PensFlex

Organisational Regulations

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1. Governing bodies of the Foundation

[1] These Regulations shall regulate the organisation and tasks of the governing bodies of the Foundation.

[2] The governing bodies of the Foundation are the Board of Trustees, the Management Board, the Pension Fund Commissions, the External Auditor and the Occupational Benefits Expert.

2. Common provisions for the Board of Trustees and Pension Fund Commissions

2.1. Term in office

[1] The term in office of the members shall be 3 years. It shall start on 1 January following the election of the newly elected governing body. Re-election is permitted. The termination of the employment relationship with the employer shall result in withdrawal from the respective governing body of the Foundation. A substitute member shall be appointed for the remaining term in office.

[2] The Board of Trustees shall organise its own internal affairs and shall elect one of its members as chair and vice chair.

2.2. Meetings

[1] The governing body of the Foundation shall hold as many ordinary meetings each year as are required for the purpose of management. Meetings may be held by video or telephone conference. Extraordinary meetings shall be held as required or if so requested by one half of the members of the governing body of the Foundation, stating the agenda items.

[2] Meetings shall be called by the chair or by another person charged with doing so with advance notice of at least 7 days by written invitation to the members and the managing director, stating also the agenda items. Compliance with this procedural requirement may be dispensed with, if so approved by all members.

[3] The chair shall chair the meetings. In the event that the chair is unable to do so, meetings shall be chaired by the vice chair.

2.3. Resolutions

[1] The governing body of the Foundation shall be quorate if more than half of the members are present. Any person who participates in the meeting by telephone, video or any other equivalent means of communication, or who arranges to be represented by another member acting in accordance with a signed, written power of attorney, shall be deemed to be present.

[2] Resolutions shall be adopted by a simple majority of the members present, except those for which a qualified majority is expressly required. The chair shall also be entitled to vote. In the event of a tie the chair, or in his/her absence the vice chair, shall have a casting vote.

[3] Resolutions may be validly adopted in writing. However, any member of a governing body of the Foundation or the Management Board may request that a meeting be held in relation to a resolution adopted in writing. A resolution may only be adopted in writing (i.e. voting in writing without any oral discussion) with the approval of all members; the actual resolution itself need not be unanimously approved.

2.4. Minutes

Minutes shall be kept of the resolutions of the governing body of the Foundation, including resolutions adopted in writing.

3. Board of Trustees

3.1. Composition

[1] The Board of Trustees shall be comprised of at least 4 members. The employees shall be represented on the Board of Trustees in line with their contributions.

[2] At least two employee representatives shall be appointed by Reichmuth & Co. The other founders shall also have the right to appoint an employer representative to the Board of Trustees.

[3] The remaining members shall be appointed by the employers and the insured persons. The employers and the employees may also designate external specialists as representatives. Members of associations of social partners are not eligible to serve as representatives.

3.2. Appointment

[1] The employee representatives shall be appointed by the employee representatives on the Pension Fund Commissions, the employer representative shall be appointed by the affiliated employers and the representative of the founders shall be appointed by the founders.

[2] The Election Regulations shall stipulate in particular eligibility to vote, the conduct of elections and departure from the Board of Trustees.

3.3. Tasks

[1] The Board of Trustees shall be the supreme governing body of the Foundation. It is responsible for the overall management of the Foundation, ensures compliance with statutory tasks, determines the strategic targets and principles of the Foundation as well as the means for achieving them, establishes the organisation, ensures financial stability and oversees the management. It is particularly responsible for the adoption of pension plans, investment strategies and selection of the asset manager. The Board of Trustees also performs all tasks that it is not allowed to transfer to another governing body or to another person pursuant to Art. 51a para. 2 BVG.

[2] Subject to compliance with the statutory requirements, the Board of Trustees may allocate individual transferable tasks and powers to the Management Board, particular committees or commissions. Any delegated authority may be revoked at any time.

[3] It shall ensure appropriate reporting to its members.

