

GEMINI Collective Foundation

REGULATIONS ON PARTIAL LIQUIDATION 2019

VALID FROM 31 DECEMBER 2019



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The original German text is legally binding.

PURPOSE AND CONTENT

1. GENERAL PROVISIONS

1.1 Based on Article 53b to d of the Swiss Federal Law on the Occupational Old-Age, Survivors' and Disability Benefit Plans (BVG) as well as Article 27g to h of the Ordinance on the Occupational Old-Age, Survivors' and Disability Benefit Plans (BVV 2) and the General Framework Regulations, the Foundation Board issues the following Regulations.

1.2 The Regulations set out the requirements and procedures for the partial liquidation

- a) on the level of the affiliated employee benefits unit
(paragraph 2 et seq.)
- b) on 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 apply.

2. REQUIREMENTS FOR PARTIAL LIQUIDATION OF AN EMPLOYEE BENEFITS UNIT

2.1 The requirements for partial liquidation of an employee benefits unit are at hand in the following cases:

- a) There is a substantial reduction in the workforce. The reduction must be directly related to job cuts implemented on economic grounds.
- b) A company is being restructured. Restructuring is assumed if an affiliated employer reorganises, outsources or suspends part of his activities and the workforce is reduced as a result.

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

2.3 Members' voluntary departures do not trigger a partial liquidation and are not considered in the case of a simultaneous partial liquidation.

3. SUBSTANTIAL REDUCTION OF WORKFORCE

3.1 A reduction in the workforce as per paragraph 2.1 lit. (a) is deemed substantial if, depending on the number of active members prior to the start of the staff cuts, its extent is as follows:

- For fewer than 10 members: at least 3 involuntary departures and 30% of the savings capital
- For 10 to 19 members: at least 5 involuntary departures and 25% of the savings capital
- For 20 to 49 members: at least 7 involuntary departures and 15% of the savings capital
- For 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 lit. (b) is deemed substantial if, depending on the number of active members prior to the start of the restructuring, its extent is as follows:

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

4. PROCEDURE FOR PARTIAL LIQUIDATION OF AN EMPLOYEE BENEFITS UNIT

4.1 The decision regarding the execution of a partial liquidation in the event of a reduction in the workforce or the restructuring of the company is made by the pension fund committee.

4.2 The execution of a partial liquidation of an employee benefits unit is implemented by the Collective Foundation. On request, the employer and the pension fund committee are obliged to provide the Collective Foundation with all the information necessary for the fulfilment of its task.

4.3 If a partial liquidation of an employee benefits unit is assumed and the pension fund committee is incapable of acting because it can no longer be appointed in accordance with the Regulations due to an inactive employer, the Collective Foundation verifies whether the requirements for the partial liquidation of an employee benefits unit are actually met. In this case, the decision regarding the execution of the partial liquidation of an employee benefits unit is made by the Collective Foundation.

5. KEY DATE

5.1 The key date for a partial liquidation due to a reduction of the workforce or due to restructuring is the balance sheet date preceding the start of the staff cuts or the restructuring of the company.

5.2 The decisive date for the determination of the pension plan assets, the pension plan capital, the value fluctuation reserves and the disposable assets is 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 immediately of any reduction in the workforce or any restructuring of its company that could result in a partial liquidation. In particular, it shall notify the Collective Foundation in writing of:

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

7. CALCULATION OF DISPOSABLE ASSETS OR SHORTFALL

7.1 The amount of the disposable pension plan assets as at the key date is calculated according to the following model:

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

7.2 The overfunding or shortfall is equivalent to:

- the disposable pension plan assets, less
- the actuarially required pension plan capital as at the key date, consisting of the savings capital of the persons insured as at the key date or the pension plan capital of the current pensions as at the key date and their share of the actuarial reserves, respectively.

7.3 A negative result constitutes a shortfall. If there is an employer contribution reserve without right of usage, this reserve is counted towards the disposable assets up to a maximum of the amount of the shortfall. Upon execution of the partial liquidation, the employer contribution reserve counted towards the disposable assets is dissolved in favour of the departing members to the extent that it relates to the transferable uncovered pension plan capital.

7.4 If the result is positive, it will be used in advance to establish the value fluctuation reserve of the employee benefits unit up to the target value as at the key date. If the result remains positive following the establishment of the value fluctuation reserve, the employee benefits unit holds corresponding disposable assets.

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

8.1 If the disposable assets assignable to the members remaining in the employee benefits unit or to the pensioners amount to less than CHF 1000 per person, the disposable assets will not be distributed. Otherwise, the following distribution applies.

8.2 In the context of the distribution plan, the following two distribution criteria apply (in equal parts) to the individual distribution of the disposable assets among the members:

- Savings capital as at 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 payouts due to divorce are not taken into account.
- Insurance period. The insurance period corresponds to the number of full contribution years with the employee benefits unit, starting at the earliest with the beginning of the retirement saving process.

If, in individual cases, the distribution of disposable assets leads to unreasonable amounts, the pension fund committee may take into account additional, objective distribution criteria when drawing up the distribution plan.

8.3 The individual distribution of the disposable assets among the pensioners takes place in proportion to their coverage capital as at the key date.

8.4 In the case of collective departures (at least 10 members switch to another employee benefits institution as a group), an entitlement to disposable assets only exists to the extent to which the departing collective has contributed to the formation of the disposable assets.

