



Swiss Life Collective Foundation 2nd Pillar, Zurich
(foundation)

Provisions on partial liquidation

Effective date: 2 October 2019

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A. Introduction

Art. 1 Purpose

These provisions govern the conditions and procedure for a partial liquidation of Swiss Life Collective Foundation 2nd Pillar (hereinafter referred to as the "foundation"). A distinction is drawn here between partial liquidation of the foundation and partial liquidation of an employee benefits unit affiliated to the foundation.

B. Partial liquidation of the foundation

Art. 2 Conditions for partial liquidation

The conditions for partial liquidation of the foundation are met:

- a. if the number of insured persons (active insured persons and pensioners) and the vested pension capital of active insured persons and/or that of pensioners fall by more than 5% within a calendar year (i.e. from 1 January until 31 December) due to the termination of contracts of affiliation and
- b. the foundation disposes of free funds as of the key date of partial liquidation that are not assigned to the employee benefits units or has an actuarial deficit (shortfall).

If the cover ratio of the foundation changes by more than three percentage points due to the departures (without carrying out partial liquidation), the conditions for partial liquidation of the foundation are also met if only the conditions under clause a are fulfilled.

Art. 3 Relevant balance sheet / key date

1 - Relevant balance sheet

The free funds or actuarial deficit, provisions and value fluctuation reserves shall be determined on the basis of the actuarial and commercial balance sheets in accordance with Swiss GAAP FER 26 as of the key date of partial liquidation, from which the actual financial situation of the foundation can be established at liquidation values.

Should the pension actuary provide evidence of the need for additional provisions for the survival of the foundation, these can be included in the partial liquidation.

2 - Key date of partial liquidation

The key date of partial liquidation corresponds with the end of the calendar year of termination of the contracts of affiliation.

Art. 4 Entitlement to free funds, provisions and value fluctuation reserves

1 - Free funds

If the conditions for partial liquidation are met, there is a collective entitlement to a share of the free funds. If any share of the free funds already paid out proves to be too high, the excess amount of such a transfer must be refunded.

The accumulated free funds of the foundation are distributed among those remaining and those withdrawing or who have already withdrawn in proportion to the amount of the vested pension capital of the active insured persons and pensioners respectively.

The free funds for insured persons not withdrawing from the foundation shall remain with the foundation.

2 - Provisions

In the event of a collective withdrawal and as long as the conditions for partial liquidation are met, a collective claim to a pro rata share of the provisions, if available, also arises in addition to the collective claim to the free funds.

The contribution made by the collective withdrawals to the accumulation of provisions must be adequately factored into the calculation of entitlement.

However, the entitlement only exists where underwriting risks are also transferred.

3 - Value fluctuation reserves

In the event of a collective withdrawal and as long as the conditions for partial liquidation are met, a collective claim to a pro rata share of the value fluctuation reserves, if available, also arises in addition to the claim to the free funds.

The contribution made by the collective withdrawal to the accumulation of value fluctuation reserves must be adequately factored into the calculation of entitlement.

The entitlement to value fluctuation reserves corresponds pro rata to the entitlement to the vested pension capital of active insured persons and pensioners respectively.

4 - No entitlement to provisions and value fluctuation reserves

There is no collective entitlement to provisions and value fluctuation reserves if the partial liquidation is caused by the group that is withdrawing collectively.

Art. 5 Actuarial deficit

1 - Calculation and distribution

Actuarial deficits are calculated on the basis of the key date for partial liquidation in accordance with Art. 44 of the Ordinance on Occupational Retirement, Survivors' and Disability Pension Plans (BVV 2).

The actuarial deficit is distributed between the insured persons remaining with the foundation and those withdrawing or who have already withdrawn from the foundation in proportion to the amount of the vested pension capital of the active insured persons and pensioners respectively.

2 - Withdrawing insured persons

An actuarial deficit is individually allocated to active insured persons who are withdrawing or have already withdrawn. It is deducted from the vested benefit, provided the retirement savings in accordance with Art. 15 BVG are not reduced as a result.

Any actuarial deficit remaining after the reduction of the vested benefits of the actively insured persons is deducted pro rata from the individual vested pension capital of the pensioners who are withdrawing or have already withdrawn.

