

Partial Liquidation Regulations

Valid as of January 1, 2020

Where versions of these regulations exist in different languages, should they give rise to discrepancies, the German version takes precedence.

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Art. 1 Purpose

- ¹ These regulations address the prerequisites and the procedure for partially liquidating the Agilis 1e Collective Foundation (hereinafter the “Foundation”) and affiliated pension schemes. In the event of a total liquidation of the Foundation, the provisions of Art. 53c and Art. 53d of the Federal Act on Occupational Retirement, Survivors’ and Disability Pension Plans (OPA) shall be definitive.

Partial liquidation of the Foundation

Art. 2 Partial liquidation of the Foundation

- ¹ The Foundation has no foundation assets apart from the foundation capital financed by the benefactor. Instead, a separate balance sheet is kept and operating statement made for each affiliated pension scheme.
- ² Due to the lack of funds at the foundation level, a partial liquidation does not take place at this level.

Partial or total liquidation of a pension scheme

Art. 3 Principle

- ¹ In the event of a partial or total liquidation of a pension scheme, the pension plan assets of the withdrawing insured person shall be increased by an individual or collective share in the available assets of the pension scheme.
- ² Based on Art. 19a of the Swiss Vested Benefits Act (VBA), the Foundation shall give the withdrawing insured party the effective value of the retirement assets at the time of the withdrawal in deviation from Art. 15 and 17 of the VBA. As a result, there are no individual deficits.

Art. 4 Collective claim to provisions

- ¹ Should several insured persons jointly transfer to another employee benefit scheme (collective withdrawal in accordance with Art. 9 Para. 3), in addition to the claim to the available assets, they shall have a collective, proportionate claim to the provisions and any possible value fluctuation reserves managed at the pension scheme level.
- ² The claim to provisions shall exist only if underwriting risks are also transferred.

Art. 5 Prerequisites for partial liquidation

- ¹ The prerequisites for the partial liquidation of a pension scheme shall be fulfilled if:
 - a) the staff of the affiliated company is reduced considerably for economic reasons, and this measure entails the non-voluntary withdrawal of a considerable amount of the actively insured persons or the withdrawal of a considerable amount of the retirement assets of the pension scheme; or

- b) the affiliated company is restructured, and this measure occasions the non-voluntary withdrawal of a considerable amount of the actively insured persons or the withdrawal of a considerable amount of the retirement assets of the pension scheme; or
 - c) the joining agreement is partially dissolved (that is, only the actively insured persons withdraw from the pension scheme).
- ² Staff reductions shall be seen as considerable if, depending on the number of actively insured persons before the beginning of the staff reduction, the following decreases in the number of actively insured persons and withdrawal benefits occur:
- a) Joining agreement with 1 to 10 insured persons: at least 3 non-voluntary withdrawals
 - b) Joining agreement with 11 to 25 insured persons: at least 4 non-voluntary withdrawals
 - c) Joining agreement with 26 to 50 insured persons: at least 5 non-voluntary withdrawals
 - d) Joining agreement with over 50 insured persons: at least 10 % non-voluntary withdrawals

In addition to the decrease in the actively insured persons (a–d), at least 10% of the exit benefits of the actively insured persons must depart from the pension scheme.

- ³ If an affiliated company is restructured, the following non-voluntary decreases in the number of actively insured persons and withdrawal benefits apply:
- a) Joining agreement for one to five insured persons: at least two non-voluntary withdrawals
 - b) Joining agreement with six to 25 insured persons: at least three non-voluntary withdrawals
 - c) Joining agreement with 26 to 50 insured persons: at least four non-voluntary withdrawals
 - d) Joining agreement with over 50 insured persons: at least five non-voluntary withdrawals

In addition to the decrease in the actively insured persons (a – d), at least 5 percent of the withdrawal benefits of the actively insured persons must depart from the pension scheme.

