



Occupational benefits

Regulations on the partial and total liquidation of occupational benefits funds

Columna Collective Foundation - Client Invest, Winterthur

Table of contents

Purpose, scope and definition of terms	3
No. 1	
Conditions for partial or total liquidation of an occupational benefits fund	3
No. 2 Conditions for partial liquidation	3
No. 3 Condition for total liquidation	4
No. 4 Notification obligation of the employers	4
Partial or total liquidation of an occupational benefits fund	4
No. 5 Reviewing and determining the conditions	4
No. 6 Waiver of a procedure	5
Partial liquidation of an occupational benefits fund in case of job cuts or restructuring measures or corporate group	5
No. 7 Reference date of partial liquidation	5
No. 8 Calculation of unallocated assets/shortfall (underfunding)	5
No. 9 Distribution plan and transfer of unallocated assets	6
No. 10 Applying a shortfall (underfunding)	6
No. 11 Collective entitlement to the fluctuation reserve and technical provisions of the occupational benefits fund	7
No. 12 Transfer of entitlement to the fluctuation reserve and technical provisions	7
Partial or total liquidation of an occupational benefits fund if the affiliation contract is partially or fully terminated	7
No. 13 Reference date of partial or total liquidation	7
No. 14 Calculation of unallocated assets/shortfall (underfunding)	7
No. 15 Division and transfer of unallocated assets	7
No. 16 Applying a shortfall (underfunding)	9
No. 17 Collective entitlement to the fluctuation reserve and technical provisions	9
No. 18 Transfer of entitlement to the fluctuation reserve and technical provisions	9
Resolution, information and execution	10
No. 19 Resolution on partial or total liquidation	10
No. 20 Information for insured persons and pensioners	10
No. 21 Execution	10
Procedure in special cases	10
No. 22 Employer contribution reserves that have lost their purpose	10
Final provisions	11
No. 23 Cost contribution	11
No. 24 Cases that do not fall under these regulations	11
No. 25 Issue and amendment of the regulations	11
No. 26 Entry into force	11
Appendix Special provisions for corporate groups	12

Purpose, scope and definition of terms

No. 1

These regulations govern the conditions and procedures for partial and total liquidation of occupational benefits funds that are affiliated with the collective foundation (hereinafter referred to as “Foundation”).

In the case of partial liquidation of the Foundation, separate regulations apply.

Under these 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 or total 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.

Insured persons who are continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model are regarded as active insured persons under these regulations.

In the case of partial liquidation due to significant job cuts or restructuring measures by the employer, incapacitated insured persons who are made redundant will remain with the occupational benefits fund and withdraw only once they are again fully fit for work.

A corporate group is defined here as several economically-linked undertakings for which a joint occupational benefits fund is administered by the Foundation.

Treatment of incapacitated insured persons and pensioners, as well as any disabled insured persons who cannot be transferred to a new occupational benefits institution and active insured persons who are continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model, on termination of the affiliation contract:

– **Occupational benefits funds without reinsurance coverage in the saving process**

In the case of occupational benefits funds without reinsurance coverage for the saving process with AXA Life Ltd, the affiliation contract is fully terminated. The pension relationships of persons with an old-age or a survivors’ pension, of incapacitated insured persons and

of any disabled insured persons who cannot be transferred to a new occupational benefits institution and active insured persons who are continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model are transferred to the Foundation, which will continue to manage them provided they are not affected by the termination. Incapacitated insured persons remain with the Foundation until they are again fully fit for work or until they become eligible for a disability pension and can be transferred to a new occupational benefits institution as a recipient of a disability pension.

– **Occupational benefits funds with reinsurance coverage in the saving process**

In the case of occupational benefits funds with reinsurance coverage for the saving process with AXA Life Ltd, the pension relationships of persons with an old-age or a survivors’ pension, of incapacitated insured persons, and of any disabled persons who cannot be transferred to a new occupational benefits institution remain with the occupational benefits fund, provided they are not affected by the termination. The affiliation contract remains provisionally in effect for these pension relationships. Incapacitated insured persons remain with the occupational benefits fund until they are again fully fit for work or until they become eligible for a disability pension and can be transferred to a new occupational benefits institution as a recipient of a disability pension.

