

GEMINI COLLECTIVE FOUNDATION 1E

PARTIAL LIQUIDATION REGULATIONS
2018

VALID FROM 1 JANUARY 2018

20
18

CONTENTS

PRINCIPLES	3
1. General points	3
A PARTIAL LIQUIDATION OF AN EMPLOYEE BENEFITS UNIT	4
2. Requirements for a partial liquidation of an employee benefits unit	4
3. Substantial reduction of the workforce	4
4. Procedure applying to a partial liquidation of an employee benefits unit	4
5. Key date	4
6. Employer's duties to inform	4
7. Calculation of disposable assets or shortfall	5
8. Distribution plan for disposable assets, actuarial reserves and value fluctuation reserve	5
9. Transfer of disposable assets, actuarial reserves and value fluctuation reserve	6
10. Deduction of a shortfall	6
B PARTIAL LIQUIDATION OF THE COLLECTIVE FOUNDATION	7
11. Requirements for a partial liquidation of the Collective Foundation	7
12. Procedure applying to a partial liquidation of the Collective Foundation	7
13. Key date for a partial liquidation of the Collective Foundation	7
14. Deduction of a shortfall	7
C GENERAL PROVISIONS	8
15. Procedure and execution	8
16. Cost sharing	8
17. Approval and entry into force	8

The original German text is legally binding.

1. GENERAL POINTS

1.1 Based on Article 53b to d of the Swiss Federal Law on Occupational Old-Age, Survivors' and Disability Benefit Plans (BVG) as well as Article 27g to h of the Ordinance on Occupational Retirement, Survivors' and Disability Benefit Plans (BVV 2) and the general framework regulations, the Foundation Board has issued the following regulations.

1.2 These regulations set out requirements and procedures for partial liquidations:

- a) at the level of the affiliated employee benefits unit (paragraph 2 et seq.)
- b) at the level of the Collective Foundation (paragraph 11 et seq.).

1.3 In case of a total liquidation of the Collective Foundation, the provisions of the Foundation charter shall apply.

1.4 Principally, it shall be assumed that no value fluctuation reserve exists and that, owing to the full reinsurance of the risks of old age (longevity), death and disability, no actuarial reserves are formed. In the event of a partial liquidation of the Collective Foundation, the individual accrued savings capital is usually given to the departing members (so-called departures). The accrued savings capital is equal to the account value of all deposits and withdrawals pursuant to paragraph 9 of the framework regulations.

2. REQUIREMENTS FOR A PARTIAL LIQUIDATION OF AN EMPLOYEE BENEFITS UNIT

2.1 The requirements for a partial liquidation of an employee benefits unit shall be met if:

- a) there is a substantial reduction of the workforce. The reduction must be directly connected with financially motivated job cuts.
- b) a company undergoes restructuring. Restructuring is assumed if an affiliated employer reorganises, outsources or removes part of his activities and the workforce is reduced as a result.

2.2 The requirements according to paragraph 2.1 shall apply accordingly to joint employee benefits units with several affiliated companies.

2.3 Members' voluntary departures shall not trigger a partial liquidation and shall not be taken into account in the case of simultaneous partial liquidations.

3. SUBSTANTIAL REDUCTION OF WORKFORCE

3.1 A reduction of the workforce as per paragraph 2.1 letter a) is deemed substantial if it is of the following extent – depending on the number of active members prior to the start of the staff cuts:

- in the case of fewer than 10 members: at least 3 involuntary departures and 30% of the savings capital
- in the case of 10 to 19 members: at least 5 involuntary departures and 25% of the savings capital
- in the case of 20 to 49 members: at least 7 involuntary departures and 15% of the savings capital
- in the case of 50 or more members: 10% of members but at least 10 involuntary departures and 10% of the savings capital

3.2 A reduction in the workforce as per paragraph 2.1 letter b) is deemed substantial if it is of the following extent – depending on the number of active members prior to the start of the restructuring:

- in the case of fewer than 10 members: at least 3 involuntary departures and 20% of the savings capital
- in the case of 10 to 19 members: at least 4 involuntary departures and 15% of the savings capital
- in the case of 20 to 49 members: at least 5 involuntary departures and 10% of the savings capital
- in the case of 50 or more members: 5% involuntary departures and 5% of the savings capital

4. PROCEDURE APPLYING TO A PARTIAL LIQUIDATION OF AN EMPLOYEE BENEFITS UNIT

4.1 The pension fund committee shall be responsible for deciding whether or not a partial liquidation should be carried out in the event of a reduction in the workforce or the restructuring of the company.

4.2 The responsibility for executing the partial liquidation of an employee benefits unit shall lie with the Collective Foundation. Upon request, the employer and the pension fund committee are obliged to provide the Collective Foundation with any information necessary to fulfil its task.