- ⁴ The restructuring of a company is understood as measures taken by the employer that are not primarily aimed at reducing jobs and dismissing employees. Instead, restructuring concerns organizational measures through which tasks the company performed itself to date are discontinued, or entire operational sections are transferred to another company.
- ⁵ The date of withdrawal of the first insured person who leaves the company and the pension scheme on a non-voluntary basis as a result of the company's decisions shall be considered the beginning of the staff reduction or the restructuring. The date of withdrawal of the last person to leave the company and the pension scheme on a non-voluntary basis shall count as the end.
- ⁶ The withdrawal of an insured person shall be considered non-voluntary if the employer terminates their employment relationship or if the voluntary terminations can be traced back to the same economical event that gave rise to the partial liquidation.
- ⁷ Should the available assets amount to less than 5 % of the retirement assets (on the key date of the partial liquidation) of the actively insured persons remaining in the pension scheme and, on average, less than CHF 1,000 per person in this group of persons, the available assets shall not be distributed.

Art. 6 Prerequisite for total liquidation of a pension scheme

- ¹ The prerequisite for a total liquidation of a pension scheme is the complete dissolution of the joining agreement (that is, all actively insured persons and any pensioners withdraw from the pension scheme).
- ² However, a total liquidation shall not be performed if:
- a) the employer switches the pension provider; or
 - b) the pension scheme has neither actively insured persons nor pensioners at the time the joining agreement is dissolved (liquidation of an “empty” contract).

Art. 7 Key date

- ¹ The balance sheet date shall be considered the key date for partial liquidations resulting from staff reduction or restructuring, which is to say December 31 before the beginning of the calendar year in which the beginning of the staff reduction or restructuring of the company takes place.
- ² The key date for the partial or complete dissolution of the joining agreement shall be the date of the partial or complete dissolution of the joining agreement.
- ³ This key date shall be decisive for determining the amount of available assets and provisions.

Art. 8 Determination of available assets and provisions

- ¹ The bases for determining available assets, provisions, and any possible value fluctuation reserves are essentially the actuarial and commercial balance sheets as per Swiss GAAP FER 26 from which the actual financial situation of the pension scheme in terms of the value realizable from a sale (market values) results. The valuation of the asset values and liabilities shall be performed according to expert principles that are continually used.
- ² The formation of provisions shall be determined by regulations to be enacted for this purpose.
- ³ Provisions shall be proportionately transferred to withdrawing insured persons only if the transfer is made collectively to a new pension provider (as per Art. 9 Para. 13) and underwriting risks are transferred as well.
- ⁴ Should the available assets or the provisions and any possible value fluctuation reserves of the pension scheme change more than 5 % between the key date of the partial liquidation and the transfer of the assets, the assets to be transferred shall be adjusted accordingly. The basis for such a resolution shall be the amount of these assets as per Para. 1, which shall be drawn up as of December 31 of the year following the key date of the partial liquidation.

Art. 9 Breakdown of available assets, provisions, and value fluctuation reserves

- ¹ For the breakdown of available assets, provisions, and any value fluctuation reserves, a differentiation is made between the remaining and withdrawn insured persons. The group of remaining insured persons shall include those who were still part of the pension scheme portfolio on the key date of the partial liquidation and at the end of the staff reduction or restructuring. The group of withdrawn insured persons includes those who were part of the pension scheme portfolio on the key date of the partial liquidation and withdrew on a non-voluntary basis before the end of the partial liquidation or restructuring.
- ² The group of withdrawn insured persons is also subdivided into individual and collective transfers.
- ³ Collective transfers are those during which at least 10 or all insured persons collectively transfer to a new employee benefit scheme.
- ⁴ If the partial or total liquidation was caused by the collectively exiting group, no claim to provisions and any possible value fluctuation reserves shall exist.
- ⁵ Should there be a collective claim to provisions and any possible value fluctuation reserves, these assets shall be collectively transferred to the new employee benefit scheme.
- ⁶ In each case, the breakdown of available assets, provisions, and any possible value fluctuation reserves into the group of remaining and the group of withdrawn insured persons shall take place proportionately to the total retirement assets as at the key date of the partial liquidation.