Special provisions for corporate groups

In the case of partial or total liquidation of a corporate group’s collective occupational benefits fund, the provisions of the Appendix “Special provisions for corporate groups” shall also apply.

Conditions for partial or total liquidation of an occupational benefits fund

Conditions for partial liquidation

No. 2

The conditions for a partial liquidation of the occupational benefits fund are met if

- a) the workforce of the affiliated company or corporate group is reduced significantly as the result of job cuts for economic reasons, leading to involuntary withdrawal by a significant part of active insured persons from the occupational benefits fund or the transfer of a significant portion of the occupational benefits fund’s retirement assets.

b) the affiliated company or a company within the corporate group restructures its operations and these measures cause a significant number of active insured persons to withdraw involuntarily from the occupational benefits fund or a significant share of the occupational benefits fund's retirement assets to be paid out.

Restructuring of the company refers to measures the employer takes primarily for purposes other than job cuts and the dismissal of employees. In particular, it refers to organizational measures that lead to the discontinuation of tasks performed by the company itself or the outsourcing of entire divisions to another company.

c) the affiliation contract is partially terminated. An affiliation contract is deemed to be partially terminated if all active insured persons and possibly some pensioners withdraw from the occupational benefits fund, but at least one pensioner, incapacitated insured person or active insured person who is continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model remains with the fund.

d) the affiliation contract of a company, where such contract is administered by a joint occupational benefits fund, is fully terminated.

Withdrawal of insured persons in accordance with sections a) and b) of the paragraph above is deemed to be significant if it takes place on the following scale – depending on the number of active and incapacitated insured persons of the occupational benefits fund prior to the job cuts or restructuring measures:

- Up to 5 insured persons:
At least 2 involuntary withdrawals or 30% of the retirement assets
- 6 to 10 insured persons:
At least 3 involuntary withdrawals or 25% of the retirement assets
- 11 to 25 insured persons:
At least 4 involuntary withdrawals or 20% of the retirement assets
- 26 to 50 insured persons:
At least 5 involuntary withdrawals or 15% of the retirement assets
- More than 50 insured persons:
Involuntary withdrawal of at least 10% of the

active insured persons or 10% of the retirement assets.

Active insured persons who, in the context of downsizing or restructuring programs, opt to continue their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model do not count as withdrawals.

Job cuts or restructuring measures are deemed to begin on the date on which the first insured person involuntarily leaves the company and withdraws from the occupational benefits fund as a result of a company decision. The end is deemed to be the date of withdrawal on which the last insured person leaves the company involuntarily and withdraws from the occupational benefits fund.

An insured person is deemed to have withdrawn involuntarily if the employer terminates the employment relationship. Furthermore, withdrawal is deemed to be involuntary also if the insured person 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 or because they reject the new terms of employment that are being offered.

Condition for total liquidation

No. 3

The conditions for total liquidation of the occupational benefits fund are met if the affiliation contract is fully terminated or, in the case of a corporate group, if all affiliation contracts with the affiliated companies are fully terminated.

Notification obligation of the employers

No. 4

The employers must notify the Foundation immediately of any job cuts or restructuring measures by the company that could lead to partial liquidation.

Partial or total liquidation of an occupational benefits fund

Reviewing and determining the conditions

No. 5

The occupational benefits fund commission is responsible for determining whether the conditions

for partial liquidation owing to job cuts or restructuring measures have been met.

Partial or full termination of an affiliation contract generally results automatically in partial or total liquidation, except in the cases described in No. 6.

The Foundation is responsible for executing the partial or total liquidation of an occupational benefits fund. The employers and the occupational benefits fund commission must provide the Foundation immediately with all the information it requires.

Waiver of a procedure

No. 6

Total liquidation in case of full termination of an affiliation contract does not apply if

- all active insured persons, pensioners, and incapacitated insured persons transfer to the same new occupational benefits institution and the fund is not underfunded. In this case the occupational benefits fund's unallocated assets, fluctuation reserves and technical provisions are transferred collectively to the new occupational benefits institution, or
- the occupational benefits fund has no active insured persons, pensioners or incapacitated insured persons when the affiliation contract is terminated, or, in the case of a corporate group, all affiliation contracts with the affiliated companies are terminated (liquidation of an "empty" contract).

