

Fondation Collective Groupe Mutuel Regulations on partial liquidation

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A. General provisions

Art. 1 Purpose and general principles

1. In accordance with Art. 53(b) and 53(d) LPP/BVG, Art. 27(g) and 27(h) OPP2/BVV2 and the pension fund regulations of Fondation Collective Groupe Mutuel (hereinafter referred to as "the Foundation"), the Foundation Board issues the following regulations.
2. These regulations govern the conditions and principles for a partial liquidation of the Foundation (Part B), for a partial liquidation of an affiliated entity (Part C) and for a partial liquidation of the pension funds of employers affiliated with a joint fund (Part D), and set out the procedure (Part E).
3. The definitions and abbreviations used in these regulations are those of the Foundation's pension fund regulations.
4. The purpose of the Foundation is to manage the affiliated entities. There is no solidarity between the affiliated entities, which keep separate accounts. The Foundation is liable for claims against an affiliated entity solely with the assets of the relevant affiliated entity.
5. In the event of a partial liquidation of the Foundation, there is no collective entitlement to a share of the unallocated funds, the technical provisions or the value fluctuation reserve, in addition to the entitlement to termination benefits, due to the fact that the Foundation has no

unallocated funds, no shortfalls, no technical provisions or no value fluctuation reserve.

6. In the event of a partial liquidation of an entity, there is a collective entitlement to a share of the entity's unallocated funds, technical provisions and value fluctuation reserve, in addition to the entitlement to regulatory termination benefits. If the coverage ratio is less than 100%, the technical shortfall may be deducted proportionally from the termination benefits, provided that this does not reduce the LPP/BVG retirement savings assets.
7. In the event of a partial liquidation of an affiliated employer's pension funds, there is an individual or collective entitlement to a share of the employer's restricted funds, in addition to the entitlement to regulatory termination benefits. The employer's restricted pension funds are defined in Art. 14(1) of the regulations on actuarial liabilities.
8. When the conditions for a partial liquidation of an entity are met because one or more employers affiliated with the entity meet the conditions for a partial liquidation and the relevant thresholds are reached, the procedure is conducted first at the level of the entity, then at the level of the employers.

B. Partial liquidation of the Foundation

Art. 2 Principles

1. Insofar as there are no common funds at the Foundation level (technical provisions, value fluctuation reserves, unallocated funds), a reduction in the insured group of persons and the termination of affiliation contracts do not constitute cases of partial liquidation at this level. The liquid assets required for the Foundation's current operations are not considered as common funds.
2. However, these regulations would be adapted accordingly if common funds are accounted for at Foundation level.

C. Partial liquidation of an affiliated entity

Art. 3 Conditions

1. The conditions for a partial liquidation of an affiliated entity are fulfilled when:
 - a. the number of employees of one or more employers affiliated with the entity undergoes a significant reduction within the meaning of Art. 5(2), as a result of which the number of insured persons working for the entity falls by more than 10% and the entity's pension fund assets fall by more than 10% over the course of a calendar year,
 - b. in a pension fund, one or more employers affiliated with the pension fund are restructured within the meaning of Art. 5(3), as a result of which the number of active insured persons in the pension fund changes by more than 5% and the pension fund's assets change by more than 5% over the course of a calendar year,
 - c. one or more employers affiliated with the entity terminate all or part of the affiliation agreement after a period of three years, provided that such terminations result in an outflow of at least 10% of the entity's pension assets.
2. In the case of Art. 3(1)(a), the reduction in the number of employees is calculated by comparing the number of employees at the beginning of the relevant accounting period with the number of employees at the end of the period (net variation).

In the event of Art. 3(1)(b), the change in the workforce is calculated by taking into account only departures during the relevant accounting period (gross variation).
3. Employers must notify the employer's administrative committee without delay of any lasting reduction in the workforce or restructuring of their business. In particular, they must mention the background to the reduction, the employees concerned, the end of their employment relationship and the reason for the resignation or dismissal. The administrative committee will then immediately inform the Foundation.

