are simultaneously reduced by at least 1.0‰.
 3. A restructuring is deemed to occur if former areas of activity at an affiliated employer are merged, discontinued, sold, outsourced, or changed in some other way and this simultaneously results in the involuntary withdrawal of at least 0.8‰ of all active insured persons in the Foundation, whose share of the total withdrawal benefits of the Foundation amounts to at least 0.8‰. Job cuts per se do not constitute a restructuring; instead, a restructuring is deemed, for example, to be the closure and outsourcing of some or all parts of the business to other employers, resulting in all insured members leaving the Foundation. New ownership arrangements that result in all members remaining in the Foundation or changes to the organizational structure that do not involve redundancies are not considered a restructuring within the meaning of this provision.
 4. Only involuntary withdrawals are taken into account when reviewing whether the conditions for a partial liquidation as defined in No. 2.1 a) and b) have been met. A withdrawal is deemed involuntary if the employment contract of an active insured person is terminated by the employer affiliated to the Foundation and that person is not offered a position that they can be reasonably expected to take up. Withdrawal is likewise deemed to be involuntary if the active insured person with the employer affiliated with the Foundation terminates employment of their own accord within 6 months of being notified about the job cuts or restructuring measures, in order to preempt termination by the employer. Involuntary withdrawals for other reasons, such as the expiration of fixed-term contracts, terminations for disciplinary reasons, terminations for performance reasons, and transfers to the portfolio of pensioners as a result of early or ordinary retirement, death, or disability should not be taken into account when determining the withdrawal portfolio.
 5. The affiliated employer undertakes to immediately notify the Foundation of a reduction in the number of employees insured with the Foundation or of the restructuring of the company. The affiliated employer notifies the Foundation in writing of the affected active insured persons (voluntary and involuntary withdrawals) as defined No. 2.1 a) and b). In particular, the circumstances of the job cuts, termination dates of employment relationships, as well as the reasons for the terminations, must be disclosed.
 6. An affiliation contract is deemed to be terminated
 - if an affiliated employer terminates the affiliation contract,
 - if the Foundation terminates an affiliation contract,
 - in the event of the liquidation or bankruptcy of an affiliated employer,
 - if the remaining insured persons have left.
- An affiliation contract is deemed to be terminated in its entirety if the termination affects all active insured persons and any pensioners. An affiliation contract is deemed to be partially terminated if all active insured persons and

possibly some pensioners withdraw but at least one pensioner or incapacitated insured person remains in the Foundation.

7. Termination of an affiliation contract will result in a partial liquidation
 - if an affiliation contract with an affiliated employer is terminated at least 2 years after the contract starts and
 - if, in the event of the partial or full termination of the affiliation contract, excluding the transfer of pensioners, at least 2.5% of all active insured persons and at least 2.5% of the withdrawal benefits of all active insured persons leave the Foundation,
 - if, in the event of the partial or full termination of the affiliation contract, including the transfer of pensioners, at least 2.5% of all active insured persons and pensioners and at least 2.5% of the withdrawal benefits of all active insured persons and the non-reinsured pension capital of all pensioners leave the Foundation.
8. If several affiliation contracts are terminated simultaneously at least 2 years after the contract starts, the conditions for partial liquidation are only met on an aggregate basis
 - if, as a result, at least 2.5% of active insured persons and pensioners (if pensioners are also affected by at least one contract termination) and at least 2.5% of the withdrawal benefits of all active insured persons and the non-reinsured pension capital of all pensioners leave the Foundation.
9. If several conditions pursuant to No. 2.2, No. 2.3, and/or No. 2.7 are deemed to be met concurrently, they are only considered to meet the conditions for one and the same partial liquidation if they are intrinsically connected. This does not apply to No. 2.8.
10. Under these partial liquidation regulations, incapacitated insured persons refers to persons with current or foreseeable entitlement to exemption from contributions for whom the longest waiting period for all disability benefits as defined in the pension fund regulations is still in effect on the reference date of partial liquidation or for whom the Foundation does not yet have all the information it needs in order to establish or reject entitlement to a disability pension. Under these regulations, incapacitated insured persons are treated as active insured persons.
11. In the case of partial liquidation due to significant job cuts or restructuring measures,

incapacitated insured persons who are affected by an involuntary withdrawal will remain with the Foundation and withdraw only once they are again fully fit for work. In the case of partial liquidation because of partial termination of the affiliation contract, they will also remain with the Foundation until they are again fully fit for work or eligible for a disability pension.

12. The term “pensioner” refers to all recipients of retirement, partner’s, orphan’s, or disability pensions insofar as these are not reinsured.
13. Under these regulations, the retirement assets of disabled insured persons who are currently entitled/not entitled to a pension as defined in the Foundation’s Regulations are treated as retirement assets of an active insured person.
14. Insured persons who are continuing their pension provision pursuant to Art. 47a BVG/LPP or within the framework of a sector-specific early retirement model are regarded as active insured persons under these regulations.