No partial liquidation procedure is carried out if the occupational benefits fund has no unallocated assets or unallocated assets of less than CHF 100, no fluctuation reserves and no technical provisions and there is no underfunding.

In this case, the unallocated assets generally remain with the occupational benefits fund. If all active insured persons transfer to the same new occupational benefits institution, they are transferred collectively.

Partial liquidation of an occupational benefits fund in case of job cuts or restructuring measures or corporate group

Reference date of partial liquidation

No. 7

The reference date of partial liquidation is deemed to be the balance sheet date closest to when job cuts or restructuring measures of the company

or corporate group began (cf. No. 2). In justified cases, the occupational benefits fund commission, in consultation with the Foundation, can set a different date as the date of the partial liquidation. This reference date is decisive for calculating the occupational benefits fund's unallocated assets or shortfall (underfunding), fluctuation reserve and technical provisions.

Calculation of unallocated assets/shortfall (underfunding)

No. 8

The assets are calculated as follows:

1. Available pension assets on the reference date of partial liquidation comprising
 - repayment values from the group insurance contract for active and incapacitated insured persons, less any contributions that are owed,
 - repayment values for withdrawing pensioners,
 - claims against the employers (especially outstanding contributions),
 - securities, account balances and other investments by the occupational benefit fund at market value,

less

- vested benefits (including contributions kept provisionally) not yet paid to insured persons who withdraw from the occupational benefits fund on or before the reference date,
 - other liabilities of the occupational benefits fund,
 - the employer contribution reserve (including those with a waiver of appropriation),
 - provisions for financing the cost of the partial liquidation procedure and any stamp duty paid in connection with securities transfers.
2. The actuarially necessary pension capital as of the reference date of partial liquidation consisting of all retirement assets of active, incapacitated and disabled insured persons, the pension assets of the non-reinsured retirees, the occupational benefits fund's technical provisions, and the repayment value for the withdrawing pensioners arising from the Group Insurance Contract.

3. Subtotal 1

Difference between the available pension assets and the required actuarial pension capital.

4. Subtotal 2

If Subtotal 1 is negative and employer contribution reserves with a waiver of appropriation exist, these reserves are added to the available

pension assets up to the amount required to eliminate the deficit.

During execution of partial liquidation, the relevant employer contribution reserves with a waiver of appropriation are liquidated pro rata in favor of the withdrawing insured persons in accordance with the uncovered pension capital to be transferred.

5. **Fluctuation reserve**

If Subtotal 2 is positive, the fluctuation reserve is applied in accordance with the balance sheet.

6. **Unallocated assets/shortfall (underfunding)**

Difference between Subtotal 2 and the fluctuation reserve.

A positive difference constitutes unallocated assets held by the occupational benefits fund. A negative difference means the occupational benefits fund is experiencing a shortfall.

Distribution plan and transfer of unallocated assets

No. 9

Unallocated assets are not distributed if the amount is less than 5% (on the reference date of partial liquidation) of the retirement assets of active and incapacitated insured persons remaining with the occupational benefits fund and less than CHF 1,000 on average per person in this group. Otherwise the following distribution plan applies:

1. **Division of assets among active and incapacitated insured persons and pensioners**

On the one hand, the group of active insured persons includes those who leave the occupational benefits fund (subgroup of withdrawing active insured persons) involuntarily during the period of the company's job cuts or restructuring measures (cf. No. 2); on the other hand, it includes those active and incapacitated insured persons who remain with the occupational benefits fund on conclusion of the job cuts and restructuring measures (subgroup of remaining active and incapacitated insured persons). The group of pensioners includes all recipients of retirement, partner's, orphan's or disability pensions who remain with the occupational benefits fund on completion of the company's job cuts or restructuring measures.

Under these regulations, disabled insured persons who are currently not entitled to a pension as defined in the Foundation's pension fund regulations are treated as active insured persons.

Unallocated assets are divided among both groups, whereby the total retirement assets of active and incapacitated insured persons on the reference date of the partial liquidation or the earlier withdrawal date equal the tenfold annual pensions of retirees on the reference date of the partial liquidation. The group of pensioners will not be considered if the average amount per pensioner is less than CHF 6,000.

