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Regulations on the Partial Liquidation of the Foundation or Pension Funds

Tellco Pension Solutions 1e

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1 Purpose

These regulations set out the requirements and the procedure for the partial or total liquidation of affiliated pension funds and the partial liquidation of Tellco Pension Solutions 1e (hereinafter referred to as the «Foundation»).

2 Requirements for the partial or total liquidation of a pension fund

2.1 General policy

In the event of the partial or total liquidation of a pension fund, the pension capital of the departing policyholders is increased by an individual or collective share of the non-committed funds. In the event of a deficit, the retirement savings of the departing insured persons are individually reduced.

The individual deficits from the individual investments of the policyholders are not allocated to the pension provider, but are charged to each policyholder individually.

2.2 Requirements for partial liquidation

The requirements for the partial liquidation of the pension fund are presumed to be met if:

- a) there is a significant reduction in the workforce of the affiliated employer due to job cuts made for financial reasons resulting in the involuntary departure of a significant proportion of the persons actively insured for the purposes of retirement provision or the loss of a considerable proportion of the pension provider's retirement savings;
- b) the company of the affiliated employer is restructured and these measures result in the involuntary departure of a significant proportion of the persons actively insured for the purposes of retirement provision or the loss of a considerable proportion of the pension provider's retirement savings.

The restructuring of a company refers to measures taken by the employer that are not primarily aimed at cutting jobs and implementing staff redundancies. Rather, restructuring involves organisational measures resulting in the discontinuation of tasks performed by the company itself to date or the transfer of entire parts of the business to another company. The loss of retirement savings within the meaning of the paragraph above is deemed to be considerable if – depending on the number of persons actively insured for the purposes of retirement provision prior to the start of the job cuts/restructuring – it is on the scale set out below (the threshold values in brackets apply to restructuring):

- up to 5 insured persons: at least 2 (2) involuntary departures or 30% (20%) of the retirement savings;
- 6 to 10 insured persons: at least 3 (2) involuntary departures or 25% (15%) of the retirement savings;
- 11 to 25 insured persons: at least 4 (3) involuntary departures or 20% (10%) of the retirement savings;
- 26 to 50 insured persons: at least 5 (3) involuntary departures or 15% (7.5%) of the retirement savings;
- more than 50 insured persons: involuntary departures affecting at least 10% of persons actively insured for the purposes of retirement provision or 10% (5%) of the retirement savings.



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The start of the job cuts/restructuring refers to the date of departure of the insured person that involuntarily leaves the company and the pension provider first as a result of the entrepreneurial decision. The end refers to the date of departure of the insured person that involuntarily leaves the company and the pension provider last.

An insured person's departure is considered involuntary if his/her contract of employment is terminated by the employer. A departure is also, however, considered involuntary if the insured person terminates his/her contract of employment of his/her own accord after becoming aware of the job cuts/restructuring in order to pre-empt termination by the employer or because he/she does not accept the new employment conditions offered to him/her.

c) the affiliation agreement with the Foundation is terminated either in full or in part.

2.3 Requirements for total liquidation

Total liquidation is subject to the proviso that the affiliation agreement is terminated in full. Total liquidation will not, however, be implemented if:

- a) the pension fund switches pension provider altogether, along with all assets and liabilities, rights and obligations, and there is no collective underfunding; or
- b) the pension fund does not have any insured persons in active employment at the time at which the affiliation agreement is terminated.

3 Procedure for the partial or total liquidation of a pension fund

3.1 Decision establishing the fact that the requirements have been met

The pension fund commission is responsible for making a decision on the implementation of partial liquidation in the event that the workforce is reduced/the company is restructured.

3.2 Implementation of the partial/total liquidation

The Foundation is responsible for implementing the partial/total liquidation of a pension fund. The employer and the pension fund commission are obliged to provide the Foundation, at the latter's request, with all of the information required to perform its duties without delay.

3.3 Cut-off date for partial liquidation

The cut-off date for partial liquidation is the end of the year following the end of the job cuts/restructuring (cf. clause 5.2). This cut-off date is decisive for the calculation of the amount of non-committed funds/the deficit.

3.4 Cut-off date for total liquidation

The total liquidation is implemented as at the date on which the contract is terminated. This cut-off date is decisive for the calculation of the amount of non-committed funds/the deficit.