8.5 An entitlement to the actuarial reserves and the value fluctuation reserve only exists in the case of collective departures (at least 10 members switch to another employee benefits institution as a group) and only to the extent to which the exiting group has contributed to the formation of the reserves and the value fluctuation reserve. However, the entitlement to actuarial reserves only exists if the actuarial risks are also transferred. The Foundation Board is responsible for taking the corresponding decision, supported by the recommendation of the occupational benefits expert. The distribution of the value fluctuation reserve takes place in proportion to the savings and pension plan capital as at the key date of the partial liquidation.

8.6 There is no collective entitlement to the actuarial reserves and the value fluctuation reserve 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 The disposable assets to which the departing members and pensioners are entitled are generally 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 10 members switch to another employee benefits institution as a group (collective departure), the assets will 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 remain without any individual allocation either at the employee benefits unit as disposable assets for the members, or in the value fluctuation reserve for the pensioners.

9.3 The actuarial reserves and the value fluctuation reserve attributable to members and pensioners are only transferred in the case of collective departures if they are transferred collectively. The actuarial reserves and the value fluctuation reserve attributable to the other members and pensioners remain as such at the employee benefits unit.

9.4 In the event of changes in excess of 5% to the assets or liabilities between the key date of the partial liquidation and the transfer of the assets, the actuarial reserves, the value fluctuation reserve and any disposable assets or shortfalls are adjusted accordingly.

10. DEDUCTION OF A SHORTFALL

10.1 Should the calculation as per paragraph 7 result in a shortfall, such shortfall is distributed among the departing and remaining members. The individual distribution of the shortfall among the persons affected takes place in proportion to the savings capital on the key date. 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 payouts due to divorce are not taken into account.

10.2 The shares in the shortfall attributable to the departing members are deducted individually from their vested benefits. The BVG retirement assets may not be reduced by this.

10.3 If the full, or insufficiently reduced, vested benefits have been transferred, the member must pay back the amount transferred in excess.

10.4 The share in the shortfall attributable to the remaining members remains in the value fluctuation reserve of the employee benefits unit without any individual allocation.

10.5 If a remaining shortfall cannot be transferred to the new employee benefits institution or if a new employee benefits institution does not exist, the shortfall shall be borne by the employer.

11. REQUIREMENTS FOR PARTIAL LIQUIDATION OF THE COLLECTIVE FOUNDATION

11.1 The dissolution of the affiliation agreement by an employer leads 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 who hold 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 departing employee benefits unit is entitled to

- a) the transfer of their members' pension plan capitals
- 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 capitals of any pension recipients
- e) the proportional transfer of any actuarial reserves, value fluctuation reserves or disposable assets of the Collective Foundation; however, this is 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 only exists if the corresponding risks are also transferred. The Foundation Board is responsible for taking the corresponding decision, supported by the recommendation of the occupational benefits expert.

12. PROCEDURE FOR PARTIAL LIQUIDATION OF THE COLLECTIVE FOUNDATION

12.1 The decision regarding the execution of partial liquidation of the Collective Foundation is taken by the Foundation Board.

12.2 The Foundation Board carries out a review at least once a year as part of its reporting to ascertain whether the requirements for a partial liquidation of the Collective Foundation are given. The Board will also explain its decision.

13. KEY DATE FOR PARTIAL LIQUIDATION OF THE COLLECTIVE FOUNDATION

13.1 The key date is the date on which the dissolution of the affiliation agreement according to paragraph 11.1 is effected. If this date does not correspond to the end of the financial year of the Collective Foundation, the key date shall be the balance sheet date preceding the event.

14. DEDUCTION OF A SHORTFALL

14.1 The individual allocation to the members within the employee benefits units takes place analogously to paragraph 10.

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

14.3 Individual allocation to the pensioners takes place in proportion to their coverage capital as at the key date. The shares are deducted individually from the coverage capital.

14.4 The share of the shortfall attributable to the members and pensioners remaining in the Collective Foundation remains as a shortfall in the Collective Foundation and is not allocated individually.

GENERAL PROVISIONS

15. PROCEDURE AND EXECUTION

15.1 In the case of a partial liquidation of the employee benefits unit or the Collective Foundation, the Foundation Board will notify the beneficiaries that the requirements for a partial liquidation are met, informing them about the procedure and the distribution plan and set a deadline of 30 days within which an objection may be submitted to the Foundation Board, including the reasons for the objection. As a rule, the notification of the partial liquidation will be published in the Swiss Official Gazette of Commerce SOGC.

15.2 Any objection to the distribution plan must be in writing and state the reason for the objection. The Foundation Board issues an appeal decision within an appropriate period of time. If there is no objection before the deadline expires, the distribution is carried out.

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

15.4 The distribution will be carried out once the distribution plan becomes legally effective. The auditor will confirm the proper execution of the partial liquidation.

15.5 The claims to disposable assets and a portion of the actuarial reserves and the value fluctuation reserve shall not bear interest.

16. COST CONTRIBUTION

16.1 Cost contributions may be charged to the affected employee benefits unit for expenses in connection with the partial liquidation of an employee benefits unit or the Collective Foundation and for expertise drawn on to deal with objections and appeals. The costs are calculated according to the effective time outlay on the basis of the fee scale of the Swiss Chamber of Pension Actuaries.

16.2 Cases not explicitly covered by these provisions will be analogously handled by the Collective Foundation in accordance with the statutory provisions.

17. APPROVAL AND ENTRY INTO FORCE

17.1 These Regulations shall enter into force on 31 December 2019 upon their legally binding approval by the supervisory authority.

Zurich, 27 November 2019

GEMINI Collective Foundation



Vital G. Stutz
Chairman of the Foundation Board



Anita Auf der Maur
Vice Chairwoman of the Foundation Board