When dividing up unallocated assets, the occupational benefits fund commission can in exceptional situations omit those pensioners who did not contribute significantly to the accrual of the available unallocated assets in the 5 years prior to the partial or full liquidation. The occupational benefits fund commission must present the corresponding proof of these circumstances. The pension actuary must confirm any such circumstances.

If the pensioners are not included, the corresponding share of the occupational benefits fund's unallocated assets goes to the group of active incapacitated insured persons.

2. **Individual division of the share of active and incapacitated insured persons**

The total amount is divided individually among persons in proportion to the age group (on the reference date of partial liquidation or the earlier withdrawal date).

3. **Transfer of entitlements**

As a rule, unallocated assets of withdrawing active insured persons are transferred individually. If at least 10 active insured persons transfer as a group to the same new occupational benefits institution (group transfer), their portion of the unallocated assets is transferred collectively.

Unallocated assets in favor of the remaining active and incapacitated insured persons and pensioners remain with the occupational benefits fund or the Foundation and are not allocated individually.

Applying a shortfall (underfunding)

No. 10

If the calculation in accordance with No. 8 results in a shortfall instead of unallocated assets, the amount is applied to the remaining active and incapacitated insured persons.

The shortfall is divided individually among the affected persons in accordance with the key defined in No. 9.2.

The portion of the shortfall to be allocated to the withdrawing active insured persons is deducted individually from their vested benefits subject to No. 11.2 para. 2. BVG (OPA) retirement assets may not be reduced in the process.

The portion of the shortfall that is exempt from this rule is allocated based on the key defined in No. 9.2 and deducted from the relevant vested benefits until either the full shortfall has been allocated or the relevant vested benefits have been depleted.

The shortfall to be distributed to the remaining active and incapacitated insured persons is not allocated individually but absorbed by the occupational benefits fund or the Foundation.

Collective entitlement to the fluctuation reserve and technical provisions of the occupational benefits fund
No. 11

If at least 10 active insured persons transfer as a group to the same new occupational benefits institution, they will be collectively entitled to the prorated amount of the occupational benefits fund's fluctuation reserve and technical provisions, in addition to their entitlement to its unallocated assets. An entitlement to fluctuation reserves and technical provisions also exists for incapacitated and disabled insured persons who have withdrawn from the occupational benefits fund and are still managed by the Foundation, as well as for insured persons who are continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model.

1. Entitlement to the fluctuation reserve

The collective prorated entitlement to the whole fluctuation reserve corresponds to the ratio of the retirement assets being transferred to the total amount in retirement assets.

2. Entitlement to technical provisions

The collective prorated entitlement to the occupational benefits fund's technical provisions applies to those insured persons for whom the reserve was formed. The collective entitlement is calculated on the same basis as is used for the current provisions.

If there is a shortfall, as far as possible the shortfall to be applied to the entire withdrawing group will be reduced by liquidating the entitlement to technical provisions formed for this withdrawing group. The reduced shortfall will be applied in place of the original shortfall in No. 10.

Transfer of entitlement to the fluctuation reserve and technical provisions
No. 12

The prorated portion of the fluctuation reserve and technical provisions to which withdrawing active insured persons and any withdrawing pension recipients are entitled is transferred collectively to the new occupational benefits institution.

Partial or total liquidation of an occupational benefits fund if the affiliation contract is partially or fully terminated

Reference date of partial or total liquidation
No. 13

The reference date of partial or total liquidation that is used for calculating the occupational benefits fund's unallocated assets or shortfall (underfunding), fluctuation reserve and technical provisions is the date on which the affiliation contract is partially or fully terminated. This does not apply to the cases referred to in No. 6.

Calculation of unallocated assets/shortfall (underfunding)
No. 14

The calculations are done in accordance with the provisions of No. 8.

The following deviations apply:

In the absence of collective entitlement to the occupational benefits fund's fluctuation reserve or technical provisions as defined in No. 17, these assets, in deviation from No. 8.2 and 8.5, are not deducted from the available pension assets. In the case of partial collective entitlement, this part is deducted from the available pension assets. The remaining part of the fluctuation reserve is transferred to the withdrawing active insured persons without collective entitlement as unallocated assets (individual distribution in accordance with No. 15.2 para. 2).

