sve | BESSER VORSORGEN

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Regulations on the preconditions and procedures for partial liquidation

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Art. 1 Introduction

In the following, the preconditions and procedures for a partial liquidation are laid down on the basis of Art. 43 of the Sulzer Pension Plan regulations and the provisions of Art. 23 of the Federal Law on Vesting in Pension Plans (FZG), Arts. 53b and 53d of the Federal Law on Occupational Retirement, Survivors' and Disability Pension Plans (BVG) and Arts. 27g and 27h of the Federal Ordinance on Occupational Pension Funds (BVV2).

Art. 2 Circumstances giving rise to partial liquidation

The following circumstances will give rise to the partial liquidation of the pension plan:

- termination of an affiliation contract if this results in at least 25 insured members leaving the pension plan, or termination of several affiliation contracts if this results in at least 5% of the insured members leaving the pension plan within one calendar year, or partial termination of an affiliation contract as a result of a transfer to a new company (asset deal) provided at least 5%, but no less than 10, of the insured members of the affiliated company remain as a group in the pension plan under a different or a new affiliation contract or transfer into the same new pension plan, or

- restructuring measures, i.e. measures taken by the employer which lead to parts of the company being closed or spun off outside the group of affiliated companies, if the measures in question result in the departure from the pension plan of at least 5%, but no less than 25, of the insured members within an affiliated company, or restructuring measures taken by several affiliated companies if the measures in question result in the departure from the pension plan of at least 5% of the pension plan's insured members within a calendar year, or

- a substantial reduction in the size of the workforce of a company affiliated to the pension plan if this results in the departure from the pension plan of at least 10%, but no less than 50, of the insured members within an affiliated company, or a substantial reduction in the size of the workforce of several affiliated companies if this results in the departure from the pension plan of at least 10% of the pension plan's insured members within a calendar year.

Art. 3 Form of the transfer

If at least 10 insured members transfer to the same new pension plan as a group, this will constitute a collective departure. All other cases will constitute individual departures. If possible, a transfer agreement will be drawn up for the collective departure. In the case of individual departures, the transfer of disposable assets is governed by the provisions of Art. 22 of the pension plan regulations which will apply *mutatis mutandis*.

Art. 4 Reference date

The Board of Trustees will determine the key reference date or period of time which will serve as the basis for defining the group of persons affected, depending on the event and the departures of the insured members. The reference date will be the end of the calendar year preceding the year in which the implementation of the partial liquidation begins.

Art. 5 Calculation of the disposable assets

The disposable assets are calculated on the basis of the actuarial and commercial balance sheet (annual accounts with balance sheet, operating account and notes) and any additional reserves (continuation) which reflect the pension plan's true financial situation at market values. The assets and liabilities are valued and the provisions and reserves created in accordance with professional principles which are consistently applied. The annual accounts as per the reference date of the partial liquidation as audited by the auditors shall be decisive.

Art. 6 Transfer of disposable assets (allocation plan)

During a partial liquidation, members leaving the pension plan individually will be entitled to a proportion of the disposable assets, while departing groups of insured members will jointly be entitled to a collective share of the disposable assets. The disposable assets are calculated as a percentage of the pension capital including technical provisions. The proportion of the disposable assets attributable to the departing insured members and departing pensioners equals this percentage applied to their withdrawal benefits (individual departures) or to their pension capital including technical provisions (collective departures and departing pensioners). Transferable retirement capital and voluntary purchases of benefits brought into the pension plan during the final two years are deducted from the withdrawal benefits when the claim to disposable assets is calculated.

Early withdrawals for the purchase of a home and assets transferred as a result of divorce are taken into account for purposes of calculating the proportion of disposable assets if the withdrawal or transfer took place within the last two years and the withdrawal has not yet been repaid.

