

com Plan



Partial Liquidation Regulations

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31 December 2017

Approved on 15 september 2017

These regulations are also available in
German, French and Italian.

Contents

Art. 1	Introduction.....	3
Art. 2	Conditions.....	3
Art. 3	Entitlement to uncommitted funds	3
Art. 4	Entitlement to technical reserves and fluctuation reserves	4
Art. 5	Offsetting of a shortfall.....	4
Art. 6	Bases and key dates	4
Art. 7	Distribution plan	5
Art. 8	Notification.....	5
Art. 9	Interest	6
Art. 10	Applicable wording of regulations	6
Art. 11	Final provisions.....	6

Art. 1 Introduction

¹ The Partial Liquidation Regulations are based on Art. 53b and 53d BVG as well as Art. 27g and 27h BVV 2.

Art. 2 Conditions

¹ The Conditions for a partial liquidation shall be fulfilled if:

- a) there is a significant reduction in the workforce;
- b) corporate restructuring of an affiliated employer takes place;
- c) an affiliation agreement is terminated (in whole or in part).

² A reduction in the workforce shall be deemed significant if at least 200 active insureds leave involuntarily within one year.

³ Restructuring shall be deemed to exist if the current activities of an affiliated employer are consolidated, discontinued, sold, outsourced or otherwise altered, and this results in the involuntary departure of at least 100 active insureds within one year.

⁴ An affiliation agreement shall be deemed to have been terminated in full if this affects all active insureds and pensioners covered by the agreement. The affiliation agreement shall be deemed to have been terminated in part if the active insureds leave the Pension Fund but the pensioners are retained. Termination of the affiliation agreement in full shall lead to a partial liquidation if at least 100 active insureds and/or pensioners leave the Pension Fund. Termination of the affiliation agreement in part shall lead to a partial liquidation if at least 100 active insureds leave the Pension Fund.

⁵ The employer shall be obliged to notify the Pension Fund immediately of any workforce reduction or corporate restructuring measures that could lead to a partial liquidation.

⁶ The Board of Trustees shall decide whether the conditions for a partial liquidation have been fulfilled.

Art. 3 Entitlement to uncommitted funds

¹ Provided the conditions for a partial liquidation have been fulfilled, an individual entitlement to a share of the uncommitted funds shall be granted in the case of individual departures, and an individual or collective entitlement in the case of collective departures.

² A collective departure shall be deemed to exist if at least ten active insureds and/or pensioners transfer collectively to the same new pension fund of the same employer.

³ Uncommitted funds shall only be available if, in addition to the necessary technical reserves, fluctuation reserves have reached the required level.

Art. 4 Entitlement to technical reserves and fluctuation reserves

¹ In the case of collective departures, a collective pro rata entitlement to the technical reserves and fluctuation reserves shall be granted in addition to the individual or collective entitlement to the uncommitted funds. In the calculation of the entitlement, due consideration must be given to the contribution to the creation of reserves and fluctuation reserves made by the group leaving the Pension Fund collectively. Such an entitlement to technical reserves shall only exist, however, where the corresponding actuarial risks are also transferred. The entitlement to fluctuation reserves shall correspond to the proportionate entitlement to savings capital and actuarial reserves.

² Collective entitlement to technical reserves and fluctuation reserves shall not be granted if the partial liquidation was caused by the group leaving the Pension Fund collectively.

Art. 5 Offsetting of a shortfall

¹ In the event of a funding deficit pursuant to Art. 44 BVV 2, the actuarial shortfall may be offset against pension capital individually and pro rata in the case of individual departures. In the case of collective departures, the actuarial shortfall may initially be offset against the pro rata technical reserves and subsequently against the pension capital of the active insureds and pensioners individually and pro rata. The basis used in the calculation shall be the actuarial balance sheet.

² BVG retirement savings pursuant to Art. 15 BVG shall be transferred intact.

³ The Pension Fund may reduce the pension capital of active insureds and pensioners on a provisional basis if there are indications that a partial liquidation may be necessary and the Pension Fund would suffer a funding deficit based on its estimated coverage ratio. This provisional reduction shall only apply to active insureds and pensioners who are expected to be affected by the partial liquidation and must be clearly indicated as such. Once the partial liquidation process is completed, the Pension Fund shall issue a definitive statement and adjust any difference. If too much pension capital is paid out to active insureds and pensioners, the excess amounts must be reimbursed. The Pension Fund must inform the active insureds and pensioners accordingly; their consent shall not be required for the reimbursement.

