

**Fondation Collective Opsion**

# **Rules & Regulations of Organisation**

Valid as of 01.01.2023

## Summary

<b>1. Goal .....</b>	<b>3</b>
<b>2. The Foundation's bodies .....</b>	<b>3</b>
2.1. The Foundation Board.....	3
2.1.1. Constitution and length of mandate.....	3
2.1.2. Eligibility and its loss for a member of the Foundation Board.....	3
2.1.3. Organisation of the election.....	4
2.1.4. Integrity and loyalty.....	5
2.1.5. Convocation.....	5
2.1.6. Functioning.....	5
2.1.7. Decisions.....	5
2.1.8. Competency.....	5
2.2. Direction.....	6
2.2.1. Competency and functioning.....	6
2.2.2. Competency.....	6
<b>3. Pension committee and employer .....</b>	<b>7</b>
3.1. Representatives of the employer.....	7
3.2. Representatives of the employees .....	8
3.3. Taking a decision .....	8
3.4. Function, rights and obligations.....	8
3.5. Functions of the employer .....	9
<b>4. Various provisions .....</b>	<b>9</b>
4.1. Responsibility .....	9
4.2. Obligation to maintain secrecy.....	10
4.3. Version .....	10
4.4. Entry into force .....	10

## 1. Goal

- <sup>1</sup> These Rules and Regulations of Organisation have been established based on the Statutes and the Federal Law on Occupational Retirement, Survivors' and Disability Pension Plan (LPP) and the Ordinance on the LPP (OPP).
- <sup>2</sup> They govern the organisation of the Foundation as well as the constitution, decision-making, attribution of the competencies of the Foundation's bodies and its pension fund committees.

## 2. The Foundation's bodies

- <sup>1</sup> The Foundation's bodies are:
  - The Foundation Board
  - The Direction
  - The Auditors
- <sup>2</sup> Each dedicated fund or multi-employer fund (hereafter "affiliated entities") is managed by a pension committee.
- <sup>3</sup> In these Rules and Regulations of Organisation, "employer" and "company" have the same meaning.

### 2.1. The Foundation Board

#### 2.1.1. Constitution and length of mandate

- <sup>1</sup> The administration of the Foundation is the domain of the Foundation Board which is the highest body of the Foundation in the sense of Art. 51a LPP. Although certain decisions are taken by the pension committees, it remains nonetheless the responsible body. It is composed of a minimum of four members and a maximum of eight members collectively representing the affiliated employers and the persons insured.
- <sup>2</sup> The members of the Foundation Board are elected by the pension committees of the dedicated funds or the multi-employer funds (hereafter "affiliated entities").
- <sup>3</sup> The members of the Foundation Board are elected for four years. Their mandate may be renewed.

#### 2.1.2. Eligibility and its loss for a member of the Foundation Board

- <sup>1</sup> May be elected to the Foundation Board:
  - as representatives of the employers: the active insured persons of the Foundation proposed by the employer representatives on the pension committees;
  - as representatives of the employees: the active insured persons of the Foundation proposed by the employee representatives on the pension committees;
- <sup>2</sup> Furthermore, these persons must, themselves, have at least retirement insurance or be receiving a retirement pension, and have the competencies necessary to effectively contribute to the smooth running of the Foundation; be of unimpaired reputation providing all guarantees of irreproachable business activity.

- 3 The status of Foundation Board member is lost through resignation, or the loss of one of the conditions of eligibility set out under para. 1.
- 4 The Foundation Board may, at all times, revoke one of its members for just cause. Notably constituent just cause: the serious violation of obligations towards the Foundation or the incapacity to correctly fulfil their mandate.