4. Departures due to voluntary resignations, termination of fixed-term employment contracts of less than two years, retirement, disability and death are not taken into account in the calculation of departures within the meaning of Art. 3(1). A departure resulting from resignation may be deemed involuntary if, within six months of becoming aware of the downsizing or restructuring, the insured person voluntarily terminates his employment contract in anticipation of dismissal by the employer, or because he refuses the new terms of employment offered to him.
5. An employer's affiliation agreement is terminated in full if all the employer's active insured persons and pensioners leave the Foundation. An employer's affiliation agreement is partially terminated if only the active insured persons leave the Foundation, and the pensioners remain.
6. In the event of a total liquidation of an affiliated entity, the principles and procedure for a total liquidation are applied by analogy with those for a partial liquidation. A total liquidation may be waived if the entity as a whole changes pension institution, with all assets, liabilities, rights and obligations, if it is not in deficit and if a transfer agreement is signed between the Foundation and the new pension institution.
7. The employer and the administrative committee undertake to provide the Foundation with all the information required to complete the partial liquidation.

Art. 4 Principles applicable to the partial liquidation of an affiliated entity

4.1. Reference date and change in assets and liabilities

1. The reference date of the partial liquidation is 31 December of the calendar year in which the conditions for a partial liquidation are met in accordance with Art. 3. This reference date is decisive for calculating the unallocated funds, the technical provisions, the value fluctuation reserve and the shortfall, as well as for defining the employers to be considered in the distribution plan.
2. In the event of a change of at least 5% in assets or liabilities between the reference date for drawing up the partial liquidation balance sheet and the date of transfer of the funds, the unallocated funds, technical provisions and value fluctuation reserve to be transferred shall be adjusted accordingly by the expert.

4.2 Basis

The following bases are applied to determine the unallocated funds or a shortfall, the technical provisions and the value fluctuation reserve:

- a. the annual accounts drawn up in accordance with Swiss GAAP FER 26,

- b. the technical balance sheet indicating the coverage ratio determined in accordance with Art. 44 OPP2/BVV2.

4.3 Calculation of the unallocated funds and distribution

1. The Foundation shall differentiate between:
 - a. the remaining workforce, consisting of insured persons and pension beneficiaries who still belong to the workforce of insured persons of the entity after the partial liquidation has been completed, and
 - b. the outgoing workforce, consisting of insured persons and pension beneficiaries who, at the time of the partial liquidation, leave the Foundation in accordance with Art. 3.
2. To determine the amount of the unallocated funds to be distributed per group, account is taken of the pension assets and extent to which the outgoing workforce has contributed to the creation of the unallocated funds.
3. The unallocated funds are distributed to the outgoing workforce in accordance with a distribution formula proposed by the pension fund committee, taking into account the pension assets of the insured persons and pension beneficiaries on the reference date of the partial liquidation and the length of the insured's affiliation, subject to approval by the Foundation Board. Other criteria may also be taken into account, such as the total ordinary contributions made by the beneficiaries during their affiliation with the Foundation, the amount of the beneficiaries' pensions, the age of the beneficiaries and the number of years of service or contributions. The pension fund committee proposes the weighting assigned to each criterion, subject to approval by the Foundation Board.
4. Pension assets are defined as the retirement savings assets of active and disabled insured persons and the actuarial reserves of the pension beneficiaries. The period of affiliation is determined by the number of years and months between the date the insured member joined the Foundation and the reference date of the partial liquidation.
5. The retirement assets may be adjusted, for all insured members, by one-off payments (vested benefits, purchases, repayments of advance payments, repayments following divorce) or withdrawals (advance payments, payments following divorce) made within a period of up to one year. The decisive date is the reference date of the partial liquidation or the date of departure, whichever is earlier.
6. A provision to finance the costs incurred by the partial liquidation procedure may be set up and deducted from the unallocated funds to be distributed.
7. If the partial liquidation leads to a significant change in the structure of the entity's workforce (e.g. reduction in the ratio of active insureds to pension beneficiaries, change in the age pyramid, size), the Foundation may set aside additional technical provisions for the remaining workforce, on the recommendation of the expert.
8. If the employer ceases its activity, the employer's contribution reserve is added to the unallocated funds.

9. The pension fund committee may, on the basis of the expert's partial liquidation report and subject to approval by the Foundation Board, waive the implementation of a partial liquidation if it appears that the financial impact of the partial liquidation for the outgoing workforce and the affiliated entity is negligible or is essentially absorbed by the cost of the procedure. For the remainder, the procedure applies.

4.4 Distribution of technical provisions and value fluctuation reserve

1. An entitlement to a share of the technical provisions and the value fluctuation reserve exists only in the event of a collective departure within the meaning of Art. 4.5.
2. Technical provisions are distributed in accordance with the provisioning method described in the regulations on actuarial liabilities, taking into account the extent to which the outgoing workforce contributed to their creation. Entitlement to technical provisions exists only to the extent that the actuarial risks are also transferred.
3. The value fluctuation reserve is distributed in proportion to the pension liabilities, taking into account the extent to which the outgoing workforce contributed to its creation.