3.4. Compensation

The compensation of the members of the Board of Trustees shall be reviewed annually and documented in the minutes of the Board of Trustees.

4. Management Board

4.1. Appointment

The Management Board appointed by the Board of Trustees shall be responsible for the operational management of the Foundation as a governing body of the Foundation. It shall propose a Managing Officer to the Board of Trustees, who shall attend to the management of the Foundation. The Board of Trustees shall adopt a resolution stating whether it agrees with this election.

4.2. Tasks

[1] The Management Board shall conduct the business of the Foundation according to law, the Charter and the Regulations of the Foundation, as well as the instructions of the Board of Trustees and under its supervision. It is responsible for preparing and implementing the decisions of the Board of Trustees and for all tasks that are transferable under Art. 51a para. 2 BVG and have not been transferred to another governing body or to another person.

[2] A written contract of employment between the Foundation and the Board of Trustees shall regulate in detail the duties, competences and remuneration of the Board of Trustees. This Contract may be concluded for a maximum term of 5 years. The contract may be terminated upon expiry of this term. The contract may be terminated at any time without notice under extraordinary circumstances.

[3] The Managing Officer shall attend meetings of the Board of Trustees in an advisory capacity.

5. Pension Fund Commissions

5.1. Composition

The Pension Fund Commission shall be comprised of representatives of the employer and of insured employees in line with their respective contributions. For the pension funds of professional associations, the Pension Fund Commission shall be comprised of representatives of the affiliated association members. External specialists may also be elected, although members of associations of social partners are not eligible to serve as representatives.

5.2. Appointment

[1] The employer representatives shall be appointed by the employer.

[2] Employees shall elect their representative from amongst the insured members. Elections shall be conducted by a simple majority of the votes cast. The Board of Trustees shall be informed in a suitable manner concerning the results of elections.

[3] The members of the Pension Fund Commission of a professional association solution shall be determined by election by the affiliated members of the professional association.

[4] The affiliated employer or professional association is responsible for ensuring that a Pension Fund Commission is established for the pension scheme concerned.

[5] If it is not possible to ensure the composition and appointment of a Pension Fund Commission in accordance with the regulations (e.g. retiree pension scheme), the Management Board shall perform the tasks of the Pension Fund Commission.

5.3. Tasks

[1] The Pension Fund Commission shall manage the pension scheme according to law, the Foundation Charter, as well as the Regulations and instructions issued by the Board of Trustees.

[2] It shall be responsible for the loyal exercise of the decision-making authority vested in it by law or under the regulations and for complying with the duties of disclosure towards insured members and the Foundation.

[3] The Pension Fund Commission shall perform the following tasks:

1. selection of the pension plan, within the ambit of the pension plans stipulated by the Board of Trustees
2. the monitoring of any action required to ensure staff pension provision such as
   – the implementation of any partial liquidation of the pension scheme,
   – the dissolution of the pension scheme
3. the receipt of information concerning the financial circumstances of the pension scheme
4. decisions concerning the usage of any freely disposable resources of the pension scheme; in the event of any distribution, as a general rule in accordance with the distribution criteria set forth in the partial liquidation regulations for the partial liquidation of pension schemes

6. External Auditor

The Board of Trustees shall appoint an External Auditor, which shall perform the tasks vested in it according to law (Article 52c of the Swiss Federal Act on Occupational Old-Age, Survivors' and Invalidity Pension Provision (BVG) and Article 35 and Article 35a of the Ordinance on Occupational Old-Age, Survivors' and Disability Pension Plans (BVV2)).

7. Occupational Benefits Expert

The Board of Trustees shall appoint an Occupational Benefits Expert, who shall perform the tasks vested in him/her according to law (Article 52e BVG and Article 41a BVV 2).

8. Signature authority

[1] Members of the Board of Trustees shall each sign along with a second authorised signatory.

[2] Any other persons vested with signature authority by the Board of Trustees shall also be vested exclusively with authority to sign along with a second authorised signatory, as specified by the Board of Trustees.