Any unallocated assets or shortfalls applied to the occupational benefits fund from partial liquidation of the Foundation must be taken into consideration in the calculation of available pension assets as per No. 8.1. The provisions of the regulations on partial liquidation of a collective foundation apply.

Division and transfer of unallocated assets
No. 15

If the unallocated assets amount to less than CHF 1,000 in total and an average of less than

CHF 100 per head of the active and incapacitated insured persons, no distribution takes place. Unallocated assets are used as follows:

- If all active insured persons transfer to the same new occupational benefits institution, they are transferred collectively.
- If not all active insured persons transfer to the same new occupational benefits institution, they are transferred to the Foundation.

Otherwise, the following distribution plan applies:

1. Division of assets among groups of persons

Unallocated assets are divided among the following groups of persons:

- Active insured persons who leave the occupational benefits fund because the affiliation contract is partially or fully terminated,
- Active insured persons continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model who remain with the occupational benefits fund/the Foundation,
- Pensioners who leave the occupational benefits fund because the affiliation contract is partially or fully terminated,
- Incapacitated insured persons,
- Pensioners who remain with the occupational benefits fund and/or the Foundation when the affiliation contract is partially terminated.

The term “pensioner” refers to all recipients of retirement, partner’s, orphan’s or disability pensions.

Under these regulations, disabled insured persons who are currently not entitled to a pension as defined in the Foundation’s pension fund regulations are treated as active insured persons.

Unallocated assets are divided among the groups in the ratio of the total in active and incapacitated insured persons’ retirement assets to the total of the tenfold annual pensions of the withdrawing and the remaining pensioners (on the reference date in accordance with No. 13).

Pensioners are not included if the portion per pensioner is less than CHF 6,000 on average.

When dividing up unallocated assets, the occupational benefits fund commission can in exceptional situations omit those pensioners who did not contribute significantly to the accrual of the available unallocated assets in the 5 years prior

to the partial or full liquidation. The occupational benefits fund commission must present the corresponding proof of these circumstances. The pension actuary must confirm any such circumstances.

If the pensioners are not included, their share of the occupational benefits fund’s unallocated assets goes to the group of active and incapacitated insured persons and their share of the occupational benefits fund’s entitlements from partial liquidation of the Foundation remains with the Foundation.

2. Distribution and transfer of withdrawing insured persons’ portion

If all active insured persons, or at least 10 active insured persons who remain employed with the withdrawing company/with one of the companies of the withdrawing corporate group after the withdrawal, including any withdrawing pensioners and active insured persons continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model, transfer to the same new occupational benefits institution, their portion of the unallocated assets is generally transferred collectively. In all other cases, unallocated assets belonging to withdrawing insured persons are transferred individually.

The total amount of the group of withdrawing active insured persons is divided individually in proportion to their retirement assets (as of the reference date defined in No. 13).

The total amount of the group of withdrawing pensioners is divided individually among persons in proportion to the tenfold annual pension (provided they are entitled in accordance with No. 15.1).

3. Distribution of incapacitated insured persons’ portion and that of the active insured persons remaining and continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model

The total amount of the group of incapacitated insured persons and of the group of active insured persons remaining and continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model is divided among individual persons in proportion to their retirement assets (as of the reference date defined in No. 13).

The resulting entitlements are transferred individually to the incapacitated insured persons and the active insured persons remaining and continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model. This does not apply to the occupational benefits fund's entitlements in favor of these persons that arise if the Foundation is partially liquidated. They remain with the Foundation and are not allocated individually.

4. Distribution of the remaining pensioners' portion

Unallocated assets in favor of the remaining pensioners are applied proportionally to the ten-fold annual pension and used to increase their pensions.

This does not apply to the occupational benefits fund's entitlements in favor of the remaining pensioners that arise if the Foundation is partially liquidated. They remain with the Foundation and are not allocated individually.

5. Minimum amount

If an insured person's share amounts to less than CHF 100, this is distributed among the remaining entitled insured persons in accordance with the provisions above.

Applying a shortfall (underfunding)

No. 16

If the calculation in accordance with No. 14 results in a shortfall instead of unallocated assets, the amount is applied to the active insured persons withdrawing from the occupational benefits fund as a result of the partial or full termination of the affiliation contract.

