PensFlex

Partial Liquidation Regulations

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Maximum individualization in occupational benefits

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1. Purpose

These provisions govern the conditions and procedure for partial liquidation of the PensFlex Collective Foundation, hereinafter referred to as the Foundation, pursuant to Article 23 of the Federal Law on Vesting in Pension Plans (FZG) and Articles 53b and 53d BVG/LPP (Federal Law on Occupational Retirement, Survivors' and Disability Pension Plans).

2. Condition

2.1 A partial liquidation at Foundation level occurs if the disposable assets of the Foundation exceed 5% of the pension assets and one or more member companies, with pension assets of at least 10% of the total assets of the Foundation, leave.

2.2 The conditions for a partial liquidation at pension fund level are met,

a. if there is a significant reduction in the number of persons actively insured in the relevant pension fund as a result of departures,
b. if a restructuring of an affiliated company is associated with a significant reduction in the number of persons actively insured under the relevant pension fund,
c. if the affiliation contract with an affiliated company is terminated.

A reduction in the number of actively insured persons is substantial if their number is reduced by at least 10% of the pension fund's assets and at the same time is reduced by at least

- two persons, where there are one to five actively insured persons.
- three persons, where there are six to 25 actively insured persons.
- 10% of the number of insured persons, where there are more than 26 actively insured persons.

2.3 If there is a partial liquidation as a result of a reduction due to economic restructuring or dismissal by the employer, and if earlier departures of active insured persons are closely related in substance and time to such event that they must be regarded as a single transaction, such active insured persons are also recognised as departures. However, a maximum period of one year will be taken into account.

2.4 In exceptional cases, the Foundation Board may decide on a partial liquidation.

3. Date of partial liquidation

The effective date of the partial liquidation is 31 December of the year of departure. The year in which the departing members affected by the partial liquidation left the Foundation is regarded as the termination year.

4. Procedure

4.1 The Foundation Board must establish the existence of the partial liquidation facts and decide on implementation of the partial liquidation. In particular, it must determine the event which led to the partial liquidation and the relevant time frame within the meaning of Article 2.3.

4.2 Within the framework of the legal provisions and these Regulations, the Foundation Board shall determine

- the free funds or shortfall;
- the actuarial provisions;
- the actuarial provisions under Article 17 FZG;
- the investment fluctuation reserves;
- the distribution plan

The Foundation Board must inform the regulatory authority, the auditors and the accredited pension actuaries accordingly.

4.3 The Foundation shall inform the insured persons as defined in Article 11.

4.4 The Foundation grants the beneficiaries a period of 30 days to inspect the documents pursuant to Article 10(1) and to lodge an objection. Once the deadline has expired, they will be informed of the objections received and the settlement of the objections. They are granted a period of 30 days within which they can lodge an appeal with the regulatory authority.

5. Principles of partial liquidation

5.1 The basis for determining the free funds (or any shortfall) is the commercial balance sheet as per Swiss GAAP FER 26. Any additional provisions required for the continued existence of the Foundation are based on an actuarial report prepared by an accredited pension actuary.

5.2 Should the assets or liabilities of the Foundation change by more than 5% between the date of the partial liquidation and the date of transfer of the funds, the funds to be transferred shall be adjusted accordingly.

6. Entitlement to free funds

6.1 If the conditions for a partial liquidation are met, there is an individual entitlement to a share of the free funds in the case of both an individual departure and a collective departure. The entitlement to free funds corresponds to the proportional share of the individual risk contributions of the last three years in the total amount of risk contributions. In the case of a collective departure, the entitlement to a share of the free funds is always a collective one if such funds are necessary for purchasing into the corresponding reserves of the receiving occupational benefits institution. The Foundation Board determines whether such conditions are met and records this in the relevant transfer agreement.

6.2 A collective departure occurs when a group of at least 10 actively insured persons jointly transfer to another occupational benefits institution.

6.3 If, in the event of a partial liquidation, the individual entitlement of a departing person to the free funds is less than CHF 200.00, no payment shall be made for such person.

6.4 For insured persons not leaving the Foundation, the free funds remain in the Foundation. The entitlement of the remaining insured persons is always a collective one.

7. Entitlement to actuarial provisions and investment fluctuation reserves

7.1 In the event of a collective departure, there is a collective pro rata entitlement to provisions, if any, in addition to the entitlement to free funds. However, the entitlement to actuarial provisions exists only to the extent that actuarial risks are also transferred. If an entitlement exists, it corresponds to the proportional share of the individual risk contributions of the last three years in the total amount of risk contributions. Actuarial risks are transferred if the sponsoring occupational benefits institution bears insurance risks partially or fully autonomously. The Foundation Board must take a decision to this effect.

7.2 In the event of a collective departure, there is a collective pro rata entitlement to investment fluctuation reserves, if any, in addition to the individual or collective entitlement to free funds. Excepted from this are the actuarial provisions as per Article 10 of the Investment Regulations for compliance with Article 17 FZG. The Foundation Board must take a decision to this effect. The entitlement to investment fluctuation reserves corresponds to the proportional share of the individual risk contributions of the last three years in the total amount of risk contributions. The Foundation Board must take a decision to this effect.

7.3 There is no collective entitlement to actuarial provisions and investment fluctuation reserves if the partial liquidation was caused by the collectively departing group.

7.4 The pro rata entitlement to the actuarial provisions and the investment fluctuation reserves is based on the values shown in the relevant commercial balance sheet. It must be increased or reduced to the extent that the departing insured persons have contributed more or less to the accumulation of the relevant provisions and investment fluctuation reserves than the remaining ones. The entitlement to the actuarial provisions and investment fluctuation reserves can be further reduced if the partial liquidation has a particular impact on the structure of the occupational benefits institution.

8. Shortfall

If the balance sheet shows a shortfall, the existing pension assets are paid out to each insured person.

If there is a shortfall at pension fund or insured person level, the existing pension assets are paid out to each insured person.

9. Transfer

The transfer of assets takes the form of a cash payment (CHF).

10. Interest

No interest is paid on the entitlements to free funds during the partial liquidation procedure.

11. Information of the insured persons

11.1 The Foundation shall inform the member companies affected by the partial liquidation in writing of

a. the existence of a partial liquidation and its justification,
b. the date (cut-off date) of the partial liquidation,
c. the total of the free funds or shortfall,
d. the withdrawal portfolio and the distribution key,
e. where applicable, the amount allocated to or deducted from the person concerned in CHF,
f. the form of transfer
g. and the right of objection to the Foundation Board and the right of appeal to the regulatory authority.

11.2 The member company shall forward the information mentioned in paragraph 1 to all the insured persons concerned within three days.

11.3 Upon request, the insured persons may inspect the relevant documents at the Foundation, unless there are reasons to the contrary under data protection law.

11.4 If the existence of a partial liquidation has been applied for, but rejected after examination of the facts, the Foundation will inform the applicants in writing of the rejection and of their rights as per paragraph 1(g).

12. Amendments and supplementary provisions

The Foundation Board may amend these regulations at any time within the scope of the legal provisions and the purpose of the Foundation. Any amendments must be submitted to the regulatory authority for approval.

The provisions of the Pension Fund Regulations of the PensFlex Collective Foundation apply in all other respects.

These Partial Liquidation Regulations enter into force with the legal force of the decision of the regulatory authority.

German is the definitive language for the interpretation of all regulations.

Lucerne, 21 October 2010 — Foundation Board of the PensFlex Collective Foundation