4.3 If the conditions for a partial liquidation of an employee benefits unit are presumed to be given and the pension fund committee is incapable of acting since it can no longer be appointed in accordance with the regulations due to an inactive employer, the Collective Foundation shall verify whether the requirements for the partial liquidation of the employee benefits unit are actually met. In this case, the decision in favour or against the execution of the partial liquidation of the employee benefits unit shall be taken by the Collective Foundation.

5. KEY DATE

5.1 The key date for a partial liquidation triggered by a workforce reduction or the restructuring of a company shall be the balance sheet date preceding the beginning of the staff cuts or the restructuring of the company.

5.2 The relevant date for the calculation of the pension plan assets, the pension plan capital, the value fluctuation reserve and the disposable assets shall be the key date according to paragraph 5.1.

6. EMPLOYER'S DUTIES TO INFORM

6.1 The employer and the pension fund committee are obliged to notify the Collective Foundation without delay of any workforce reduction or restructuring of the company that may result in a partial liquidation. In particular, they shall notify the Collective Foundation in writing of:

- the circumstances of the staff cuts
- the beginning and end of the staff cuts
- the employees expected to be affected
- the end of the employment contracts
- the reason for the termination

7. CALCULATION OF DISPOSABLE ASSETS OR SHORTFALL

7.1 The amount of the disposable pension plan assets on the key date shall be calculated according to the following model:

- balance sheet assets assigned to the employee benefits unit at net realisable value less
- vested benefits not yet paid
- remaining liabilities and passive accruals and deferrals
- employer contribution reserve (excluding employer contribution reserves without right of use)
- non-actuarial reserves earmarked for the execution of the partial liquidation

7.2 Any overfunding or shortfall is equivalent to:

- the disposable pension plan assets less
- the pension plan capital required according to actuarial principles as per the key date, consisting of the accrued savings capital of the members insured as per the key date and the pension plan capital of current pensioners as per the key date and their share of the actuarial reserves, respectively

7.3 A negative result shall constitute a deficit. If an employer contribution reserve without right of use has been accrued, it shall be counted towards the disposable assets up to the amount that offsets the deficit. Upon execution of the partial liquidation, the employer contribution reserve counting towards the disposable assets shall be dissolved in favour of the departing members to the extent that it relates to the uncovered transferable pension plan capital.

7.4 Any positive result shall, as a first step, be utilised to establish the value fluctuation reserve of the employee benefits unit up to the target value as per the key date. If the result remains positive after the establishment of the value fluctuation reserve, the employee benefits unit holds equivalent disposable assets.

8. DISTRIBUTION PLAN FOR DISPOSABLE ASSETS, ACTUARIAL RESERVES AND VALUE FLUCTUATION RESERVE

8.1 If the disposable assets for the members or pensioners remaining in the employee benefits unit amount to less than CHF 1,000 per person, the disposable assets shall not be distributed. Otherwise, the following distribution plan applies.

8.2 The disposable assets shall be distributed among the individual members in proportion to their savings capital on the key date of the partial liquidation. Vested benefit deposits made within the last 12 months prior to the key date (unless transferred collectively to the employee benefits unit within the scope of a new affiliation), purchases and repayments as well as advance withdrawals and pay-outs due to divorce shall not be taken into account.

8.3 The disposable assets shall be distributed among the individual pensioners in proportion to their coverage capital as per the key date.

8.4 An entitlement to actuarial reserves and the value fluctuation reserve shall arise exclusively in the case of collective departures (if a minimum of ten members move to another employee benefits institution as a group) and only to the extent to which the departing group has contributed to the formation of the reserves and the value fluctuation reserve. However, such entitlement to actuarial reserves only arises if the actuarial risks are also transferred. The Foundation Board shall take a corresponding decision based on the recommendation of the occupational benefits expert. The value fluctuation reserve shall be distributed in proportion to the savings and pension plan capital on the key date of the partial liquidation.

8.5 A collective entitlement to actuarial reserves and the value fluctuation reserve shall not arise if the partial liquidation was caused by the group that is collectively departing.

9. TRANSFER OF DISPOSABLE ASSETS, ACTUARIAL RESERVES AND VALUE FLUCTUATION RESERVE

9.1 In general, the disposable assets to which the departing members and pensioners are entitled shall be transferred individually. In the case of an individual transfer, pensioners shall receive their share in cash as a single lump-sum payment. If at least ten members change to another employee benefits institution as a group (collective departure), the assets shall be transferred collectively. The collective departure shall be governed by a written transfer agreement concluded with the new employee benefits institution.

9.2 The disposable assets attributable to the remaining members and pensioners shall be retained as disposable assets in the employee benefits unit in the case of members, and in the value fluctuation reserve in the case of pensioners, without any individual allocation.