If the vested benefit or the vested pension capital of pensioners has already been transferred with no deductions, the insured person or acquiring employee benefits institution must refund the excess amount to the foundation.

3 - Remaining insured persons

In the case of the remaining insured persons, the actuarial deficit is not individually allocated but left with the foundation.

Art. 6 Procedure

1 - Informing insured persons

The foundation shall inform the persons affected about

- the fact that a case of partial liquidation obtains under the present regulations

- the total amount and share of free funds or actuarial deficit to be distributed and any share of the provisions and value fluctuation reserves.
- the distribution formula
- the right to request a review of the conditions for partial liquidation, the procedure being followed, as well as the distribution plan, by submitting an objection in writing to the relevant supervisory authority within 30 days of notification.

2 - Possibility of making an objection or complaint

Insured persons including pensioners may submit an objection in writing to the foundation within 30 days of receipt of the information. The foundation will then respond. Insured persons have the right to request a review of the conditions for partial liquidation and of the procedure being followed, as well as the distribution plan, by submitting a request in writing to the relevant supervisory authority within 30 days of receipt of the response from the foundation.

3 - Claim and execution

A legal claim to funds allocated during partial liquidation only arises following the expiry of the period for submitting objections, with no objections having been lodged, or if a complaint has been lodged after the final ruling has been issued on the complaints procedure.

The partial liquidation is executed once the partial liquidation legally comes into force in the absence of contestation, or once such contestation has been dealt with. The funds to be transferred shall become due within 30 days of legal entry into force. The foundation shall owe default interest as of the due date in the amount of the minimum BVG interest rate. No interest will be paid during the partial liquidation proceedings.

If there is at least a 5% change in the key assets and liabilities between the key date of the partial liquidation and the transfer of funds, the funds shall be adjusted accordingly.

4 - Costs

The costs required to finance the partial liquidation proceedings shall be borne by the departing employee benefits unit or alternatively the foundation.

C. Partial liquidation of an employee benefits unit

Art. 7 Conditions for partial liquidation

1 - Conditions for partial liquidation

The conditions for partial liquidation at employee benefits unit level are met in the following cases:

- a. if the workforce of a company insured with the foundation decreases significantly for reasons other than restructuring due to involuntary departures and this measure entails the loss of a significant share of the retirement assets of the employee benefits unit, or
- b. if the company is restructured and this measure entails the involuntary departure of a significant share of the active insured persons and loss of a significant share of the retirement assets of the employee benefits unit, or
- c. in the case of termination of the contract of affiliation, provided beneficiaries remain with the employee benefits unit.

2 - Significance

The reduction of the workforce or departure of active insured persons is deemed to be significant if – depending on the number of active insured persons prior to the commencement

of the reduction or restructuring – at least the following decreases in active insured persons and vested pension capital of active insured persons take place:

In the case of Art. 7, clause 1(a):

- Employee benefits unit with five or fewer insured persons: two employees and 30% of vested pension capital
- Employee benefits unit with six to ten insured persons: three employees and 25% of vested pension capital
- Employee benefits unit with 11 to 25 insured persons: four employees and 20% of vested pension capital
- Employee benefits unit with 26 to 50 insured persons: five employees and 15% of vested pension capital
- Employee benefits unit more than 50 insured persons: 10% of employees and 10% of vested pension capital

In the case of Art. 7, clause 1(b):

- Employee benefits unit with five or fewer insured persons: three employees and 25% of vested pension capital of active insured persons
- Employee benefits unit with 6 to 10 insured persons: three employees and 20% of vested pension capital of active insured persons
- Employee benefits unit with 11 to 25 insured persons: four employees and 15% of vested pension capital
- Employee benefits unit with 26 to 100 insured persons: five employees and 10% of vested pension capital
- Employee benefits unit with more than 100 insured persons: 5% of employees and 5% of vested pension capital

The commencement of the reduction of the workforce or restructuring is deemed to be the departure date of the first insured person to leave the company and employee benefits unit involuntarily due to the corporate decision. The end is deemed to be the departure date of the last insured person to leave the company and employee benefits unit involuntarily due to the corporate decision.

