



Occupational benefits

Regulations on the partial and total liquidation of occupational benefits funds

AXA Foundation for Supplementary Benefits, Winterthur

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Purpose, scope, and definition of terms

No. 1

These regulations are based on Art. 53b and 53d of the Swiss Occupational Pensions Act (BVG/OPA), Art. 27g and 27h of the Occupational Pension Ordinance (BVV 2/OPO 2), and Art. 18a of the Vested Benefits Act (FZG/VBA). They govern the conditions and procedure for partial and total liquidation of occupational benefits funds that are affiliated with AXA Foundation for Supplementary Benefits, Winterthur (hereinafter referred to as "Foundation").

Separate regulations govern the partial liquidation of the Foundation.

Under these regulations, active insured persons also refers to incapacitated persons, disabled persons who are currently not entitled to a pension, as well as persons who are continuing their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model.

Incapacitated persons refers to insured persons with current or foreseeable entitlement to exemption from contributions, for whom the longest waiting period for all disability benefits as defined in the pension fund regulations is still in effect on the reference date of the partial liquidation, or for whom the Foundation does not yet have all the information it needs in order to establish or reject entitlement to a disability pension.

In the case of partial liquidation due to significant job cuts or restructuring measures by the employer, incapacitated insured persons who are made redundant will remain with the occupational benefits fund and withdraw only once they are again fully fit for work. Incapacitated persons will not be affected by any termination of the affiliation contract. They will remain with the occupational benefits fund until they are either again fully fit for work or eligible for a disability pension.

Under these regulations, pensioners refers to all recipients of a retirement, partner's, or orphan's pension, or of a pension share pursuant to Art. 124a of the Swiss Civil Code (ZGB/SCC), provided they are not reinsured, as well as recipients of a disability pension. Recipients of a reinsured retirement, partner's, or orphan's pension, or of a pension share pursuant to Art. 124a ZGB (SCC), for which the Foundation has no pension capital, are not taken into account.

A collective withdrawal (group) is deemed to occur if all withdrawing or at least 10 withdrawing active insured persons and/or pensioners transfer to the same new occupational benefits institution together.

The term "retirement assets" refers to active insured persons and recipients of a disability pension.

The term "pension capital" refers to pensioners whose pension is not reinsured.

Conditions for partial or total liquidation of an occupational benefits fund

Conditions for partial or total liquidation due to contract termination

No. 2

An affiliation contract is deemed to be terminated if it is fully or partially canceled due to notice of termination or by mutual agreement, or if the affiliated employer is liquidated due to bankruptcy or discontinuation of its business.

- a) The condition for a partial liquidation of the occupational benefits fund is met if, following termination of the affiliation contract, at least one active insured person and/or one pensioner, including pensioners who are reinsured, remains with the occupational benefits fund (partial contract termination).
- b) The condition for total liquidation of the occupational benefits fund is met if no active insured persons or pensioners, including pensioners who are reinsured, remain with the occupational benefits fund (full contract termination).

Conditions for partial liquidation due to significant job cuts or restructuring measures by the employer

No. 3

The conditions for a partial liquidation of the occupational benefits fund are met if

- a) the workforce of the affiliated employer is reduced significantly as the result of job cuts for economic reasons and this – depending on the number of active insured persons and retirement assets prior to the job cuts – involves involuntary withdrawals on the following scale:

- up to and including 10 insured persons:
At least 2 involuntary withdrawals and 30% of the retirement assets
- 11 to 50 insured persons:
At least 4 involuntary withdrawals and 20% of the retirement assets
- more than 50 insured persons:
Involuntary withdrawal of at least 10% of the active insured persons and 10% of the retirement assets.

b) the affiliated employer restructures its operations and this – depending on the number of active insured persons and retirement assets prior to the restructuring measures – involves involuntary withdrawals on the following scale:

- up to and including 10 insured persons:
At least 2 involuntary withdrawals and 27% of the retirement assets
- 11 to 50 insured persons:
At least 4 involuntary withdrawals and 18% of the retirement assets
- more than 50 insured persons:
Involuntary withdrawal of at least 8% of the active insured persons and 8% of the retirement assets

Restructuring of the company refers to measures the employer takes primarily for purposes other than job cuts and the dismissal of employees; in particular, it refers to organizational measures that lead to the discontinuation of tasks carried out by the company itself or the outsourcing of entire divisions to another company.

Active insured persons who, in the context of job cuts or restructuring measures, opt to continue their pension provision pursuant to Art. 47a BVG (OPA) or within the framework of a sector-specific early retirement model do not count as withdrawals.

Job cuts or restructuring measures start with the first and end with the last involuntary withdrawal caused by a single economic event within 12 months of a corresponding resolution by the relevant bodies of the affiliated employer. If the job cuts or restructuring measures take place over a longer or shorter period, this period will be the decisive factor.