### 2.1.3. Organisation of the election

- 1 The Foundation Board instructs the Direction to organise the election.
- 2 To implement the elections, a voting office is set up within the company who has been mandated to provide administrative and accounting management. The latter is charged with maintaining the secrecy of the vote.
- 3 The office comprises three members.
- 4 The representatives of the employees for each affiliated entity have the right, while respecting the conditions of eligibility defined in paras 1 and 2 of the preceding paragraph, to propose an insured persons' candidate in the Foundation Board election.
- 5 The representatives of the employers for each affiliated entity have the right, while respecting the conditions of eligibility defined in paras 1 and 2 of the preceding paragraph, to propose an employers' candidate in the Foundation Board election.
- 6 A written declaration is required for all candidatures in which the candidate undertakes to accept the mandate if elected, and in which they attest that they satisfy all the conditions for eligibility.
- 7 Within a timeframe set by the Foundation Board, the candidates are invited by the Foundation Board to submit their candidacy. All candidates must include the following documents with their candidacy form: a signed curriculum vitae, a recent police register attestation and a recent attestation from the debt register.
- 8 If the number of candidates is no greater than the number of seats to be filled, the candidates are reputed to have been tacitly elected.
- 9 If the number of candidates is greater than the number of seats to be filled, the electoral office establishes, in the three weeks following the expiration of the deadline for submitting candidacies, an electoral list of the employers' representatives and an electoral list of the employees' representatives.
- 10 If the number of candidates is lower than the number of seats to be filled, the Fondation Board may authorize an entity to submit additional candidates.
- 11 After receipt of the electoral lists by the affiliated entities, the representatives of the employers from the pension committees elect the representatives of the employers, and the representatives of the employees from the pension committees, the representatives of the employees, to the Foundation Board. Voting is held by secret ballot.
- 12 The pension committees vote by mail or by e-mail. The deadline is one month counting from the date the Foundation Board's proposals are sent (date as per postmark).
- 13 Valid votes will be counted and the results will be recorded in the minutes.
- 14 The validity of the electoral lists received will be verified. Only original electoral lists, correctly completed, will be considered valid. Considered as non-valid:
  - Illegible electoral lists;
  - Electoral lists with hand-written notes, not required for the election;
  - Electoral lists not received by the electoral office before the deadline;
  - Electoral lists containing names not included in the electoral list established by the electoral office.

<sup>15</sup> Are elected as members of the Foundation Board: the candidates who have won the largest number of votes. In a case of an equal number of votes, the choice is made by drawing lots.

<sup>16</sup> Only a representative of the employer and a representative of the employees may be elected per affiliated company. If several candidates of the same representation and from the same affiliated company are elected, the candidate with the largest number of votes will sit on the Foundation Board. In a case of an equal number of votes, the choice is made by drawing lots.

The results of the vote are communicated to the affiliated entities within a maximum of one month.

#### 2.1.4. Integrity and loyalty

<sup>1</sup> The members of the Foundation Board exercise their mandate with assiduity, diligence and in the interests of the Foundation. They undertake to respect the statutory provisions governing the exercise of their mandate.

#### 2.1.5. Convocation

<sup>1</sup> The Foundation Board convenes following convocation by the President or at the request of one third of its members, as often as the Foundation's affairs require it, but at least once a year. The meetings are conducted by the President or one of its members in the absence of the President.

#### 2.1.6. Functioning

<sup>1</sup> The Foundation Board shall be self-constituting and shall elect the President. The representatives of the employers and employees have an alternate right to the presidency. Each group retains the right to delegate the presidency to the other party.

#### 2.1.7. Decisions

<sup>1</sup> The decisions of the Foundation Board are taken by a simple majority of members present. In the case of a tie, the President's vote is preponderant. At the request of a majority of members present, certain decisions may be taken by secret ballot. Exceptionally, the Foundation Board may deliberate by circular letter. In this case, the decision must be unanimous or the decision is referred to the next meeting.

<sup>2</sup> Important decisions require a majority of 2/3 of members. The modification of statutes, the rules and regulations of the organisation, appointing the Direction, the service mandated to provide administrative and accounting management or the service mandated for the commercialisation, as well as the liquidation of the Foundation are, in particular, considered to be important decisions.

<sup>3</sup> The decisions of the Foundation Board are recorded in the minutes.

<sup>4</sup> The Foundation Board signs collectively in pairs, with the signature of a representative of the employers and a representative of the employees.

#### 2.1.8. Competency

<sup>1</sup> The Foundation Board, as the highest body of the Foundation, ensures the correct administration of the Foundation. It ensures that tasks prescribed by law are accomplished; sets the strategic objectives of the pension institution and the means of achieving them. It decides the organisation of the pension institution; ensures its financial stability; names and monitors the Direction in conformity with the legal provisions and directives from the Supervisory Authority. It is responsible for the application of the

regulatory provisions; it executes all the tasks which are not specifically those of another body.