4.5 Collective departure and individual departure

1. A collective departure occurs when several active insured persons, but at least 10 insureds affected by the partial liquidation, are transferred together to the same pension fund. Other departures are considered individual departures.
2. In the event of a collective departure, the unallocated funds are paid out collectively together with the technical provisions and the value fluctuation reserve. In the event of an individual departure, there is an entitlement to the unallocated funds calculated based on the same distribution principles as those set out in Art. 6(2). The unallocated funds accruing to the remaining members are retained by the Foundation without being allocated.

4.6 Shortfall

1. If the entity's annual accounts and technical balance sheet show that there is a shortfall, it is allocated to the employers of the outgoing and remaining members, in proportion to the retirement savings of the insured persons active on the reference date of the partial liquidation. By analogy with Art. 4(3)(5), the retirement assets of active insureds may be adjusted.
2. If an employer's contribution reserve includes a waiver declaration, it must be fully or partially dissolved in favour of the beneficiaries insofar as it forms part of the non-covered pension assets to be transferred, in proportion to the pension assets of the outgoing workforce.
3. The portion of the shortfall allocated to the outgoing workforce is deducted from its pension assets,

provided that this does not reduce the LPP/BVG retirement assets.

4. If the Foundation Board formally establishes that one of the conditions for a partial liquidation has been met and if the affiliated entity is clearly in a shortfall situation, the Foundation may temporarily reduce the individual termination benefits. The temporary reduction must be clearly indicated on the termination statement. Once the partial liquidation procedure has been completed, the Foundation will draw up a final statement and pay the difference, including interest, calculated using the interest rate applied by the affiliated entity to the pension assets of the remaining insured persons during the period in question.
5. If the unreduced or insufficiently reduced termination benefit has already been transferred, the insured member or beneficiary is obliged to repay the amount received in excess, including interest, calculated using the rate of remuneration applied by the new pension fund during the period in question for active insured members.
6. The portion of the shortfall allocated to the employers of the remaining workforce shall remain in the Foundation's accounts, without there being any individual allocation. If there are no active insureds or pension beneficiaries remaining in the entity, the Foundation will report the shortfall to the LPP/BVG Security Fund.
7. Based on the expert's partial liquidation report and subject to approval by the Foundation Board, the pension fund committee may waive a reduction if the entity has a coverage ratio of at least 95% and if this ratio is not significantly reduced after payment of the unreduced vested termination benefits.

D. Partial liquidation of the affiliated employers' pension funds

Art. 5 Conditions

1. The conditions for a partial liquidation of an employer affiliated with a joint fund are presumed to have been met if:
 - a. there is a significant reduction in the number of employees, or
 - b. the company is restructured, or
 - c. the affiliation agreement with the Foundation is partially terminated, if active insured employees leave the Foundation while pensioners remain.
2. A significant reduction within the meaning of Art. 5(1)(a) means a reduction in the number of active insured employees as a result of departures which may also extend over a period of one or two calendar years, in the following

proportions depending on the number of persons insured under the employer's affiliation agreement:

- up to 10 insured persons:
at least three departures and withdrawal of at least 30% of retirement assets;
 - from 11 to 25 insured persons:
at least four departures and withdrawal of at least 20% of retirement assets;
 - from 26 to 50 insured persons:
at least five departures and withdrawal of at least 15% of retirement assets;
 - more than 50 insured persons:
departure of at least 10% of insured persons and withdrawal of at least 10% of retirement assets.
3. Restructuring of the company within the meaning of Art. 5(1)(b) refers to any strategic reorganisation of the company resulting in the departure of at least 5% of the active insured persons, but at least three insureds (gross variation), involving either the setting up of new core activities or the discontinuation, sale or any other modification of one or more areas of activity. Restructuring may also occur when a company discontinues some of its internal services and outsources them. On the other hand, simply reorganising management structures, without any reduction in staff, cannot be considered restructuring.
 4. Employers are required to notify the employer's administrative committee without delay of any lasting reduction in the workforce or restructuring of their business. In particular, they must mention the background to the reduction, the employees concerned, the end of their employment relationship and the reason for the resignation or dismissal. The administrative committee will then immediately inform the Foundation.
 5. Departures due to voluntary resignations, termination of fixed-term employment contracts of less than two years, retirement, disability and death are not taken into account in the number of departures. A departure resulting from resignation may be deemed involuntary if, within six months of becoming aware of the downsizing or restructuring, the insured person voluntarily terminates his employment contract in anticipation of dismissal by the employer, or because he refuses the new terms of employment offered to him.
 6. If the termination of an affiliation agreement results in the departure from the Foundation of all the active insured persons and pensioners covered by that affiliation agreement, this is a case of total liquidation of the pension funds of an affiliated employer, the applicable principles of which are defined in the pension fund regulations.