3.5 Calculation of the non-committed funds/deficit of the pension fund

The non-committed funds/deficit of the pension fund comprise:

- a) the non-committed funds of the pension provider;
- b) any deficit of the pension fund excluding individual deficits of the policyholders;
- c) any non-committed funds/any deficit that is allocated to the pension fund as part of the partial liquidation of the Foundation;
- d) the employer contribution reserve insofar as the employer ceases its operations;
- e) a share of the (non-technical) provision set up at the level of the Foundation for cost contributions that have not been used up, insofar as the balance on the last known balance sheet date has reached an amount corresponding to two annual contributions.

3.6 Allocation of the non-committed funds of the pension provider

3.6.1 Allocation among the actively insured persons

For the purposes of calculating the share of the non-committed funds and, in the event of underfunding, for the offsetting of the deficit, the pension capital of the actively insured persons is decisive. The group of actively insured persons includes, first of all, those individuals who leave the pension provider involuntarily as actively insured persons in the period of the job cuts or company restructuring (cf. clause 2.2) (sub-group of actively insured persons leaving the pension provider) and second, those individuals who will remain in the pension provider upon the conclusion of the job cuts or the company restructuring (sub-group of actively insured persons remaining in the pension provider).

3.6.2 Individual allocation of the share of the non-committed funds/deficit attributable to the actively insured persons leaving the pension provider

The non-committed funds will be calculated as a percentage of the pension capital of the remaining and leaving actively insured persons and their membership of the Foundation. The share of the non-committed funds/collective deficit of the actively insured persons leaving the pension provider, excluding individual deficits of insured persons, shall correspond to this percentage applied to their pension capital.

3.6.3 Transfer of the entitlements

The funds to which the actively insured persons leaving the pension provider are entitled will be transferred to them individually as a general rule. If at least 10 insured persons join another pension institution as a group (collective departure), then their share of their funds will be transferred collectively.

The funds attributable to the remaining actively insured persons will remain in the pension provider without being allocated individually.

3.7 Share of provisions and fluctuation reserves of the pension provider

In the event of a collective departure, the individuals in question will not only have an individual or collective entitlement to the non-committed funds, but also a collective pro rata entitlement to the technical provisions and fluctuation reserves. When calculating the entitlement, the contribution made by the collective leaving the pension provider to the setting up of the provisions and fluctuation reserves must be given appropriate consideration. Individuals will only, however, be entitled to provisions insofar as actuarial risks are also transferred. The entitlement to fluctuation reserves is proportionate to the entitlement to the pension capital.



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There is no collective entitlement to actuarial provisions and fluctuation reserves if the partial liquidation was caused by the group that is collectively leaving the pension provider.

3.8 Changes

If the decisive assets or liabilities change by at least 5% between the cut-off date for partial liquidation and the transfer of the provisions, fluctuation reserves and non-committed funds, then a corresponding adjustment will be made to the funds to be transferred.

3.9 Information obligation and legal remedies

All insured persons of the pension provider will be informed in a timely and suitable manner. In particular, the information will refer to the fact that the fund is being partially liquidated and will include the procedure and the allocation plan.

As of the time at which they receive the information, the insured persons will be able to consult the decisive balance sheet and the actuarial expert opinion.

Within 30 days of receiving the information, the insured persons can raise an objection with the Board of Trustees regarding the requirements for partial liquidation and against the procedure and the allocation plan.

The Board of Trustees will address the objections after consulting the individuals raising the objections and will issue a written response. If objections are sustained, then the procedure/allocation plan will be adjusted and new information will be sent to all of the actively insured persons.

In its response to the objections, the Board of Trustees will inform the individuals raising the objections that they have a 30-day period in which to arrange for the supervisory authority to review the requirements, the procedure and the allocation plan.

The decision made by the supervisory authority can be challenged within a period of 30 days by lodging a complaint with the Swiss Federal Administrative Court (Bundesverwaltungsgericht). A complaint against the decision made by the supervisory authority will only have a suspensory effect if the division president of the Federal Administrative Court rules to this effect either ex officio or in response to a request made by the person making the complaint. If no suspensory effect is granted, then the decision made by the Federal Administrative Court will only apply in favour, or to the detriment, of the person making the complaint.