9. Internal control

9.1. Transparency, integrity and loyalty

1. Obliged persons

[1] The provisions of this section 9.1 shall apply to all decision makers within the Foundation. Decision makers include all persons entrusted with the management or administration of the Foundation or with the management of assets, as well as in general all persons with authority to make decisions that could entail changes to the substance of the rights or obligations of the Foundation.

[2] Where any decisions makers are not already subject to these Regulations on account of their organisational or similar relationship with the Foundation, the Foundation shall ensure that they undertake under contract to subject themselves to the provisions of this section 9.1.

[3] If a decision maker is a legal person, the provisions of this section 9.1 shall apply respectively to the natural persons acting on its behalf.

2. Duties

[1] The Management Board shall inform decision makers in good time concerning the risks associated with their decisions along with the resulting potential consequences. Documents that serve as the basis for a decision shall contain information specific to the respective issue along with a description of the risks associated with and effects of the decision.

[2] The Management Board shall inform the Pension Fund Commissions in a suitable and timely manner about decisions of the Board of Trustees, where such decisions have effects on the activity or decisions of the Pension Fund Commissions. The Pension Fund Commissions shall inform the Management in a suitable and timely manner about their decisions as well as the respective implementation and effects.

[3] Decision makers must be guided exclusively by the interests of the Foundation in relation to decisions made by them or in which they are involved. They shall avoid any situations in which they are subject to other interests that could impinge upon the exercise of their decision making powers or their entitlement to be involved in a decision to such an extent that they would not be guided exclusively by the interests of the Foundation (conflicts of interest).

[4] If a conflict of interest cannot be avoided in any specific individual case, the person concerned shall:

a) disclose the conflict of interest immediately to all other members of the decision making body and to the Management Board;

b) refrain from taking any decisions that could be affected by the conflict of interest; and

c) recuse himself/herself from any decisions that he/she is entitled to participate in, where such involvement could be affected by the conflict of interest.

[5] In order to enable the Foundation to comply with its obligations in relation to legal transactions with closely related parties within the meaning of Art. 51c BVG and the implementing ordinances, persons who are members of decision making bodies shall disclose promptly in each instance to all other persons within the decision making body as well as to the Management all circumstances that could give rise to the conclusion of a transaction with a closely related party. The circumstances subject to a requirement of disclosure shall include the relationship between the person subject to a duty of disclosure and the closely related party (including the equity stale for legal persons) as well as the legal transaction affected.

[6] A closely related party means any natural or legal person, the relationship of which with a person (“the Involved Person”) involved in the decision for the Foundation (including pension schemes) is of such a nature that this relationship could influence the Involved Person due to personal or business-related reasons when deciding on the legal transaction. All persons provided for under Art. 48i BVV 2 are automatically deemed to be closely related parties.

[7] All decision makers shall submit declarations of loyalty and integrity to the Management at the end of each year.

[8] Other regulations adopted by the Foundation, including in particular Investment Regulations, may establish further duties for decision makers. These shall apply in addition to the duties provided for in this section.

3. Competences and procedure

[1] The Board of Trustees shall delegate control of compliance with the above provisions and with the related statutory requirements to the Management. The latter is also responsible for devising suitable processes for identifying, assessing and monitoring operational risks, for documenting such processes, as well as monitoring and taking of corrective action. It is also responsible for the performance of tasks in accordance with the following provisions. If the Management or one of its members is affected by a conflict of interest or a legal transaction with a closely related party, the Board of Trustees shall comply itself with the duties set forth in this section 9.1.

[2] In the event of a conflict of interest in accordance with section 9.1.2. para. 3 above, the Management shall monitor compliance with the requirements set forth in section 9.1.2. para. 4. If the conflict of interest affects a member of the Board of Trustees, the Management Board shall inform the other members of the Board of Trustees concerning the conflict of interest. Under all other circumstances the Management Board shall inform the Board of Trustees, providing this appears appropriate under the circumstances. In all cases in which it has been informed by the Management concerning a conflict of interest, the Board of Trustees shall decide itself concerning any action that needs to be taken over and above that provided for under section 9.1.2. para. 4 (e.g. the establishment of “Chinese walls”).

