

## Pension Fund ABB Power Grids Switzerland Ltd

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### Rules on Partial Liquidation

Valid from 1 July 2020

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## **Art. 1 General provisions**

<sup>1</sup> By virtue of article 53b and 53d of the Swiss Federal Law on the Occupational Old-Age, Survivors' and Disability Benefit Plans (BVG) as well as article 27g and 27h of the Ordinance on the Occupational Old-Age, Survivors' and Disability Benefit Plans (BVV 2), the Board of Trustees of the Pension Fund ABB Power Grids Switzerland Ltd (hereinafter referred to as Pension Fund) issues the following Rules on partial liquidation.

<sup>2</sup> The Rules on partial liquidation set out the requirements and procedures in case of a partial liquidation of the Pension Fund. In case of a total liquidation of the Pension Fund, the Rules on partial liquidation serve as a guideline.

<sup>3</sup> The term affiliated employer refers to an employer affiliated to the Pension Fund and only affects the group of members insured with the Pension Fund (active members and pensioners).

## **Art. 2 Requirements**

<sup>1</sup> The requirements for partial liquidation are met in the following cases:

- a. there is a substantial workforce reduction;
- b. the company of the affiliated employer is being restructured;
- c. the affiliation agreement is (partially or completely) dissolved.

<sup>2</sup> A workforce reduction of an affiliated employer is deemed substantial if the number of active members is reduced by at least 10% by involuntary departures and at the same time the pension plan capital of active members is reduced by at least 10%.

<sup>3</sup> Restructuring is deemed to be taking place if existing areas of activity of an affiliated employer are merged, discontinued, sold, outsourced or undergo other changes and this results in the involuntary departure of at least 5% of all active members from the Pension Fund, whose share in the entire pension plan capital of the Pension Fund is at least 5%. Restructuring, however, is not primarily understood to mean a workforce reduction, but for example the entire or partial closure and/or relocation of parts of the operations to other employers which result in the departure of the insured group of members from the Pension Fund. A new ownership with members remaining in the Pension Fund or the transformation of the organisational structure without a workforce reduction are not regarded as restructuring.

<sup>4</sup> When verifying whether the requirements for a partial liquidation pursuant to paragraph 1 lit. a and b are met, only involuntary departures are taken into account. A departure is deemed involuntary if the employment of an active member is terminated by the employer and the member is not offered a reasonable alternative with the same employer. A departure is also deemed involuntary if the active member terminates the employment relationship in anticipation of a foreseeable termination by the employer. Involuntary departures for other reasons, such as the expiry of temporary employment contracts, dismissals for disciplinary reasons, terminations for performance reasons, as well as transfers to the group of pensioners as a result of early or statutory retirement, death or disability are not taken into account for the determination of the group of departing members.

<sup>5</sup> The affiliated employer is obliged to inform the Pension Fund without delay of any workforce reduction or restructuring of the company which might lead to a partial liquidation pursuant to paragraph 1 lit. a and b. The affiliated employer shall notify the Pension Fund of the members affected by the partial liquidation pursuant to paragraph 1 lit. a and b. In particular, the context of the workforce reduction, the date of termination of employment, and the reason for the dismissals shall be indicated.

<sup>6</sup> The dissolution of an affiliation agreement is deemed a complete dissolution if all active members and pensioners are affected. The dissolution of an affiliation agreement is deemed a partial dissolution if all active members depart while pensioners remain at the Pension Fund. The complete dissolution of an affiliation agreement leads to a partial liquidation if the dissolution results in the departure of at least 5% of all active members and pensioners from the Pension Fund and their share of the pension plan capital at the Pension Fund amounts to at least 5% of the pension plan capital of all active members and the pension plan capital of the pensioners.

The partial dissolution of an affiliation agreement leads to a partial liquidation if the partial dissolution results in the departure of at least 5% of all active members from the Pension Fund whose share of

the pension plan capital of the Pension Fund amounts to at least 5% of the pension plan capital of all active members.

<sup>7</sup> In the event of the dissolution of an affiliation agreement, the Pension Fund shall notify the contingency fund about the dissolution.