The shortfall is divided individually among the affected persons by means of the key defined in No. 15.2.

The portion of the shortfall to be allocated to the withdrawing active insured persons is deducted individually from their vested benefits, subject to No. 17.2 para. 2. BVG retirement assets may not be reduced in the process.

The portion of the shortfall that is exempt from this rule is allocated based on the key defined in No. 15.2 and deducted from the relevant vested benefits until either the full shortfall has been allocated or the relevant vested benefits have been depleted.

Collective entitlement to the fluctuation reserve and technical provisions

No. 17

If all or at minimum 10 active insured persons transfer to the same new occupational benefits institution as a group, they will be jointly entitled to the prorated amount of the occupational benefits fund's fluctuation reserve and technical provisions, in addition to their entitlement to its unallocated assets. An entitlement to fluctuation reserves and technical provisions also exists for incapacitated and disabled insured persons who have withdrawn from the occupational benefits fund and are still managed by the Foundation, as well as for insured persons who are continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model.

Any entitlement to the fluctuation reserve and technical provisions arising from partial liquidation of the Foundation is subject to the Regulations on partial liquidation of a collective foundation.

1. Entitlement to the fluctuation reserve

The collective prorated entitlement to the whole fluctuation reserve corresponds to the ratio of the retirement assets being transferred to the total amount in retirement assets.

2. Entitlement to technical provisions

The collective prorated entitlement to the technical provisions applies to those insured persons for whom the provisions were formed. The collective entitlement is calculated on the same basis as is used for the current provisions. If there is a shortfall, as far as possible the shortfall to be applied to the entire withdrawing group will be reduced by liquidating the entitlement to technical provisions formed for this withdrawing group. The reduced shortfall will be applied in place of the original shortfall in No. 16.

Transfer of entitlement to the fluctuation reserve and technical provisions

No. 18

The prorated portion of the fluctuation reserve and technical provisions to which withdrawing active insured persons and any withdrawing pension recipients are entitled is transferred collectively to the new occupational benefits institution.

In the event of a total liquidation, the entitlement of the following individuals remaining with the Foundation:

- incapacitated insured persons, or

- disabled insured persons, or
- insured persons continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model

to technical provisions and their share of the fluctuation reserves is transferred to the Foundation.

Resolution, information and execution

Resolution on partial or total liquidation

No. 19

The occupational benefits fund commission must note in writing in the form of a resolution on partial or total liquidation the relevant material circumstances, such as the situation concerning partial or total liquidation of the occupational benefits fund, the unallocated assets or shortfall, the fluctuation reserve and the technical provisions, as well as the distribution plan. Such a resolution is not required for the cases mentioned in No. 6.

In the case of occupational benefits funds with individual investments, the occupational benefits fund commission resolves whether the pension assets leaving the fund will be transferred as cash or as securities.

Information for insured persons and pensioners

No. 20

If the review confirms that the conditions for partial or total liquidation of an occupational benefits fund are met and the liquidation procedure is to be carried out, the Foundation will inform the insured persons and pensioners affected by the procedure of the situation. It will provide information on, specifically, the passing of the resolution regarding partial or total liquidation by the occupational benefits fund commission, the amount of the unallocated assets/shortfall and the technical provisions of the occupational benefits fund, as well as on the distribution plan and the next steps.

The persons affected have the right to view the Foundation's documents and appeal the occupational benefits fund commission's resolution within 20 days of being informed by the Foundation. If the dispute cannot be settled amicably, the Foundation sets a 20-day deadline for the persons involved by when they must present the conditions, procedure and distribution plan to the supervisory authority for review.

Insured persons and pensioners do not need to be informed if the occupational benefits fund is partially liquidated because a part of the affiliation contract is terminated and the following circumstances apply:

- The occupational benefits fund is not underfunded and has no unallocated assets, or
- The occupational benefits fund has a small amount in unallocated assets (less than 5% of the total retirement assets), all active insured persons, including any pensioners, transfer to the same new occupational benefits institution, and no unallocated assets are divided among the remaining pensioners in accordance with No. 15.1.