[3] In the event of any legal transaction with a closely related party within the meaning of section 9.1.2. para. 5 above, the Management Board shall take all action that is necessary for the Foundation to comply with its obligations under Art. 51c BVG and the implementing ordinances, including in particular those under Art. 48i (obtaining of alternative offers for significant legal transactions). It shall monitor compliance with the requirements arising under the applicable law and shall inform the Board of Trustees. The Management is responsible for examining the market conformity of legal transactions with closely related parties, where the legal transaction concerned is to be concluded at Pension Fund Commission level. Under all other circumstances the Board of Trustees has competence, as the case may be excluding the person(s) subject to a duty of disclosure under section 9.1.2 para. 5.

[4] The Management Board shall monitor the timely submission of the declarations of loyalty and integrity by all decision makers (section 9.1.2. para. 7). It shall transmit the declarations to the External Auditor for examination. Where any individual declarations give grounds to conclude that conflicts of interest or similar, problematic situations could subsist or arise, the Management shall inform the Board of Trustees. It shall decide about any action that needs to be taken to address the respective situation.

[4] All action taken by the Management Board and the Board of Trustees in accordance with this section shall be documented in writing.

9.2 Admissibility of pension plans

1. Examination by the Occupational Benefits Expert

[1] The Management Board shall ensure that the Foundation offers exclusively pension plans that uphold the principles set forth in Art. 1 BVG as confirmed by the Occupational Benefits Expert. For this purpose it shall create a calculation tool with the involvement of the Occupational Benefits Expert that guarantees that the standardised pension plans and plan combinations comply with the principles applicable to occupational benefits.

[2] If any solutions that do not fall under standardised pension plans and plan combinations are offered, the Management Board shall inform the Occupational Benefits Expert. The latter shall examine the plans in question individually and shall draw up a separate confirmation for each.

[3] Where necessary, the Management Board shall obtain confirmation from the Occupational Benefits Expert before the respective affiliation agreement takes effect.

[4] The Management Board shall provide written confirmation to the Occupational Benefits Expert that – aside from any solutions reported in accordance with para. 2 above – only standardised pension plans and plan combinations are being used.

2. Adequacy in the event of multiple pension plans

[1] Where employers or self-employed persons insure any income components that are at the same time also insured with another occupational benefits institution, the Management shall require the employer or self-employed person to submit a confirmation from the Occupational Benefits Expert concerning the guarantee of adequacy in accordance with Art. 1a BVV 2.

9.3. Investment strategies

[1] The Foundation shall specify permitted investments in its Investment Regulations along with bands for identifying investment strategies in the Annex to the Investment Regulations. Within this regulatory framework, the pension scheme shall establish up to a maximum of ten investment strategies (including one that is low-risk) and report them to the Management. Pension schemes shall proceed in the same manner in the event that they alter the investment strategies.

[2] The Management Board shall examine whether the investment strategies reported to it comply with regulatory requirements. If this is not the case, it shall refer the investment strategies back for amendment. Where necessary under the circumstances, it shall inform the Foundation Board.

[3] Insured persons shall select one of the investment strategies offered for their pension scheme in order to invest their pension assets based on their risk capacity and risk tolerance.

[4] The Management Board shall periodically assess whether assets are being invested in a manner consistent with the investment strategy selected by insured persons. If this is not the case, the Management shall set a deadline for the Asset Manager to make an adjustment. Where necessary under the circumstances, it shall inform the Foundation Board.

10. Right of amendment

The Board of Trustees may amend these Regulations at any time according to law and the Foundation Charter. Any amendments shall be submitted to the supervisory authority for information purposes.

11. Deviations in various language versions

If there are versions of these regulations in different languages and should these give rise to deviations, the German version has precedence.

12. Implementation

These Organisational Regulations shall enter into force on 1 July 2024.

Lucerne, 28 November 2024

Board of Trustees of the
PensFlex Collective Foundation