- <sup>2</sup> The Foundation Board may also assign certain of its powers to one or more of its members, to the Direction as well as to representatives of the Founding Organisation. The Foundation Board delegates, in particular, part of its tasks to the investment committee, whose composition, organisation and tasks are set out in the Investment Rules & Regulations.
- <sup>3</sup> It has the following non-transferable and inalienable attributions:
  - To define the financing system of each affiliated entity;
  - To define objectives with regard to pension benefits, pension plans and principles relating to the affectation of disposable assets;
  - To edict and modify the rules and regulations;
  - To establish and approve the annual accounts;
  - To define the technical interest rate and other technical bases;
  - To define the organisation;
  - To organise the accounting;
  - To define the circle of persons entitled to insurance and ensure they remain informed;
  - To guarantee the initial training and continued training of the representatives of the employees and employers;
  - To name and revoke the service entrusted with the administrative and accounting management (the first mandate will be for 5 years and may be tacitly renewed);
  - To name and revoke the occupational pension fund expert and the auditors;
  - To take decisions concerning possible reinsurer(s);
  - To define the objectives and principles regarding the management of assets, the execution of the investment process and supervision of this process, for each affiliated entity;
  - To control the affiliated entities, periodically making sure of the concordance between the assets invested and commitments over the medium and long terms;
  - To define the applicable conditions for the repurchase of benefits;
  - To take over the role of pension committee in special cases, for example if the affiliated entity includes only pensioners.

## 2.2. Direction

### 2.2.1. Competency and functioning

- <sup>1</sup> The Foundation Board designates the Direction who is authorized to represent it to third parties.
- <sup>2</sup> The Direction signs collectively in pairs.

### 2.2.2. Competency

- <sup>1</sup> In particular the Direction has the following competencies:
  - It supervises the day to day functioning of the Foundation;
  - It defines the Foundation's commercial strategy and, in particular, which companies or types of company may join the Fondation;
  - It supervises and coordinates the activities of the various Foundation committees;

- It prepares the Foundation Board meetings and makes recommendations about decisions;
  - It applies or supervises the application of the Foundation Board's decisions;
  - It ensures that the decisions taken by the pension committees are in conformity with the framework defined by the Foundation and its rules and regulations;
  - It ensures the management of all the business relating to occupational pension plans;
  - It organises the Foundation Board elections;
  - It represents the Foundation to the public, unless this function is part of the attributes of the Foundation Board or its President;
  - It ensures the keeping of minutes for the Foundation Board meetings and for the committees emanating from the Foundation Board such as the investment committee for example.
- <sup>2</sup> The Direction informs the Foundation Board of the state of business and immediately keeps it abreast of important facts and unusual incidents.

### 3. Pension committee and employer

- <sup>1</sup> All affiliated entities must set up a pension committee. The employees and the employer have the same number of representatives on the committee. Without fail, they must be organised in a joint manner and in conformity with Art. 51 LPP.
- <sup>2</sup> In the impossibility of establishing a pension committee, the Fondation Board takes on the role of pension committee.
- <sup>3</sup> The pension committee is made up of a minimum of two members.
- <sup>4</sup> The length of the mandate of pension committee members is four years. The mandate may be renewed.
- <sup>5</sup> The president is elected by the pension committee for four years, with the presidency alternating between employer and employee representatives.
- <sup>6</sup> For multi-employer funds, the affiliated companies choose two representatives for the joint committee, in the same way as described in points 3.1 and 3.2. This joint committee shall include one employee representative and one employer representative. These representatives will be in charge of electing the pension committee of the multi-employer fund that the employer is affiliated with and informing the persons insured on request and within the limits of legal provisions about the organisation, the activities and capital situation of the affiliated entity as well as other information about it. The election of the pension committee will be held in the same way as that of the Foundation Board (cf. Art. 2.1.3).
- <sup>7</sup> For multi-employer funds, by way of derogation from para 6, affiliated companies with less than five insured persons may choose not to form a joint committee. In this case, decisions relating to the company's pension fund must be confirmed by the signatures of all the persons insured, particularly for those decisions concerning changes to the pension fund, adherence to one of the multi-employer funds or the cancellation of pension fund agreement. Furthermore, companies that do not set up a joint committee do not have the possibility of electing the pension committee of the multi-employer fund.

#### 3.1. Representatives of the employer

- <sup>1</sup> The employer freely designates its members of the pension committee amongst the persons insured for retirement, death and disability risks who are part of its bodies. The employer may terminate the mandate of its representatives at any time, to replace them by others of their choice.

- 2 Members are named for a period of four years; the mandate may be renewed.

### 3.2. Representatives of the employees

- 1 All an affiliated entity's persons insured for retirement, death and disability risks may become candidates in the election of employees' representatives.
- 2 An insured person who takes part in essential decisions in an affiliated company may not represent the employees.
- 3 The company organises the election of employees' representatives.
- 4 Representatives are elected for a period of four years; the mandate may be renewed. If, for whatever reason, the working relationship of an employees' representative and the company ceases to exist, this representative loses their mandate as employees' representative. The end of the working relationship coincides with the end of the mandate. In this case, new elections must be held among the staff of persons insured.