7. The employer and the administrative committee undertake to provide the Foundation with all the information required to complete the partial liquidation.

Art. 6 Principles applicable in the event of a reduction in the insured group of persons or restructuring of the company

6.1 Relevant period and reference date

1. The significant reduction is verified each calendar year. If the significant reduction occurs within a calendar year, the relevant period is that calendar year. If the significant reduction does not occur in one calendar year but in two, the relevant period is the two calendar years.
2. In the case of restructuring, the relevant period runs from the beginning to the end of the restructuring. The employer must notify the Foundation of this period, which may not exceed 24 months. If the relevant period is longer than 24 months, the Foundation Board may declare several successive partial liquidations.
3. The reference date of the partial liquidation is 31 December of the financial year preceding the end of the reduction in the number of insureds (Art. 5(2)) or the company restructuring (Art. 5(3)).

6.2 Calculation of the restricted funds and distribution

1. If there is a significant change in the restricted funds between the reference date of the partial liquidation and the reference date of the transfer of funds, they will be adjusted accordingly.
2. If, on the reference date, the restricted funds represent on average less than CHF 200 per active insured person, they will not be distributed.
3. The corresponding shares are determined according to the following steps:
 - a. The number of active employees and pensioners is broken down into a continuity number (remaining insured persons) and a leaving number (departing insured persons).
 - b. The restricted funds are divided between the active insured persons and the pension beneficiaries in proportion to the pension assets of the remaining insured persons and the departing insured persons.
 - c. Restricted funds are distributed to departing insured persons in proportion to their pension assets at the reference date and the number of years and months of affiliation with the employer's pension fund.
4. If it is not possible to determine precisely the length of time the employee has been a member of the employer's pension fund, the administrative committee may waive this criterion and simply apply a distribution proportional to the pension assets. If the employer does not have an administrative

committee, the Foundation may duly decide on the terms and conditions of individual cases.

5. If the number of active insured persons has changed by more than 10% between the time when the restricted funds were transferred to the Foundation and the partial liquidation, the Foundation may go back in time and include among the beneficiaries of the liquidation those insured persons who left the Foundation over a period extending up to the time when the restricted funds were transferred to the Foundation.
6. The restricted funds due to departing insured persons are paid out individually.
7. If a group of departing insured persons leaves the affiliate's pension fund for another pension fund (collective departure), their share of the restricted funds is paid collectively to the new pension fund.
8. The restricted funds belonging to the remaining insured persons remain in the employer's pension fund without being allocated individually.

Art. 7 Principles applicable in the event of partial termination of the affiliation agreement

7.1 Reference date

The reference date of the partial liquidation of an employer's pension funds that is decisive for the calculation of the restricted funds is the reference date of the partial termination of the affiliation agreement.

7.2 Calculation of the restricted funds and distribution

1. Unless otherwise stipulated below, the provisions of Art. 6(2) apply.
2. The group of departing insured persons includes all persons, including any pensioners, who leave the employer's pension fund in the event of partial termination of the affiliation agreement. The remaining insured persons are those pensioners who remain with the pension fund in the event of partial termination of the affiliation agreement.
3. The restricted funds are distributed according to a distribution formula taking into account the pension assets at the reference date and the length of affiliation to the employer's pension scheme.
4. If departing insured persons, including any pension beneficiaries, leave the employer's pension fund for the same new pension fund, their share of the restricted funds is transferred collectively. In all other cases, the restricted funds are paid out individually.

E. Procedure

Art. 8 Authority

1. The Foundation Board is responsible for determining whether the conditions for a partial liquidation of the Foundation, a partial liquidation of an affiliated entity or a partial liquidation of the benefits of affiliated employers have been met, and for carrying out the liquidation in accordance with the provisions of these regulations. In particular, it must determine:
 - the event that led to the partial liquidation,
 - the amount of the unallocated funds or the shortfall in the event of the partial liquidation of an entity, as well as the technical provisions and the value fluctuation reserve in the event of a collective departure,
 - the amount of restricted funds in the event of a partial liquidation of an employer's pension funds, and
 - the distribution plan.
2. In the event of a partial liquidation of an affiliated entity, the pension fund committee proposes the distribution plan to the Foundation Board.
3. In the event of a partial liquidation of an entity, the expert shall draw up a report.