An insured person is deemed to have withdrawn involuntarily if their employment relationship is terminated by the employer. However, a withdrawal is also regarded as involuntary if the insured person terminates their employment relationship themselves

within 6 months of receiving notice of the job cuts or restructuring measures in order to preempt termination by the employer or because they do not accept the new, unreasonable employment conditions that are being offered.

The employer must notify the Foundation immediately of any job cuts or restructuring measures by the company. It must inform the affected insured persons of the timeframe in which the job cuts or restructuring measures are to take place, the reasons for the terminations, as well as the termination dates of employment relationships.

Review and identification of the conditions No. 4

If the affiliation contract is terminated or the affiliated employer implements job cuts or restructuring measures, the Foundation checks whether the conditions for partial or total liquidation of the occupational benefits fund are met.

If the conditions are met, the Foundation initiates a liquidation procedure unless a liquidation procedure is waived in accordance with No. 5.

The employer and the occupational benefits fund commission must provide the Foundation immediately with all the information it requires to carry out its activities when requested to do so.

Waiver of liquidation procedure No. 5

A liquidation procedure is waived in the following cases:

- a) In the event of contract termination, if the employer has become affiliated with another occupational benefits institution and all active insured persons and pensioners transfer to this occupational benefits institution in accordance with No. 1. Any unallocated assets and technical provisions of the occupational benefits fund, together with any employer contribution reserve, are transferred to the new occupational benefits institution.
- b) In the event of contract termination, where the employer has become affiliated with another occupational benefits institution and the occupational benefits fund does not have any unallocated assets or has unallocated assets averaging less than CHF 200 per active insured person and pensioner in accordance with No. 1 and has no technical provisions. If all withdraw-

ing insured persons and pensioners transfer to the same new occupational benefits institution of the employer as a result of the contract termination, any unallocated assets are transferred to the new occupational benefits institution. Otherwise they are transferred to the Foundation. Any employer contribution reserve is transferred to the employer's new occupational benefits institution.

- c) In the event of significant job cuts or restructuring measures, where the occupational benefits fund does not have any unallocated assets or has unallocated assets averaging less than CHF 200 per active insured person and pensioner and has no technical provisions. In this case, any unallocated assets remain with the occupational benefits fund.
- d) If the occupational benefits fund has no active insured persons or pensioners when the contract is terminated (liquidation of an "empty" contract), the unallocated assets are distributed to those persons who withdrew as active insured persons in the last 3 years prior to the last withdrawal. If one or more partial liquidation procedures took place during this period, only the period after the last partial liquidation procedure is considered.

The individual share corresponds to the ratio of available retirement assets to total retirement assets on the withdrawal date. If a person's share amounts to less than CHF 100, this is distributed among the remaining entitled persons in accordance with the provisions above. Unallocated assets are transferred to the Foundation if the unallocated assets average less than CHF 100 per person or if there are no eligible individuals.

No resolution is required in the event of a waiver of the liquidation procedure. The Foundation informs the occupational benefits fund commission of a waiver of the procedure.

Calculation of entitlements

Reference date of partial or total liquidation

No. 6

The reference date is used for calculating the amount in unallocated assets as well as any technical provisions of the occupational benefits fund.

The reference date of partial or total liquidation

due to contract termination is the date on which the affiliation contract is terminated.

The reference date of the partial liquidation due to significant job cuts or restructuring measures is deemed to be the Foundation balance sheet date closest to when the job cuts or restructuring measures began.

Calculation of assets to be distributed

No. 7

1. Unallocated assets of the occupational benefits fund

The unallocated assets of the occupational benefits fund are the portion of assets not tied to the coverage of obligations, pension liabilities, technical provisions or the employer contribution reserve. They correspond to the balance of the "unallocated assets" account held by the Foundation on behalf of the occupational benefits fund on the reference date, less costs as specified in the cost regulations.

2. Technical provisions of the occupational benefits fund

Technical provisions of the occupational benefits fund are calculated in accordance with the regulations on forming provisions and reserves. They correspond to the balance of the "technical provisions" account held by the Foundation on behalf of the occupational benefits fund on the reference date. If, in the event of partial or total liquidation due to contract termination, the technical provisions are no longer required, and there is no collective entitlement to them, they are transferred to the unallocated assets.

Entitlement to unallocated assets of the occupational benefits fund

No. 8

In the event of partial or total liquidation due to contract termination, the active insured persons and pensioners withdrawing due to the contract termination as well as the remaining active insured persons and pensioners are entitled to unallocated assets of the occupational benefits fund. The share corresponds to the ratio of respective retirement assets or pension capital to the total retirement assets and pension capital of the occupational benefits fund on the reference date.