- ⁷ The available assets, provisions, and any possible value fluctuation reserves assigned to the insured persons remaining in the pension scheme shall remain in the pension scheme in their entirety.
- ⁸ The available assets of the withdrawn insured persons shall be assigned as per the distribution plan. First and foremost, they are broken down between:
- a) the actively insured persons on the key date of the partial or total liquidation based on the sum of their retirement assets and insurance duration – insurance duration is defined as the number of entire years of contribution to the pension scheme (from the start of retirement saving at the earliest); and
 - b) the affiliated pensioners on the key date of the partial or total liquidation based on the sum of their annual pensions multiplied by ten. The pensioners shall not be considered if the average share per pensioner is less than CHF 1,000.
- ⁹ Vested benefit contributions paid within the last 12 months before the key date (provided they are not transferred collectively to the pension scheme as part of a new contract), deposits, and repayments as well as early withdrawals and payments due to divorce are not taken into account here.
- ¹⁰ The funds allocated in accordance with the distribution plan are credited to the retirement assets of the actively insured persons individually; the funds are paid to the retirees as a one-time capital payment.

Art. 10 Procedure

- ¹ The employer shall report staff reductions or a restructuring of their company that could result in a partial liquidation to the Foundation immediately.
- ² The assessment concerning the execution of a partial liquidation in the event of a staff reduction or a restructuring of the company shall be the responsibility of the Foundation. Should a joining agreement be partially or completely dissolved, the partial or total liquidation shall be dissolved without further delay.
- ³ If the prerequisites for the partial or total liquidation of a pension scheme are fulfilled, the Foundation shall establish the circumstances and inform the Pension Planning Commission of the circumstances established and further proceedings. The Pension Planning Commission shall forward this information to the insured persons.
- ⁴ As soon as the distribution plan has been issued and the Foundation's declaratory resolution has been made for the partial or total liquidation, the Foundation shall inform the Pension Planning Commission in particular about the resolution concerning the partial or total liquidation, the amount of available assets, any provisions to be distributed, and the distribution plan. The Pension Planning Commission shall forward this information to the insured persons.
- ⁵ The persons concerned shall have the right to view the records at the Foundation within 30 days of the delivery of the information and, if need be, file an objection to the Pension Planning Commission's resolution.
- ⁶ If no amicable solution to the existing differences can be found, the Foundation shall grant the persons concerned a period of 30 days during which they may have a supervisory authority examine the prerequisites, the procedure, and the distribution plan and then reach a decision.

- ⁷ The distribution plan shall be administered only after becoming legally binding. It shall be considered legally binding if:
- a) no objections were filed; or
 - b) all objections were resolved in an amicable manner; or
 - c) there is a legally binding decree from the supervisory authority.

Art. 11 Cost participation

- ¹ For expenses relating to the partial liquidation of a pension scheme and expertise relating to addressing objections and complaints, cost contributions may be invoiced to the pension scheme concerned. The costs are addressed in the cost regulations.

Art. 12 Cases that are not regulated

- ¹ Cases that are not explicitly addressed by these regulations shall be addressed by the Foundation in compliance with the legal provisions and corresponding application of them.

Art. 13 Issue and changes

- ¹ These provisions are issued by the Board of Trustees and approved by the supervisory authority.

Art. 14 Temporary provisions

- ¹ All regulatory provisions valid as of March 31, 2019 shall apply to persons insured prior to April 1, 2019.
- ² The insurance coverage pursuant to Para. 1 shall last until the end of the temporary employment agreements.

Art. 15 Effective date

- ¹ These regulations shall be effective starting on January 1, 2020, and shall enter into force upon approval by the Pensions and Trusts Supervisory Authority for Central Switzerland (Zentralschweizer BVG- und Stiftungsaufsicht). The regulations that were valid at the time the relevant situation took place shall be applicable. This time shall be at the end of the staff reduction or restructuring, or it shall be the date of dissolution in the event of a partial or total dissolution of the joining agreement.

Lucerne, December 17, 2020

Foundation Board Agilis 1e Collective Foundation