### **Art. 3 Relevant time frame in the case of a workforce reduction or restructuring and reference date of the partial liquidation**

<sup>1</sup> The relevant time frame is the period during which the workforce reduction or the restructuring is realized, which should be within a time frame of 12 months following a corresponding decision by the competent bodies of the affiliated employer. If the workforce reduction is carried out over a longer or shorter period, that period shall be decisive. In the event of a gradual reduction, the relevant time frame shall be at least 24 months.

<sup>2</sup> The Pension Fund determines the reference date for the valuation of its financial situation. As a principle, that date shall be the balance sheet date for the annual financial statements which is closest to the start of the time frame. This reference date is relevant for the determination of the amount of the disposable assets or the shortfall.

<sup>3</sup> In the case of a dissolution of the affiliation agreement, the reference date shall be the date of the dissolution of the affiliation agreement.

### **Art. 4 Group of departing members**

<sup>1</sup> All active members who have been employed by the affiliated employer and whose employment is terminated as part of a planned workforce reduction for reasons that are the responsibility of the affiliated employer due to the conditions pursuant to art. 2 (= involuntary departures) are part of the group of departing members.

<sup>2</sup> If an affiliation agreement has been completely dissolved (art. 2 paragraph 1 lit. c), all insured employees and all pensioners of the previously affiliated employer are part of the group of departing members, provided this is in line with the provisions of the affiliation agreement. If an affiliation agreement has been partially dissolved, all insured employees of the previously affiliated employer are part of the group of departing members.

<sup>3</sup> If the conditions within the meaning of art. 2 paragraph 1 lit. a or b are met and if earlier departures of active members are functionally and temporally so closely connected with these conditions that they should be regarded as a single process, these active members are recognised as part of the group of departing members, too.

### **Art. 5 Procedure**

<sup>1</sup> If the requirements pursuant to art. 2 are met, the Board of Trustees will resolve to carry out a partial liquidation. The Board of Trustees shall in particular determine the event which has led to the partial liquidation, the group of departing members and the relevant time frame according to art. 3.

<sup>2</sup> The Pension Fund waives the right to carry out a partial liquidation if the shortfall calculated according to art. 10 as per the reference date of the partial liquidation is assumed in full by the affiliated employer and is paid out to the Pension Fund. In this case, the termination benefits shall be paid out in full.

<sup>3</sup> Active members and pensioners who are leaving the Pension Fund may request a partial liquidation. The Board of Trustees shall carry out an assessment of whether the requirements pursuant to art. 2 are met. It shall inform the proposers in writing of its decision.

<sup>4</sup> As per the reference date for partial liquidation, the Board of Trustees will draw up a commercial balance sheet (pursuant to art. 3) in accordance with Swiss GAAP FER 26 (annual financial statements with balance sheet, operating statement and notes) and an actuarial partial liquidation balance sheet in order to show the actual financial situation of the Pension Fund. The audited annual financial statements as per the relevant time of the partial liquidation is authoritative.

<sup>5</sup> The Board of Trustees shall determine the disposable assets to be transferred or the shortfall (= underfunding) to be deducted on the basis of a partial liquidation balance sheet. For this determination, the principles of art. 6 apply. The Board of Trustees shall decide on any payment on account.

## **Art. 6 Principles of preparing a partial liquidation balance sheet**

<sup>1</sup> The assets of the partial liquidation balance sheet are equivalent to the assets at market value less the liabilities according to the commercial balance sheet, such as passive accruals and deferrals, other accounts payable, other debts and employer contribution reserves without waiver. Where applicable, the assets are increased by any payments on account made and by the amount of termination benefits paid to active members from the group of departing members who departed before the reference date of the partial liquidation balance sheet.

<sup>2</sup> The liabilities of the partial liquidation balance sheet consist of the actuarially required pension plan capital and the value fluctuation reserves.

<sup>3</sup> The actuarially required pension plan capital is determined in accordance with the provisions of the current Rules of Operation. However, upon the recommendation of the occupational benefits expert and to ensure the continued existence of the Pension Fund, the Board of Trustees is, in duly justified cases, entitled to form additional provisions for the remaining members in the partial liquidation balance sheet if the Pension Fund's investment and benefit obligation structure is changing in light of the partial liquidation.

<sup>4</sup> The value fluctuation reserve shall not exceed the target value determined by the Board of Trustees and adjusted to the new situation. If the target value has not been reached, only the effective amount of the value fluctuation reserve shall be considered.