Art. 6 Bases and key dates

¹ The Board of Trustees shall determine the relevant date or time period for defining the group of persons affected by the partial liquidation depending on the event in question.

² The Board of Trustees shall determine the reference date for the assessment of the financial situation of the Pension Fund. In principle, this shall correspond to the balance sheet date of the financial statements closest to the commencement of the event triggering the partial liquidation. The affiliation agreement shall be deemed to have been terminated as of the date of the termination of the affiliation agreement; if this does not match the balance sheet date of the financial statements, the balance sheet date of the financial statements closest to the termination of the affiliation agreement shall apply.

³ The basis for the partial liquidation balance sheet shall be the actuarial and commercial balance sheets that determine the actual situation of the Pension Fund at realisable values.

⁴ When determining the technical reserves, additional technical reserves may be formed in the partial liquidation balance sheet as a result of the changed investment and/or liabilities structure. Under the same conditions, a pro rata distribution of the technical reserves and fluctuation reserves may be deviated from or dispensed with.

⁵ Should the relevant assets and liabilities change by a minimum of 5% between the reference date of the partial liquidation and the transfer of the technical reserves, fluctuation reserves and uncommitted funds, the funds to be transferred shall be adjusted accordingly. The estimated coverage ratio of the Pension Fund as of the date the funds are transferred shall apply.

⁶ The Board of Trustees shall decide on the form of transfer of the funds (cash, securities, etc.).

Art. 7 Distribution plan

¹ When determining the entitlement to uncommitted funds and the offsetting of any shortfall, the ratio of the sum of pension capital of the active insureds and pensioners leaving the Pension Fund to total pension capital of the active insureds and pensioners remaining in the Pension Fund as of the reference date of the partial liquidation balance sheet shall apply.

² Entitlement of the individual active insured or pensioner leaving the Pension Fund to the uncommitted funds or the shortfall shall correspond to the percentage of total pension capital of the active insureds leaving the Pension Fund that he/she is eligible to be allocated.

³ The pension capital eligible for distribution shall correspond to the pension capital minus contributions (vested benefits, purchases, repayments of early withdrawals for home ownership, amounts paid in under divorce law and uncommitted funds credited to the individual's account) made in the last 12 months prior to the reference date of the partial liquidation balance sheet, plus advance payments for early withdrawals for home ownership and amounts paid out under divorce law in the last 12 months prior to the reference date of the partial liquidation balance sheet.

Art. 8 Notification

¹ The active insureds and pensioners concerned shall be notified in an appropriate manner (SOGC and *comPlan* website) of the partial liquidation, the procedure to be adopted and the distribution plan.

² For a period of 30 days, the active insureds and pensioners concerned shall have the right to view the relevant financial statements, the actuarial balance sheet and the distribution plan at the head office of the Pension Fund. During the same period, the right shall exist to file an objection with the Board of Trustees to the procedure and the distribution plan with respect to the conditions for partial liquidation. The objection must be made in writing and indicate the reason.

³ Objections must be dealt with by the Board of Trustees and responded to in writing. Within 30 days of notification of this decision, the right shall exist to have the relevant supervisory authority review and make a decision on the conditions, procedure and distribution plan, provided no agreement has been reached with the Board of Trustees.

⁴ Once all objections have been dealt with by the Board of Trustees and provided no requests for review have been submitted to the supervisory authority, or in the event that a legally binding supervisory decree or judicial decision has been issued, the Pension Fund shall proceed with the partial liquidation.

Art. 9 Interest

¹ Interest shall be owed after a period of 30 days from the distribution plan taking legal effect, but no sooner than this, after all the requisite information for the transfer has been provided. Interest shall correspond to the BVG minimum interest rate.

Art. 10 Applicable wording of regulations

¹ These regulations have been drawn up in German. They may be translated into other languages.

² In the event of any discrepancies between the wording of the German text and the wording of any subsequent translation, the German text shall prevail.

Art. 11 Final provisions

¹ These Partial Liquidation Regulations were approved by the Board of Trustees at its meeting on 15 September 2017. They shall enter into force on 31 December 2017, subject to approval by the Supervisory Authority for Occupational Pension Plans and Foundations of the Canton of Berne. It shall replace the Partial Liquidation Regulations dated 1 June 2009.

² The Board of Trustees may amend the Partial Liquidation Regulations at any time within the scope of the statutory provisions and subject to approval by the supervisory authority.

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