Procedure for partial liquidation of the Foundation

Execution of partial liquidation

No. 3

The decision to execute partial liquidation of the Foundation lies with the Board of Trustees.

At least once a year at the time of annual reporting, the Board of Trustees checks whether the conditions for a partial liquidation of the Foundation are met and provides justification for its decision in summarized form.

In the event of partial liquidation of the Foundation, the Foundation determines the assets or shortfall to be transferred and also specifies the amount of any payment on account.

Reference dates and bases

No. 4

In the event of job cuts or restructuring measures, the job cuts or restructuring measures implemented within 12 months of the start of the job cuts or restructuring measures are decisive. Job cuts or restructuring measures are deemed to begin on the date on which the first insured person involuntarily leaves the affiliated employer as a result of

the company decision. If the cuts take place over a longer or shorter period, this period will be the decisive factor.

The Foundation determines the reference date for the partial liquidation. This reference date also applies to the evaluation of its financial situation. It corresponds in principle to the balance sheet date for the annual accounts that is closest to the start of the job cuts or restructuring measures. This reference date is the decisive factor for determining the amount of unallocated assets or underfunding as well as any technical provisions.

The reference date for partial liquidation in the event of termination of an affiliation contract is the time at which the termination of the affiliation contract that triggers a partial liquidation as defined in No. 2.1 takes place. If this date does not correspond to the end of the Foundation's financial year, the reference date for the partial liquidation balance sheet is December 31 of the current calendar year.

Principles of partial liquidation balance sheet No. 5

If the conditions for partial liquidation are met at the level of the Foundation, the Board of Trustees arranges the preparation of a partial liquidation balance sheet. The basis for determining any shortfall or entitlement is the actuarial partial liquidation balance sheet showing the actual financial situation of the Foundation. The valuation of assets and liabilities as well as the creation of technical provisions and the fluctuation reserve are performed on the basis of specialist, continuously applied principles and governed by the relevant regulations. This is based on the annual accounts as per the reference date of the partial liquidation and as audited by the auditors.

To safeguard the interests of the remaining portfolio, and on the recommendation of the pension actuary, the Board of Trustees is in justified instances entitled to create additional provisions in the partial liquidation balance sheet for the remaining portfolio if the asset and/or liability structure of the Foundation changes in view of the partial liquidation.

The assets of the partial liquidation balance sheet correspond to the assets at market value, less liabilities, accrued liabilities and deferred income, as well as employer contribution reserves without waiver of use. If applicable, the assets are increased by any advance payments already made and by the total withdrawal benefits of the active

insured persons in the withdrawal portfolio who had already left before the date of the partial liquidation balance sheet.

The liabilities of the partial liquidation balance sheet consist of the actuarially required pension capital and the fluctuation reserve.

The pension capital required for actuarial reasons comprises the following:

- total withdrawal benefits of the active insured persons, if applicable increased by the total withdrawal benefits of the active insured persons in the withdrawal portfolio who had already left before the date of the partial liquidation balance sheet,
- pension capital of the pensioners,
- technical provisions, and
- any required changes in provisions due to changes in the asset and liability structure.

Any shortfall corresponds to the negative difference between assets and liabilities. The positive difference between assets and liabilities constitutes the basis for the entitlement.

In the event of major changes in assets or liabilities that lead to a change in the coverage ratio of more than 5% points between the reference date of the partial liquidation (coverage ratio A) and the transfer of the assets (coverage ratio B), any assets to be transferred are adjusted accordingly ((coverage ratio B – coverage ratio A)/coverage ratio A). Any shortfall that needs to be offset is adjusted accordingly.

Collective entitlement to the technical provisions and fluctuation reserve

No. 6

If, during the partial liquidation of the Foundation, several active insured persons and/or pensioners transfer to the same new occupational benefits institution as a group and at the same time (collective withdrawal), they will be collectively entitled to the prorated amount in technical provisions and fluctuation reserves. If the affiliation period has lasted fewer than 10 years, they will only be collectively entitled to the prorated amount in technical provisions and fluctuation reserves insofar as the latter have been jointly created by the group. Actuarial provisions will only be included in the transfer if the corresponding risks are also transferred. A collective withdrawal is deemed to occur if at least 10 active insured persons and/or pensioners transfer.

The group share of the technical provisions and fluctuation reserves applicable to the withdrawal portfolio is usually calculated as the ratio of the withdrawal benefits of active insured persons being transferred as well as the pension capital of pensioners to the respective actuarially required pension capital of the total portfolio (active insured persons and pensioners). If a technical provision can be individually assigned based on the calculation rule defined in the Regulations on the creation of provisions and reserves, this ratio is decisive for the calculation of the collective entitlement.