Art. 9 Information

1. The Foundation informs the active insured persons and pension beneficiaries concerned, either directly or via the pension fund committees of the entities or the administrative committees of the employers concerned, in good time and in full about the partial liquidation and draws their attention to the possibility of consulting the partial liquidation at the pension fund's registered office within 30 days of notification:
 - a. in the event of the partial liquidation of an entity, the decisive commercial balance sheet, the expert's report and the distribution plan (individual calculation and distribution formula);
 - b. in the event of the partial liquidation of an employer, the calculation of the restricted funds and the distribution plan (individual calculation and distribution formula).
2. Active insured persons and pensioners do not have the right to access the individual data of other insured persons.
3. Affiliated employers and entities do not have the right to access the data of other employers and entities.

Art. 10 Complaints and appeals

1. Complaints against the provisions must be made in writing to the Foundation Board within the thirty-day period allowed for the consultation of documents. If the complaints cannot be settled, they are automatically submitted to the supervisory authority for a decision.
2. An entitlement to unallocated funds or restricted funds only becomes effective once the period for lodging complaints

has elapsed without having been used or, in the event of an appeal, after the legal settlement of the appeal.

3. The active insured persons and pension beneficiaries concerned have the right to have the conditions, the procedure and the distribution plan checked by the competent supervisory authority and may apply directly to it for a decision.
4. The supervisory authority's decision may be appealed to the Federal Administrative Court in accordance with Art. 53(d)(6) or 74 LPP/BVG, within 30 days of its notification.

Art. 11 Implementation and notification

1. Once the information has been provided and any claims have been settled, the distribution plan will be implemented. Claims arising from the distribution plan fall due 30 days after the plan is finally implemented.
2. No interest is payable on the unallocated funds, provisions and fluctuation reserves that are to be transferred.
3. The unallocated or restricted funds are paid out individually:
 - a. for active insured persons in addition to their vested termination benefit; the regulations on the use of vested termination benefits also apply, by analogy, to the use of the additional entitlement to unallocated or restricted funds;
 - b. for pensioners, in the form of a cash payment.
4. The auditors shall confirm that the partial liquidation has been carried out in accordance with the regulations in their standard annual report. This confirmation is enclosed with the annual financial statements.

Art. 12 Special provisions for the partial liquidation of an affiliated employer

1. If an employer has not paid all the contributions due or if bankruptcy or similar proceedings are initiated against the employer before the partial liquidation of the employer's pension funds, the contribution claim shall be offset against the available restricted funds, up to the amount of the claim and within the limits permitted by Art. 39 LPP/BVG. If the amortised amount can subsequently be paid in whole or in part by the employer or the Security Fund, the entitlements of the insured persons concerned shall be recalculated based on the increase in restricted funds and the amounts already paid.
2. If the company has been liquidated for more than 10 years and there are still restricted funds, the Foundation

Board will allocate them to the unallocated funds of the entity with which the employer was affiliated.

3. If an employer's contribution reserve remains at the time of the partial liquidation and can no longer serve the purpose for which it was set up because the employer no longer employs staff who need to be insured, this reserve is dissolved and allocated to the employer's restricted pension funds.
4. In the event of extraordinary costs, such as those relating to expert reports required in the event of objections or claims in connection with the partial liquidation of the employer's pension funds, a contribution to the costs may be charged to the employer's restricted pension funds.

F. Final provisions

Art. 13 Entry into force and amendment of the regulations on partial liquidation

1. Entry into force

These regulations were approved by the Foundation Board on 19 June 2024 and take effect with the approval of the competent supervisory authority in accordance with Art. 53(b) LPP/BVG on 17 October 2024. As of its effective date, it replaces all previous versions.

2. Version

These regulations may be translated. However, the French version is authoritative.

3. Amendment

Any amendment to these regulations must be submitted to the Foundation Board for approval. The Foundation Board shall submit these regulations and any amendments thereto to the competent supervisory authority for examination and approval.

These regulations were approved by the Foundation Board on 19 June 2024.

Fondation Collective Groupe Mutuel

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