In the event of partial liquidation due to significant job cuts or restructuring measures, the insured persons involuntarily leaving the occupational benefits fund are entitled to unallocated assets of

the occupational benefits fund. The share corresponds to the ratio of respective retirement assets to the total retirement assets and pension capital of all insured persons and pensioners who are leaving involuntarily and all who are remaining. The retirement assets and pension liabilities on the reference date or the earlier withdrawal date are definitive.

An entitlement exists if the share is at least CHF 100. If the share amounts to less than CHF 100, this is distributed among the remaining entitled persons in accordance with the provisions above.

The occupational benefits fund commission can, with the consent of the pension actuary, omit pensioners by presenting proof that they made no significant contribution toward the accrual of the available unallocated assets in the 5 years prior to the partial or total liquidation.

Entitlement to technical provisions of the occupational benefits fund

No. 9

In the event of a group withdrawal there is a collective, prorated entitlement to any technical provisions of the occupational benefits fund. This entitlement applies to those active insured persons and pensioners for whom the provisions were formed. The entitlement is calculated based on the same rules that were used to determine the existing provisions.

Use of employer contribution reserve in the event of contract termination

No. 10

In the event of a partial or total liquidation due to contract termination, the employer contribution reserves are transferred to the employer's new occupational benefits institution. If the employer contribution reserves can no longer be used for their original purpose, they are liquidated, transferred to the occupational benefits fund's unallocated assets and used in the context of the partial or total liquidation.

Resolution, information, and execution

Resolution on partial or total liquidation

No. 11

The occupational benefits fund commission sets out the following in a written resolution:

- circumstances of the partial or total liquidation of the occupational benefits fund
- reference date of the partial or total liquidation of the occupational benefits fund
- amount of unallocated assets of the occupational benefits fund
- amount of any technical provisions of the occupational benefits fund
- distribution plan

Information, inspection, and right of appeal

No. 12

The Foundation informs the persons affected by the partial or total liquidation, as well as those remaining with the occupational benefits fund, of the resolution, distribution plan, entitlements, and further procedures.

This information may also be provided via the occupational benefits fund commission. In this case, the occupational benefits fund commission is required to forward the information to the affected persons in its occupational benefits fund within 10 days.

The active insured persons, pensioners, and the employer have the right to inspect documents at the Foundation within 30 days of the information being issued, unless such inspection is precluded for reasons relating to data protection law, and to object in writing to the resolution.

If the dispute cannot be settled amicably, the Foundation sets a 30-day deadline for the conditions, procedure, and distribution plan to be submitted to the supervisory authority for review.

The distribution plan is legally valid if

- no objections/appeals were lodged, or
- all appeals were settled amicably and the supervisory authority has confirmed in writing that it received no complaint during the 30-day period, or
- the supervisory authority or a court has made a legally valid decision on the conditions, procedure, and distribution plan.

The distribution plan is executed once it is legally valid.

Execution

No. 13

In the event of a group withdrawal, the portions of the unallocated assets are transferred collectively to the new occupational benefits institution. In the

other cases, the unallocated assets are transferred individually.

In the event of a partial or total liquidation due to contract termination, the portions of the remaining active insured persons are used to increase the retirement assets. The portions of the remaining pensioners are paid out in the form of a lump sum.

In the case of partial liquidation due to significant job cuts or restructuring measures, the portions of the remaining active insured persons and pensioners remain in the occupational benefits fund.

The share of the technical provisions of the occupational benefits fund is transferred collectively to the new occupational benefits institution.

Entitlements from these regulations are due 30 days after the distribution plan becomes legally valid.

The entitlements to the share of unallocated assets and technical provisions do not attract interest during the partial or total liquidation procedure. The entitlements to default interest based on the minimum BVG (OPA) interest rate attract interest from the due date.

Costs

No. 14

Costs incurred in connection with the partial or total liquidation of an occupational benefits fund are deducted from the unallocated assets or invoiced to the employer as cost contributions in accordance with the cost regulations.

Matters that do not explicitly fall under these regulations

No. 15

The Foundation decides any matters that are not expressly governed by the regulations set out herein by mutatis mutandis application in accordance with the statutory provisions.

Final provisions

Issue and amendment of the regulations

No. 16

These regulations and any later amendments are issued by the Board of Trustees and approved by the supervisory authority.

Entry into force

No. 17

These regulations were issued by the Board of Trustees and enter into force on December 1, 2023, following approval by the supervisory authority. They replace the version of December 1, 2021.

The date on which a material circumstance arises determines which version of the regulations applies. The date refers to the date when job cuts or restructuring measures are initiated, or to the termination date in the case of termination of an affiliation contract.