The collective entitlement to technical provisions and fluctuation reserves does not arise if the partial liquidation was caused by the group of insured persons collectively leaving the Foundation.

Unallocated assets to be transferred

No. 7

The unallocated assets are recorded as a percentage of the withdrawal benefits of the active insured persons and the pension capital of the pensioners on the reference date of the partial liquidation. The withdrawing active insured persons'/pensioners' portion of the unallocated assets is derived by applying this percentage rate to the amount of their withdrawal benefit or pension capital. Unallocated assets are not distributed if the unallocated assets of the pensioners and the active insured persons in the Foundation averages less than CHF 100 per person.

The group portion of the unallocated assets in favor of the withdrawal portfolio in the event of a group withdrawal is transferred collectively to the new occupational benefits institution. In the other cases, the unallocated assets are individually credited to the withdrawal benefits of the withdrawing active insured persons. A one-off payment is made in the case of pensioners.

Interest

No. 8

The entitlements to unallocated assets, and to the share of the technical provisions and fluctuation reserve, do not attract interest during the partial liquidation procedure. Once the procedure has been legally concluded, an obligation to pay interest on arrears as defined in the FZG/VBA arises 30 days after conclusion of the legal process.

Offsetting a shortfall (underfunding)

No. 9

If the actuarial partial liquidation balance sheet of the Foundation results in a shortfall in accordance with No. 5, this is recorded as a percentage of the withdrawal benefits and pension capital of the pensioners. The calculated shortfall is first deducted proportionally in the case of technical provisions and then proportionally in the case of withdrawal benefits of active insured persons and the pension capital of the withdrawing pension recipients. Pursuant to Art. 15 BVG/LPP, the retirement assets must not be reduced as a result of the deduction.

The individual portion of the shortfall corresponds to the ratio of the shortfall to the total withdrawal benefits and pension capital of the pensioners in accordance with the partial liquidation balance sheet multiplied by the individual withdrawal benefit and individual pension capital.

The Foundation may reduce the individual withdrawal benefits and pension capital of the pensioners provisionally if the conditions for a partial liquidation look set to be in place and the Foundation is assumed to be in a situation of underfunding. The provisional reduction applies only to active insured persons and pensioners who are expected to be affected by the partial liquidation, and must be expressly indicated as such. Once the partial liquidation procedure has been completed, the Foundation issues a definitive statement and takes care of any difference that results. The insured person and the newly responsible occupational benefits institution must repay any excess withdrawal benefits and pension capital that have been paid, including interest credited in the meantime, insofar as the offsetting of the shortfall exceeds the portion of the technical provisions.

Information, objection, and execution

Information

No. 10

Via the occupational benefits funds commissions, the Foundation informs the groups affected by the partial liquidation in writing about

- the occurrence of a partial liquidation and the reasons for it;
- the timing (reference date) of the partial liquidation;
- the amount of the unallocated assets and/or shortfall;

- the withdrawal portfolio and the distribution plan;
- if applicable, the amount in CHF allocated to the affected person or the amount deducted in CHF;
- the amount and composition of any collectively transferred provisions and fluctuation reserves;
- the form of transfer (individual or collective);
- the right to lodge an appeal with the Foundation and to complain to the supervisory authority and subsequently to the Federal Administrative Court.

The occupational benefits fund commission is required to forward this information to all its active insured persons and pensioners within 10 working days.

The non-entitled groups, i.e. the other active insured persons and pensioners, are notified of the partial liquidation as well as the right of inspection and the right of objection in an appropriate manner.

Inspection and objection

No. 11

The active insured persons and pensioners, as well as the affiliated companies, have the right to inspect documents at the Foundation for a period of 30 days following notification in accordance with No. 10, unless such inspection is precluded for reasons relating to data protection law, and to object in writing to the resolution of the Foundation's Board of Trustees.

If any objections cannot be settled amicably, the Foundation decides on the appeal and issues a 30-day deadline for the appellants, together with the notification of the decision on the appeal, by when the conditions, procedure, and distribution plan must be submitted to the supervisory authority for review.

Execution

No. 12

Once the Board of Trustees has dealt with all written questions or complaints and if no application for a review has been lodged with the supervisory authority, or if a legally valid decision has been made, the Board of Trustees executes the partial liquidation. The auditors must confirm the proper execution of the partial liquidation.

Final provisions

Amendment

No. 13

The Board of Trustees may amend these partial liquidation regulations at any time, subject to the approval of the supervisory authority, in accordance with the statutory provisions and the purpose of the Foundation.

Entry into force

No. 14

These regulations were issued by the Board of Trustees on May 3, 2023, and following approval by the relevant supervisory authority enter into force on June 1, 2023.