9.3 The actuarial reserves and the value fluctuation reserve attributable to the members and pensioners shall be transferred exclusively in the case of collective departures and shall be transferred collectively. The actuarial reserves and the value fluctuation reserve attributable to other members and pensioners shall be retained as such in the employee benefits unit.

9.4 In the event of changes in assets or liabilities of over 5% between the key date of the partial liquidation and the transfer of the assets, the actuarial reserves, the value fluctuation reserve and the disposable assets, or the deficit, shall be adjusted accordingly.

10. DEDUCTION OF A SHORTFALL

10.1 Should the calculation as per paragraph 7 result in a shortfall, the personal accrued savings capital shall be disbursed.

11. REQUIREMENTS FOR A PARTIAL LIQUIDATION OF THE COLLECTIVE FOUNDATION

11.1 The dissolution of the affiliation agreement by an employer shall lead to a partial liquidation of the Collective Foundation if the dissolution results in the departure of at least 11 per mil of all active members with a share of at least 7 per mil of the total pension plan capital of the Collective Foundation and the agreement has lasted at least five full years. The exiting employee benefits unit shall be entitled to:

- a) the transfer of their members' pension plan capital
- b) the transfer of the actuarial reserves and the value fluctuation reserve of the employee benefits unit
- c) the transfer of the disposable assets of the employee benefits unit
- d) the transfer of the pension plan capital of any pension recipients
- e) the proportional transfer of any actuarial reserves, value fluctuation reserves or disposable assets of the Collective Foundation. However, this shall be subject to the employee benefits unit's participation in the accrual of these pension benefit funds during its affiliation with the Collective Foundation. An entitlement to actuarial reserves shall arise exclusively if the corresponding risks are also transferred. The Foundation Board shall take a corresponding decision based on the recommendation of the occupational benefits expert.

12. PROCEDURE APPLYING TO A PARTIAL LIQUIDATION OF THE COLLECTIVE FOUNDATION

12.1 The Foundation Board shall take the decision in favour or against the execution of a partial liquidation of the Collective Foundation.

12.2 The Foundation Board shall carry out a review at least once a year as part of its reporting. The review shall state whether the requirements for a partial liquidation of the Collective Foundation are given and shall explain the Board's decision.

13. KEY DATE FOR A PARTIAL LIQUIDATION OF THE COLLECTIVE FOUNDATION

13.1 The key date shall be the date of the dissolution of the affiliation agreement according to paragraph 11.1. If this date does not coincide with the end of the Collective Foundation's financial year, the key date shall be the balance sheet date preceding the event.

14. DEDUCTION OF DEFICITS

14.1 The individual allocation among the members within the employee benefits units shall be effected analogous to paragraph 10.

14.2 If full or insufficiently reduced vested benefits have been transferred, members shall pay back the amount transferred in excess.

14.3 Individual allocation to the pensioners shall be effected in proportion to their coverage capital as per the key date. The shares shall be deducted individually from the coverage capital.

14.4 The share in the deficit attributable to the members and pensioners remaining in the Collective Foundation shall be retained as a deficit by the Collective Foundation and shall not be allocated individually.

15. PROCEDURE AND EXECUTION

15.1 In the case of a partial liquidation of an employee benefits unit or the Collective Foundation, the Foundation Board shall notify the beneficiaries of the distribution plan and set a deadline of 30 days within which well-founded objections to the distribution plan may be submitted to the Foundation Board.

15.2 Such objections shall be submitted in writing and shall state the grounds for the objection. The Foundation Board shall issue an appeal decision within an appropriate period of time. If no objections are submitted within the period of 30 days, the distribution shall be carried out.

15.3 Members and pensioners are entitled to request verification of the requirements, the procedure and the distribution plan and a decision by the relevant supervisory authority within 30 days of receiving the Foundation Board's appeal decision.

15.4 Once the distribution plan enters into effect, the distribution shall be carried out. The auditors shall confirm the proper execution of the partial liquidation.

15.5 Claims to disposable assets and shares in the actuarial reserves and the value fluctuation reserve are not subject to interest.

16. COST SHARING

16.1 The affected employee benefits unit may be charged part of the expenses arising in connection with the partial liquidation of an employee benefits unit or the Collective Foundation as well as for expert opinions drawn up in connection with any objections and appeals. The costs shall be calculated according to the actual time spent on such assignments.

16.2 Cases not explicitly covered by these provisions shall be dealt with correspondingly by the Collective Foundation in accordance with the statutory provisions.

17. APPROVAL AND ENTRY INTO FORCE

17.1 These regulations will enter into force on 1 January 2018 upon their legally binding approval by the supervisory authority.

Zurich, 1 March 2018

GEMINI Collective Foundation 1e



Nathalie Munaretto
Chair of the Foundation Board



Vital G. Stutz
Deputy Chair of the Foundation Board