<sup>5</sup> The disposable assets are equivalent to the positive difference between assets and the actuarially required pension plan capital as well as the value fluctuation reserve.

<sup>6</sup> A shortfall (= underfunding) is equivalent to the negative difference between assets and the actuarially required pension plan capital.

## **Art. 7 Disposable assets to be transferred / distribution method**

<sup>1</sup> The disposable assets are determined as a percentage of the termination benefits of active members and pension plan capitals of pensioners without adjustments as per the reference date of the partial liquidation or as per the date of departure if this date precedes the reference date. The departing active members' or pensioners' share of the disposable assets corresponds to that percentage applied to their termination benefits or their pension plan capital.

<sup>2</sup> A collective departure occurs if the majority of the persons affected by the restructuring and/or dissolution of an affiliation agreement or more than 50 active members and/or pensioners switch as a group to the same new employee benefits institution of the same employer. In this case, the disposable assets shall be transferred collectively. In all other cases, they are transferred individually (= individual departure).

<sup>3</sup> If the Pension Fund is obliged to provide survivors' or disability benefits after having paid out disposable assets, the pro-rata disposable assets – in addition to the individual termination benefits – must be repaid, too.

<sup>4</sup> If, between the date of the partial liquidation balance sheet and the transfer of assets (during the year in accordance with a monthly estimate of the coverage ratio according to the indications of the recognised occupational benefits expert; per year end in accordance with the audited financial statements), there is a change of more than 5% in the assets or liabilities, then the disposable assets to be transferred will be adjusted accordingly.

## **Art. 8 Collective entitlement to actuarial reserves and the value fluctuation reserve**

<sup>1</sup> In the case of a collective departure, in addition to the entitlement to disposable assets, a proportional collective entitlement to actuarial reserves exists if the actuarial risks are transferred, too. The Board of Trustees supported by the recommendation of the recognised occupational benefits expert shall decide to what extent actuarial risks will be transferred. In addition, in the case of a collective departure, there is an entitlement to a portion of the value fluctuation reserve.

<sup>2</sup> The actuarial reserves and the value fluctuation reserve attributable to the group of departing members is generally calculated as the ratio of the termination benefits transferred to active members and pensioners' pension plan capitals to the actuarially required pension plan capital of the entire group of members (active members and pensioners). If an actuarial reserve is individually attributable due to the calculation rule set out in the Rules of Operation, this distribution key is authoritative for the determination of the collective entitlement. The collective entitlement to actuarial reserves and

the value fluctuation reserve shall be reduced if the group of departing members had not bought in completely into the actuarial reserves or the value fluctuation reserve upon entry into the Pension Fund.

<sup>3</sup> If the assets transferred to the new employee benefits institution are not necessary for buy-ins into the corresponding actuarial reserves and the value fluctuation reserve, their treatment shall be regulated in the transfer agreement.

<sup>4</sup> If, between the date of the partial liquidation balance sheet and the transfer of assets (during the year in accordance with a monthly estimate of the coverage ratio according to the indications of the recognised occupational benefits expert; per year end in accordance with the audited financial statements), there is a change of more than 5% in the assets or liabilities, then the reserves (including the value fluctuation reserve) to be transferred will be adjusted accordingly.

<sup>5</sup> The transfer agreement shall regulate the nature and extent of transferred risks.

<sup>6</sup> If the Pension Fund is obliged to provide survivors' or disability benefits after having paid out actuarial reserves and the value fluctuation reserve, the pro-rata actuarial reserves and the value fluctuation reserve – in addition to the individual termination benefits and any share of disposable assets – must be repaid.

<sup>7</sup> There is no collective entitlement to actuarial reserves and the value fluctuation reserve if the collective departure was caused by the group that is collectively departing.

#### **Art. 9 Interest**

During the partial liquidation procedure, no interest is paid on any entitlement to disposable assets, the share of actuarial reserves and the value fluctuation reserve. Once the procedure has been completed, the Pension Fund will be under an obligation to pay default interest pursuant to the Ordinance on Vesting in Occupational Old-age, Survivors' and Disability Benefit Plans (FZG) after a period of 30 days.