Art. 7 Transfer of provisions and fluctuation reserves

If the pension plan is partially liquidated and insured members withdraw from the plan as a group, they have a collective and pro rata claim to the provisions and fluctuation reserves. Deviation from or waiver of the pro rata allocation of a provision is permissible if the partial liquidation has an extraordinary impact on the structure of the pension plan and this would result in a change to the provisions needed for continuation purposes (Art. 5). When assessing the claim, the contribution made to the provisions and fluctuation reserves by the departing insured members must be taken into account appropriately. However, this claim to provisions only arises if actuarial risks are also transferred. The claim to fluctuation reserves is proportionate to the claim to the pension capital including technical provisions (savings capital and actuarial reserve). The claim to the provisions and fluctuation reserves is transferred collectively. The collective claim to the provisions and fluctuation reserves does not arise if the partial liquidation was caused by the collective departure of the group of insured members from the pension plan. The Board of Trustees decides on the form and nature of the assets to be transferred to the new pension plan.

Art. 8 Adjustment in the event of a material change

If the assets or liabilities change by more than 5% between the reference date for the partial liquidation and the date on which the funds are transferred, the provisions, fluctuation reserves and disposable assets to be transferred will be adjusted accordingly.

Art. 9 Deduction of a shortfall

If there is a shortfall in accordance with Art. 44 BVV2 on the reference date of the partial liquidation, the shortfall may be deducted pro rata and individually from the withdrawal benefits, provided that the BVG retirement capital is not reduced. If the withdrawal benefits have already been transferred without any reduction, the insured member must repay the deduction.

The shortfall is calculated as a percentage of the pension capital including technical provisions. The proportion of the shortfall attributable to the departing insured members and departing pensioners equals this percentage applied to their withdrawal benefits (individual departures) or to their pension capital including technical provisions (collective departures and departing pensioners). Transferable retirement capital and voluntary purchases of benefits brought into the pension plan during the final two years are not taken into account when calculating the respective share of the shortfall.

Art. 10 Transfer of pension recipients

In the case of a collective departure (in accordance with Art. 3), the pensioners associated with the respective group always follow this group. Art. 53e para. 4bis of the BVG will apply *mutatis mutandis*.

If the group remains in the pension plan under a different or a new affiliation contract, the pensioners associated with the respective group will be allocated to the affiliation contract of that group.

In the event of a full or partial termination of an affiliation contract, the relevant provisions of the affiliation contract and of Art. 53e paras. 4, 4bis and 5 of the BVG will continue to apply. If the partial liquidation is carried out as a result of the full or partial termination of an affiliation contract (Art. 2) and if the pensioners remain in the pension plan, the need to form an additional provision for these pensioners will be reviewed. If the provision is not funded by the company, the claims of the departing insured members to the disposable assets, the fluctuation reserves and the technical provisions will be reduced by the amount of this provision.

Art. 11 Information

The pension plan will inform the insured members and pensioners of the partial liquidation in good time by publicizing the fact in SVE-NEWS and will in particular allow them to inspect the allocation plans. Within 30 days of receiving the information, the insured members and pensioners are entitled to submit objections to the Board of Trustees contesting their decision. Objections must be submitted in writing, stating the reasons. The Board of Trustees will issue a decision on the objections within a reasonable period of time.

Within 30 days of receiving the Board of Trustees' decision on the objections, the insured members and pensioners have the right to request the supervisory authority to review the preconditions, procedures and allocation plan and issue a decision.

An appeal against the decision of the supervisory authority will have a suspensive effect only if the President of the competent division of the Federal Administrative Court or the presiding judge issues an order to this effect either *ex officio* or at the request of the appellant. If no objections are submitted to the supervisory authority, the allocation plan will be put into effect. The auditor's report pursuant to Art. 40 must confirm that the partial liquidation was carried out in due form.

Art. 12 Changes to the regulations

The present regulations may be amended by the Board of Trustees at any time, subject to the approval of the supervisory authority.

Art. 13 Entry into force

The Board of Trustees decided to adopt these regulations at its meeting on 23 June 2015. They supersede the regulations dated 24 June 2009 and will enter into force once they have been approved by the supervisory authority.