Execution

No. 21

The distribution plan is executed once it has become legally valid. Entitlements arising from these regulations are due 20 days after the distribution plan becomes legally valid.

The distribution plan becomes legally valid if

- no appeals were lodged, or
- all appeals were settled amicably and the supervisory authority has confirmed in writing that no complaint was received during the 20-day period, or
- the supervisory authority has made a legally valid decision on the conditions, procedure and distribution plan (confirmation of legal validity).

If the balance between the available pension assets and the required pension capital changes by more than 10% of total net assets between the reference date of partial liquidation and the date on which the assets are transferred, the unallocated assets to be transferred or the deficit to be applied, as well as the fluctuation reserve and the technical provisions, are adjusted accordingly.

If, in the case of a shortfall, the transferred vested benefits were not or insufficiently reduced, the insured person must repay the excess amount that was transferred.

Procedure in special cases

Employer contribution reserves that have lost their purpose

No. 22

If partial or full liquidation results in employer contribution reserves that have lost their original

purpose because the employer no longer has employees to be insured, the employer contribution reserves are liquidated and transferred to the occupational benefits fund's unallocated assets.

Final provisions

Cost contribution

No. 23

Costs incurred in connection with the partial or total liquidation of an occupational benefits fund and the expert opinions necessary for settling appeals and complaints are invoiced as cost contributions in accordance with the cost regulations.

Cases that do not fall under these regulations

No. 24

The Foundation decides individually and in compliance with statutory provisions on any cases that do not expressly fall under these regulations.

Issue and amendment of the regulations

No. 25

These regulations and any later amendments are issued by the Board of Trustees and approved by the supervisory authority.

Entry into force

No. 26

These regulations are issued by the Board of Trustees on June 30, 2023, and enter into force as soon as they are approved by the supervisory authority. They replace the version of December 1, 2016.

The date of a material circumstance determines which version of the regulations applies. The date refers to the date when job cuts or restructuring measures are completed, or to the termination date in the case of partial or full termination of an affiliation contract.

Appendix

Special provisions for corporate groups

In addition to the Regulations on partial and total liquidation of occupational benefits funds, this Appendix governs the special provisions for corporate groups.

Key parameters

The partial/total liquidation of a corporate group's occupational benefits fund will be based on the following key parameters:

DG^{UG}_{vor Anschluss}	Coverage ratio of the corporate group's occupational benefits fund before the affiliation of the new company.
DG^A_{bei Anschluss}	Coverage ratio of the new company's occupational benefits fund based on the fundamentals of the fund at the time of affiliation to the existing corporate group. Purchases of provisions, fluctuation reserves, and unallocated assets are taken into account.
UD^A_{bei Anschluss}	Underfunding of the new company's occupational benefits fund in % based on the fundamentals of the fund at the time of affiliation to it.
DG^{UG}_{nach Anschluss}	Coverage ratio of the corporate group's occupational benefits fund after the affiliation of a new company.
DG^{UG}_{Austritt}	Coverage ratio of the corporate group's occupational benefits fund at the time a company withdraws.
RST^A_{Austritt}	Technical provisions formed for the withdrawing insured persons of a company.
AGH^A_{Austritt}	Total retirement assets of the withdrawing insured persons of a company.

Termination of the affiliation contract of a company, where such contract is administered by a joint occupational benefits fund (No. 2 d), as a result of termination of contract

Transfer of fluctuation reserves and unallocated assets/shortfall (underfunding)

A

The withdrawing insured persons have a collective entitlement to the following portion of unallocated assets, as well as fluctuation reserves, and bear a share of any shortfall. The amount corresponds to the factor specified below multiplied by the retirement assets and the technical provisions formed for the withdrawing insured persons.

Fully bought into the corporate group

A1

The newly affiliated company is deemed to be fully bought into the corporate group's joint occupational benefits fund if one of the following conditions is met:

- At the time of affiliation, the difference between DG^{UG}_{vor Anschluss} and DG^A_{bei Anschluss} stood at a maximum of 5 percentage points, or
- The withdrawal from the corporate group occurs at least 10 years after the affiliation date. The duration will be rounded to the month exactly.

In this case, the decisive factor will be:

DG^{UG}_{Austritt} - 100%.