#### **Art. 10 Shortfall (= underfunding)**

<sup>1</sup> Any shortfall (= underfunding) determined in the partial liquidation balance sheet as per article 44 BVV2 shall first be deducted as a proportion of the actuarial reserves and then as a proportion of the individual termination benefit of each departing active member. The shortfall (= underfunding) shall be calculated pursuant to art. 7. The retirement assets pursuant to article 15 BVG may not be reduced by this deduction.

<sup>2</sup> Any shortfall (= underfunding) determined in the partial liquidation balance sheet shall first be deducted as a proportion of the actuarial reserves and then as a proportion of the pension plan capital of each departing pension recipient. The shortfall (= underfunding) shall be calculated pursuant to art. 7. The affiliated employer shall supplement the lack of resources to the extent that the pension recipients are transferred to the new pension provider under the same terms and conditions as with the Pension Fund.

<sup>3</sup> The employer contribution reserve with waiver shall be dissolved in favour of the departing active members as far as it is related to unfunded termination benefits to be transferred.

<sup>4</sup> If any payment on account was less than the termination benefits pursuant to the Rules minus the participation in the actuarial shortfall (= underfunding), the positive difference shall be reimbursed. In the opposite case, the negative difference must be refunded by the affected persons belonging to the group of departing members.

<sup>5</sup> The Pension Fund may provisionally reduce the individual termination benefits if it can be presumed that a partial liquidation will take place and it is clear that the Pension Fund is showing a shortfall. The provisional reduction applies only to active members likely to be affected by the partial liquidation. It must be explicitly described as such. On completion of the partial liquidation procedure, the Pension Fund will draw up a final statement and will pay out any difference plus interest. Members must repay excess termination benefits, including interest granted, to the extent that the recognition of the shortfall exceeds the share in actuarial reserves.

#### **Art. 11 Information of active members and pensioners**

<sup>1</sup> The Board of Trustees shall notify active members and pensioners in writing of:

- a. the existence of a partial liquidation and its reasons;

- b. the decisive date (reference date) of the partial liquidation;
- c. the amount of disposable assets or the shortfall (= underfunding) according to article 44 BVV 2;
- d. the group of departing members and the distribution key;
- e. the amount and composition of any collectively transferred actuarial reserves, including the value fluctuation reserve;
- f. the type of transfer (individual or collective);
- g. the right to inspect the documents referred to in paragraph 2.

The Pension Fund may announce the information about the partial liquidation by publication in the Swiss Official Gazette of Commerce SOGC.

<sup>2</sup> The Board of Trustees informs active members and pensioners of the opportunity to inspect the relevant commercial balance sheet, the partial liquidation balance sheet as well as other relevant documents within 30 days of receiving the information pursuant to paragraph 1 at the offices of the Pension Fund unless there are data protection laws to the contrary. Doubts and objections shall be submitted to the Board of Trustees within this period for its written statement.

<sup>3</sup> Within 30 days of receiving the Board of Trustees' statement, active members and pensioners have the right to have the competent supervisory authority review the conditions, procedure and distribution plan. Thereupon the supervisory authority shall issue a ruling.

<sup>4</sup> Pursuant to article 74 BVG, an appeal may be lodged against the decision of the supervisory authority before the Swiss Federal Administrative Court within a period of 30 days. The appeal only has suspensive effect if a judicial decree to that effect is given.

<sup>5</sup> Once the Board of Trustees has addressed all written questions or objections and no request to review has been lodged with the supervisory authority or a legally binding decision or ruling is in place, the partial liquidation may be carried out by the Board of Trustees.

<sup>6</sup> The Pension Fund auditors will audit the proper execution of the partial liquidation in the context of the ordinary annual reporting. Information about the partial liquidation will be published in the notes to the annual financial statements.

#### **Art. 12 Costs**

The costs for carrying out the partial liquidation shall be charged to the affiliated employer who is responsible for initiating the partial liquidation procedure. The same applies to extraordinary expenses in connection with dealing with objections and appeals etc.

#### **Art. 13 Amendments**

Subject to the approval of the supervisory authority, the present rules may be amended by the Board of Trustees at any time within the constraints of the law and the purpose of the Pension Fund.

#### **Art. 14 Entry into force**

These Rules were issued by the Board of Trustees at its meeting on 28 February 2020. They come into effect with the approval of the relevant supervisory authority as of 1 July 2020.