### 3.3. Taking a decision

- 1 The pension committee meets as often as business requires, but at least once a year. It is convened by its President or at the request of half of its members.
- 2 As a general rule, the pension committee is only authorized to take decisions when half of its members, including the President, are present. All decisions are taken at a relative majority. If no majority can be reached, the President's vote is preponderant.
- 3 Decisions may also be taken by circular letter. In this case, the decision must be unanimous or the decision referred to the next meeting.
- 4 The minutes of decisions taken are established by the pension committee. They must be signed by the President and one member of the opposite representation; it will then be transmitted to the Foundation's Direction.
- 5 The Direction examines the decisions submitted to it by the pension committee for their legal conformity and in light of the Rules and Regulations.

### 3.4. Function, rights and obligations

- 1 The pension committee assumes the following functions within the framework of the existing occupational pension plan:
  - a. It enacts the pension plan(s) that describes, amongst others, the type and extent of the pension benefits and the contributions from persons insured as well as, if need be, other specific pension provisions; The pension plan(s) may be enacted and modified only within the framework defined by the Foundation;
  - b. It determines the investment strategy and the tactical margins (investment policy) within the framework defined by the Foundation; it chooses and monitors its asset managers if it does not wish to invest in the investment funds preselected by the Foundation and guides the asset portfolio if an external institution has not been named to do so. The choice of asset managers or investment funds and their follow-up, as well as the guidance of the asset portfolio may be assigned to the Investment Commission designated by the Fondation Board. In this case, the Investment Commission must respect the investment policy as set out by the Pension Commission;



- c. It determines the interest rate of the vested benefits assets;
  - d. It defines the interest rate of the assets that appear on the affiliate account, the disposable assets account and the employer's contribution reserves account;
  - e. It makes sure that it takes the necessary measures to stabilise an affiliated entity in the event of a possible deficit;
  - f. It rules on the affectation of the disposable assets of an affiliated entity in conformity with the Foundation's goals and with respect for the principle of equal treatment;
  - g. It decides on the use of funds in the current account;
  - h. It is responsible for the communication of all indispensable information to the Foundation to assume its mandate according to the affiliation convention;
  - i. It makes sure that the employer pays the premiums to the Foundation and informs the Foundation of any possible irregularities;
  - j. It informs the persons insured, on request and within the limits of legal provisions, about the organisation, the activities and capital situation of the affiliated entity as well as other information about it.
  - k. It exercises the shareholders' voting rights in conformity with the Ordinance against excessive executive compensation (ORab) when the affiliated entity holds shares in Swiss companies (publicly traded in Switzerland or abroad). In this regard it must be in conformity with Art. 12 of the Fondation's Investment Rules and Regulations.
- <sup>2</sup> In the event of non-validation of a decision by the Foundation Board, particularly that linked to letters a) to g) of para.1, the Foundation Board shall inform the pension committee of the terms and conditions or provisions it is prepared to accept, and the pension committee shall make the necessary adjustments to comply with them.

### 3.5. Functions of the employer

- <sup>1</sup> The employer communicates with the Foundation and supplies it with the necessary information to assume its mandate according to the affiliation convention, particularly as regards the following aspects:
- Announcing people who belong to the circle of insured persons;
  - Any changes in staff, such as staff entries and departures, cases of disability or death, as well as any other changes that may affect the pension relationship;
  - Any modifications of salary at the effective date of contract - generally on January 1;
  - Declaration of cases declared to the insurance.
- <sup>2</sup> In the event of termination of an employment contract, the employer immediately informs the insured person of their possibilities for maintaining their pension coverage and on pension plan vesting.

## 4. Various provisions

### 4.1. Responsibility

- <sup>1</sup> The members of the Foundation Board and the committees emanating from the Foundation Board, as well as all those responsible for the administration, management or control of the Foundation are

answerable for any damage they may incur either intentionally or through negligence (Art. 52 LPP).

## 4.2. Obligation to maintain secrecy

- <sup>1</sup> The members of the Foundation Board and its committees, as well as all those responsible for the administration, management or control of the Foundation are bound by the obligation of professional secrecy regarding all the facts and information brought to their attention in the framework of their functions. Art. 86a LPP is reserved.
- <sup>2</sup> This obligation persists including when the above-mentioned persons have ceased their activity.

## 4.3. Version

- <sup>3</sup> The present Rules & Regulations were drawn up in French; they may be translated into other languages. If there is a discrepancy between the French version and the translations into other languages, the French version shall be regarded as binding.

## 4.4. Entry into force

- <sup>1</sup> These Rules and Regulations take effect on January 1, 2023.

In the name of the Foundation's Board

The President

Member of the Foundation Board