Not fully bought into the corporate group

A2

If the conditions specified under A1 are not met, the newly affiliated company will be deemed to not be fully bought into the corporate group's joint occupational benefits fund. In this case, the decisive factor will be:

$DG^{A_{\text{bei Anschluss}}} + DG^{UG_{\text{Austritt}}} - DG^{UG_{\text{nach Anschluss}}} - 100\%$.

Corporate group coverage ratio under 100%

A2.1

If the corporate group's occupational benefits fund is underfunded, the decisive factor will be: at least $DG^{UG_{\text{Austritt}}} - UD^{A_{\text{bei Anschluss}}} - 100\%$.

Corporate group coverage ratio at least 100% and company underfunded at time of affiliation

A2.2

If the corporate group's occupational benefits fund is not underfunded, but the coverage ratio of the new company's fund at the time of affiliation to the corporate group was less than 100%, the following factor will be decisive:

at least $0\% - UD^{A_{\text{bei Anschluss}}}$ and at least $AGH^{A_{\text{Austritt}}} / (AGH^{A_{\text{Austritt}}} + RST^{A_{\text{Austritt}}}) - 100\%$.

Transfer of technical provisions

B

The withdrawing insured persons have a collective entitlement to the technical provisions formed for them. The right to offset and liquidate the technical provisions is reserved in the event of a shortfall.

Shortfall (underfunding)

C

If a shortfall remains even after offsetting and liquidation of the technical provisions, this shortfall will be deducted individually from the withdrawing insured persons' vested benefits to the extent that the corporate group's occupational benefits fund shows a shortfall (underfunding). Levels may not fall below mandatory retirement assets in the process.

Termination of the affiliation contract of a company, where such contract is administered by a joint occupational benefits fund (No. 2 d), as a result of liquidation of the company by the bankruptcy office

Transfer of unallocated assets

D

In the event that a corporate group member company is liquidated by the bankruptcy office, the withdrawing insured persons are entitled to a portion of the unallocated assets; the rules for this are specified in letters A to C of this Appendix.

Transfer of technical provisions and fluctuation reserves

E

If, as a group, at least 10 active insured persons join the same new occupational benefits institution or the same occupational benefits fund of a collective foundation, these insured persons will have, in addition to

the collective entitlement to the unallocated assets, a collective entitlement to the fluctuation reserves and technical provisions of the occupational benefits fund formed for them. The right to offset and liquidate the technical provisions is reserved in the event of a shortfall.

Shortfall (underfunding)

F

If a shortfall (underfunding) remains even after offsetting and liquidation of the technical provisions, this shortfall will be deducted individually from the withdrawing insured persons' vested benefits to the extent that the corporate group's occupational benefits fund shows a shortfall (underfunding). Levels may not fall below mandatory retirement assets in the process.

Special provisions in the event of partial liquidations within a corporate group in the case of job cuts or restructuring

G

In the event of a partial liquidation within a corporate group, the unallocated assets and fluctuation reserves of the individual companies will initially be defined in the same way as for a termination of the affiliation contract of a company where such contract is administered by a joint occupational benefits fund (as per letters A to C). In a second stage, these assets are divided between the withdrawing and remaining insured persons of the company concerned.

Special provisions in the event of total liquidation of the corporate group

H

If the corporate group is terminated because all affiliation contracts with the affiliated companies are fully terminated as per No. 3, the following applies:

Full transfer to a different occupational benefits institution

H1

Corporate group not underfunded

H1.1

If the corporate group's occupational benefits fund is not underfunded at the time of total liquidation, the procedure specified in No. 13 ff shall apply.

Corporate group underfunded

H1.2

If the corporate group's occupational benefits fund is underfunded at the time of total liquidation, the procedure specified in letter C shall apply.

Individual companies transferring to different occupational benefits institutions

H2

The individual companies of the corporate group withdraw one after the other from the corporate group's occupational benefits fund in the order of the amount of their insured persons' total retirement assets, starting with the company with the lowest retirement assets. The procedure in each case will follow letters A to C. For the last remaining company, letter H1 shall apply.

Entry into force

I

This Appendix is issued by the Board of Trustees on June 30, 2023, and enters into force as soon as it is approved by the supervisory authority.