The judgement of the Federal Administrative Court can be challenged within a period of 30 days by lodging an appeal with the Swiss Federal Supreme Court (Bundesgericht). An appeal against the judgement of the Federal Administrative Court will only have a suspensory effect if the judge responsible for the preparation of cases for trial at the Federal Supreme Court rules to this effect either ex officio or in response to a request made by the person making the complaint. If no suspensory effect is granted, then the decision made by the Federal Supreme Court will only apply in favour, or to the detriment, of the person making the complaint.



The partial liquidation will be legally valid and can be executed if:

- a) no objections are raised; or
- b) all objections can be resolved by mutual agreement; or
- c) a decree with res judicata effect has been issued by the supervisory authority; or
- d) any court judgement has obtained res judicata effect.

4 Requirements for the partial or total liquidation of the Foundation

4.1 Requirements for partial liquidation

The requirements for the partial liquidation of the collective Foundation are deemed to have been met if the coverage ratio is more than 102.5% on the cut-off date for partial liquidation and

- a) an affiliation agreement with an employer is terminated and the pension assets of the pension provider leaving the Foundation correspond to at least 10% of the total pension assets of the Foundation; or
- b) the number of policyholders drops by at least 10% due to the termination of affiliation agreements within a calendar year and the Foundation's pension assets fall by at least 10% as a result.

4.2 Requirements for the total liquidation of the Foundation

The supervisory authority makes the decision on whether the requirements for the total liquidation of the Foundation have been met.

5 Procedure for the partial liquidation of the Foundation

5.1 Resolution on the partial liquidation of the Foundation

The Board of Trustees passes a resolution establishing that the Foundation is to be partially liquidated.

5.2 Information of the pension providers

The Foundation will provide the pension providers with written information on the resolution on partial liquidation and, in particular, will provide information on the facts of the case, the amount of the pro rata non-committed funds/the deficit and the further steps to be taken.

5.3 Legal remedies for the policyholders of the pension provider

The policyholders of the pension providers have the right, within 30 days of receiving the information letter, to consult the documents at the Foundation and to object at most to the form in which the partial liquidation is to be implemented. If the resulting differences cannot be resolved by mutual agreement, then the Foundation will set the policyholders a deadline of 30 days by which to submit a review request to the responsible supervisory authority. This will involve the requirements, procedure and calculation of the non-committed funds/the deficit being reviewed and a decision being made on the basis of this review.



5.4 Legal validity and execution

The partial liquidation will be legally valid and can be executed if:

- a) no objections are raised by the affected policyholders of the pension providers; or
- b) all objections can be resolved by mutual agreement; or
- c) a decree with res judicata effect has been issued by the supervisory authority; or
- d) any court judgement has obtained res judicata effect.

6 Insolvency of the employer

If the employer has not paid all of the contributions owed by the time of the partial or total liquidation of its pension fund and if insolvency or similar proceedings have been initiated in respect of the employer, then, for the purposes of calculating the non-committed funds, the outstanding contribution claim will first of all be provisionally written down to zero by way of a corresponding impairment.

If the amount that has been written down can, in fact, be contributed at a later date, either in full or in part, by way of a payment made by the employer or the guarantee fund, then the claims of the affected insured persons will be recalculated taking the higher available assets into account and an additional transfer will be made, taking into account the funds already transferred.

7 Interest

The individual and collective entitlements will bear interest at the OPA minimum interest rate insofar as they are transferred in cash. The interest is owed after a period of 30 days, counted from the time at which the allocation plan obtains res judicata effect, has expired, but at the earliest 30 days after all of the information required for the transfer has been provided.

8 Concluding provisions

8.1 Cost sharing

The pension provider in question can be invoiced for additional cost contributions to cover extraordinary expenses in connection with the partial or total liquidation of a pension fund, expert reports in connection with the processing of objections and complaints, etc.

8.2 Setting up provisions for continued survival

Provisions can be set up to ensure continued survival. In the event of partial or total liquidation, these are set by the pension actuary.

8.3 Cases not covered by these provisions

Cases that are not explicitly covered by these regulations will be handled by the Foundation mutatis mutandis in line with the statutory provisions.



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8.4 Adoption of and amendments to the regulations

The regulations and any subsequent amendments will be adopted by the Board of Trustees and approved by the supervisory authority.

8.5 Entry into force

These regulations will come into force on 9 February 2018.

Schwyz, 9 February 2018

Tellico Pension Solutions 1e
Board of Trustees

Peter Hofmann
President

Pierre Christen
Member

In case of differing interpretations, the German text is authoritative.