3 Waiver of implementation of partial liquidation

No partial liquidation is carried out if as of the key date the free funds:

- amount to less than 5% of the vested pension capital of active insured persons / pensioners of the insured persons remaining in the employee benefits unit (active insured persons and pensioners) or
- amount to an average of less than CHF 1000 per capita of this group of persons.

The implementation of partial liquidation is also waived in the following cases:

- if all insured persons (active insured persons and pensioners) are transferred to the new employee benefits institution (total liquidation) or
- if there are no insured persons (active insured persons and pensioners) on termination of the contract of affiliation.

Art. 8 Key date of partial liquidation

1 - Key date in case of significant reduction of workforce / restructuring

The key date for determining the free funds is the balance sheet date preceding the event that has led to partial liquidation. If more than nine months lie between the ascertainment of partial liquidation and the balance sheet date, the next balance sheet is decisive for determining the free funds. The Administrative Board can define another date as the key date in consultation with the foundation in justified cases.

Art. 9 Entitlement to free funds

1 - Entitlement

If the conditions for partial liquidation are met, individual withdrawals result in an individual entitlement and collective withdrawals a collective entitlement to a share in the free funds. If any share of the free funds already paid out proves to be too high, the excess amount of such a transfer must be refunded by the beneficiaries.

The accumulated free funds of the employee benefits unit are distributed between those who are remaining and those who are withdrawing or have already withdrawn from the employee benefits unit, in proportion to the amount of the vested pension capital of active insured persons / pensioners.

The free funds for insured persons not withdrawing from the employee benefits unit shall not be individually allocated but remain with the employee benefits unit.

2 - Individual distribution formula

The free funds are individually distributed according to an objective distribution formula.

The distribution formula criteria for active insured persons and those who have already withdrawn are as follows:

- the full insurance years in the employee benefits unit
- the amount of the individual retirement assets

The two criteria are each weighted at 50%.

In the case of pensioners, the distribution formula is calculated on the basis of the vested pension capital available on the key date.

Art.10 Procedure

1 - Responsibilities

The employer / Administrative Board is obliged to notify the foundation of the following immediately:

- the reduction of the workforce or restructuring of the company that may lead to a partial liquidation
- all relevant data in connection with a partial liquidation.

The Administrative Board shall delegate the effecting of the partial liquidation to the foundation. The foundation shall assume this task on behalf of the Administrative Board and for the account of the employee benefits unit.

2 - Informing insured persons

The foundation shall inform the persons affected about

- the fact that a case of partial liquidation obtains under the present regulations
- the total amount of free funds or actuarial deficit to be distributed
- the distribution formula
- the amount they shall receive as an individual or collective share of the free funds
- the right to request a review of the conditions for partial liquidation, the procedure being followed, as well as the distribution of free funds, by submitting an objection in writing to the relevant supervisory authority within 30 days of notification.

3 - Possibility of making an objection or complaint

Insured persons including pensioners may submit an objection in writing to the foundation within 30 days of receipt of the information. The foundation will then respond. Insured persons have the right to request a review of the conditions for partial liquidation and of the procedure being followed, as well as the distribution of free funds, by submitting a request in writing to the relevant supervisory authority within 30 days of receipt of the response from the foundation.

4 - Claim and execution

A legal claim to funds allocated during partial liquidation only arises following the expiry of the period for submitting objections, with no objections having been lodged, or if a complaint has been lodged after the final ruling has been issued on the complaints procedure.

The partial liquidation is executed once the partial liquidation legally comes into force in the absence of contestation, or once such contestation has been dealt with. The funds to be transferred shall become due within 30 days of legal entry into force. The foundation shall owe default interest as of the due date in the amount of the minimum BVG interest rate. No interest will be paid during the partial liquidation proceedings.

If there is at least a 5% change in the key assets and liabilities between the key date of the partial liquidation and the transfer of funds, the free funds are adjusted accordingly.

5 - Costs

The costs required to finance the partial liquidation proceedings shall be borne by the employee benefits unit or alternatively the foundation.

D. Final provisions

Art. 11 Effective date

These provisions shall enter into force as of the resolution date of the Board of Trustees following approval by the supervisory authority. They may be amended at any time by the Board of Trustees with the approval of the supervisory authority. These provisions render all previous partial liquidation provisions null and void. They shall be made accessible to the persons admitted to the employee benefits in a suitable form.